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House of Representatives

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. KIRK).

DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
May 21, 2002.

I hereby appoint the Honorable MARK STEVEN KIRK to act as Speaker pro tempore on this day.

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

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

The Chair recognizes the gentleman from Oregon (Mr. DEFAZIO) for 5 minutes.

CORPORATIONS MAKING FAKE MOVES OFFSHORE TO AVOID TAXES AKIN TO TREASON

Mr. DEFAZIO. Mr. Speaker, today the United States House of Representatives will take up legislation to accelerate and phase in relief from the marriage penalty. This is meritorious legislation, which I intend to support. The House was supposed to take up this legislation last Thursday. Strangely enough, it was postponed until today. The reason it was postponed until today was so it could be brought up under an extraordinary procedure which does not allow amendments because the Republican leadership feared the Democratic amendment to that bill.

Mr. Speaker, we wanted to close a huge new corporate loophole which has been discovered by people who make Arthur Andersen and Enron look kind of honest. Major U.S. corporations have found, and they have known for years, that they can go to Bermuda and avoid taxes on their overseas earnings. Now they have found if they do a new Bermuda triangle, they can avoid all taxes in the United States of America while living here, being protected by our military and firefighters and police, but not pay one penny in Federal income taxes. This is a great country.

This, of course, has the support of the administration, quietly. They are quick to accuse people of being unpatriotic, and God forbid they accuse corporations of being unpatriotic for failing to contribute their fair share and going under a flag of convenience and making a phony move offshore to avoid paying taxes in this time of crisis. This is extraordinary to me.

Mr. Krugman explained it very well in the New York City Times. ''By incorporating itself in Bermuda, a U.S.-based corporation can, without moving its headquarters or anything else, shelter its overseas profits from taxation. Better yet, the company can then establish 'legal residence' in a low-tax jurisdiction like Barbados, and arrange things so that its U.S. operations are mysteriously unprofitable, while the mail drop in Barbados earns money hand over fist.'' And, it is exempt from any tax anywhere in the world. That is just great.

That is what Secretary O'Neill calls competition. I call it tax evasion, skulduggery, and unpatriotic; and the Republican leadership should be ashamed that they are not willing to vote about keeping this loophole open. If that is what they feel, allow us to offer our amendment and vote in favor of this tax loophole. Admit that they have thrown in with Secretary O'Neill who says corporations should not pay any taxes in the United States of America.

Yes, that is true. The Secretary of the Treasury, appointed by George Bush, says that corporations should pay no taxes in this country, that working people should pay all of the taxes, a shift that has been going on over 30 years, where 30 years ago corporations paid one-quarter of the taxes in this country. Today it is down to a little less than 10 percent. He says that is too much. The American people should carry that burden, not corporations.

People say they have stockholders and they will do well. Under this new scam with Stanley Works, the company that is most known for this recently, actually the stockholders are going to have to pay taxes when the company makes its fake move to Barbados, but the CEO is going to get 58 percent of the tax savings. So over 8 years, the CEO could potentially profit by $385 million with his stock options, one individual, while the stockholders pay more in taxes, while the U.S. Government was deprived of $240 million in taxes. If they had just cut his stock options and salaries down to $140 million, they could have paid their taxes to the United States of America. Of course, he would have had to scrimp by on $140 million over the next 8 years. Pretty tough to make ends meet in Connecticut on $140 million over 8 years. I know the cost of living is way up.

This is just an absolute new low both for this body, this administration, and such an unbelievable fraud on the American people. This practice must be brought to a screeching halt. In a time of deficit and crisis, for a profitable U.S. corporation to make fake

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moves overseas to avoid their patriotic obligation to pay taxes is, I believe, akin to treason.

THANKING WORLD WAR II VETERANS

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized during morning hour debates for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, as we prepare to celebrate Memorial Day, I would ask that we pause and reflect on what some have called our greatest generation. Over 16 million Americans answered the call, and now we are losing over 1,000 World War II vets every day. We owe all our vets.

Perhaps one of the greatest tributes was offered by President Ronald Reagan when he went to Normandy to observe the 50th Anniversary of that amazing invasion. He said, ''Those men of Normandy were men of great faith. They had faith that they fought for all humanity. They had faith that they fought for a just cause. They had faith in a loving God that would grant them His tender mercy on this beachhead, or the next. They somehow knew that word of the invasion was spreading through the darkness back home. That in Georgia, they were filling the churches at 4 a.m. That in Kansas, they were kneeling and praying on their porches. And in Philadelphia, they were ringing the Liberty Bell.''

To all our vets, and especially the World War II vets, let us say a special thanks to them this Memorial Day.

PRESCRIPTION DRUG BENEFIT

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from New Jersey (Mr. PALLONE) is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Mr. Speaker, I want to stress again, as I have many times over the last 2 weeks, the fact that the Republican leadership has not brought up any type of prescription drug benefit. Two or 3 weeks ago we saw members of the Republican leadership in both the committees and various leadership positions say they were going to bring up a prescription drug benefit for seniors. They committed to the fact that that would be in committee last week. It would be reported out to the floor of the House, and would be voted on the floor this week before the Memorial Day recess. All of a sudden we hear nothing about it, no mention of trying to bring any action in committee, no specifics about what they might bring up, certainly no effort to bring anything to the floor.

I have said over and over again, this is the biggest crisis facing the American people, particularly seniors. I have seniors every day that call me up and say they cannot afford prescription drugs. What we need to do and what the Democrats have been saying over and over again is that we should simply provide a prescription drug benefit under Medicare so that every senior has a guaranteed benefit, and in the same way they have their hospital bills paid for by Medicare, or doctor bills paid for by Medicare Part B, there should be a new Part C or D under Medicare where they pay a very low premium, a very low deductible per month, and the Federal Government pays at least 80 percent of the cost of their prescription drug bills.

We need to bring the cost of prescription drugs down. Seniors and people in general, Americans in general, cannot afford prescription drugs because of the increased costs. We have had double-digit inflation with regard to drug prices for the last 6 years. The Republicans refuse to provide a Medicare prescription drug benefit for seniors, and refuse to address the issue of cost. If we had all seniors under a Medicare program, as the Democrats have proposed, 40 million seniors, the Secretary of Health and Human Services would be able to negotiate reduced prices for prescription drugs because the government would have the negotiating power of all of the seniors in the United States, 40 million strong.

We must address the issue of cost and provide a Medicare benefit that includes prescription drugs. I do not understand why my colleagues continue to drag on the issue. Some of the talk is maybe they will provide a low-income benefit for just the poorest seniors, under 10 percent of the seniors. Other times we hear about their proposals to privatize, in other words, take some money and throw it to insurance companies and hope that they will provide some sort of drug-only policy for those seniors who might be able to find an insurance company that will sell them such a policy.

But these ideas on the Republican side about throwing some money to insurance companies, trying to help those with low income, they do not get to the real problem and the real solution, and that is a nationwide Medicare prescription drug benefit that every senior has and every senior is guaranteed. We have seen now for 30 years how effective the Medicare program is in terms of taking care of hospital bills and taking care of doctors' bills.

Mr. Speaker, why not just expand the program to include prescription drugs. It is a program that works. This is not an ideological problem. We are not trying to figure out who is on the right or left, who is a Democrat or Republican. We want to do something that is practical, that is meaningful for the average American, particularly for the average American senior.

The Democrats are going to be up here every day and every night asking the Republicans to bring up a prescription drug benefit, to have a debate and do something about this between now and the end of this session. The number of days that we are going to be here gets shorter and shorter. If this is not brought up soon, certainly after the Memorial Day recess, it is very unlikely that we will see action on it before the end of the session. Bring up a prescription drug benefit, put it under Medicare, make sure that it applies to all seniors and we have a cost mechanism to reduce cost. Anything less than that is not fair to America's seniors.

NEW YORK DONATES WORLD TRADE CENTER STEEL TO SACRED HEART CATHOLIC CHURCH

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentlewoman from New Mexico (Mrs. WILSON) is recognized during morning hour debates for 5 minutes.

Mrs. WILSON of New Mexico. Mr. Speaker, this is a very special day. Something special is happening in New York City this morning. There is a small church in Barelas in the old part of Albuquerque, New Mexico called Sacred Heart Roman Catholic Church. In the 1970s, they had to tear down their church because it was structurally unsound. It had two bell towers. They rebuilt the church across the street, but the bells were lost until recently, and they found one of the huge bells and they are now going to rebuild the bell tower.

Some leaders in the community contacted me and the Archbishop and wrote to the mayor of the City of New York and asked for two beams from the World Trade Center to incorporate into the design of the new bell tower. Some people from New Mexico, including Father Moore and John Garcia and Sosimo Padilla and a member of my staff, are in New York this morning at ground zero picking up those two beams that were given to us by the City of New York.

Those bells at the Barelas bell tower rang when World War II ended. They rang for weddings and funerals. They rang every Sunday morning over the City of Albuquerque to call people to worship. We are pleased in Albuquerque and thankful to the people of New York that the bell towers will be rebuilt and the bells will ring again. They will ring in remembrance, and they will ring in the call to worship.

Sacred Heart Roman Catholic Church in Albuquerque is a beautiful church where about 800 people meet to worship. The Church, including twin bell towers, was razed in the mid-1970s because of structural problems, and its two bronze bells disappeared. One bell was found recently in a back yard, the other remains missing. The Church has been rebuilt and plans to build a new bell tower. This need and an inspired idea were the beginning of a wonderful journey that has brought together the people of New Mexico and the citizens of New York.

The bells in Barelas rang when the war ended. They rang for weddings and for funerals. They rang to call people to prayer. Now they will ring again in remembrance.

New Mexico Archbishop Michael Sheehan and I wrote to New York Mayor Bloomberg in January about the community's hopes to use steel from the World Trade Center to rebuild a bell tower for the Church. The Barelas Community Development Center spearheaded this effort to revitalize the neighborhood with this landmark as the center of the community.

New York City has agreed to donate two 20-foot steel beams from the World Trade Center for a Bell Tower at the Sacred Heart Church. The beams will be incorporated into the design of the tower and memorialize victims of the September 11 terrorist attacks.

Many people deserve a lot of credit for making this a reality. John Garcia and Sosimo Padilla thought they could make this happen, and they sought assistance from me and others. And they did it.

We saw the face of evil on September 11th. And in the aftermath, we saw the depth of America's goodness and a return to simple faith. New Mexico will rebuild this bell tower and remember. We are a strong, loving people and a faithful people. This bell tower will remind us and call us to worship for many years to come.

After the attacks on September 11, President Bush said that terrorism cannot dent the steel of American resolve. I agree. These beams, this parish, this community, represent the strength of our American character and all the best our Nation has to offer. I'm honored to be a part of this.

Today, a delegation of New Mexicans are in New York to accept the beams in a ceremony. Traveling to New York are John Garcia; the Rev. James Moore of the Sacred Heart Church; Sosimo Padilla, head of the church's bell committee; Sam Tinker, a local business owner who volunteered to transport the steel, and a representative from my staff, Dawn Petchell, who assisted in this request.

I also want to thank Southwest Airlines who donated airfare for the New Mexico delegation to go to New York, and to Bob Turner's Ford Country who donated a large flag to drape over the steel beams as they travel to the State. The Albuquerque Hispano Chamber of Commerce is planning a celebration to welcome the steel beams to New Mexico.

PRESCRIPTION DRUG BENEFIT

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Texas (Mr. RODRIGUEZ) is recognized during morning hour debates for 5 minutes.

Mr. RODRIGUEZ. Mr. Speaker, it is shameful that our seniors are still without a workable prescription drug benefit program. Because of the rapid increase in the price of prescription drugs, and the costs related to medical care, the price of medicine is now out of reach of millions of seniors. Tragically, many of our seniors are now faced with a choice between food and prescription drugs.

I go home, and every weekend people continue to reach out and tell me they have a problem with buying their prescriptions. I had a lady come to me and say I have to buy the prescription for my husband, and I choose not to buy for myself. We continue to hear that day in and day out. It is shameful that we have not taken a position on this.

As Democrats, we support a prescription drug benefit plan that covers all seniors that is voluntary and universal. No senior would be faced with a prospect of not being able to afford medicine regardless of income. We understand back in the 1960s when we established Medicare that if Lyndon B. Johnson had known that prescriptions were needed at that time, and now we know that they are needed for care, they would have been included in the Medicare process.

We also know that the insurance companies, even back then, the reason why we have Medicare is because the insurance companies, as soon as the elderly were getting sick, they were being dumped. As soon as they were not making a profit on the senior citizens, they were being let go. We know now that the proposal that the Republicans have, and that is to try to provide an additional insurance to our seniors who have a fixed income who cannot afford additional insurance, who the insurance companies do not want because if they get sick, they are going to be dumped again, very similar to what the HMOs are doing now in those situations where they are not making a profit.

We looked at Medicare, and we know that we tried to bring down the cost and we established HMOs so that we would bring down the cost, but we know now that the HMO has actually cost us more than Medicare services. We need to stop playing around and respond to this serious issue before us, and that is meeting the needs of our seniors and the prescription drugs that they need.

We also recognize that those same prescriptions, and this is a crime, those same prescriptions are sold outside this country for cheaper prices, and our seniors who can least pay for them are the ones that are having to carry the burden. This is where the profits are being made from the pharmaceutical companies. It should be a crime for this to be occurring.

Mr. Speaker, we need to pass a meaningful prescription drug plan that uses Medicare to make drugs affordable and provide universal voluntary benefits for all seniors. Congress can vote to bail out Enron, and they can also vote to help the most wealthy of this country by providing them tax cuts, but we do not take care of our elderly, and that is shameful. While the Republican proposals claim to help seniors, it does not cover all seniors, and it provides no real guarantees for coverage.

The much more narrowly constructed House Republican plan would not reach many middle class Americans. Less than 6 percent would be covered. The reality is when you get sick and are in need, those private companies are not going to be there for us. They are not going to be there for our seniors. We need to make sure that Medicare provides this service. We need to make sure that we treat our seniors in an appropriate manner when they reach their twilight years.

Also, the Republican plan forces seniors to shop and buy a private insurance plan, making it a hassle for older Americans who will have to contend with insurance plans which come and go. As I have indicated, even the insurance companies are going to be trying to get those more healthy seniors out there so they can make a profit. We know most of our seniors, when they get ill, are going to need not 1, not 2, but some cases up to 8 to 10 prescriptions. Insurance companies are not going to want to cover those. The administration knows that, and we need to recognize that and be able to do the right thing when it comes to our seniors and treat them in a manner of dignity as we should.

In addition, the Republican plan does not address the rising cost of prescription drugs. We have talked about those costs. The pharmaceutical companies, it angers me because we know they are selling that same prescription in Canada and Europe for much less than what it is sold for to our seniors here. We ask and plead that we pass a prescription drug plan that benefits all.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 10 a.m. today.

Accordingly (at 9 o'clock and 20 minutes a.m.), the House stood in recess until 10 a.m.

□ 1000

AFTER RECESS

The recess having expired, the House was called to order at 10 a.m.

PRAYER

Pastor Ken Wilde, Capital Christian Center, Meridian, Idaho, offered the following prayer:

Dear Heavenly Father:

Today we rise with humility and thankfulness before our Creator and ask for divine assistance from Heaven. We are of all people grateful for the bountiful blessings that You have bestowed upon our great land. As this body of legislators now begins its day of deliberations, we ask that You send to them a supernatural ability to discern heaven-sent solutions; that there would come such divine breakthroughs in areas of legislative logjams that we all would say with one voice, the Lord God Almighty, He has helped us.

We pray that You would extend Your hand of health, strength, endurance, and grace to each Representative and their family members. As these men and women help steward our Nation we ask, as Jesus Christ asked, Your kingdom come, Your will be done in their earthly endeavors today. Give us all now a vision and a hope and a faith to lead this Nation into the divine destiny that You have ordained that America

achieve. May we be pleasing in Your sight and may there come a voice of unity that erupts from this corporate body saying as Nehemiah of the Bible said: The God of Heaven Himself will prosper us; therefore, we His servants will arise and build. Thank You for Your continued favor, aid and grace in this challenging hour. In Jesus' name, 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.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York (Mr. MCNULTY) come forward and lead the House in the Pledge of Allegiance.

Mr. MCNULTY 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.

WELCOME TO PASTOR KENNETH WILDE

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

Mr. SIMPSON. Mr. Speaker, I want to introduce to the House of Representatives the Pastor Kenneth Wilde. Pastor Wilde is the founder and executive director of the National Prayer Center headquartered in Washington, D.C. This important facility's primary function is to be a place of prayer for our Nation and its leaders. The center is open to Members of Congress and their staffs for times of prayer, devotion and spiritual encouragement.

Pastor Wilde is also the senior pastor at Capital Christian Center in Meridian, Idaho, where he and his wife Connie have served for over 18 years. The Capital Christian Center is one of the largest churches in the State of Idaho. In addition, he has served as the Chaplain of the Idaho State Senate.

Pastor Wilde is a graduate of Idaho's Northwest Nazarene College where he received a bachelor's degree in political science and history. He has a passion to see churches and believers of all denominations rally together in unified prayer for a revival in our Nation.

Mr. Speaker, I want to commend Pastor Wilde for his thoughtful words this morning and let him know that I am honored to have a fellow Idahoan share his faith and wisdom with the House of Representatives during these trying times in our Nation's storied history.

PRIVATE CALENDAR

The SPEAKER pro tempore (Mr. ISAKSON). This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

NANCY B. WILSON

The Clerk called the bill (H.R. 392) for the relief of Nancy B. Wilson.

Mr. COBLE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

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

There was no objection.

SARABETH M. DAVIS, ROBERT S. BORDERS, VICTOR MARON, IRVING BERKE, AND ADELE E. CONRAD

The Clerk called the resolution (H. Res. 103) referring the bill (H.R. 1258) entitled ''A bill for the relief of Sarabeth M. Davis, Robert S. Borders, Victor Maron, Irving Berke, and Adele E. Conrad,'' to the chief judge of the United States Court of Federal Claims for a report thereon.

There being no objection, the Clerk read the resolution as follows:

H. RES. 103

Resolved,

SECTION 1. REFERRAL.

Pursuant to section 1492 of title 28, United States Code, the bill (H.R. 1258), entitled ''A bill for the relief of Sarabeth M. Davis, Robert S. Borders, Victor Maron, Irving Berke, and Adele E. Conrad'', now pending in the House of Representatives, is referred to the chief judge of the United States Court of Federal Claims.

SEC. 2. PROCEEDINGS AND REPORT.

Upon receipt of the bill, the chief judge shall—

(1) proceed under section 2509 of title 28, United States Code; and

(2) report back to the House of Representatives, at the earliest practicable date, providing—

(A) findings of fact and conclusions of law that are sufficient to inform the Congress of the nature, extent, and character of the claim for the compensation referred to in the bill as a legal or equitable claim against the United States; and

(B) the amount, if any, legally or equitably due from the United States to the claimants.

The resolution was agreed to.

A motion to reconsider was laid on the table.

BARBARA MAKUCH

The Clerk called the bill (H.R. 486) for the relief of Barbara Makuch.

There being no objection, the Clerk read the bill as follows:

H.R. 486

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

SECTION 1. PAYMENT.

In consideration of the fact that Barbara Makuch—

(1) served 22 years as a foreign counterintelligence agent and dedicated her life to assist the Federal Bureau of Investigation in its efforts at the height of the Cold War to combat communism, the Komitet Gosudarstvennoy Bezopasnosti (KGB), and the Soviet Union,

(2) was presented the Louis E. Peters Memorial Service Award, the highest civilian award presented by the Federal Bureau of Investigation, for her valorous service, and

(3) has not received employment assistance or health, social security, or pension benefits, despite assurances that she would receive such benefits upon her retirement,

the Secretary of the Treasury shall pay, out of funds not otherwise appropriated, the sum of $1,000,000 to Barbara Makuch of East Amherst, New York, in compensation for the lifetime aggregate value of benefits earned but not received by Barbara Makuch.

SEC. 2. SATISFACTION OF CLAIM.

The sum paid under section 1 shall be in full satisfaction of any claims that Barbara Makuch may have against the United States arising out of her service for the Federal Bureau of Investigation.

SEC. 3. LIMITATION ON ATTORNEY FEES.

Not more than 10 percent of the sum paid under section 1 shall be paid to or received by any agent or attorney for services rendered in connection with the recovery of such sum. Any person who violates this section shall be fined under title 18, United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EUGENE MAKUCH

The Clerk called the bill (H.R. 487) for the relief of Eugene Makuch.

There being no objection, the Clerk read the bill as follows:

H.R. 487

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

SECTION 1. PAYMENT.

In consideration of the fact that Eugene Makuch—

(1) served as a foreign counterintelligence agent and dedicated his life to assist the Federal Bureau of Investigation in its efforts at the height of the Cold War to combat communism, the Komitet Gosudarstvennoy Bezopasnosti (KGB), and the Soviet Union, and

(2) has not received employment assistance or health, social security, or pension benefits, despite assurances that he would receive such benefits upon his retirement,

the Secretary of the Treasury shall pay, out of funds not otherwise appropriated, the sum of $1,000,000 to Eugene Makuch of East Amherst, New York, in compensation for the lifetime aggregate value of benefits earned but not received by Eugene Makuch.

SEC. 2. SATISFACTION OF CLAIM.

The sum paid under section 1 shall be in full satisfaction of any claims that Eugene Makuch may have against the United States arising out of his service for the Federal Bureau of Investigation.

SEC. 3. LIMITATION ON ATTORNEY FEES.

Not more than 10 percent of the sum paid under section 1 shall be paid to or received by any agent or attorney for services rendered in connection with the recovery of such sum. Any person who violates this section shall be fined under title 18, United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider is laid upon the table.

The SPEAKER pro tempore. This concludes the call of the Private Calendar.

IMMEDIATE DISASTER RELIEF FOR AMERICA'S FARMERS

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

Mr. REHBERG. Mr. Speaker, I again come to the well of this great Chamber to implore my colleagues to extend immediate and desperately needed disaster relief to tens of thousands of American farmers and ranchers now suffering from years of drought.

If Congress is to keep alive the American family farmer, we must act this year to provide immediate and necessary disaster assistance. Help is necessary for more than a dozen States crippled by the devastating one-two punch of adverse weather conditions and depressed commodity prices.

I ask my colleagues from ag-producing States and from ag-consuming States to join our fight to secure disaster assistance this year for our farm families before it is too late.

MAY IS ASIAN/PACIFIC AMERICAN HERITAGE MONTH

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

Ms. SANCHEZ. Mr. Speaker, today I rise to invite my colleagues to join me in celebrating May as Asian/Pacific American Heritage Month.

The theme of this year's celebration is unity and freedom, which is an appropriate reminder that America is strong when people of all cultures and backgrounds unite.

Asian Americans have proudly contributed to America's culture, its physical landscape, and to its defense. Along the way, Asian Americans have had to endure many hardships, including the unnecessary internment of 120,000 Japanese Americans during World War II and the exclusion of Chinese immigrants beginning in 1882.

The lessons we learned then and the challenges we now face show us that in order to maintain the freedoms we enjoy today, we must unite as a country and face our challenges together as a Nation.

As the proud representative of the largest Vietnamese community outside of Vietnam, I salute my constituents and all Asian/Pacific Islander Americans during the month of May for their contributions and achievements that have helped to make America strong.

MEDICARE PHYSICIAN REIMBURSEMENTS

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

Mr. HEFLEY. Mr. Speaker, we are always being asked, what are you hearing out there? What are you hearing out there in your district? I will tell my colleagues what I am hearing. I am hearing, ''I cannot find a doctor.''

I receive countless calls and letters from people in Colorado regarding Medicare physician reimbursements and how it is affecting their access to doctors. Physicians have either decided to no longer accept any new Medicare patients or not see their current Medicare patients because they are losing money due to reimbursement payments not covering the costs. In Colorado Springs 2 months ago, one-third of all doctors under the Colorado Springs Health Partners program dropped all of their Medicare, Medicaid and Tricare patients.

So much focus over the last several years has been on preserving and strengthening the Medicare trust fund that we have lost sight of the fact that if a Medicare recipient cannot find a doctor, we have a program in name only. Unfortunately, in Colorado and many other parts of the country, that is what has happened. Reforms need to be implemented now to restore Medicare, the Medicare program, as it was intended to be.

I believe that reducing Medicare's physician payments will have a devastating impact on physician reimbursement and put at risk seniors' access to medical services.

PICTURES ON ENVELOPES

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

Mr. LAMPSON. Mr. Speaker, National Missing Children's Day is coming up on May 25. I want to remind my colleagues about what we can do in our offices to help find missing children.

According to the FBI's National Crime Information Center, nearly 2,000 children are reported missing every day in our Nation. One in 6 children is recovered as a result of their picture being distributed, and it is vital that we do more to bring missing children home and safeguard our youth.

Printing the pictures of missing children on our envelopes is a simple way we can get involved and help take a stand against child abduction and victimization, making our districts safer for our constituents. It is simple. For more information on how to get pictures printed on your envelopes, contact the National Center for Missing and Exploited Children at 703–274–3900, and ask to speak to the Public Affairs Department.

By adding pictures to our office envelopes, we can help picture them home. Please, I say to my colleagues, let us not forget Ludwig Koons. He is being held in a compound in Italy where there is pornography and prostitution. We need to bring our children home, and we need help.

SEPTEMBER 11 PROGNOSTICATING

(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, there are people in Washington who treat politics like a sport, and sometimes it gets rough. That should be no surprise. But some things should be off limits.

Mr. Speaker, for 8 months our country has been at war. It is a war that began when 19 evil men turned jumbo jets into missiles and killed 3,000 innocent people because they were Americans. Our President has led the world in a quest for justice. American soldiers are fighting and dying to keep the world safe, and President Bush has the awesome and heavy responsibility of commanding them.

But there is an election around the bend and some of our friends on the other side of the aisle have decided it is time to start attacking the President. They are attacking him for not making predictions he could not reasonably have made. They are attacking him for not connecting the dots between thousands of intelligence briefings that none of them could have connected either.

Mr. Speaker, this is wrong. When our fighting men and women are risking everything to keep us safe, the least we can do is to put partisanship aside.

SECRET PLAN FOR INCREASE IN DEFICIT SPENDING

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

Mr. EDWARDS. Mr. Speaker, rumor has it that the Republican leadership has a secret plan to allow an increase in deficit spending by $750 billion without even requiring a vote on it in the House. To do so would be wrong, and for several reasons.

First, we have a responsibility to our children and grandchildren to try to balance our budget and not break their backs with the burden of an ever-increasing national debt, which is already $6 trillion, the interest on which cost taxpayers last year alone $360 billion in taxes paid.

Second, deficit spending puts at risk Social Security and Medicare. We have a responsibility to our seniors to protect these 2 vital programs, but $750 billion in deficit spending would certainly undermine them.

I can understand why the Republican leadership would want to allow an enormous increase in deficit spending in secret and without a public vote, but to do so would be wrong; wrong for our children, wrong for our seniors, and wrong for Americans who believe in an open democracy.

MEMORIAL DAY MEMORIAL

(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 here to express my concerns that Memorial Day is losing its true meaning. It has degenerated into a day

where only token nods of the head toward our honored dead are given, if at all.

Many people do not know that at 3 p.m. on Memorial Day, we should take a moment of silence in recognition for the lives lost for freedom's sake. But we cannot blame the American public. After all, it was Congress that made the day into a 3-day weekend in the early 1970s. By comparison, Mr. Speaker, Veterans' Day is celebrated on November 11, regardless of which day of the week it falls on, and Memorial Day should also be the same.

Mr. Speaker, in honor of the thousands of men and women who have given their lives fighting for the freedom we enjoy today, and those currently fighting for the freedom we will enjoy tomorrow, let us restore Memorial Day to its original date, May 30. We owe our loved ones and friends who died in service to our country a restored Memorial Day.

CHICKENS COME HOME TO ROOST

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

Mr. GEORGE MILLER of California. Mr. Speaker, tomorrow the chickens come home to roost for the Republicans. After destroying a $5 trillion surplus and giving away $4 trillion in tax cuts to the wealthiest people in the country, tomorrow the Republicans must take the first step in authorizing an additional $750 billion in deficit spending, Mr. Speaker; $750 billion that this Nation does not have because of the Republican giveaways in the tax cut, and $750 billion that unfortunately now must come directly out of the Social Security Trust Fund.

Remember all of those promises about a lock box, about a super lock box, how they would never use Social Security for any other purpose? All of those promises go by the wayside tomorrow, because tomorrow is the first step when the Republicans vote to increase by $750 billion of spending that is taken directly from Social Security.

□ 1015

What does that mean to Social Security recipients? It means that Social Security is less secure. Eventually, it means that the age limit is going to have to be raised, and then the Republicans will have to work on their plan to privatize Social Security. The last time they privatized something, it was the energy markets; and the next thing we saw was the Enron Corporation.

REPUBLICAN TAX CUT MEANS LOWER TAXES FOR THE POOR

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

Mr. BARTLETT of Maryland. Mr. Speaker, before our tax cut, the top 50 percent of taxpayers paid 96 percent of all the taxes paid in the country. After this tax cut, the top 50 percent of taxpayers pay 97 percent of all the taxes paid in this country.

Let us say it another way, Mr. Speaker. Before the tax cut, the lower 50 percent of taxpayers paid 4 percent of all the taxes in the country. After the tax cut, they pay only 3 percent of all the taxes in the country.

Help me understand, Mr. Speaker, how this tax cut was a tax break for the rich. It seems to me it was a tax break for the poor, because the lower 50 percent of taxpayers now pay only 3 percent of the total taxes, rather than 4 percent. Mr. Speaker, that is a 25 percent decrease in the taxes paid by the lower 50 percent.

REPUBLICAN PLAN TO PRIVATIZE SOCIAL SECURITY

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

Ms. DELAURO. Mr. Speaker, the American people deserve to know what the Republican Congress and the President are going to do to Social Security. They have proposed a vague plan, a plan they say is voluntary, that would create individual accounts for those who choose to invest a portion of that money in the stock market. They say that these accounts will earn retirees a higher rate of return.

But what they do not tell the voters and they do not tell the American seniors about is that changing to this new system will result in cutting benefits, cutting benefits for Social Security retirees across the board.

So even though the accounts themselves may be technically voluntary, the benefit cuts are very much mandatory; and if a retiree does not want to risk his or her benefits in an increasingly shaky stock market, fine, but his or her guaranteed monthly check will not equal what it is today. If they have a higher rate of return on their account than the government will allow, what they do not tell us is that in fact the government is going to tax that rate of return at 100 percent.

Mr. Speaker, the simple fact is that the Republican plan cuts benefits for today's retirees, those in the future, and puts them at risk. Let us not let them do it.

COMMENDING THE 106TH RESCUE WING OF THE NEW YORK AIR NATIONAL GUARD

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

Mr. GRUCCI. Mr. Speaker, on May 16 the 106th Rescue Wing of New York's Air National Guard completed their 292nd successful life-saving rescue. Based out of Gabreski Airport in West Hampton Beach on the East End of Long Island, the 106th Rescue Wing was called to rescue three people whose sailboat mast had broken in the rough North Atlantic seas about 600 miles south of Long Island. The members of the 106th Rescue Wing are nothing short of heroes: 292 people owe their lives to the heroic efforts of the brave members of the 106th Rescue Wing, currently under the command of Colonel Robert J. Stack. The 106th Rescue Wing epitomizes the bravery and professionalism of our men and women in uniform.

Mr. Speaker, on behalf of the First District of New York, home to the 106th Rescue Wing, a grateful Nation and 292 people who would not be here today without the efforts of the 106th, I ask my colleagues to join me in congratulating the 106th Rescue Wing of the Air National Guard.

PATRIOTISM REQUIRES OPPOSING PRIVATIZATION OF SOCIAL SECURITY TRUST FUND AND INVESTIGATING SEPTEMBER 11 TRAGEDY

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I join my colleagues with their concerns about the undermining of Social Security preservation and safety for our seniors; and we must fight against both the privatization and the invading of the trust fund, which will happen tomorrow, unfinished business that we must stand up and be counted for and be patriotic on behalf of our seniors.

Might I, Mr. Speaker, suggest that it would be unpatriotic as well if we stood by and did not understand what happened on September 11. It would be unpatriotic, not to talk about politics and who is in the White House and who is not, but to find out why the INS failed in its duty in giving two dead terrorists visas.

It would be derelict on the part of Congress not to find out what FBI Director Mueller is talking about when he speaks about the potential of a suicide bomber. What information does Congress need to have in a confidential and executive session manner to protect the American people? What happened with the August and July memo?

Mr. Speaker, as a member of the Committee on the Judiciary, I would say it would be unpatriotic if we did not establish what happened so we could save lives and begin to have a road map that would make sure that we understood what happened here in America. It would be unpatriotic, Mr. Speaker; and we in Congress must do our job.

TOMORROW THE HOUSE WILL TAKE ONE MORE STEP TOWARDS UNDERMINING SOCIAL SECURITY

(Mr. MCDERMOTT asked and was given permission to address the House

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

Mr. McDERMOTT. Mr. Speaker, I think that this is a very important day for people to be paying attention. Tomorrow, we are going to come out here, and we are going to take one more step toward undermining Social Security.

Now, the majority has said for a long time they wanted to privatize it; and certainly if we do not fund it, there is not going to be anything left except people doing it privately.

But tomorrow is the day we start. We have not dealt with any of the issues that are before this Congress of any import. We have not dealt with the pharmaceutical benefit for seniors. We have not dealt with a whole bunch of other things.

But what are they doing tomorrow? They are passing more money out the door to fund the tax cuts for the rich. That is the reason they are borrowing tomorrow, is because the bill is coming due. In fact, today we are going to actually make another move to raise the debt some more.

Why do we not face the fact that we ought to think about the poor and the elderly and what their benefits are going to be in the future?

TRIBUTE TO SERGEANT GENE ARDEN VANCE AND THE WEST VIRGINIA NATIONAL GUARD

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

Mrs. CAPITO. Mr. Speaker, over the weekend the war on terrorism claimed another casualty, the first casualty of a National Guardsman and the first casualty from my home State of West Virginia.

Sergeant Gene Arden Vance of Morgantown, West Virginia, was killed in eastern Afghanistan after his unit came under heavy fire. Sergeant Vance served in the 19th Special Forces Unit of the West Virginia National Guard and has been stationed in the Middle East for the past 5 months.

Like many National Guardsmen, Sergeant Vance lived a productive life in his local community, working at the local bicycle and kayak outfitting shop in Morgantown while maintaining his training and skill to be called on to serve his country on a moment's notice.

On September 11, newly married and just beginning a new semester at West Virginia University, he put his studies and his honeymoon on hold to fight terror in the name of freedom. As an American, it is difficult to hear of any soldier dying in the name of freedom, but in this instance it is especially sad to me and my fellow West Virginians because Sergeant Vance was one of our own.

Sergeant Vance died honorably in service to his country. His story of leaving his home to be called to help fight the war on terrorism is the story of many other men and women who serve in our National Guard. Their heroic and noble dedication is an invaluable part of America's work in defending liberty.

On behalf of the men and women of the Second Congressional District of West Virginia, I would like to extend our deepest condolences to Sergeant Vance's family and loved ones. Our thoughts and our prayers are with them at this very difficult time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Record votes on postponed questions may be taken in two groups, the first occurring before the debate has concluded on all motions to suspend the rules, and the second after the debate has concluded on the remaining motions.

DOT KIDS IMPLEMENTATION AND EFFICIENCY ACT OF 2002

Mr. UPTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3833) to facilitate the creation of a new, second-level Internet domain within the United States country code domain that will be a haven for material that promotes positive experiences for children and families using the Internet, provides a safe online environment for children, and helps to prevent children from being exposed to harmful material on the Internet, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3833

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 ''Dot Kids Implementation and Efficiency Act of 2002''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the World Wide Web presents a stimulating and entertaining opportunity for children to learn, grow, and develop educationally and intellectually;

(2) Internet technology also makes available an extensive amount of information that is harmful to children, as studies indicate that a significant portion of all material available on the Internet is related to pornography;

(3) young children, when trying to use the World Wide Web for positive purposes, are often presented—either mistakenly or intentionally—with material that is inappropriate for their age, which can be extremely frustrating for children, parents, and educators;

(4) exposure of children to material that is inappropriate for them, including pornography, can distort the education and development of the Nation's youth and represents a serious harm to American families that can lead to a host of other problems for children, including inappropriate use of chat rooms, physical molestation, harassment, and legal and financial difficulties;

(5) young boys and girls, older teens, troubled youth, frequent Internet users, chat room participants, online risk takers, and those who communicate online with strangers are at greater risk for receiving unwanted sexual solicitation on the Internet;

(6) studies have shown that 19 percent of youth (ages 10 to 17) who used the Internet regularly were the targets of unwanted sexual solicitation, but less than 10 percent of the solicitations were reported to the police;

(7) children who come across illegal content should report it to the congressionally authorized CyberTipline, an online mechanism developed by the National Center for Missing and Exploited Children, for citizens to report sexual crimes against children;

(8) the CyberTipline has received more than 64,400 reports, including reports of child pornography, online enticement for sexual acts, child molestation (outside the family), and child prostitution;

(9) although the computer software and hardware industries, and other related industries, have developed innovative ways to help parents and educators restrict material that is harmful to minors through parental control protections and self-regulation, to date such efforts have not provided a national solution to the problem of minors accessing harmful material on the World Wide Web;

(10) the creation of a ''green-light'' area within the United States country code Internet domain, that will contain only content that is appropriate for children under the age of 13, is analogous to the creation of a children's section within a library and will promote the positive experiences of children and families in the United States; and

(11) while custody, care, and nurture of the child reside first with the parent, the protection of the physical and psychological well-being of minors by shielding them from material that is harmful to them is a compelling governmental interest.

(b) PURPOSES.—The purposes of this Act are—

(1) to facilitate the creation of a second-level domain within the United States country code Internet domain for the location of material that is suitable for minors and not harmful to minors; and

(2) to ensure that the National Telecommunications and Information Administration oversees the creation of such a second-level domain and ensures the effective and efficient establishment and operation of the new domain.

SEC. 3. NTIA AUTHORITY.

Section 103(b)(3) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 902(b)(3)) is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(C) shall assign to the NTIA responsibility for providing for the establishment, and overseeing operation, of a second-level Internet domain within the United States country code domain in accordance with section 157.''.

SEC. 4. CHILD-FRIENDLY SECOND-LEVEL INTERNET DOMAIN.

The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended in part C by adding at the end the following new section:

''SEC. 157. CHILD-FRIENDLY SECOND-LEVEL INTERNET DOMAIN.

''(a) RESPONSIBILITIES.—The NTIA shall require the registry selected to operate and

maintain the United States country code Internet domain to establish, operate, and maintain a second-level domain within the United States country code domain that provides access only to material that is suitable for minors and not harmful to minors (in this section referred to as the 'new domain').

''(b) CONDITIONS OF CONTRACT RENEWAL.—The NTIA may not renew any contract to operate and maintain the domain with the initial registry, or enter into or renew any such contract with any successor registry, unless such registry enters into an agreement with the NTIA, during the 90-day period beginning upon the date of the enactment of the Dot Kids Implementation and Efficiency Act of 2002 in the case of the initial registry or during the 90-day period after selection in the case of any successor registry, as applicable, which provides for the registry to carry out, and the new domain operates pursuant to, the following requirements:

''(1) Written content standards for the new domain, except that the NTIA shall not have any authority to establish such standards.

''(2) Written agreements with each registrar for the new domain that require that use of the new domain is in accordance with the standards and requirements of the registry.

''(3) Written agreements with registrars, which shall require registrars to enter into written agreements with registrants, to use the new domain in accordance with the standards and requirements of the registry.

''(4) Rules and procedures for enforcement and oversight that minimize the possibility that the new domain provides access to content that is not in accordance with the standards and requirements of the registry.

''(5) A process for removing from the new domain any content that is not in accordance with the standards and requirements of the registry.

''(6) A process to provide registrants to the new domain with an opportunity for a prompt, expeditious, and impartial dispute resolution process regarding any material of the registrant excluded from the new domain.

''(7) Continuous and uninterrupted service for the new domain during any transition to a new registry selected to operate and maintain new domain or the United States country code domain.

''(8) Procedures and mechanisms to promote the accuracy of contact information submitted by registrants and retained by registrars in the new domain.

''(9) Operationality of the new domain not later than one year after the date of the enactment of the Dot Kids Implementation and Efficiency Act of 2002.

''(10) Written agreements with registrars, which shall require registrars to enter into written agreements with registrants, to prohibit two-way and multiuser interactive services in the new domain, unless the registrant certifies to the registrar that such service will be offered in compliance with the content standards established pursuant to paragraph (1) and is specifically constructed and operated to protect minors from harm.

''(11) Written agreements with registrars, which shall require registrars to enter into written agreements with registrants, to prohibit hyperlinks in the new domain that take new domain users outside of the new domain.

''(12) Any other action that the NTIA considers necessary to establish, operate, or maintain the new domain in accordance with the purposes of this section.

''(c) TREATMENT OF REGISTRY AND OTHER ENTITIES.—

''(1) IN GENERAL.—Only to the extent that such entities carry out functions under this section, the following entities are deemed to be interactive computer services for purposes of section 230(c) of the Communications Act of 1934 (47 U.S.C. 230(c)):

''(A) The registry that operates and maintains the new domain.

''(B) Any entity that contracts with such registry to carry out functions to ensure that content accessed through the new domain complies with the limitations applicable to the new domain.

''(C) Any registrar for the registry of the new domain that is operating in compliance with its agreement with the registry.

''(2) SAVINGS PROVISION.—Nothing in paragraph (1) shall be construed to affect the applicability of any other provision of title II of the Communications Act of 1934 to the entities covered by subparagraph (A), (B), or (C) of paragraph (1).

''(d) EDUCATION.—The NTIA shall carry out a program to publicize the availability of the new domain and to educate the parents of minors regarding the process for utilizing the new domain in combination and coordination with hardware and software technologies that provide for filtering or blocking. The program under this subsection shall be commenced not later than 30 days after the date that the new domain first becomes operational and accessible by the public.

''(e) COORDINATION WITH FEDERAL GOVERNMENT.—The registry selected to operate and maintain the new domain shall—

''(1) consult with appropriate agencies of the Federal Government regarding procedures and actions to prevent minors and families who use the new domain from being targeted by adults and other children for predatory behavior, exploitation, or illegal actions; and

''(2) based upon the consultations conducted pursuant to paragraph (1), establish such procedures and take such actions as the registry may deem necessary to prevent such targeting.

The consultations, procedures, and actions required under this subsection shall be commenced not later than 30 days after the date that the new domain first becomes operational and accessible by the public.

''(f) COMPLIANCE REPORT.—The registry shall prepare, on an annual basis, a report on the registry's monitoring and enforcement procedures for the new domain. The registry shall submit each such report, setting forth the results of the review of its monitoring and enforcement procedures for the new domain, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

''(g) SELECTION OF CONTRACTOR.—

''(1) WITHDRAWAL OF REGISTRY.—

''(A) ELECTION BY REGISTRY.—Upon a good faith showing by the registry of the new domain to the NTIA of extreme financial hardship in the operation of the new domain occurring any time after the date of the enactment of the Dot Kids Implementation and Efficiency Act of 2002, the registry may elect to relinquish the right to operate and maintain the new domain. Notwithstanding the time of occurrence of such extreme financial hardship or the time of such election, the registry may not relinquish such right before the expiration of the 3-year period beginning upon such date of enactment.

''(B) SELECTION OF NEW CONTRACTOR.—If the registry elects to relinquish such right pursuant to subparagraph (A), the NTIA shall select a contractor to operate and maintain the new domain under the competitive bidding process established pursuant to paragraph (2).

''(C) EXTREME FINANCIAL HARDSHIP.—For purposes of this paragraph, the term 'extreme financial hardship' means that each quarter, for a period of 6 or more consecutive quarters, the costs of establishing, operating, and maintaining the new domain exceed the revenues generated from registrants by more than 25 percent.

''(2) COMPETITIVE BID SELECTION PROCESS.—The NTIA shall establish a process for soliciting applications and selecting a contractor to operate and maintain the new domain pursuant to this subsection), which process shall comply with the following requirements:

''(A) TIMING.—The selection process shall commence and complete not later than (i) 120 days after the registry elects to relinquish the new domain for extreme financial hardship, or (ii) the expiration of a contract referred to in paragraph (4), as applicable.

''(B) NOTICE.—The selection process shall provide adequate notice to prospective applicants of—

''(i) the opportunity to submit such an application; and

''(ii) the criteria for selection under subparagraph (C).

''(C) CRITERIA.—The selection shall be made pursuant to written, objective criteria designed to ensure—

''(i) that the new domain is operated and maintained in accordance with the requirements under subsection (b); and

''(ii) that the contractor selected to operate and maintain the new domain is the applicant most capable and qualified to do so.

''(D) REVIEW.—Not more than 60 days after the conclusion of the period established for submission of applications, the NTIA shall—

''(i) review and apply the selection criteria established under subparagraph (C) to each application submitted; and

''(ii) based upon such criteria and subject to submission of an application meeting such criteria, select an application and award to the applicant a subcontract for the operation and maintenance of the new domain.

''(E) FAILURE TO FIND CONTRACTOR.—If the NTIA fails to find a suitable contractor pursuant to the process under this paragraph, the NTIA shall permit the registry to cease operation of the new domain.

''(3) RIGHTS AND DUTIES.—A contractor selected pursuant to this subsection shall have all of the rights and duties of the registry specified under this section, except that such duties shall not include the technical maintenance of the new domain.

''(4) CONDITIONS OF CONTRACT RENEWAL.—In the case of the expiration of a contract for operation and maintenance of the new domain with a contractor selected pursuant to paragraph (2), the NTIA may renew such contract or, subject to paragraph (2), rebid the contract to a new contractor. Nothing in this section shall be construed to prevent the registry of the United States country code Internet domain from bidding to become the contractor of the new domain.

''(h) SUSPENSION OF NEW DOMAIN.—If the NTIA finds, pursuant to its own review or upon a good faith petition by the registry, that the new domain is not serving its intended purpose, the NTIA shall instruct the registry to suspend operation of the new domain until such time as the NTIA determines that the new domain can be operated as intended.

''(i) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) HARMFUL TO MINORS.—The term 'harmful to minors' means, with respect to material, that—

''(A) the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, that it is designed to appeal to, or is designed to pander to, the prurient interest;

''(B) the material depicts, describes, or represents, in a manner patently offensive with respect to minors, an actual or simulated sexual act or sexual contact, an actual or simulated normal or perverted sexual act, or a lewd exhibition of the genitals or post-pubescent female breast; and

''(C) taken as a whole, the material lacks serious, literary, artistic, political, or scientific value for minors.

''(2) MINOR.—The term 'minor' means any person under 13 years of age.

''(3) REGISTRY.—The term 'registry' means the registry selected to operate and maintain the United States country code Internet domain

''(4) SUITABLE FOR MINORS.—The term 'suitable for minors' means, with respect to material, that it—

''(A) is not psychologically or intellectually inappropriate for minors; and

''(B) serves—

''(i) the educational, informational, intellectual, or cognitive needs of minors; or

''(ii) the social, emotional, or entertainment needs of minors.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. UPTON) and the gentleman from Massachusetts (Mr. MARKEY) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. UPTON).

GENERAL LEAVE

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

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

There was no objection.

Mr. UPTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, sometimes I think that the World Wide Web should be renamed perhaps the World's Wicked Web. I woke up this morning listening to the Today Show, and I heard this very sad case of a young girl in Danbury, Connecticut. I read from CNN: ''The body of a 13-year-old girl missing since Friday has been found. The FBI has arrested a Brazilian national living in Connecticut who allegedly met the girl on the Internet, the agency said Monday. Christina Long's body was found Monday. She had been missing since Friday evening.'' She had been contacted through a chat room on the Internet.

Last week in Kalamazoo, Michigan, we held a hearing on chat rooms. We know as parents that there is no better way to watch over our children than with parental involvement. The story, whether it be in Danbury Connecticut, or other communities across the country, is a nightmare waiting to happen in virtually anyplace in the country.

Last Friday, I visited an elementary school just outside of Kalamazoo, Northeastern Elementary School, where I spoke to about 80 or 90 sixth grade children. I asked the question, as I often do as I go to an elementary school, how many of you use the Internet on a fairly routine basis? They all raised their hands, every one of them.

I then asked the question: How many of you have seen something that is inappropriate coming into your house or your classroom on that Internet? And again, virtually every hand went up.

Mr. Speaker, what this legislation does is creates a new domain for the Internet. Like we have a dot-org and a dot-com and a dot-gov, we are now going to have a dot-kids. Actually, it may be a dot-kids dot-U.S. It may be a dot-Disney dot-kids; it may be a dot-Boy Scouts or dot-Girl Scouts, it may be a dot-games. But whatever it is, it will be aimed and earmarked towards children that are 12 and under. In essence, it will be a children's section of the library.

When my 10-year-old son, Stephen, goes to the library in my hometown, I know that that children's library in the basement of the Maud Preston Palenske Memorial Library has children's books and he is safe in that area. We know that as 10- and 12-year-olds and even 9-year-old children, they often have their own Internet identity name. They use the Internet for their school and home. They chat with their friends.

As parents, we want to make sure that they are safe, because that Internet will be their tool of learning for business and school the rest of their lives. But obviously, for so many of those young minds, they are not ready for some of those folks that would like to lure and prey on them.

That is what this legislation does. By setting up a new domain, we as parents will know that that road map for them is a safe, safe place.

□ 1030

This legislation, Mr. Speaker, is bipartisan. It passed in the subcommittee and full committee without dissent. We had great leadership from the author of the bill, the gentleman from Illinois (Mr. SHIMKUS), the gentleman from Massachusetts (Mr. MARKEY), the ranking member of the subcommittee, my chairman, the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Michigan (Mr. DINGELL), the ranking member, the gentleman from Nebraska (Mr. TERRY) and other members of the subcommittee who were very involved in making sure this legislation passed and moved.

I would note that the bill has been endorsed by the National Center for Missing and Exploited Children, the Family Research Council, the American Center for Law and Justice, the National Law Center for Children and Families and a Safe America for Everyone, SAFE. And I want to thank them all for their support.

Mr. Speaker, this legislation is needed. As parents, as members in a community, we know that we can stop some of this awful stuff that comes to our homes. Mr. Speaker, when someone rings the doorbell or knocks on a door, often as we go to that door we look through the peephole, we look through the windows to see who is there before they come in. On the Internet you are not able to do that.

In so many cases we see other folks masquerading maybe as 12 or 13 or 15-year-old children. Maybe they are in their 40s or 50s looking to prey on our kids. We had an arrest last week in Kalamazoo, and they found out just in 72 hours that that individual had 20 other victims that he will probably be charged with as he moved across county lines to try and seek and prey on kids just like this very sad story of the young girl in Danbury, Connecticut.

Mr. Speaker, as Chairman of the House Energy and Commerce Subcommittee on Telecommunications and the Internet, I rise in strong support of H.R. 3833, the ''Dot Kids Implementation and Efficiency Act of 2002''. This bill was introduced by the gentleman from Illinois, Mr. SHIMKUS, the gentleman from Massachusetts, the ranking member of the Telecommunications and Internet Subcommittee, Mr. MARKEY, and myself—and the bill has 40 bipartisan cosponsors.

Mr. Speaker, more and more parents have recognized that they are losing some control over what enters their home as their children spend more and more time on the home computer surfing the Internet. While the Internet is an excellent tool for children to learn, there are all sorts of inappropriate material that—with just one wrong click—comes right into your living room, den, or bedroom—wherever the computer is located. I visit a school every week in my district, and at every middle school I ask for a show of hands about how many kids use the Internet, and about every hand goes up. I then ask how many have seen inappropriate material—pornography or bad language—and virtually every time about 80 percent of the hands stay in the air. This has got to stop.

While there is no substitute for proper parental supervision, responsible parents want more tools to assist them in protecting their kids on the Internet. Filters are one solution, but we believe more must be done to help.

The ''Dot Kids Implementation and Efficiency Act of 2002'' (H.R. 3833), would enable the establishment of a kid-friendly space on the Internet. We have made passage of this important bipartisan legislation, a top priority of the House Energy and Commerce Committee and its Telecommunications and Internet Subcommittee, and I want to thank Chairman TAUZIN and Ranking Member DINGELL for their assistance in moving this legislation forward.

Just like ''.com'', or ''.gov'', or ''.org''—''.kids'' will be an Internet address code, but the difference is that only websites with content which is both ''not harmful to minors'' and ''suitable for minors'' could get access. Under the bill, a ''minor'' is defined as a person 12 years old and under. The ''.kids'' space would be a safe place devoted solely to material which is appropriate for kids—where parents could choose to send their kids. This is really no different in concept than the children's section at the public library—which is the only part of the library where kids are allowed to check out books.

More specifically, the ''.kids'' space would be housed within our country's Internet code, otherwise known as ''.us'', which would result in ''.kids.us.''. For instance, if the Boy Scouts of America, whose website currently is: www.scouting.org, decided to set up an additional mirror site in the ''.kids.us'' space it

would be: www.scouting.kids.us. The U.S. Department of Commerce's National Telecommunications and Information Administration (NTIA) would oversee the implementation of ''.kids.us'', and while the bill stipulates that only websites with content that is ''not harmful to minors'' and is ''suitable for minors'' can get into the ''.kids.us'' space, the written content standards and rules of the road would be developed and enforced by the private sector, under the direction of the registry which has the contract from the Department of Commerce to manage the ''.us'' country code.

While the Supreme Court has cited the First Amendment as the basis for striking down previous efforts by Congress to protect kids on the Internet, H.R. 3833 is drafted in a manner which is consistent with the First Amendment. First, the proposal doesn't affect anyone's ability to put whatever kind of speech they want on the World Wide Web, on a ''dot com,'' ''dot net,'' ''dot org'' or anywhere else. This bill only addresses a subset of Internet—the ''dot us'' space. Moreover, it doesn't even curtail speech throughout the entirety of the ''dot us'' space. Speech more appropriate for adults or teenagers will not be affected by this bill and can appear elsewhere in the ''dot us'' space. The bill solely says that if you want to operate in the ''dot kids'' area—a subset of the ''dot us'' country code domain—you have entered a kid-friendly zone—where the content is suitable for children 12 and under. Again, this is completely voluntary for parents to use if they wish and content providers to avail themselves of if they are so inclined.

Moreover, now more than ever, parents recognize the dangers posed to their children in Internet chat rooms, where pedophiles can prey on children right in the comfort of the family living room. This is why the bill also bans chat rooms and instant messaging in the ''.kids.us'' space—unless such can be done without jeopardizing the safety of kids, through effective monitoring for example. Also, hyperlinks, which would take kids outside of the ''.kids.us'' space, would be banned.

Mr. Speaker, I would note that this bill has been endorsed by the National Center for Missing and Exploited Children, the Family Research Council, the American Center for Law and Justice, the National Law Center for Children and Families, and a Safer America For Everyone (SAFE), and I want to thank all of them for their support.

Again, I want to thank the gentleman from Illinois and the gentleman from Massachusetts for all of their hard work and perseverance on this bill, and I urge an ''aye'' vote on the bill on this measure which will help protect children and families on-line.

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

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

Mr. Speaker, I rise in strong support of this bill. I am an original co-sponsor, along with the gentleman from Illinois (Mr. SHIMKUS), of this legislation as well as many other Members. I want to commend the gentleman from Louisiana (Mr. TAUZIN), the ranking member, the gentleman from Michigan (Mr. DINGELL) and everyone else who is involved with this excellent process that has led to a consensus, a bipartisan proposal.

The bill was approved unanimously by the House Committee on Energy and Commerce, and I want to congratulate the subcommittee chairman, the gentleman from Michigan (Mr. UPTON) for his fine work in the processing of this legislation. It is, in fact, a very good bill.

As many parents today know, the Internet often appears to be a veritable jungle of websites. When a child logs on to search for games, stories or educational material, search engines often churn up pages for kids laden with pornography, violence or other content that is simply not appropriate for young children. To give children their own playground on the Internet and to facilitate the easier browsing and filtering of contents that many parents desire, we have introduced H.R. 3833, the Dot Kids Implementation and Efficiency Act. This bill directs the Department of Commerce through the National Telecommunications and Information Administration to accelerate the creation of a dot kids domain by making it a secondary domain under our Nation's country code top level domain which is dot U.S. The Department of Commerce awarded a free contract last October to authorize private sector management and commercialization of dot U.S. Therefore, what we are talking about here today is the creation of a place on the Internet for websites that end in dot kids-dot U.S.; for example, www.example.Kids.U.S. The proposed ''dot kids'' domain will be a cyber space sanctuary for content that is suitable for kids and will be an area devoid of content that is harmful to such minors.

I want to address at this point very briefly some of the free speech concerns that any endeavor of this type will inevitably raise. First, let me emphasize how this approach departs from previous congressional activities in this policy area. First, the proposed legislation will not subject all of the Internet communications to a harmful-to-minors standard. If you are in Tennessee, Taiwan, or Timbuktu, you can publish or speak any content you want on the Internet. This proposal does not affect your ability to do so on a dot com, dot net, dot org or anywhere else. This proposal now only addresses a subset of Internet commerce, the dot U.S. space.

Moreover, it does not even curtail speech through the entirety of the dot U.S. country code domain. If you are in Providence, Rhode Island or Provo, Utah, under this bill you are free to exercise your constitutional rights and this legislation contains no proposal which would subject anyone utilizing the dot U.S. space to a standard suitable only for kids. Speech more appropriate for adults or teenagers will not be affected by this bill and can appear anywhere else in the dot U.S. domain.

The bill solely stipulates that if you want to operate in the dot kids areas, a subset of dot U.S. country code domain, you have entered a kid-friendly zone, a green light district, where the content is suitable for children 12 and under. The dot kids proposal is not aimed at censoring Internet contents, per se; rather, it is crafted to help organize content suitable for kids in a safe and secure cyber zone where the risk of young children clicking outside of that zone to suitable contents or being preyed upon or exploited online by adults posing as kids is vastly diminished.

Organizing kid-friendly contents in this manner will enhance the effectiveness of filtering software and enable parents to set their children's browsers so their kids only surf within the dot kids domain. I also want to emphasize that use of the dot kids domain is not compulsory. Signing up for a dot kids domain or parents sending their kids to websites in that location remains completely voluntary and the free choice of both speakers and parents.

Finally, I want to note that this bill is not meant in any way to diminish or thwart the many laudable private sector efforts to create new and affirmative ways for kids to have a safe and educational online experience. Our efforts here today are meant to supplement, not supplant, initiatives underway elsewhere by ensuring that our dot kids country code reflects our public interest goals as a society in a way that hopefully can harness the best of advanced technology for kids across the country.

Again, I want to thank the gentleman from Illinois (Mr. SHIMKUS) for his leadership on this legislation, and I want to thank the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Michigan (Mr. DINGELL), and the gentleman from Michigan (Mr. UPTON) for his excellent work in this area.

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

Mr. UPTON. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. TAUZIN), the chairman of the full committee.

Mr. TAUZIN. Mr. Speaker, I, too, want to join my friend, the gentleman from Massachusetts (Mr. MARKEY) in congratulating the gentleman from Illinois (Mr. SHIMKUS) and the gentleman from Michigan (Mr. UPTON) for the loving care they have given this legislation. And I think it is going to be landmark legislation for the kids of America in dealing with the Internet. And I want to thank the gentleman from Massachusetts (Mr. MARKEY) and the gentleman from Michigan (Mr. DINGELL) in particular for the great assistance they have played in putting this together and making something very good happen for the families of America.

Like other filtering tools, this is just another great tool that American families will have to have their children go to a site that is monitored and where they can enjoy, indeed, the tremendous potential of the Internet without being assaulted by so many of the bad features we find on the Internet. And I think this is exactly the right kind of response to the Supreme Court which

has recently ruled that virtual pornography is somehow protected under our Constitution. When you live on the Internet in a digital age, 1's and O's can be real. They can be virtual. They can be anything. And to say while one form of presentation is legally protected while another is not was a rather strange decision for our high court.

This is a good answer. This says regardless of what the court says about it, here is going to be a safe place for kids to go and enjoy, indeed, the tremendous educational entertainment features of the Internet without running into the bad features that somehow afflict their lives.

Again, I want to thank the chairman of our subcommittee, the gentleman from Michigan (Mr. UPTON), for his great work in working with us and, most importantly, to the gentleman from Illinois (Mr. SHIMKUS) and the gentleman from Massachusetts (Mr. MARKEY) for the excellent work they have done in putting this together.

We should also thank Senator Byron and Senator DORGAN on the Senate side who have done such a great job in advancing this legislation and give them great credit for, again, working across the two bodies and perfecting it.

Again, Mr. Speaker, that is a good day for kids in America, and I think the Committee on Energy and Commerce, particularly its Subcommittee on Telecommunications and the Internet, deserves a great deal of credit for bringing this legislation to the floor. I commend it to all Members. It deserves passage.

Mr. MARKEY. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Silicon Valley, California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I thank my wonderful colleague, the gentleman from Massachusetts (Mr. MARKEY) for yielding me time.

Mr. Speaker, I rise in support of the bill, the Dot Kids Implementation and Efficiency Act. I think it takes a very important step of trying to provide a kid-safe zone on the Internet. We know that in raising our children that we always wanted to keep them out of tough, rough neighborhoods, and I think that this important step will do that on the Internet for our Nation's children.

When we considered this bill at the subcommittee, I expressed my support for the intent of the bill, but I also raised some questions as to whether this approach was totally realistic. Through the efforts and the cooperation of the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Michigan (Mr. UPTON), and the bill's sponsors, the gentleman from Illinois (Mr. SHIMKUS) and the gentleman from Massachusetts (Mr. MARKEY), changes were made that in my view make the dot kids space a safe and more effective domain. And that is the way it should be as we work these bills from subcommittee to full committee to the floor.

To make the site more secure, the bill now contains language that prohibits interactive services in the domain. This protects users, the young children under the age of 13, from inappropriate emails, online discussions in chatrooms, and from intentionally or unintentionally being able to hyperlink their way to inappropriate contents.

For the agency and the companies charged with establishing the standards and securing the site, this is a monumental task. They must find a way to operate a domain that is educational and entertaining for young children and at the same time keep it secure from inappropriate outside influences. I am very pleased that the substitute now gives NTIA the authority to suspend operation of the new domain if it is not serving its intended purposes. The revised bill also gives Neustar the ability to relinquish its right to operate the domain if it suffers from extreme financial hardship. Because the costs of maintaining this domain are still imprecise, I think the allowance of an exit strategy is an important addition to the bill.

As this very well intended bill stands, it is still my strong belief that one of the best Internet filters for children is an involved parent. Nothing takes the place of that, not even government action and legislation. So I want to thank the sponsors of the bill, the work of the committee, certainly the full committee chairman, the ranking member, the gentleman from Michigan (Mr. DINGELL), certainly the gentleman from Massachusetts (Mr. MARKEY), one of the most eloquent and knowledgeable Members of Congress in this area, and the gentleman from Illinois (Mr. SHIMKUS). I think we are taking an important and a correct step today.

Mr. UPTON. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. SHIMKUS), the sponsor of the legislation, the one who shepherded this bill through the subcommittee and full committee. We appreciate his leadership on this with so many others.

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

Mr. SHIMKUS. Mr. Speaker, it is with great pride that I rise today to speak on H.R. 3833, the Dot Kids Implementation and Efficiency Act of 2002.

First, I would like to thank my friend and colleague, the gentleman from the Commonwealth of Massachusetts (Mr. MARKEY) for his great work and efforts in education as we move this process forward.

□ 1045

Of course, my chairman, the gentleman from Michigan (Mr. UPTON), for believing in this concept and joining the team, I appreciate that, along with the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Michigan (Mr. DINGELL) for their great work.

We do our best work in the committee when we work together; and this floor, this House, does our best work together when we work together; and this is a perfect example of doing that.

Of course, we are only as good as the other members of our team. I have said this before in the committee briefings. Full committee staff Kelly Zerzan and Mike O'Rielly, I want to thank them. Chairman UPTON's staff, Will Nordwind, I thank him for his help; of course, the impeccable Collin Crowell from the staff of the gentleman from Massachusetts (Mr. MARKEY); Brendan Kelsay from the gentleman from Michigan's (Mr. DINGELL) staff; and my own Courtney Anderson who did a lot of lifting. Again, we are only as good as those people around us, and we have got a good team of staffers that do that well.

The development of the Internet has been a mixed blessing. It has moved our economy forward and provides us with a wealth of information after only a few strokes of the keyboard. Unfortunately, this new medium also has a dark side that holds a lot of danger for kids 12 and under.

In addition to adult content and violence that kids inadvertently stumble on as they surf the net, the recent well-publicized FBI sting of the Candyman child porn news group reminds us that child predators are running rampant in chat rooms and other places where they have the opportunity to interact and entice minors.

Following the logic of a child's section of a library, the Dot Kids Act will create a safe place for children on the Internet. H.R. 3833 facilitates the subdomain ''.KIDS.US,'' on our Nation's country code that will host content that is especially intended for children.

A number of safeguards were put in this bill. ''.KIDS.US'' will be monitored for content and safety; and should objectionable material appear, it will be taken down immediately. The legislation does not allow chat rooms, instant messaging or e-mails unless the entity hosting the site certifies that they will be done safely. Furthermore, hyperlinks, which would take children out of the safe ''.KIDS.US'' base are expressly prohibited.

Knowing that this child-friendly subdomain is a grand experiment, we have embedded in the bill an opt-out provision. If ''.KIDS.US'' turns into something it was not intended to be, the bill requires the Department of Commerce to take it down. While I believe strongly that there is a huge demand for a child friendly domain, if ''.KIDS.US'' is a place no one visits, then it can be eventually taken down.

Finally, ''.KIDS.US'' will cost the taxpayers nothing. When it comes to the Internet, there is no replacement for good parenting. However, ''.KIDS.US'' will promote good Internet content for children and will be a tool for parents to use to help keep their children safe online.

I urge my colleagues to join me this morning in voting to pass H.R. 3833. Again, I want to thank everyone that

has been involved, especially my good friend and colleague, the gentleman from Massachusetts (Mr. MARKEY). It has been a long road. We still have additional hurdles to overcome, but I am confident that we can get our friends in the other body to take this up expeditiously, get it passed, and get it to the President's desk.

Mr. MARKEY. Mr. Speaker, I yield myself as much time as I may consume.

The goal of this legislation is to try to harness the best of the new technology and to put it at the fingertips of kids and parents and teachers across the country.

One of the things we have to remember about technology and innovation is that the technology itself is neither good nor bad in and of itself. It only becomes so after it is animated by human values. The great truth of the Information Age is that the wondrous wire that brings cyberspace into the home or the school or the business will have a certain Dickensian quality to it. It will be both the best of wires and the worst of wires simultaneously.

The Internet can debilitate and debase core values, but it also can educate and ennoble us as well. The bill is designed to create a haven, a cyberspace playground to ennoble, educate and entertain children 12 and under in a safe and secure way. It is an additional tool that we can put into the hands of parents, and then each parent who decides to do so can use it as another weapon to fight off the debasing effect that parts of our culture can have upon children as they are growing up.

It is about time that Congress and the Federal Government put something on the books that gives this kind of a tool to the parents of the country.

My friend, the gentleman from Illinois (Mr. SHIMKUS), already went down the litany of saints, the staff who worked on this bill: Kelly Zerzan, Will Nordwind, Brendan Kelsay, Mike O'Rielly, and on my staff, Collin Crowell, who worked very closely with the majority in crafting this bill, and he mentioned Courtney Anderson on their side. My mother was a Courtney, and she always told me that the Courtneys are very intelligent people. And we have Courtney Johnson on our side who worked with Courtney Anderson on this bill, and I just did not want there to be a Courtney intelligence gap that opened up between the Democrats and Republicans on this bill. We were equally represented by these highly-intelligent people.

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

Mr. UPTON. Mr. Speaker, might I inquire how much time is remaining on both sides.

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from Michigan (Mr. UPTON) has 9 minutes remaining. The gentleman from Massachusetts (Mr. MARKEY) has 7½ minutes remaining.

Mr. UPTON. Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska (Mr. TERRY), a co-sponsor of the legislation, a very valuable member of the subcommittee.

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

Mr. TERRY. Mr. Speaker, I am an enthusiastic supporter and original cosponsor. In fact, this is one of the reasons why I joined the Committee on Energy and Commerce and the Subcommittee on Telecommunications and the Internet is trying to find a safe harbor, a constitutional way of protecting our children on the Internet; and I was proud that two of my colleagues, the gentleman from Illinois (Mr. SHIMKUS) and the gentleman from Massachusetts (Mr. MARKEY), were already lapping me in there and allowed me to join them in that process, and I thank them for that because it is important that we establish a safe haven, a secure area for our children on the Internet.

We have heard of a story of an 11-year-old boy looking for computer games, typed in fun.com and unknowingly brought up a pornographic Web site. Two elections ago, my opponent was Michael Scott and any junior high physics class that typed in MichaelScott.com got a porn site. My 7-year-old, yes, 7-year-old, loves to get on the Internet, especially this weekend after we saw ''Spiderman.'' I stand over him. I type it in first because I fear that typing in something as simple as ''Spiderman'' or ''fun'' or a political name may bring up a pornographic Web site.

Nearly 24 million youths today use the Internet. By the year 2005, it is expected that 77 million youth will regularly log on. This bill will help preserve our children's innocence and prevent these types of sexual encounters and predators and pornography online. It will create a child-friendly zone within the United States. All contents of this zone will be appropriate for children 12 and under.

An independent firm will methodically monitor and immediately remove any content which is harmful to minors. No access to chat rooms, and this is an important fact, because it is not that we were just putting all the children in one safe, what we believe is a safe, area, so all the predators know where they are. We bar that. That is an important part of this bill, that there will not be any interactive component here where a predator can break in. This is so our children can have a safe haven.

Sexual predators, not only is it the pornographic Web sites that we are trying to keep away from our children, but it is the predators.

In my closing remarks here, I want to point out to my colleagues that the Crimes Against Children Research Center reported that one in five teenagers who regularly use the Internet have received an unwanted sexual solicitation, and one out of 33 youths have received what is classified as an aggressive sexual solicitation where they are directly trying to solicit a sexual meeting with a teenager. That is what we are trying to prevent with this legislation; and I appreciate the efforts of the gentleman from Massachusetts (Mr. MARKEY), the gentleman from Illinois (Mr. SHIMKUS), and our chairman.

Mr. UPTON. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. OSBORNE), a fellow member of the Committee on Education and the Workforce, and one who is also very supportive of this legislation.

Mr. OSBORNE. Mr. Speaker, I would like to commend the gentleman from Michigan (Mr. UPTON) and the gentleman from Massachusetts (Mr. MARKEY) and the gentleman from Illinois (Mr. SHIMKUS) and others on the committee for this legislation.

Yesterday, a young woman who had been sexually assaulted asked me what Congress was going to do to address the problem. I mentioned my support of the Dot Kids legislation. As was made mention, Dot Kids provides a safe haven for children from Internet predators and sexually explicit material.

Certainly this legislation is a step in the right direction. However, it does not address the whole problem.

A few months ago my name, used as an Internet search vehicle, brought up a porn site. Children wanting to find out about their Congressman were exposed to graphic material.

We have done a good job of proving the link between smoking and cancer and heart disease, and we have aggressively attacked the tobacco problem with advertising, higher taxes and legislation. The connection between pornography and sexual abuse of women and children is equally clear. Yet we have done very little until now to address the problem.

Fifteen years ago, a Nebraska senator, Jim Exon, sponsored legislation to outlaw pornography on the Internet. He was laughed at at the time and the legislation went nowhere. Today, pornography is a $15 billion industry per year in the United States. It is the most lucrative endeavor on the Internet of all other projects and commercial attempts.

In attempting to protect free speech, we have badly trampled the rights of women and children to be protected from exploitation and physical harm. Dot Kids is an excellent start. I urge its support. I also hope that this is just a beginning in attacking the pornography industry.

Mr. UPTON. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. WAMP), someone who is just as equally concerned about kids and their lives, a cosponsor of the legislation.

Mr. WAMP. Mr. Speaker, it is an awesome responsibility to serve in this House, but I have no more awesome a responsibility in my life than to be a father of a 15-year-old son and a 13-

year-old daughter. The Internet is a powerful tool. It is also a very dangerous tool.

I was reminded of F.S. Oliver's poem about politics when he speaks of it being a noble profession. He says, and I paraphrase, there is no other profession where someone can do more good for their fellow man nor is there another profession where you can do such widespread harm, and the Internet has the same potential for good or bad.

Dot Kids Act gives young people a domain for use under tight guidelines with standards for content and registration; and as has been stated, it is like a children's section in a library. It is only appropriate. Recent Supreme Court rulings underscore the need to pursue multiple approaches to protecting our children from pornographers and demented individuals like pedophiles.

This is illegal pornography that we are trying to protect people from. There is a difference between what is legal and protected under the first amendment and what is illegal and not protected. It needs to be pursued. It is a cancer on our culture that requires aggressive treatment.

A journey of a 1,000 miles begins with a single step and this is just one step, but it is an important step; and we have got miles to go to continue coming to this floor and finding new, creative and innovative ways to protect our children from the dangers of the Internet.

I applaud the authors of this legislation and the committees for working together in a bipartisan way to do what is right for the children of America in a very dangerous world.

□ 1100

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

Again I want to recommend to all the Members that they support this legislation. It is a real step forward in giving parents a tool they can use to protect their kids under 12 when they are on-line. The sooner we pass this is the sooner we can put this additional protection in place.

I want to thank again the majority for their cooperation in working with us in a way in which we can craft a bill that we can honestly recommend to every Member, Democrat, Republican, liberal or conservative, that will move forward to help the families in our country.

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

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

I would note that at our very first hearing as chairman of the Subcommittee on Telecommunications and the Internet, we talked about ''I Can'' and the various domain names that were out there. All of us jumped on the name of Dot Kids and how it could be protective of our kids. The stories we hear virtually every day, whether it be this morning, this young girl killed in Danbury, Connecticut, stories in our own districts across the country, we know that we need something that can protect our children from a nightmare that no family, no community ever wants to experience. I would reiterate that groups who spend literally every waking hour trying to protect families across this country, groups like the National Center for Missing and Exploited Children, Family Research Council, American Center for Law and Justice, the National Law Center for Children and Families, a Safer America For Everyone, all of them as well as every parent that serves in this House, every Member of Congress that has watched some of this junk that has come in unasked for, we know that Dot Kids can be a savior for all of us. We compliment those Members of the Senate that are wishing to pursue this legislation. We look forward to when this can be enacted into law by President Bush. We know that the administration supports this legislation.

Mr. WYNN. Mr. Speaker, I am pleased that the House of Representatives is considering H.R. 3833, the ''Dot Kids Implementation and Efficiency Act of 2002.'' I am a cosponsor of this legislation, which is important to parents and their young children exploring the Internet.

This legislation makes good sense. As a parent of a 7-year-old who surfs the net, I am concerned, as many parents across this Nation are, about the unseemlier side of the Internet, which our children can be exposed to, through a couple of mouse clicks, or the misspelling of a website name.

Where monitoring our children's use and installing filtering software helps, in the real world neither method is perfect. By creating the domain ''.kids.us'' and setting up guidelines on what is unacceptable in this domain, we go a long way to improving the safety of our children on the Internet. This bill creates a safe space on the Internet for our children, which is free from stalkers and free from the harmful imagery to which we do not want our children exposed.

I applaud the work of the sponsors of this bill for this valuable legislation that will help make the Internet safer for our kids.

Mr. PAUL. Mr. Speaker, as a parent, grandparent, and ob-gyn who has delivered over three thousand babies, I certainly share the desire to protect children from pornography and other inappropriate material available on the internet. However, as a United States Congressman, I cannot support measures which exceed the limitations on constitutional power contained in Article one, Section 8 of the Constitution. The Constitution does not provide Congress with the authority to spend taxpayer funds to create new internet domains.

Furthermore, Mr. Speaker, the federal government is singularly unqualified to act as the arbiter of what material is inappropriate for children. Instead, this is a decision that should be made by parents. Most of the problems pointed to by proponents of increased government control of the internet are the result of a lack of parental, not governmental, control of children's computer habits. Expanding the government's control over the Internet may actually encourage parents to disregard their responsibility to monitor their child's computer habits. After all, why should parents worry about what websites their children is viewing when the government has usurped this parental function?

The market is already creating solutions to many of these problems through the development of filtering software that responsible parents can use to protect their children from inappropriate materials. The best way to address this problem is by allowing this market process to develop, not by creating new government regulations.

In addition to creating new Internet domains, Congress is also expanding federal wiretapping powers. Mr. Speaker, my colleagues should also remember that the Constitution creates only three federal crimes, namely treason, piracy, and counterfeiting. Expansion of federal police power for crimes outside these well-defined areas thus violates the Constitution. In addition, expansion of federal wiretapping powers raises serious civil liberties concerns, as such powers easily can be abused by federal officials.

I therefore hope my colleagues will respect the constitutional limitations on federal power. Instead of usurping powers not granted the federal government, Congress should allow state and local law enforcement, schools, local communities, and most of all responsible parents to devise the best measures to protect children.

Ms. JACKSON-LEE of Texas. Mr. Speaker, as we enter the new millennium the Internet has become a playground for our children. In today's' playground there are many dangers, some examples are child pornography and sexual predators to name a few. In the past we have drafted legislation to insure the safety of our most precious resources, children. The Dot-Kids Implementation and Efficiency Act is this House's attempt to safeguard children.

The bill before the House today will go far to create a safer environment for children to explore the Internet. The legislation will create, within the United States a top-level ''dot-us'' country code domain and a ''dot-kids'' subdomain. The Web address of any site registered under the new subdomain would end with a ''.kid.us'' suffix. The dot-kids subdomain would ban sexually explicit material and other content deemed harmful for children under 13. The bill's definition of ''harmful'' includes any material that ''lacks serious, literally, artistic, political or scientific value'' for children.

The legislation would authorize the Commerce Department's National Telecommunications and Information Administration to remove from the dot-kids subdomain any content that does not meet the bill's ''child-friendly'' standards. That means that NeuStar, Inc.—the company that manages the dot-us domain under a contract with Department's National Telecommunications and Information Administration—would be required to monitor the content of all Web sites registered with a ''.kid.us'' address.

According to the Congressional Budget Office there are no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. The Act would impose no costs of state, local, or tribal governments. Based on information from the Department of Commerce, CBO estimates that launching a publicity and education campaign for the new domain would cost less than $500,000 per year, subject to the availability of appropriated funds.

Another provision in the bill would permit the Department's National Telecommunications and Information Administration to pull the plug on the subdomain if it fails to adequately protect children. This gives the Department of Commerce the needed enforcement mechanism to maintain a safe Internet environment for children. As the Chair of the Children's Caucus and a mother I rise to support the passage of H.R. 3833.

Mr. SCHIFF. Mr. Speaker, I rise today in support of H.R. 3833, the "Dot Kids Implementation and Efficiency Act." I am proud to be a cosponsor of this important legislation, which was introduced by Representatives SHIMKUS and MARKEY, and commend the efforts of this House to protect our children on the Internet.

While the Internet has afforded our children amazing opportunities for learning and discovery, it has also posed serious dangers. The Internet makes it easy for children to gain access to inappropriate materials, turning simple searches into avenues for pornographic or violent web pages. As a parent of a young daughter, my hope is that she will be able to search the Internet freely and use it as a tool to explore books, stories, and educational games without worrying about what might turn up. This bill will make this possible.

H.R. 3833 creates a safehaven for children using the Internet by creating a separate domain name for content that is appropriate for kids under 13, while filtering any subject matter that may be harmful or threatening to this audience. By directing the National Telecommunications and Information Administration (NTIA) to establish and oversee the structure and rules for the new domain name, we are ensuring that the criteria for the "dot.kids" domain meet the necessary standards to protect children using the Internet. Further, this bill requires that the NTIA publicize the availability of the new domain and educate parents on how filter and block inappropriate material.

In today's web-based environment, it is vitally important that we work together with parents to ensure that our kids are safe in cyberspace. Congress is taking a remarkable step forward in this endeavor by passing this legislation. I urge my colleagues to support the "Dot Kids Implementation and Efficiency Act" on the House floor today.

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

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the motion offered by the gentleman from Michigan (Mr. UPTON) that the House suspend the rules and pass the bill, H.R. 3833, as amended.

The question was taken.

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

Mr. UPTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

CHILD SEX CRIMES WIRETAPPING ACT OF 2002

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1877) to amend title 18, United States Code, to provide that certain sexual crimes against children are predicate crimes for the interception of communications, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1877

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 "Child Sex Crimes Wiretapping Act of 2002".

SEC. 2. AUTHORIZATION OF INTERCEPTION OF COMMUNICATIONS IN THE INVESTIGATION OF SEXUAL CRIMES AGAINST CHILDREN.

(a) IN GENERAL.—Section 2516(1)(c) of title 18, United States Code, is amended—

(1) by striking "2251 and 2252" and inserting "2251, 2251A, 2252, and 2252A"; and

(2) by inserting "section 2423(b) (relating to travel with intent to engage in a sexual act with a juvenile)," after "motor vehicle parts),".

(b) TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY.—Section 2516(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (q);

(2) by inserting after paragraph (q) the following:

"(r) a violation of section 2422 (relating to coercion and enticement) and section 2423(a) (relating to transportation of minors) of this title, if, in connection with that violation, the intended sexual activity would constitute a felony violation of chapter 109A or 110, including a felony violation of chapter 109A or 110 if the sexual activity occurred, or was intended to occur, within the special maritime and territorial jurisdiction of the United States, regardless of where it actually occurred or was intended to occur; or"; and

(3) by redesignating paragraph (r) as paragraph (s).

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

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

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 1877, the bill currently under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 1877, the Child Sex Crimes Wiretapping Act of 2002, will help protect our children from the growing threat of sexual predators by assisting law enforcement officers in thwarting those predators who are intent on sexually abusing children. To do so, the bill amends title 18, United States Code, section 2516 to authorize the interception of wire, oral, or electronic communications in the investigation of: (1) the selling and buying of a child for sexual exploitation under title 18, United States Code, section 2251A; (2) child pornography under title 18, United States Code, section 2252A; (3) the coercion and enticement to engage in prostitution or other illegal sexual activity under title 18, United States Code, section 2422; and (4) the transportation of a minor or traveling to meet a minor with intent to engage in a sexual act with the minor under title 18, United States Code, section 2423.

Technology has precipitated a significant increase in sexual exploitation crimes against children. In fact, child pornography was nearly extinct until the increased use of the Internet provided a new medium where the viewers, producers and traders are virtually anonymous. The Internet provided these depraved individuals with new access to their victims. In 2000, a U.S. Customs Service representative testified before the Subcommittee on Crime, Terrorism and Homeland Security of the Committee on Judiciary that the Customs Service had seen a dramatic rise in child exploitation investigations. During fiscal year 1999, these types of investigations increased 36 percent, and in 2000 the number rose an alarming 81 percent.

Additionally, the growth of international travel has helped sexual predators to exploit children throughout the world. According to a 2002 Congressional Research Service report, trafficking in people, especially women and children, for prostitution and forced labor is one of the fastest growing areas of international criminal activity. According to that report, under conservative estimates the scope of the problem involves more than 700,000 victims per year worldwide. We must do more to prevent children and women from being forced into prostitution, the sex tourism industry, and other sexually exploitative criminal markets.

The goal of H.R. 1877 is to provide law enforcement with the tools necessary to prevent the ultimate harm these depraved individuals plan for the innocent children they target. Wiretaps are key to stopping those crimes before the predators can physically harm children. I urge my colleagues to support the bill.

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

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

Mr. Speaker, I rise in opposition to H.R. 1877, the Child Sex Crimes Wiretapping Act. I believe the bill represents an unnecessary expansion of Federal wiretap authority, a procedure so pervasive of the rights of citizens in a free society that it can only be made available for use under circumstances specifically approved by Congress.

The current congressionally approved wiretap authority dates back to the 1968 crime bill. The primary intent of the law was to permit a limited use of electronic surveillance of organized crime syndicates, but even under those circumstances, as a tool of last resort.

Since that time the act has been amended over a dozen times to meet the demands of law enforcement officials for more power to eavesdrop on our citizens. We now have over 50 predicate crimes for which wiretap authority may be obtained. Regrettably, a number of these predicates involve relatively minor criminal activity. But now the argument goes that if we amended the wiretap authority to add one crime, we should certainly amend it to add another. As a result, the wiretaps are becoming a routine rather than an extraordinary procedure used as a last resort.

Eavesdropping on conversations from a household or a pay phone or a cell phone is a very intrusive law enforcement activity. Once a wiretap, or a bug, is in place, it captures all conversations, innocent as well as criminal. Estimates I have seen indicate that over 80 percent of the information obtained by wiretaps is innocent information, often involving family members and others who are not even targets of the investigation.

As Members will remember from the debate after September 11, some wiretaps are the so-called roving wiretaps where bugs can be placed on any phone the target uses, at his home, at his workplace, at the pay phone on the corner, at his neighbor's house or country club, and many innocent people will have their private, unrelated conversations listened in on by government employees.

At a hearing on this bill in the Subcommittee on Crime, Terrorism, and Homeland Security, an FBI witness testified about certain successful investigations in which wiretap authority would have been helpful. Given the intrusive nature and many innocent individuals and conversations it will necessarily ensnare, it is not enough justification for it to be merely helpful to law enforcement. It ought to be necessary.

Even without this expansion, the use of wiretap authority is rapidly growing. For example, in 1980, 81 Federal wiretaps were issued. In 1999, 601. That is 81 to 601 wiretaps were issued. Most of the crimes covered by this bill also involve activities that are State crimes. Indeed, over 98 percent of all criminal prosecutions are conducted at the State level. Each State can authorize wiretaps and most do. However, the total number of all State wiretaps amounts to almost the same number as the Federal wiretaps, 749 in the whole country in State wiretaps to 601 Federal wiretaps in 1999. The fact that a few States have chosen not to authorize wiretaps at all and the limited number of State wiretaps that are authorized as compared to the number of Federal wiretaps attests to the level of concern citizens have with law enforcement officials having power over their private conversations.

Mr. Speaker, as we address this bill, we see that much of the activity for which the proponents of the legislation are seeking to justify this wiretap authority is already covered by Federal wiretap authority. Moreover, most, if not all, of the activity under the sections added by H.R. 1877 for wiretap authority are covered by the general wiretap authority in the Federal law for crimes against child exploitation. And all of it is already covered by e-mail, fax and other electronic eavesdrop authority and investigatory techniques. And so, Mr. Speaker, to understand the impact of the legislation, we have to focus on those crimes not currently covered under present law which will be covered by additions under this bill.

One provision allows wiretap when probable cause exists that a person is producing sexually explicit computer-generated images of children. This very month, the Supreme Court said that computer-generated images of children that are not obscene and do not involve real children are not criminal. This bill would allow wiretaps for those situations. Wiretaps should be used only in extraordinary situations. We certainly should not be adding wiretap authority to investigate something that is not even a crime.

I attempted improvements to the bill in committee by offering amendments to limit the application to its stated objective of protecting children. One amendment which was not adopted would have limited the extension of wiretap authority to cases involving actual as opposed to virtual children in keeping with the recent Supreme Court decision. That was not adopted. Another limited the application of the act to cases involving children as opposed to adults. There is absolutely no justification in a bill purportedly designed to protect children to authorize wiretap authority for the FBI to listen in on garden-variety adult prostitution cases. Prostitution is actually legal in some places. Yet under Federal law it is a felony punishable by up to 10 years in prison to persuade, induce or entice or attempt to, or to conspire to have someone cross a State line to engage in this legal activity. If this bill becomes law, the FBI will be able to wiretap conversations to determine if there is such persuasion, enticement or inducement or attempt or conspiracy.

There are other situations involving consensual activities involving high school students that we see routinely on prom night which would provide a Federal wiretap under this bill.

With such shortcomings, Mr. Speaker, this bill should not be on the suspension calendar but should be fully debated and open to amendment. I urge my colleagues to defeat this motion to suspend the rules so that the bill may be considered under regular rules of order subject to full debate and amendment.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), the author of the bill.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in support of this important legislation. I thank the chairman for bringing it forward.

Passage of this bill is not an effort to just be helpful to the FBI. It is a necessary tool that the FBI must have if they are to track down these predators and to reduce the threat to our children. The threat to our children is real. The need to address it is urgent.

□ 1115

In talking with Ernie Allen, president and CEO of the National Center for Missing and Exploited Children, he tells a compelling story. In visiting a classroom, he and a reporter asked the children, How many of you have been approached sexually on the Internet? Every single hand went up. And then the kids were asked, And how many of you told your parents? Not a single hand went up.

The children are terrified. They are afraid to tell their parents because this threat is so both nebulous and mysterious. They are frightened by it but think they are protected by the computer and don't need to tell their parents. In fact these criminals are very clever, weedle information from children, earn their trust, and then they are vulnerable kids also are afraid that their parents will deny them access to the computer if they acquaint their parents with the dangers that lurk there.

Our children need our protection. These conversations on the Internet that lure and entice them lead them to telephone conversations that set up meetings. Just yesterday, a 13-year-old girl in my home State, a beautiful young woman, an honor student, a cheerleader, was found murdered. She met her murderer online. He lured her from her home, sexually abused her and killed her.

This is real. It is present, and all of our children are experiencing it. In 1999, and this is old data now, one in five children reported having been sexually solicited on the Internet. That is 5 million children. Today we believe this is the most under-reported crime in the Nation.

It is just simply a terrible situation, it is urgent, and if our FBI agents are not able to track the conversation they spot beginning on the Internet when it transfers to the telephone, which it always does before meeting, then they are weakened in their ability to prevent the sexual molestation and possible murder of our children.

They just want the same tools that the predators have. That is all. They want to be able to interrupt those conversations before the meeting takes place or be there when the meeting takes place, and they want the evidence off the tape recording of the wiretap to use in court because it is tangible, and it will protect many of our children from having to testify.

Mr. Speaker, this is a long-overdue bill. I appreciate the concern of those

who are worried about extending wiretap authority; but this is a concrete, demonstrated need that the courts have to approve. I urge support of this legislation.

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

Mr. Speaker, cases of kidnapping and murder can already be predicates for a wiretap.

Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I rise today in strong support of this legislation that will help to protect our Nation's children. We need to give law enforcement, the FBI, the tools that they need to crack down on child sex crimes.

This particular wiretapping act will add four additional crimes for which law enforcement officials may seek wiretapping authority. These crimes include selling or buying a child for sexual exploitation, child pornography, coercing or enticing a child for prostitution, and transporting minors to engage in prostitution or traveling with the intent to engage in a sexual act with a juvenile.

Recent news reports, my colleague cited one, but you read about them every day where young children are enticed or the Internet is used in some way to traffic women and children; and it is something we need to crack down on. There are some estimates that the number of victims that are in trafficking now worldwide is over 700,000.

This exploitation of young children into sex trafficking is a tragic human rights offense. Sex tour operators such as Big Apple Oriental Tours in New York City provide a full-service travel package over the Internet, including air fare, hotel and entertainment for their customers. We must act to stop this growing industry.

Under this legislation, law enforcement will be better able to protect innocent children from the predators who would exploit them and destroy their childhood. I am also pleased to note that this legislation does not weaken the strict limitations on obtaining wiretaps; rather, the bill expands the areas for which the wiretap can be acquired, while requiring the law enforcement officials do not intercept noncriminal conversations. Our interest is in prosecuting sexual predators, not innocent citizens.

The Internet has revolutionized the ways in which people communicate, not only with their friends and family but with people and businesses around the world. Unfortunately, with great advances in technology come new dangers and new means for criminals to target their victims.

The statistics are startling. In 2001, one in five children was solicited over the Internet for sexual purposes, and we must expand the options available to law enforcement to find these sexual predators.

I must tell you that I feel very strongly about this bill. I am proud to be the lead Democrat on it. I have a 14-year-old daughter; and many times on the Internet she is approached, as is practically every young person on the Internet. It has met with tragedy in many cases.

We must act. This bill does protect the rights of people. We are only going after sexual predators. I urge a ''yes'' vote.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. SMITH), the chairman of the Subcommittee on Crime.

Mr. SMITH of Texas. Mr. Speaker, first of all, I would like to thank the chairman of the Committee on the Judiciary for yielding me time.

Mr. Speaker, it is very appropriate that the House is considering H.R. 1877, the Child Sex Crimes Wiretapping Act of 2002, before May 25, the National Missing Children's Day. This bill will provide law enforcement officials with the tools they need to prevent or punish sexual exploitation of children.

Federal law authorizes the use of wiretaps to stop some sex crimes against children, but not others. This is clearly a gap in our current law. The interception of oral communications through wiretaps significantly enhances investigations and can prevent children from being harmed.

This bill authorizes wiretaps to investigate the selling and buying of children for sexual exploitation, child pornography, coercing and enticing children into prostitution, and the transportation of minors to engage in sexual activity. These are serious crimes that require a serious response.

With 24 million children surfing the Internet, child molesters have easy access to a large number of potential victims. The American Medical Association released a study last summer that surveyed children who regularly used the Internet. The study found nearly one in five children surveyed received an unwanted sexual solicitation online just in the last year. Technology is making it more and more difficult for law enforcement officials to protect our children from pedophiles. This is why we need to authorize the use of wiretaps by law enforcement officials to fight this growing threat against our children.

Wiretaps will significantly enhance law enforcement capabilities to prevent the sexual exploitation of children. This is the goal of H.R. 1877.

Mr. Speaker, I support the bill, and urge my colleagues to do the same.

Mr. Speaker, let me reassure the few of my colleagues who might have concerns about this bill.

This bill does create new wiretap predicates. But those crimes will be treated like any other wiretap predicate. This in no way changes the strict limitations on how and when wiretaps may be used.

Congress enacted Title III of the Omnibus Crime Control and Safe Streets Act of 1968 that outlines what is and is not permissible with regard to wiretapping and electronic eavesdropping. Title III restrictions go beyond Fourth Amendment constitutional protections and include a statutory suppression rule to exclude evidence that was collected in violation of Title III. Except under limited circumstances, it is unlawful to intercept oral, wire and electronic communications. Accordingly under the Act, Federal and state law enforcement may use wiretaps and electronic surveillance under strict limitations. Congress created these procedures to allow limited law enforcement access to private communications and communication records for investigations while protecting Fourth Amendment rights. In addition to these restrictions, Congress has only provided authority to use a wiretap in investigations of specifically enumerated crimes, commonly called ''wiretap predicates.''

H.R. 1877 adds new predicates but does not affect the procedures on wiretap use.

Title 18 U.S.C. § 2516 requires that the Department of Justice authorize all applications for Federal wiretaps and the principal prosecuting attorney of any state or any political subdivision must apply for wiretaps by state law enforcement officials.

Title 18 U.S.C. § 2518 also sets strict procedures for the use of a wiretap. Section 2518(1) requires the application to be made under written oath or affirmation to a judge of competent jurisdiction. Section 2518(1)(b) requires that the application set forth ''a full and complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an order should be issued. . . .'' These facts should include, among other things, the details ''as to the particular offense that has been, is being, or is about to be committed'' and ''the identity of the person, if known, committing the offense and whose communications are to be intercepted.''

Section 2518(3) also includes requirements that the Judge believe (1) ''there is probable cause for belief that an individual is committing, has committed, or is about to commit a particular offense enumerated in section 2516 of [title 18];'' (2) there is probable cause for belief that particular communications concerning that offense will be obtained through such interception; and (3) normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous.

Additionally, law enforcement is required ''to minimize the interception of communications not otherwise subject to interception [that is non-criminal conversations] under this chapter, and must terminate upon attainment of the authorized objective.'' The Department of Justice's U.S. Attorney's Manual—Title 9 of the Criminal Resource Manual provides the minimization requirements to obtain a court order.

The affidavit ''must contain a statement affirming that monitoring agents will minimize all non-pertinent interceptions in accordance with Chapter 119 of Title 18, United States Code, as well as additional standard minimization language and other language addressing any specific minimization problems (e.g., steps to be taken to avoid the interception of privileged communications, such as attorney-client communications) in the instant case. (18 U.S.C. § 2518(5) permits non-officer government personnel or individuals acting under contract with the government to monitor conversations pursuant to the interception order. These individuals must be acting under the supervision of an investigative or law enforcement officer

when monitoring communications, and the affidavit should note the fact that these individuals will be used as monitors pursuant to 18 U.S.C. § 2518(5).)''

Mr. SCOTT. Mr. Speaker, I yield 5 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, and include extraneous material.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished ranking member for both his leadership and his kindness in yielding me time. I also thank the sponsors of this legislation and the chairman and ranking member of the committee, both for the timeliness of this legislation moving, the chairman of the subcommittee; and I rise to support this legislation on one large key word, and that word is ''deterrence.''

I hope as we move the legislation through this body that the concerns of the ranking member are addressed and considered. But I believe that the deterrent factor is a must. It is key. It is an absolute.

What struck me most, Mr. Speaker, was the testimony that I heard in our hearings that child predators often gain the confidence of children on the Internet and then set up meetings by telephone. In a recent report it has been noted that 40 hours of a child's time is taken up with electronic kinds of equipment; only 17 hours are taken up with the interaction with the child's parent; and maybe 30 hours or more in school.

Clearly we have a predator's paradise, with the Internet being the enticing instrument and then the telephone nailing it down. What a tragedy.

Might I add to my colleague from Connecticut's outrage, in reading a headline, ''Man confesses to killing girl he met on the Internet.'' This did happen in Danbury, Connecticut. Investigators found the body of a missing 13-year-old girl Monday after she met a man over the Internet and told them where to look. The U.S. Attorney identified the man as a 25-year-old individual who had confessed to killing the girl, Christina Long. She was last seen Friday at a Danbury shopping center.

Relationships developed over the Internet, and then, as we might expect, and might speculate, might I say, nailed down the coffin nail by a phone call as to where to meet me. This beautiful young girl is now dead. Thousands upon thousands have access to the Internet, our very innocent children; and thousands upon thousands of predators, vicious and violent as they are, are utilizing the Internet and then the telephone.

I would offer to say that this legislation gives law enforcement an additional tool, if you will, along with other law enforcement agencies, to monitor these telephone calls, overcoming a legal barrier now facing crime fighters in tapping these phone calls, geared specifically to sexual activities with respect to a minor.

I would hope as this legislation makes it way, we will consider the issue that deals with extraneous conversation and individuals not engaged in these terrible, heinous acts. We are a Nation of laws, Mr. Speaker. It is important to recognize the rights and privileges, the civil liberties and due process of others not engaged in criminal activity; but this is a vital tool that will assist in fighting these heinous and horrific sexual crimes.

H.R. 1877 would add certain sexual crimes against children to the list of offenses for which wiretaps and other interceptions of communications can be authorized. Implementing the bill could result in more successful investigations and prosecutions in cases involving such crimes.

It is not always easy, Mr. Speaker, to have someone stand up and say ''I did it.'' Our children are under attack. They are under siege. These sexual crimes are prolific, and they are all over the Nation. What a tragedy, Mr. Speaker, to have this young girl as an example of the violence that happens over the Internet. What a tragedy to recognize that our children are before these electronic media entities, meaning whether it is the CDs or whether or not it is the boom box or whether or not it is the Internet, for more than 40 hours of their life a week without an adult attending to them or counseling with them or participating with them on the Internet. That means there is ample opportunity to entice our young girls and young boys.

Let me conclude by saying in my own district just a few weeks ago a person from Detroit, Michigan, enticed a 12-year-old to leave his home in Texas; and by the time they were found through the Internet, they were halfway back to Michigan, enticing the 12-year-old for sexual activities, terrible sexual activities as relates to a minor.

This legislation will begin the deterrence, and I hope as it makes its way through this House and makes its way through the Senate, we will be concerned as well about the issues of due process and privacy.

Mr. Speaker, as a member of the House Judiciary Subcommittee on Crime, I heard testimony during the hearings that child predators often gain confidence of children on the Internet and then set up meetings by telephone. The new authority in the legislation would give power to the FBI or other law enforcement agencies to monitor those telephone calls, overcoming a legal barrier now facing crime fighters in tapping those phone calls. This bill would have more than a deterrent affect it would also contain enforcement muscle.

Because those prosecuted and convicted under H.R. 1877 could be subject to criminal fines, the federal government might collect additional fines if the bill is enacted. Collections of such fines are recorded in the budget as governmental receipts (revenues), which are deposited in the Crime Victims Fund and later spent. CBO expects that any additional receipts and direct spending would be negligible because of the small number of cases involved. CBO estimates that implementing H.R. 1877 would not result in any significant cost to the federal government. Enacting H.R. 1877 could affect direct spending and receipts; therefore, pay-as-you-go procedures would apply to the bill, but CBO estimates that any such effects would not be significant. H.R. 1877 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

H.R. 1877 would add certain sexual crimes against children to the list of offenses for which wiretaps and other interceptions of communications can be authorized. Implementing the bill could result in more successful investigations and prosecutions in cases involving such crimes. CBO expects that any increase in costs for law enforcement, court proceedings, or prison operations would not be significant because of the small number of cases likely to be affected. Any such additional costs would be subject to the availability of appropriated funds. The bill would add four crimes to a list of those that qualify for wiretaps or other electronic monitoring—child pornography, enticing children to engage in illicit sex, transporting children to engage in sex and selling or purchasing children for prostitution or other sexual exploitation.

The bill amends the Federal criminal code to authorize the interception of wire, oral, or electronic communications in the investigation of child pornography, felony coercion and enticement to engage in prostitution or other illegal sexual activity. As the Chair of the Children's Caucus and a mother I rise to support the passage of H.R. 1877.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GEKAS).

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

Mr. Speaker, I believe it was in the first week in which I operated as an assistant district attorney in Dauphin County in Pennsylvania when I had the duty of supervising an investigation and a court setting for a case evolving from wiretapping; and it happened to be a sex case, although not one involving children. That is when I learned for the first time in on-the-job training that no wiretap will be used in court or is usable in court if it is not predicated by a court order. So the judge has the ability to look over and has oversight on every single phase of the reaching out to the telephone wires by a wiretap.

This I think is the answer to the concern of the gentleman from Virginia when he relates that it should be more than helpful to the law enforcement agencies, but absolutely necessary in his description of when a wiretap should be used.

□ 1130

I say to him that it is the court which will decide whether it is merely helpful or necessary. It is when the court determines the necessity of the wiretap that it finally signs into the ability of the law enforcement to use that wiretap.

So with all of the advances made over the years from that first week of my incumbency as an assistant district

attorney, with the cell phones and now the vast Internet, what is attempted by this bill is to keep up with the pace of the technology. But then it still falls back on the ancient, now ancient prospect of a court-reviewed request for a wiretap. So all of the safeguards, the greatest one of all, meaning the review by the court, is still in place; and yet we are now in a position if we pass this bill to expand the authority of the law enforcement community.

Mr. SCOTT. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I rise to commend my colleague, the gentleman from Virginia (Mr. SCOTT), for taking on a very difficult issue. It is very easy for all of us to stand here and talk about how we will do anything to protect our children. We are parents and we are grandparents; and of course we are concerned about predators and placing our children at risk, and we know that the Internet opens up opportunities that we never dreamed of.

However, I am taking the floor today to say to my colleague that I appreciate the very difficult work of trying to focus us on the fact that there is a Constitution and that there are hard-won gains in civil rights and civil liberties that we must always be reminded of. This is very tough work, and we do not have all of the answers. But we do have some Members of this Congress who are courageous enough to talk about what it means to live in a free society and what it means to live in a police state where one is being wiretapped, where one is under surveillance, where one is being wiretapped and one is not even aware of it because we keep expanding and expanding and expanding the ability to be wiretapped and to have our citizens under surveillance.

Let me remind all of my colleagues, even though this bill is going to pass, and it is going to pass almost with every Member of Congress supporting it, because we wish to show that we want to protect our children, let us not forget that when those people came to the shores from Britain, they came because they wanted to get out from under tyranny. They wanted to get away from the fact that they could not speak and they could not be free from being under police watch all of the time.

So I thank the gentleman from Virginia (Mr. SCOTT) for his attempts to at least keep us focused.

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

Much of what is in the bill is already covered by present law. Obviously, conspiracy, kidnapping, and murder is already covered. There are some provisions that are helpful; there are also some that I think are very loosely drawn. For example, legal adult activity is covered as a predicate for wiretap. If one is calling into an area where prostitution is legal, that may be a crime, a Federal crime here in Washington, D.C., but not in Nevada. There is activity covered by this bill which was declared legal by the Supreme Court just this month as a predicate for a Federal wiretap. Consensual activities by young high school students is a predicate to a Federal wiretap.

This bill is not narrowly drawn; and, therefore, we should not suspend the rules and pass the bill.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, we have heard an impassioned plea about civil rights. This is about civil rights for children. It is about protecting minors who cannot protect themselves from the sexual exploitation over the Internet.

There are some in this House that do not believe that wiretaps are proper at any time. I respect that position, even though I disagree with it. But I think we ought to make it clear in the legislative history of this bill that under the law, law enforcement is authorized to use a wiretap to intercept wire or electronic communications that may provide evidence of a crime under 18 U.S.C. section 2516, and that no wiretap, regardless of the crime that is being investigated, can legally be done in this country without a court order.

So that provides the protection against unmitigated, unrestrained surveillance by wiretaps of citizens by law enforcement.

This is a good bill. It is a bill that has bipartisan support. It is a bill that plugs a loophole in our present laws, and it ought to become the law of the United States of America. The House can do so by suspending the rules in just a few minutes, and I urge my colleagues to support this motion.

Ms. KILPATRICK. Mr. Speaker, today, I voted against H.R. 1877, the Child Sex Wiretapping Act. Let me be clear in that I do support the goals of the bill which seek to provide law enforcement with the tools necessary to apprehend those who sexually exploit children. It is clear that persons who use the Internet or any other means for the sexual exploitation of children deserve to have the full force of the law brought against their activity. My concern, however, is that the measure before us sweeps too broadly and will unduly burden the legitimate rights of Americans.

There are provisions of the bill that allow wiretapping where consenting adults engage in activity that, although questionable, may in fact be legal. The protection of children is of paramount importance, but in protecting children, we should not impugn the potentially legitimate rights of many of our Nation's citizens.

We have already granted the Justice Department, the FBI and other police authorities unprecedented authority to wiretap in our efforts to combat the war on terrorism. I argue that wiretap authority already exists for child sexual exploitation. These same authorities also possess the power to intercept e-mail and other electronic communications. Furthermore, States already have the authority to wiretap for the crimes specified in the bill.

We are living in a trying time and we should take every precaution before granting any additional power to police authorities. I fear that Congress will give away many of the freedoms we cherish. As such, Mr. Speaker, I voted against this measure.

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

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1877, as amended.

The question was taken.

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

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

EMBASSY EMPLOYEE COMPENSATION ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3375) to provide compensation for the United States citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001.

The Clerk read as follows:

H.R. 3375

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 ''Embassy Employee Compensation Act''.

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) CLAIMANT.—The term ''claimant'' means an individual filing a claim for compensation under section 5(a)(1).

(2) COLLATERAL SOURCE.—The term ''collateral source'' means all collateral sources, including life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the bombings of United States embassies in East Africa on August 7, 1998.

(3) ECONOMIC LOSS.—The term ''economic loss'' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(4) ELIGIBLE INDIVIDUAL.—The term ''eligible individual'' means an individual determined to be eligible for compensation under section 5(c).

(5) NONECONOMIC LOSSES.—The term ''noneconomic losses'' means 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 (other than loss of domestic service),

hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(6) SPECIAL MASTER.—The term ''Special Master'' means the Special Master appointed under section 404(a) of the September 11th Victim Compensation Fund of 2001 (title IV of the Air Transportation Safety and System Stabilization Act (Public Law 107–42; 115 Stat. ____)).

SEC. 3. PURPOSE.

It is the purpose of this Act to provide compensation to any individual (or relatives of a deceased individual) who was physically injured or killed as a result of the bombings of United States embassies in East Africa on August 7, 1998.

SEC. 4. ADMINISTRATION.

(a) IN GENERAL.—The Attorney General, acting through the Special Master, shall—

(1) administer the compensation program established under this Act;

(2) promulgate all procedural and substantive rules for the administration of this Act; and

(3) employ and supervise hearing officers and other administrative personnel to perform the duties of the Special Master under this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to pay the administrative and support costs for the Special Master in carrying out this Act.

SEC. 5. DETERMINATION OF ELIGIBILITY FOR COMPENSATION.

(a) FILING OF CLAIM.—

(1) IN GENERAL.—A claimant may file a claim for compensation under this Act with the Special Master. The claim shall be on the form developed under paragraph (2) and shall state the factual basis for eligibility for compensation and the amount of compensation sought.

(2) CLAIM FORM.—

(A) IN GENERAL.—The Special Master shall develop a claim form that claimants shall use when submitting claims under paragraph (1). The Special Master shall ensure that such form can be filed electronically, if determined to be practicable.

(B) CONTENTS.—The form developed under subparagraph (A) shall request—

(i) information from the claimant concerning the physical harm that the claimant suffered, or in the case of a claim filed on behalf of a decedent information confirming the decedent's death, as a result of the bombings of United States embassies in East Africa on August 7, 1998;

(ii) information from the claimant concerning any possible economic and noneconomic losses that the claimant suffered as a result of such bombings; and

(iii) information regarding collateral sources of compensation the claimant has received or is entitled to receive as a result of such bombings.

(3) LIMITATION.—No claim may be filed under paragraph (1) after the date that is 2 years after the date on which regulations are promulgated under section 7.

(b) REVIEW AND DETERMINATION.—

(1) REVIEW.—The Special Master shall review a claim submitted under subsection (a) and determine—

(A) whether the claimant is an eligible individual under subsection (c);

(B) with respect to a claimant determined to be an eligible individual—

(i) the extent of the harm to the claimant, including any economic and noneconomic losses; and

(ii) the amount of compensation to which the claimant is entitled based on the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant.

(2) NEGLIGENCE.—With respect to a claimant, the Special Master shall not consider negligence or any other theory of liability.

(3) DETERMINATION.—Not later than 120 days after that date on which a claim is filed under subsection (a), the Special Master shall complete a review, make a determination, and provide written notice to the claimant, with respect to the matters that were the subject of the claim under review. Such a determination shall be final and not subject to judicial review.

(4) RIGHTS OF CLAIMANT.—A claimant in a review under paragraph (1) shall have—

(A) the right to be represented by an attorney;

(B) the right to present evidence, including the presentation of witnesses and documents; and

(C) any other due process rights determined appropriate by the Special Master.

(5) NO PUNITIVE DAMAGES.—The Special Master may not include amounts for punitive damages in any compensation paid under a claim under this Act.

(6) COLLATERAL COMPENSATION.—The Special Master shall reduce the amount of compensation determined under paragraph (1)(B)(ii) by the amount of the collateral source compensation the claimant has received or is entitled to receive as a result of the bombings of United States embassies in East Africa on August 7, 1998.

(c) ELIGIBILITY.—

(1) IN GENERAL.—A claimant shall be determined to be an eligible individual for purposes of this subsection if the Special Master determines that such claimant—

(A) is an individual described in paragraph (2); and

(B) meets the requirements of paragraph (3).

(2) INDIVIDUALS.—A claimant is an individual described in this paragraph if the claimant is—

(A) a citizen of the United States who—

(i) was present at the United States Embassy in Nairobi, Kenya, or the United States Embassy in Dar es Salaam, Tanzania, at the time, or in the immediate aftermath, of the bombings of United States embassies in East Africa on August 7, 1998; and

(ii) suffered physical harm or death as a result of such a bombing; or

(B) in the case of a decedent who is an individual described in subparagraph (A), the personal representative of the decedent who files a claim on behalf of the decedent.

(3) REQUIREMENTS.—

(A) SINGLE CLAIM.—Not more than one claim may be submitted under this Act by an individual or on behalf of a deceased individual.

(B) LIMITATION ON CIVIL ACTION.—

(i) IN GENERAL.—Upon the submission of a claim under this Act, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the bombings of United States embassies in East Africa on August 7, 1998. The preceding sentence does not apply to a civil action to recover collateral source obligations.

(ii) PENDING ACTIONS.—In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this Act unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 7.

SEC. 6. PAYMENTS TO ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Not later than 20 days after the date on which a determination is made by the Special Master regarding the amount of compensation due a claimant under this Act, the Special Master shall authorize payment to such claimant of the amount determined with respect to the claimant.

(b) PAYMENT AUTHORITY.—This Act constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of amounts for compensation under this Act.

(c) ADDITIONAL FUNDING.—

(1) IN GENERAL.—The Attorney General is authorized to accept such amounts as may be contributed by individuals, business concerns, or other entities to carry out this Act, under such terms and conditions as the Attorney General may impose.

(2) USE OF SEPARATE ACCOUNT.—In making payments under this section, amounts contained in any account containing funds provided under paragraph (1) shall be used prior to using appropriated amounts.

SEC. 7. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Special Master, shall promulgate regulations to carry out this Act, including regulations with respect to—

(1) forms to be used in submitting claims under this Act;

(2) the information to be included in such forms;

(3) procedures for hearing and the presentation of evidence;

(4) procedures to assist an individual in filing and pursuing claims under this Act; and

(5) other matters determined appropriate by the Attorney General.

SEC. 8. 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.

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

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

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3375, the bill currently under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 3375 would allow U.S. citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, or their surviving family, to receive the same compensation as the victims of the September 11 terrorist attacks.

The September 11 Victim Compensation Fund Act of 2001 created a compensation program administered by the Attorney General, through a Special Master, for people killed or injured as a result of the September 11 terrorist attacks.

On August 7, 1998, agents of Osama bin Laden orchestrated near simultaneous vehicular bombings of the United States embassies in Nairobi, Kenya,

and Dar Es Salaam Tanzania. Twelve American Government employees and family members were killed and several others were injured as a result of these bombings.

Mr. Speaker, H.R. 3375, the Embassy Employee Compensation Act, directs the Attorney General to provide compensation for those American government employees and family members through the Special Master appointed to administer the September 11 Victim Compensation Fund of 2001. The bill would authorize payments under the same standards for payments that are applied to people receiving payment under the September 11 fund. In the case of a deceased individual, the bill would allow relatives of that individual to be compensated under the same standards as well.

Mr. Speaker, H.R. 3375 is a matter of fairness and equity. It allows victims of the bombings of the U.S. embassies access to the same compensation system available to those killed or injured during the September 11 attacks in the United States by agents of Osama bin Laden.

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

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

Mr. Speaker, I would like to thank both the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Missouri (Mr. BLUNT) for helping to rescue this legislation. There have been several unsuccessful attempts over the past 4 years to recognize and compensate the families of those who lost their loved ones.

Mr. Speaker, I rise as an original cosponsor in support of H.R. 3375, because this bill provides much-needed, but long-delayed, compensation for the victims of U.S. embassy bombings several years ago.

In 1998, two U.S. embassies were bombed in Africa, one in Kenya and one in Tanzania. Agents of Osama bin Laden orchestrated these bombings, costing the lives of over 220 persons, including 12 American citizens. These attacks represent attacks against America and need our attention.

As we all know, embassy personnel are often targeted because they represent the United States in a foreign country. The families of those victims have never been compensated. While foreign service officers assume a reasonable level of risk in accepting a foreign assignment, they should not have to bear the burden of murder at the hands of terrorists without compensation for their surviving families.

The fact that those families have, to date, received no compensation is even more alarming in light of the fact that the families of those killed in the accidental bombing of the Chinese embassy in Serbia in 1999 received $1.5 million each. I agree with the United States decision to provide compensation for these families, but we must not neglect the families of Americans lost in Kenya and Tanzania.

Regrettably, in East Africa the State Department failed to comply with its own regulations to warn embassy personnel that intelligence information confirmed the existence of active terrorist activity in that area. The State Department also disregarded the repeated requests of the Kenya ambassador for greater security to protect the embassy and its personnel. It is a travesty that these disregards of policy may have contributed to a loss of American life. It is a shame that we have not acted sooner to compensate these families.

This bill will provide that the embassy bombing victims will receive compensation on the same basis as compensation is provided to victims of the September 11 terrorist attacks. They would go through the process administered by the Special Master that is used by all victims of the September 11 terrorist attacks.

Any person filing a claim under H.R. 3375 would waive all rights to civil suit in Federal or State court, except as to suits to collect collateral source obligations such as life insurance, pension funds, and death benefits. Any award received under the fund will be reduced by any other amount of compensation of the claim it has received or is entitled to receive as a result of the bombings.

Mr. Speaker, I urge my colleagues to support this bill. It provides a logical approach to this long-awaited compensation.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri (Mr. BLUNT), the distinguished deputy majority whip.

Mr. BLUNT. Mr. Speaker, I thank the chairman for yielding me this time and for bringing this bill to the floor today. I also want to thank the gentlewoman from California (Ms. WATERS), my good friend, for her comments about this bill and her support of this bill, and the gentleman from Maryland (Mr. WYNN), who, along with me, initiated this legislation. We were joined by over 40 of our colleagues as we look at one of the real forgotten results of the terrorism of Osama bin Laden.

This is the same group that attacked our citizens on September 11. It is led by the same person. They took credit for these embassy bombings. These embassies, as all embassies anywhere in the world, are considered U.S. territory, American soil. So Americans were killed on American soil. Al Qaeda and Osama bin Laden immediately came to the forefront and took credit for what happened in Kenya and what happened in Tanzania, what happened that ripped the lives of the families of these 12 individuals apart, just as what happened on September 11 ripped the lives of families apart in ways that can never be fully compensated.

□ 1145

What we do in this legislation is respond in a way that is fair, respond in a way that is equitable, respond in a way that I believe to be appropriate, as August 7, 1998, is exactly analogous to September 11, 2001. It did not affect Americans in the same way at the moment because it was not next door, it was halfway around the world; but it was halfway around the world on American soil. It was halfway around the world with cowardly terrorists who immediately stepped forward to say, We did this and we are proud of it. It was halfway around the world because our country and our citizens were targets.

From my district, Army Staff Sergeant Kenneth Hobson, the son of Kenneth and Bonnie Sue Hobson of Lamar, Missouri, was a victim of this attack.

One of my daughter Amy's law school classmates, Edith Bartley, lost her father and her brother in these bombings; and since a time shortly after the bombings many of us have talked with the victims' families about what we could do and what we could encourage the State Department to do.

Prior to September of last year, there was no formula in place for this exact same kind of incident. This is only fairness to include these 11 families, 12 victims from 11 families, and others who were injured in what happened, other Americans who were injured in what happened at these two embassies, to include them under the same compensation review that we created last September.

There is no reason for these families to have to go to court unless they choose to go to court. That is available to all the families from September 11, and it is available to these families, as well; but this gives families an opportunity to have some appropriate compensation without having to once again challenge their lives by needlessly going to court, having to prove that there is some damage by some institution when we know who the damage is from. The damage was from al Qaeda, and the damage was from Osama bin Laden.

This treats these 11 families and others of injured Americans exactly as we are treating the families that were affected by September 11. We did not do it as quickly, but hopefully we will do it as well.

Families who have a case in court today can say, if they choose to, I want to walk away from this case in court. I want to go to the Special Master. All we want is fairness and equity. We want to get on with our lives, but we also want to do that with a government that appreciates the lives of Americans representing their country overseas who gave their lives in a cowardly attack on Americans at work representing us on August 7, 1998.

I am, again, grateful to all those who have worked to get this to the floor today. I urge my colleagues to vote for it. I appreciate all my colleagues who have joined with me as cosponsors to try to bring equity and fairness to these families, and that will be the result of this debate today, I hope.

Ms. WATERS. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman for both her leadership and her persistence in the effort, along with the sponsors of the bill, the chairman and ranking member on this legislation.

Mr. Speaker, this legislation came through the Subcommittee on Immigration and Claims of the Committee on the Judiciary, on which I serve as ranking member; and I realize the journey it has had to travel. I want to applaud the persistence, as I said earlier, of the gentlewoman from California (Ms. WATERS), but particularly I want to emphasize that this is a question of equity and fairness. I saw the tears and the pain of the families who came before us, who had lost their loved ones in the tragic event, I guess sort of the indicator of what might come, the tragedy of the bombings of the embassies in Kenya and Tanzania.

We were somewhat unfamiliar with this kind of assault on American lives, and I believe this legislation, H.R. 3375, says two things: first, that there is no unequal American under the sun; and as our hearts go out to the victims of September 11, we could do no less in providing a master procedure for these families, some of whom or one particular young lady who lost a father and a brother. I will never forget Edith Bartley, a constant fighter helping to bring justice to these families. She constantly came to present her case, not only for her family, but on behalf of the families of all of the victims.

We know that the notice, if you will, the information did not descend to the ambassadors of those particular embassies to realize that there was some indication of an attack. We now know that Osama bin Laden has his hand everywhere. Whether he lives or not, he lives to do terrible, horrific, and deadly crimes. Because he lives to do that, we must stand with those who have suffered.

So I ask my colleagues to support this out of fairness. I do want to note that the monies given to those who lost their lives in the accidental bombing of the Chinese embassy got $1.5 million. We can do no less for these particular Americans.

I want to again applaud those whose initiative kept this legislation in the forefront of the legislative agenda. I ask my colleagues to unanimously support H.R. 3375.

Mr. Speaker, I rise to support H.R. 3375. This legislation would make whole the victims of the bombings at the U.S. Embassy in Nairobi, Kenya, and of the U.S. Embassy in Dar es Salaam, Tanzania, on August 7, 1998. The legislation is a form of equity for more than 260 persons killed in these bombings. The measure would apply the same system to pay for the Africa bombing victims as the methods used to compensate families of victims of the September 11 suicide attacks.

Since the September 11 attacks, victims of the Africa bombing victims have noted the discrepancies between their compensation and that given to families of September 11 victims and themselves. Under the legislation, the Africa bombing victims and families—who have not received Federal compensation to date—could receive money determined by a special master who would figure the amounts. In turn, families would forego their rights to sue for punitive damages.

Let us pass this bill and provide the aid that we should have done earlier.

Ms. WATERS. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Virginia (Mr. SCOTT).

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

Mr. Speaker, I rise in strong support of H.R. 3375, the Embassy Employee Compensation Act. The acts of terrorism against United States citizens and other innocent persons unfortunately did not begin on September 11. In 1998, the U.S. embassies in Kenya and Tanzania were bombed and destroyed by terrorists associated with al Qaeda and Osama bin Laden. U.S. citizens and many Kenyan and Tanzanian residents were killed in these bombings. This bill would allow those victims to be treated the same way as other victims of the same terrorist organization on September 11.

This bill goes a long way to try to close a sad incident in our history; but this bill would not have become a reality without the work of Edith Bartley, and I would like to take a moment to recognize her efforts.

In 1998, Ms. Bartley's father, Julian Bartley, Sr., was a counsel general in the Kenyan embassy. Her younger brother, Julian Bartley, Jr., was interning in the Kenyan embassy that summer. Both were killed during that bombing.

In the memory of all of the victims of those bombings, Edith Bartley started a campaign to remember and pay tribute to them. She was the driving force behind the bill we are considering today, which would treat the victims of the two embassy bombings in East Africa and their families the same way as our other more recent victims of the same terrorist organization.

I would like to commend and recognize the gentlewoman from California (Ms. WATERS) for her hard work on this bill, and also the chairman of the Committee, the gentleman from Wisconsin (Mr. SENSENBRENNER), for his efforts in passing the bill. There are many others who are associated with the bill that we would also like to thank.

But on this day, when we remember all of the victims of the embassy bombings, we reaffirm our commitment to treating all of our victims of terrorism and their families equally. I urge my colleagues to support the bill.

Ms. WATERS. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Florida (Mr. BOYD), a gentleman who has worked very hard and has several constituents that were lost in that bombing.

Mr. BOYD. Mr. Speaker, I thank the gentlewoman for yielding time to me. I want to thank the gentleman from Wisconsin (Mr. SENSENBRENNER), along with the gentlewoman from California (Ms. WATERS), for their efforts to get us to this point today, and also thanks to the gentleman from Missouri (Mr. BLUNT) and the gentleman from Maryland (Mr. WYNN) for their efforts on behalf of this legislation.

As an original cosponsor of this legislation, I am honored to speak in support of H.R. 3375. We have heard a lot about why we have the legislation and what it does, so what I want to do is I would like to focus my comments on telling Members a little bit about two of the 12 Americans that gave their lives on behalf of our country on that day, on August 7, 1998. Both of these service people, these servants, American servants, were killed in Nairobi, Kenya.

Air Force Master Sergeant Sherry Lynn Olds of Panama City has often been described by friends and family as very independent, industrious, caring, and thoughtful. She joined the Air Force after graduating from junior college, followed in the footsteps of her father, who is a retired civil servant.

According to her mother, Sergeant Olds had at least two ambitions: she wanted to see the world, and she wanted to finish her education. Sergeant Olds did both, eventually receiving a degree from the University of South Carolina. She had been assigned to the embassy in Kenya for 1 year, and had just returned to Nairobi in June, 1998, after spending 2 months attending the NCO school in Alabama. This course would make Sergeant Olds eligible for an eventual promotion to achieve Master Sergeant.

At the time of her death, she was assigned to the Air Force Security Element at the embassy in Kenya, and was 40 years old. Sergeant Olds is survived by her parents, Delbert and Mary Olds of Panama City.

Marine Sergeant Jesse N. Aliganga of Tallahassee was born in Oakland, California, and grew up in Pensacola, Florida. He was an energetic and ambitious young man who liked drawing, reading, Greek mythology, playing the saxophone in his high school band, and collecting comic books.

Sergeant Aliganga had wanted to make sergeant in his first tour of duty in the Marine Corps, and he accomplished that goal in July of 1998. He had recently signed a 30-month extension in the service to become an embassy guard.

After postings in Okinawa, Japan, and Camp Pendleton, California, Sergeant Aliganga completed the security guard school in Quantico, Virginia, and was sent to Nairobi. At the time of his death, he was assigned to the Marine Security Unit at the embassy in Kenya and was 21 years old. Sergeant Aliganga is survived by his mother, Clara, and his sister, Leah Colston, both of Tallahassee.

In light of the attacks of September 11, Mr. Speaker, this is obviously a

very painful and difficult time for many of these families that were affected by past terrorist attacks. Several of us in Congress have been trying for the past 3 years to enact a just-compensation system for the families of the embassy bombings.

I am grateful, again, to the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentlewoman from California (Ms. WATERS), and the gentleman from Missouri (Mr. BLUNT), and my other colleagues here today for coming together and devising a system that will simply use the process that is in place for the victims of the attacks on the World Trade Center and the Pentagon.

It is only fair, given that the evidence for responsibility of these horrible events points to Osama bin Laden and the al Qaeda network, that the victims of the attacks on our embassies and the victims from New York, Pennsylvania, and Virginia are treated equally.

Therefore, I urge my colleagues to vote for H.R. 3375.

Ms. WATERS. Mr. Speaker, I am pleased to yield 2½ minutes to the gentleman from Maryland (Mr. WYNN), another gentleman who has worked very hard.

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

Mr. Speaker, let me begin by also thanking her for her leadership in this very important effort. I would also like to thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for his outstanding work, but I would particularly like to note the work of the gentleman from Missouri (Mr. BLUNT) in making this legislation possible and in getting it to the floor today.

Mr. Speaker, as we compensate the many families who have suffered and lost loved ones on September 11, we must never forget the American families who lost loved ones in the African embassy bombings.

On August 7, 1998, two truck bombs exploded minutes apart, killing 224 people at the U.S. embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania. The victims of the embassy bombings were killed by a madman under the same cold-blooded direction that resulted in the deaths of thousands of people on September 11: Osama bin Laden and his terrorist network.

I strongly support H.R. 3375, the Embassy Employee Compensation Act, which would allow the American family members of the African embassy victims to receive compensation under the same procedure provided for the families of the victims from the September 11 attacks.

The September 11 Victims Relief Fund was authorized under the aviation bailout bill enacted in September. Under that bill, the victims or the families of those killed may apply for tax-free relief from the Federal Victims Compensation Fund.

□ 1200

Like the September 11 Victims Compensation Fund, the African Embassy Victims Compensation Act would authorize a special master established by the current victims' funds to consider appropriate compensation for the families of embassy victims under the same process as the families of the victims of September 11.

Three embassy bombing victims with strong ties to Maryland lost their lives in the horrific bombing in Nairobi, Kenya. Jean Dalizu, age 60, was an executive assistant in the U.S. Liaison's Office killed in the embassy. She is survived by her son, Lawrence Hicks, a resident of Capital Heights, Maryland, in my district. Two victims from Bowie, Maryland, Consul General Julian Bartley, 55, and his son, Jay Bartley, 20, were killed in the embassy as well. Mr. Bartley had 3 decades of government service in several countries and his son was working in the embassy during the summer. Mr. Bartley had also worked as a congressional fellow on Capitol Hill which is where I met him.

I urge my colleagues to vote in favor of H.R. 3375. We must do everything to assist the families of the African embassy bombings. While monetary compensation will not bring back the lives of loved ones, it will help families move forward. This is a case of fairness, equitable compensation but, most importantly, it is a case of compassion.

Ms. WATERS. Mr. Speaker, how much time is remaining?

The SPEAKER pro tempore (Mr. LINDER). The gentlewoman from California (Ms. WATERS) has 6 minutes remaining.

Ms. WATERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LEE) who has worked hard on this issue.

Ms. LEE. Mr. Speaker, I rise in strong support of H.R. 3375.

Mr. Speaker, it has been 4 years since the Kenyan and Tanzanian embassy bombings and it is long past the time that the United States compensates the individuals or the families of those who were injured or killed in the bombings. This is way overdue and I thank the gentlewoman from California (Ms. WATERS) for her leadership.

These individuals and families will forever suffer. This is the least that we should do. As we seek to compensate the embassy employees, the United States must not forget over 4,000 Tanzanian and Kenyan nationals who were also injured in the embassy bombings. These foreign nationals were a productive part of their countries' labor force. Now many of them also have been injured so severely that they are physically unable to contribute to their communities or provide for their own livelihood.

I am introducing legislation that would provide relief for those individuals and urge my colleagues to join us also in supporting the African nationals who have been equally affected by the embassy bombings. Once again, I thank my colleague from California for her persistence and steadfastness in working in a bipartisan way. I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for working together to make sure that this legislation came to the floor.

Ms. WATERS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. OWENS).

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

Mr. OWENS. Mr. Speaker, I rise in strong support of this act and hope that it will be administered very much in the same way that the Victims Compensation Act that already exists is administered.

I think the Victims Compensation Act that we passed several months ago was a great landmark for America, a great landmark in terms of celebrating the spirit of the Great Angels. I think I have said before that there is a schizophrenic personality in our Nation, the Great Angels and the Giant Scrooges. The Giant Scrooges' spirit is expressed in the fact that we sometimes demonize welfare mothers and children and we refuse to pass a minimum wage bill. On the other hand, we do have great generous acts that are unparalleled in history, and throughout the world you will find people no more generous than Americans and America as a nation. I think the Victims Compensation Act that was passed in connection with the September 11 tragedy was an example of that generosity.

The formulas that were worked out by the master for that should stand for all time, and it should be the pattern. There are people who have some difficulties with certain aspects of it but they are working it through.

And, finally, I hope we will have a pattern that we can use in the future and we will not have a situation where the victims of the embassy bombings in Kenya and Tanzania have had to wait for 4 years to get a hearing on the floor of Congress, and even now it is not certain what the procedure will be.

Let us let the Great Angels spirit that prevails in the case of September 11 victims stand for all time as an example of how generous our Nation can be, recognizing that all Americans are in this together. And when we make sacrifices, we are willing to take care of those who are left behind.

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

The SPEAKER pro tempore. The gentlewoman from California (Ms. WATERS) is recognized for 2½ minutes.

Ms. WATERS. Mr. Speaker, I have no other speakers and I would just like to say in closing that this is one of our finer moments. We have a lot of problems in our society and there are many of us who are oftentimes criticizing this body and even some of our colleagues; but it is moments like this that help you to understand that no matter how long it takes, no matter

how difficult it is, that if we are persistent we can indeed do the right thing.

I would like to thank one young lady who is not a Member of this House, who happens to be the daughter of and the sister of two of the victims, Miss Edith Bartley. She worked so very hard. She never gave up. She went from Member to Member to Member, telling the story over and over again. And whenever we had a failed attempt in some committee, she never despaired. She came back and she would start all over again.

So I am delighted, Mr. Speaker, that on this day on the floor of this House we have the opportunity to pass this legislation that will take care of those bombings that took place in Africa 4 years ago. That was the tip of the iceberg for the work of Osama bin Laden and al Qaeda. And I guess if we had been wise enough, if we had been visionary enough to be able to follow what was happening and to connect the dots, perhaps things would have been a little bit different here in the United States. But let me just say today we kind of make up for the long wait for the families of those victims. And in saying that, again, I would like to thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for his leadership. He did not have to take this bill up. He did. And he provided assistance to all of us. I would like to thank my colleague, the gentleman from Missouri (Mr. BLUNT) and all of the other Members who are original co-sponsors and who have worked so hard to make sure there is some justice for these families.

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

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

Mr. Speaker, this bill is a matter of simple equity. That is to give the United States citizens who are the victims of the al Qaeda strike in East Africa in 1998 the same rights to get funds from the special master as those who are the victims of the al Qaeda strikes on September 11 in New York City and at the Pentagon.

Now, perhaps the al Qaeda strikes in East Africa went under the radar screen with most Americans as well as many Members of Congress. But those two embassy properties, one in Nairobi, Kenya, and the other in Dar es Salaam, Tanzania, are just as much the sovereign territory of the United States of America as the land on which the World Trade Center rested and the land on which the Pentagon rests today. So passing this bill will mean that we do not have different strokes for different folks depending upon whether the people were killed by al Qaeda in East Africa or whether they were in New York City or in Northern Virginia. So, as a matter of equity, as a matter of fairness, and as a matter of preventing different strokes from happening for different folks, I would urge the passage of this bill.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3375.

The question was taken.

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

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

ENCOURAGING WORK AND SUPPORTING MARRIAGE ACT OF 2002

Mr. WELLER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4626) to amend the Internal Revenue Code of 1986 to accelerate the marriage penalty relief in the standard deduction and to modify the work opportunity credit and the welfare-to-work credit, as amended.

The Clerk read as follows:

H.R. 4626

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 ''Encouraging Work and Supporting Marriage Act of 2002''.

TITLE I—ACCELERATION OF MARRIAGE PENALTY RELIEF

SEC. 101. ACCELERATION OF INCREASE IN STANDARD DEDUCTION FOR JOINT RETURNS.

(a) IN GENERAL.—Paragraph (7) of section 63(c) of the Internal Revenue Code of 1986, as amended by section 301 of the Economic Growth and Tax Relief Reconciliation Act of 2001, is amended to read as follows:

''(7) APPLICABLE PERCENTAGE.—For purposes of paragraph (2), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	***The applicable percentage is—***
2003 or 2004	*170*
2005	*174*
2006	*184*
2007	*187*
2008	*190*
2009 and thereafter	*200.''.*

(b) CONFORMING AMENDMENT.—Subsection (d) of section 301 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking ''December 31, 2004'' and inserting ''December 31, 2002''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

TITLE II—MODIFICATIONS TO WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT

SEC. 201. MODIFICATIONS TO WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT.

(a) ELIGIBILITY OF EX-FELONS DETERMINED WITHOUT REGARD TO FAMILY INCOME.—Paragraph (4) of section 51(d) of the Internal Revenue Code of 1986 is amended by adding ''and'' at the end of subparagraph (A), by striking '', and'' at the end of subparagraph (B) and inserting a period, and by striking all that follows subparagraph (B).

(b) INCREASE IN MAXIMUM AGE FOR ELIGIBILITY OF FOOD STAMP RECIPIENTS.—Clause (i) of section 51(d)(8)(A) of such Code is amended by striking ''25'' and inserting ''30''.

(c) CLARIFICATION OF TREATMENT OF INDIVIDUALS UNDER INDIVIDUAL WORK PLANS.—Subparagraph (B) of section 51(d)(6) of such Code (relating to vocational rehabilitation referral) is amended by striking ''or'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', or'', and by adding at the end the following new clause:

''(iii) an individual work plan developed and implemented by an employment network pursuant to subsection (g) of section 1148 of the Social Security Act with respect to which the requirements of such subsection are met.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2002.

SEC. 202. CONSOLIDATION OF WORK OPPORTUNITY CREDIT WITH WELFARE-TO-WORK CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 51(d) of the Internal Revenue Code of 1986 is amended by striking ''or'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', or'', and by adding at the end the following new subparagraph:

''(I) a long-term family assistance recipient.''

(b) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—Subsection (d) of section 51 of such Code is amended by redesignating paragraphs (10) through (12) as paragraphs (11) through (13), respectively, and by inserting after paragraph (9) the following new paragraph:

''(10) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—The term 'long-term family assistance recipient' means any individual who is certified by the designated local agency—

''(A) as being a member of a family receiving assistance under a IV–A program (as defined in paragraph (2)(B)) for at least the 18-month period ending on the hiring date,

''(B)(i) as being a member of a family receiving such assistance for 18 months beginning after August 5, 1997, and

''(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18-month period, or

''(C)(i) as being a member of a family which ceased to be eligible for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

''(ii) as having a hiring date which is not more than 2 years after the date of such cessation.''

(c) INCREASED CREDIT FOR EMPLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—Section 51 of such Code is amended by inserting after subsection (d) the following new subsection:

''(e) CREDIT FOR SECOND-YEAR WAGES FOR EMPLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—

''(1) IN GENERAL.—With respect to the employment of a long-term family assistance recipient—

''(A) the amount of the work opportunity credit determined under this section for the taxable year shall include 40 percent of the qualified second-year wages for such year, and

''(B) in lieu of applying subsection (b)(3), the amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to such a recipient shall not exceed $10,000 per year.

''(2) QUALIFIED SECOND-YEAR WAGES.—For purposes of this subsection, the term 'qualified second-year wages' means qualified wages—

''(A) which are paid to a long-term family assistance recipient, and

''(B) which are attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such recipient determined under subsection (b)(2).

''(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—If such recipient is an employee to whom subparagraph (A) or (B) of subsection (h)(1) applies, rules similar to the rules of such subparagraphs shall apply except that—

''(A) such subparagraph (A) shall be applied by substituting '$10,000' for '$6,000', and

''(B) such subparagraph (B) shall be applied by substituting '$833.33' for '$500'.''

(d) REPEAL OF SEPARATE WELFARE-TO-WORK CREDIT.—

(1) IN GENERAL.—Section 51A of such Code is hereby repealed.

(2) CLERICAL AMENDMENT.—The table of sections for subpart F of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 51A.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2002.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. WELLER) and the gentleman from Massachusetts (Mr. NEAL) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. WELLER).

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

Mr. Speaker, I bring H.R. 4626, legislation sponsored by my friend, the gentleman from New York (Mr. HOUGHTON) and myself, legislation called the Encouraging Work and Supporting Marriage Act of 2002 to the floor today.

This is important legislation because it helps American families in two ways. First, it makes marriage penalty relief more quickly available to 21 million low and moderate income married working couples. Second, it facilitates the transition from welfare to work by simplifying the work opportunity and welfare-to-work tax credits and making them easier for employers as well as employees to use.

This past year, in what we know as the Bush tax cut, last year's tax law, which President Bush signed into law June of 2001, it phased out the marriage tax penalty for 43 million married working couples. It included a phaseout of marriage penalty relief particularly targeted to low and moderate income married couples which we include in today's legislation which resulted from the doubling of the standard deduction which was to begin in the year 2005.

This legislation before us today accelerates this relief for low and moderate income married working couples by increasing the standard deduction for joint filers to twice that for singles and reducing the marriage penalty by many low and middle income Americans beginning next year in 2003. It is estimated that 9 million American married couples currently use the standard deduction. With this legislation they will begin to see marriage tax relief next year instead of in 2005 as originally planned.

H.R. 4626 will also help simplify the tax code. With an earlier phaseout of the marriage tax penalty, 300,000 married working couples who now use the standard deduction instead of itemizing their taxes next year will be able to use the standard deduction and no longer need to itemize. Again, 300,000 married working couples will see their taxes simplified as a result of this marriage tax penalty relief in this legislation.

Besides affecting the marriage taxes penalty, H.R. 4626 will also help simplify the work opportunity and welfare-to-work tax credits, two very successful programs which have given hundreds of thousands of low income Americans the opportunity to go back to work. As we have often said in this House Chamber, the best solution to welfare is a job.

And I would also note that President Bush recently traveled to Chicago, to my home State, and visited a United Parcel Services facility to highlight the success of this program which has given tens of thousands of Chicago area residents the opportunity to have a job, to have a chance to go to work and get off welfare. Current law provides a work opportunity tax credit to employers who hire individuals from 8 target groups that are considered hard to hire. Employers who hire long term TANF recipients can claim a separate welfare-to-work tax credit. The proposal would simplify the tax code to combine the 2 tax credits and conform most of their rules, making the credits easier for employers to use.

Additionally, this bill eliminates the family income tax for ex-felons under work opportunity tax credit. Under current law, employers can claim the work opportunity tax credit for hiring ex-felons only if he or she meets a complicated family income test which requires a State to document the income of all members in the ex-felon's household.

H.R. 4626 eliminates the family income tax for this group, thus simplifying the work opportunity tax credit and helping ex-felons transition into the workplace.

Finally, H.R. 4626 increases eligibility age limit for food stamp recipients. Under current law, employers can claim the work opportunity tax credit for hiring certain food stamp recipients between the ages of 18 to 25.

□ 1215

This proposal would increase the age to 3 and give more low-income individuals the opportunity to go to work.

Mr. Speaker, H.R. 4626 is a good bill. It has bipartisan support, and I would note that this legislation passed the House Committee on Ways and Means on a unanimous voice vote.

This legislation encourages the values we hold most dear: marriage, family, and hard work. I encourage my colleagues to vote for this bill to eliminate the marriage tax penalty more quickly for low-income and moderate-income married working couples and also help facilitate an easier transition from welfare to work.

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

Mr. NEAL of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

I want to agree with what the gentleman from Illinois (Mr. WELLER) said a couple of moments ago, that this measure did indeed pass through the Committee on Ways and Means on a unanimous vote. So for the purpose of this moment, I think that we are really discussing the benefits of this legislation for the American citizenry.

What we should be debating, as opposed to just discussing here, is how we are going to pay for this tax relief. I am a supporter of the measure that is in front of us, and indeed the Committee on Ways and Means voted for it as well. But what we are not voting on here today, Mr. Speaker, and what we should be voting on here today, and what we have been prohibited from voting on for the last few weeks is a way to ensure that while providing for this tax relief that we do not steal from the Social Security and Medicare trust funds. That is what this House has to have a debate about, not simply a discussion.

Last week, the Republican leadership in the House withdrew consideration of this very important legislation, in my judgment, to protect a certain group that has been characterized as being financial traitors. We wanted to pay for this legislation, because we agree with the merit of what has been offered by the gentleman from Illinois (Mr. WELLER), by implementing provisions of H.R. 3884, the Corporate Patriot Enforcement Act, a bill authored by myself and the gentleman from Connecticut (Mr. MALONEY).

Knowing that this House would vote overwhelmingly to stop the exodus of American corporations to tax havens, the leadership of this House opted to impose procedural barriers to preclude our amendment.

Mr. Speaker, once again the New York Times highlighted yesterday morning on its front page what precisely is happening. The leadership in this institution continues to procrastinate. Our constituents around the country want Congress to act now to stop these corporations from shelving their patriotism to save a few bucks. And as we discovered yesterday, not only to save what they have claimed to be money for the shareholders, but we have now discovered what will happen to the salaries of the executives once they leave. It is unconscionable to have this occur at the same time when we could be taking a vigorous and measured response to end it.

The Neal-Maloney Corporate Patriot Enforcement Act would immediately and permanently shut down the exodus of American corporations to tax havens, and end benefits for those who set

up shell headquarters in island countries to avoid U.S. corporate income taxes.

Again, the gentleman from Illinois (Mr. WELLER) is right. Hardworking American families are entitled to tax relief, but I am sure these families do not want to burden their children by placing our Social Security and Medicare trust funds and our budget at risk.

Let us pay up front for the Marriage Penalty Relief Act. Let us stop the procedural games and pass the Neal-Maloney bill to stop the corporate expatriates.

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

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

Briefly, in response to my friend from Massachusetts, I would note today's legislation before us is about giving welfare recipients the opportunity to go to work and providing greater marriage tax relief.

The issue of inversions that the gentleman from Massachusetts (Mr. NEAL) has brought up is an issue of bipartisan concern. I particularly want to commend my colleague, the gentlewoman from Connecticut (Mrs. JOHNSON), for her leadership on this issue and sponsorship of H.R. 4756.

I would note the flaws in the gentleman from Massachusetts' (Mr. NEAL) proposal, some suggest may even promote foreign takeover of U.S. companies under the proposal that he has offered, and that is why out of fairness a hearing has been scheduled by the House Committee on Ways and Means on June 13. Also, as part of that hearing, we will be looking at a Treasury review and study which was released this past Friday.

Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. HOUGHTON), one of the leaders of the welfare-to-work initiative.

Mr. HOUGHTON. Mr. Speaker, I would like to rise in support of H.R. 4626, and I would like to thank the gentleman from Illinois (Mr. WELLER) for all the great work he has done and also thank the gentleman from California (Mr. THOMAS) for his support and the whole broad parameter of encouraging work and supporting marriage.

This is a very simple and a straightforward piece of legislation. It improves the Work and Opportunity Act. It reduces the marriage penalty for lower-middle income people, and this is it. There are lots of things I would have gone over, but the gentleman from Illinois (Mr. WELLER) has described those very eloquently, and I will not try to duplicate his words. However, I would just like to mention several facts.

First of all, this bill combines the work and opportunity and the welfare-to-work credit, and while it increases the welfare-to-work credit from 35 to 40 percent, for the first year, very, very important feature here, it would also extend this 40 percent credit into the second year for employers who retain the workers. Also, it would expand incentives for vocational rehabilitation.

This is important. It would eliminate family income tests for ex-felons, which the gentleman from Illinois (Mr. WELLER) mentioned, and the test is a really significant impediment to hiring ex-felons.

Finally, the legislation would increase the age limitation for food stamps recipients from 25 to 30; and what this is going to do, it is going to assist many people, many men who should be taking advantage of the work opportunity tax credit, but where the current age limit prevents their eligibility.

So, Mr. Speaker, let me say this legislation is a good piece of work. It will increase the opportunity for those who want to work and the need to save and leave welfare for steady, long-term employment.

I appreciate my colleagues' understanding of this, and I appreciate the gentleman from Illinois' (Mr. WELLER) leadership.

Mr. NEAL of Massachusetts. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN), who has been a leader on this issue and question as well.

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

Mr. LEVIN. Mr. Speaker, I want to congratulate the gentleman from Massachusetts (Mr. NEAL) for bringing up this issue of how we pay for this legislation and urging that we use the Neal-Maloney bill to pay for it.

Once again, the Republican majority has come forth with an idea, in this case a good one, without paying for it except to divert Social Security and Medicare moneys. That is how they are paying for everything. As we dip more and more into debt, we use more and more moneys that are payroll taxes for Social Security and Medicare.

So what the gentleman from Massachusetts (Mr. NEAL) has suggested is let us pay for it with a good idea, and that is the Neal-Maloney bill; but my colleagues abuse our House rules by not letting us bring it up.

Once again, what they are saying is we will bring it up on suspension so there is no way to propose a good pay-for for a good idea. So they have a bad pay-for for a good idea. Why? They do not want up and down votes on these issues. They are going to do the same apparently or try to do the same on debt relief.

Look, we do not really need hearings. My colleagues have not held many hearings on many of these issues in the Committee on Ways and Means, and now the dodge for not taking up Neal-Maloney is let us hold a hearing. What I suggest is let us have some action.

The gentleman from Connecticut (Mr. MALONEY) has been out on the streets working this issue, right? The gentleman from Massachusetts (Mr. NEAL) has been talking about this issue for how long? A long time. It is time for action.

These are paper reincorporations, purely filing some paper to duck paying taxes to the United States of America. So if my colleagues really care about the American taxpayer, as they claim, they will let us bring up this proposal and it will pass; but instead, to kind of help out some people who are escaping taxes, they delay action on this, and it hurts the American taxpayer, the people that we represent.

So I want to salute the gentleman from Massachusetts (Mr. NEAL) and the gentleman from Connecticut (Mr. MALONEY) for pressing this issue. Ultimately, we will prevail.

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

I would remind my colleagues that today we are focusing on eliminating the marriage tax penalty and giving welfare recipients the opportunity to go back to work.

I would also note this legislation is paid for through the budget which the House has adopted which allows for an additional $28 billion in tax provisions. It is estimated this provision will cost $1 billion or less. So it fits well within those parameters and does not need to be paid for under the House-adopted budget.

Mr. Speaker, I yield 4 minutes to the gentleman from Arizona (Mr. HAYWORTH), one of our leaders on the Committee on Ways and Means, a distinguished gentleman who has been a real leader on bringing tax fairness to those married working couples, as well as giving opportunity to those who need to work.

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman from Illinois (Mr. WELLER) for the recognition.

Listening with interest to the debate; and indeed those who may join us, either in the gallery, Mr. Speaker, or electronically across the country, and indeed, around the world, may view with curiosity the debate thus far.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LINDER). The gentleman will suspend. The gentleman will refrain from referencing the gallery or the TV audience.

Mr. HAYWORTH. Mr. Speaker, I apologize. Those who listen to our debate, and I thank the gentleman. It was not intentional to violate House rules. I thank the Speaker for his attention to discourse, and I will return to it right now.

Perhaps as the Speaker listens to the debate and as our colleagues in the Chamber listen to the debate, they might be mystified that what we have done is transform a debate on expanding opportunities for welfare to work and to lift the burden of the marriage tax penalty on those who need that help and thereby help bolster the institution of marriage to be caught up in the debate on other bills and other issues that we indeed will address in the days ahead. It is an interesting concept to focus on process in the House rather than content of the legislation.

The legislation before us today helps us simplify the Tax Code. It increases the standard deduction for married couples, 300,000 married couples, would allow them to claim the standard deduction on their tax return rather than itemize. That, in itself, is a major simplification.

It seems to me, Mr. Speaker, that we should work to emphasize policies that are family friendly, policies that would support marriage when we offer this economic incentive. It allows us to accelerate the lifting of the burdensome marriage tax penalty. It accelerates relief for 21 million married couples, and that is vitally important to offer them access to the American dream.

My friend from New York was here just moments ago in this Chamber, Mr. Speaker, addressing the entire concept of welfare to work, indeed to complement the legislation passed last week, to build upon a major success over the last half decade. We need to offer opportunities for people to get to work.

My colleague from Illinois said it best. The best social program, the best opportunity to lift the burden of poverty is to offer people jobs, to get them into the workforce, and enhancing the welfare-to-work tax credit increases an employer's incentive to hire long-term recipients of the temporary assistance to needy families.

□ 1230

This allows us to put people back to work.

Mr. Speaker, I would be remiss if I did not address something that has been repeated here time and again. It is important to clear up any misconception that may have been offered on the floor by my friends on the other side of the aisle. I appreciate their newfound adherence to what they believe to be sound fiscal policy, but the fact is this reasonable, rational, bipartisan reduction in taxes is allowed for in our House-passed budget resolution. Indeed, the budget resolution allows for a $28 billion reduction in taxation. We are not taking a penny, nor a dollar, nor a quarter nor a nickel, we are not going into Social Security and Medicare revenues to pay for this.

Indeed, as disturbing as it is, if that indeed is the charge, would our friends on the other side vote ''no'' to expand this tax relief, an opportunity for those who look to seize it? I hope that would not be the case.

I would hope, Mr. Speaker, that at the end of the day, they will rise and join us in support of this legislation.

Mr. NEAL of Massachusetts. Mr. Speaker, the previous speaker is quite correct. He did use the word welfare. It occurred to me that you will not catch that bunch that are currently moving to Bermuda sleeping on the grates when they get there. You can bet on that. The point that we raised earlier is this is merely a discussion of the issue, but we want, as Democrats, to have a substantive debate about these companies that are moving to Bermuda to avoid taxes, and who better to speak about it than the distinguished gentleman from Washington (Mr. MCDERMOTT) to whom I yield 3 minutes.

Mr. MCDERMOTT. Mr. Speaker, I was glad to come out here and join in the preparing the press-release-of-the-week event. The Republicans say, well, every week we have got to have something to put out in the press to confuse the public, so let us go vote another tax cut. It reminds me of that old saying, ''Tonight we drink, tomorrow we'll fix the truck.''

What are you drinking from? You are drinking from the tax cut cup. You are putting another billion dollars in the hole. And for anybody to get up at that other side of the well and say that that does not come out of Social Security means he has paid no attention to the fact that we are going to end this year $300 billion in debt.

Why add one more? Well, we have to have the press release, right? Even more, though, let me tell you what is going on here. The reason this is out here on the suspension calendar, with no hearings in the committee, just out on the suspension calendar, is because they did not want to bring it to the committee. They did not want to give the gentleman from Massachusetts (Mr. NEAL) the opportunity to raise the question of the runaway companies and paying for this particular option. There is no payment in here. This is just taken out of the Social Security. So the leadership on the Committee on Ways and Means said, I know how we can get around this uncomfortable situation that the gentleman from Massachusetts is going to put us in, forcing us to vote about whether we want people running away, creating paper companies and taking tremendous profits because they are no longer an American company. Why, one of them even in Connecticut, just recently, makes hand tools. They decided they would go to Bermuda, create a paper company. As luck would have it, there might be a member on the Committee on Ways and Means who would be embarrassed by having to vote on that issue. So the chairman said, ''Don't worry, we'll never let it come up in the committee. We will send this directly to the floor.''

At some point, somebody has got to talk seriously out here. You cannot blame the fact that a tool company goes to Bermuda on 9/11 or on the war on terrorism. Why would they be moving from Connecticut to Bermuda? Is it to get away from the terror in this country? They went there for tax purposes and everybody knows it. I could give you a list as long as my arm of companies doing it all the time to avoid paying taxes in this country. They want the protection of the United States, they want the military, they want us patrolling the oceans so that they can send their exports everywhere, but they do not want to pay for it.

I wish that I would hear the President of the United States say, ''We all have to make a sacrifice, we all have to pay taxes,'' and that he would say it to his friends in Bermuda, ''Come on home. Pay your share.''

This is a terrible bill.

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

Responding briefly to my colleague from Washington State, a friend of mine on my committee, being a member of the House Committee on Ways and Means, I would note that today's debate is whether or not we more quickly phase out the marriage tax penalty, and do we make it easier for those on welfare to go to work. I realize that with a hearing coming up on June 13 that the gentleman from Massachusetts (Mr. NEAL) requested and agreed to and, of course, on an issue that the gentlewoman from Connecticut (Mrs. JOHNSON) has been a leader on, that we are planning to have plenty of debate and discussion of the issue that they are raising. The bottom line is today we want to eliminate the marriage tax penalty, and today we want to help those who are on welfare go to work.

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

Mr. NEAL of Massachusetts. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. LYNCH), a worthy successor to McCormick and O'Neill, newly elected here from South Boston.

Mr. LYNCH. Mr. Speaker, in response to my esteemed colleague from Arizona, I think this is a perfect time to talk about correct tax policy in this country. I think you will find widespread agreement that there is support for reducing the marriage penalty. It is a sensible adjustment to our tax code. However, I think you will also find widespread agreement here that stopping American companies from avoiding their fair share of taxes by incorporating into offshore tax havens is also a sensible adjustment to our tax code.

Mr. Speaker, I rise in support of the gentleman from Massachusetts (Mr. NEAL) and the gentleman from Connecticut (Mr. MALONEY) and their recommendation entitled the Corporate Patriot Enforcement Act. Unfortunately, the Republican leadership is not allowing us to debate that bill today. We quite frankly are in a time of great challenge in this country. It is a time when we should set aside our partisan squabbling and pull together and do what is necessary, do what is right for this country.

There are some Americans, however, Mr. Speaker, who seem to feel that the burden of defending our country should fall rather lightly on them. In the last few years, we have seen a growing epidemic of companies voting to, quote, unquote, reincorporate themselves in Bermuda, in Barbados, in offshore tax havens, asking us to believe that buying a post office box in Bermuda or

Barbados is a legitimate way to avoid paying to support our efforts against terrorism, paying to support our troops overseas. Profits and jobs are shipped abroad by this process. Those profits are not reinvested in the United States. And it leaves their share, these runaway corporations, it leaves their share of the tax burden to fall unfairly on those companies and individuals who are too honest and are too patriotic to engage in these kinds of schemes.

Mr. Speaker, the executives of these companies have practically dared Congress to shut down their offshore tax schemes. I believe we should take them up on that challenge.

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

To briefly respond to my friend and colleague from Massachusetts, again today's debate is about do we more quickly eliminate the marriage tax penalty, and do we give thousands, if not millions, more of those who are on welfare the opportunity to go to work? I would note that the issue that has been raised, of course, has been an issue that has been led on by the gentlewoman from Connecticut (Mrs. JOHNSON), and as the gentleman from Massachusetts (Mr. NEAL) and the gentlewoman from Connecticut (Mrs. JOHNSON) have both requested, the committee will be addressing this on June 13.

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

Mr. NEAL of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

They won't give us a vote in this institution on this measure, the Corporate Patriot Enforcement Act. This is the way we have to do it. I will assure the folks on the other side of the aisle this is the way we are going to continue to do it until we get an up-or-down vote on this question.

Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. MALONEY) who has been a leader on this issue. He knows it firsthand and indeed has been a passionate critic of what these corporations are doing in an effort to scheme to avoid taxes.

Mr. MALONEY of Connecticut. Mr. Speaker, I rise in support of H.R. 4626, the legislation before us today. It is a good measure, but it could be substantially better. This debate is about our tax policy. Tax policy very much is in question. Last month while citizens of this country were paying their income taxes, some of America's largest corporations decided they no longer wanted to pay their fair share of U.S. taxes. Instead, they sought out a loophole and are trying to exploit it for their own gain. For little more than the cost of a post office box in an offshore tax haven like Bermuda, U.S. companies are trying to avoid millions of dollars in Federal taxes. The tax dodgers may set up paper headquarters in Bermuda, but they continue to operate in the United States. They still receive Federal, State and local services such as police, fire and schools and, of course, they still rely on the protection of our courageous armed services here at home and around the world. The only difference is they now get it all for free while U.S. citizens and loyal U.S. companies continue to pay the bill. This is unpatriotic, especially in light of our current economic situation. We are now seeing a major growing budget deficit, expected to be as much as $100 billion this year. The huge Federal surplus we had only a year ago has been entirely wiped out, mostly because of erroneous, irresponsible tax policy. So critical programs like Social Security and Medicare are in serious jeopardy just as the largest generation in the history of this country is getting ready to retire.

Stanley Works in Connecticut, which has been alluded to previously, stamps ''USA'' on its products while at the same time ships its jobs overseas, ships its corporate entity to Bermuda, and will end up evading virtually all of its U.S. taxes. But that is not the end of the outrage that we face. I had previously noted that the U.S. Treasury and small shareholders will have to bear the brunt of this unfair tax scheme. In fact, if this tax dodge goes through, individual Stanley shareholders will have to pay an estimated $150 million in additional capital gains taxes. But yesterday's New York Times reported on the real scope of this outrage, and I quote:

''Even if their shares rose 11.5 percent, they, the shareholders, will barely break even after taxes. At Stanley Works, the CEO stands to pocket an amount equal to 58 cents of each dollar the company would save in corporate income taxes in the first year.''

That is $17.4 million of an estimated $30 million in savings out of the Treasury into the CEO's individual pocket. Additionally, the CEO, if he receives all of the options he is eligible for under the current plan, would gain $385 million by exercising those options. The CEO is raiding the U.S. Treasury at a time of war at the expense of the taxpayers of this country and the shareholders that the CEO is supposed to represent. The gentleman from Massachusetts (Mr. NEAL) and I have offered legislation on this issue. We call on the majority to allow it to be brought forward for a vote.

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

I would briefly like to remind the gentleman from Connecticut that the Committee on Ways and Means will be conducting a hearing on this subject which he raises. I also note that the gentlewoman from his home State Connecticut (Mrs. JOHNSON) has been a leader on this issue with the legislation that she has offered, H.R. 4756. That legislation, as well as the gentleman from Massachusetts' legislation, will be the subject of the Committee on Ways and Means hearing on June 13.

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

Mr. NEAL of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

We have a request for $48 billion more for national defense which the President is going to largely get, $38 billion more for homeland security, and these corporations are moving to Bermuda rather than joining in with the rest of the American family and paying their share.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, the tragedy of September 11 really brought out the best of the American spirit, with so many people across this country asking, ''What can I do to help my country? What can I do to help my neighbors?'' But unfortunately that spirit did not extend to some of the larger multinationals in this country. Recognizing that there would be additional costs for national security, for homeland security, their first concern seems to have been, ''What can I do to dodge my fair share of the cost of additional security, which, as a multinational operating around the globe, I particularly need?

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So we have seen a series of companies decide that their sacrifice for America would be buying a mailbox in Bermuda or some other country and would shift the responsibility of paying for our enhanced national security needs on to ordinary taxpaying families.

Stanley Tool Company, which the gentleman from Connecticut (Mr. MALONEY) and the gentleman from Massachusetts (Mr. NEAL) have taken the lead in focusing attention on the problem and demanding action now. Our Republican colleagues prefer studying the problem until so many corporations have departed.

Stanley Tool Company has hammered the American taxpayer. Who do you think is going to pick up the cost of this additional national security? It will not be Stanley Tool. They renounced their American citizenship like these other companies and decided they would go abroad, or at least send their mailbox abroad.

For our Republican colleagues, who never seem to have met an abusive tax shelter that they did not like, this is only one of many types of corporate tax shelters that are abusive and they have avoided taking any action on, but instead tell us that what we need is a study. Well, I have here the study that the Treasury Department just completed on Friday, and if you look in the fine print of that study, you will find one very significant conclusion. The conclusion of the Treasury Department is that we ought to keep multinational corporations from having to send their mailbox abroad by awarding further corporate tax breaks. Treasury's answer is, cut Stanley Tool Company's taxes here so they do not have to pay for a mailbox abroad.

That is not sharing the sacrifice. ''Study'' has been an excuse for inaction, and the call for study this morning invites more inaction. If we keep studying, as they recommend, the only appropriate legislation for this Congress to enact would call to erect a big sign that says: ''Let the last multinational flip off the lights in America.''

I would say that the gentleman from Illinois (Mr. WELLER) is absolutely right about saying that today this debate is about the marriage penalty. It is about the marriage penalty that all of America suffers when the House Republican leadership and this Administration are married to special interests, even to the extent that they let them totally dodge their tax responsibility and instead turn to the Social Security and Medicare trust funds to pick up the tab. That is wrong. That is the kind of a marriage penalty we need to be addressing today by adopting the Neal-Maloney legislation.

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

Mr. Speaker, briefly responding to the dialogue of my colleague and member of the Committee on Ways and Means, I would note again that he is absolutely right. Today's debate is about eliminating the marriage tax penalty, simplifying the Tax Code for low- and moderate-income working married couplings.

This debate is also about whether or not we give hundreds of thousands, if not millions, of welfare recipients the opportunity to have a job, to have a chance. That is what this debate is about.

I realize there are some who came here to practice campaign rhetoric; it is a campaign season. And the Committee on Ways and Means is conducting a hearing on the issue that the gentlemen and women on the other side have raised this morning.

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

Mr. NEAL of Massachusetts. Mr. Speaker, I yield myself the balance of my time to close.

The SPEAKER pro tempore (Mr. LINDER). The gentleman from Massachusetts is recognized for 1½ minutes.

Mr. NEAL of Massachusetts. Mr. Speaker, an editorial from the Hartford Courant on May 14 said: ''Guess who will wind up picking up the tab as a result of Stanley's tax avoidance? Other American taxpayers, of course.''

The New York Times on May 13 wrote: ''Even in the best of times, it is outrageous for companies to engage in offshore shenanigans to avoid paying their fair share of taxes. Doing so after the Enron scandal, in dire fiscal times and when the Nation is at war is unconscionable.''

How about the Houston Chronicle on May 9 which stated: ''American companies that have no headquarters, no employees or operations in foreign tax havens should not be able to lower their taxes by acquiring an island post office box. Basic fairness to American companies that remain incorporated in America is at stake.''

How about the Springfield Union News editorial on May 7: ''When a U.S.-based corporation decides to reincorporate, basing its operations in, say, the Cayman Islands when the company has little more than a mailbox there, it can legally avoid millions of dollars in taxes, there will come no better moment than this one as an opportunity to right a wrong. We look forward to a floor vote on this matter.''

How about Paul Krugman writing in the New York Times: ''Flying the flag of convenience and seeking rewards.''

Or columnist Jeff Brown in the Philadelphia Inquirer: ''Yet Stanley won't have to pay its fair share for the good life and safe business climate that we have created for all of them. It shouldn't be allowed to get away with this.''

And one might ask, will it play in Peoria? Let us try the editorial from the Peoria Journal Star as well: ''Tax policy of this sort is outrageously offensive, if not masochistic. It penalizes businesses that have ethically and responsibly done their part and rewards those that do not.''

Mr. Speaker, we would like a vote on our side on the question of these companies moving to Bermuda in this time of war. We want an opportunity to voice to the American people the concerns that they have expressed to us through a vote in this Chamber to stop corporate expatriation.

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

Mr. Speaker, I rise in support of the Encouraging Work and Supporting Marriage Act of 2002, legislation that accomplishes two goals, that is, a quicker phase-out of the marriage tax penalty for low- and moderate-income workers, and increasing the opportunity for those who are on welfare to have a chance to have a job. That is what this debate is all about.

I know there are other issues that have been raised by some that are in the ''excuse caucus'' of the Democratic Party, who believe there is always an excuse not to do these things. But today we wanted to eliminate the marriage tax penalty. Today we want to increase the opportunity to help those who are on welfare go to work.

Let me give you an example of a couple from the district that I represent who suffer the marriage tax penalty, a result of the complicated Tax Code that we have had and, until President Bush became President, was in place, and thanks to President Bush and the Republican leadership as well as Republican majority in this House of Representatives, we eliminated the marriage tax penalty. Unfortunately, it had to be phased out, we could not do it all at once; but we passed legislation to accomplish that.

Jose and Magdalena Castillo are two laborers from Joliet, Illinois. They are both in the workforce. Because they are married, they file their taxes jointly, it pushes them into a higher tax bracket, they pay the marriage tax penalty, about $1,150 in higher taxes just because they are married. But thanks to the Bush tax cut, which resulted from a Republican majority in this House, Jose and Magdalena Castillo no longer pay the marriage tax penalty.

Today we want to help millions of couples such as Jose and Magdalena Castillo by phasing out the marriage tax penalty more quickly. For those who are low- and moderate-income taxpayers, those who do not itemize, in the phase-in they were not going to receive the full impact of the elimination of the marriage tax penalty to them until 2005.

What we have before us today is legislation that eliminates the marriage tax penalty for low- and moderate-income taxpayers in 2003, next year. As a result of that, 9 million married couples will receive immediate relief, and I will note that 300,000 low- and moderate-income married working couples will no longer have to itemize their taxes as a result of this legislation. That is progress, and I am proud to say this is good legislation.

I would also note that this legislation helps hundreds of thousands of other hard-working, low-income families. This legislation simplifies the Work Opportunity and Welfare-to-Work tax credits. President Bush was in my home area of Chicago just this past week. President Bush went to a facility, it was a UPS, United Parcel Service, facility. They are one of the leading companies in helping those on welfare with an opportunity to go to work. The President highlighted the Work Opportunity Tax Credit, how it has been a successful tool in our effort to give those on welfare a chance, a chance for a job.

Well, the President drew attention to a very successful program that we need to continue to improve. Today's legislation simplifies the Work Opportunity and Welfare-to-Work tax credits. In fact, it combines the two so there is only one, to make it much more simple for those that use, the private business that hires and gives opportunities for welfare recipients.

But also I would note that this legislation gives more low-income welfare recipients the opportunity to participate. If they have a criminal past and they are trying to make right, if they have been an ex-felon, we give greater opportunity because they want to do the right thing and go to work. If they are on food stamps, we raise the eligibility age limit for those on food stamps to participate in the Work Opportunity Tax Credit. We also expand incentives for vocational rehabilitation referrals, again giving more opportunity for low-income individuals to have a chance to go to work and get off of welfare.

This is good legislation, and regardless of some of the rhetoric we have heard today, it is about two things:

eliminating the marriage tax penalty and giving those on welfare an opportunity to go to work. Those are two very noble goals, and I am proud to say that this legislation passed the Committee on Ways and Means unanimously. Regardless of the rhetoric we have heard from the other side from the ''excuses caucus,'' it passed unanimously. They voted for it. My hope is they will vote for it again, because this legislation to eliminate the marriage tax penalty, to give those on welfare a chance, an opportunity to go to work, deserves bipartisan support.

Mr. Speaker, I ask for bipartisan support for this legislation.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. WELLER) that the House suspend the rules and pass the bill, H.R. 4626, as amended.

The question was taken.

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

Mr. WELLER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

N O T I C E

Incomplete record of House proceedings. Except for concluding business which follows, today's House proceedings will be continued in the next issue of the Record.

CONFERENCE REPORT (H. REPT. 107–481)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3448), to improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Public Health Security and Bioterrorism Preparedness and Response Act of 2002''.

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

TITLE I—NATIONAL PREPAREDNESS FOR BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES

Subtitle A—National Preparedness and Response Planning, Coordinating, and Reporting

Sec. 101. National preparedness and response.
Sec. 102. Assistant Secretary for Public Health Emergency Preparedness; National Disaster Medical System.
Sec. 103. Improving ability of Centers for Disease Control and Prevention.
Sec. 104. Advisory committees and communications; study regarding communications abilities of public health agencies.
Sec. 105. Education of health care personnel; training regarding pediatric issues.
Sec. 106. Grants regarding shortages of certain health professionals.
Sec. 107. Emergency system for advance registration of health professions volunteers.
Sec. 108. Working group.
Sec. 109. Antimicrobial resistance.
Sec. 110. Supplies and services in lieu of award funds.
Sec. 111. Additional amendments.

Subtitle B—Strategic National Stockpile; Development of Priority Countermeasures

Sec. 121. Strategic national stockpile.
Sec. 122. Accelerated approval of priority countermeasures.
Sec. 123. Issuance of rule on animal trials.
Sec. 124. Security for countermeasure development and production.
Sec. 125. Accelerated countermeasure research and development.
Sec. 126. Evaluation of new and emerging technologies regarding bioterrorist attack and other public health emergencies.
Sec. 127. Potassium iodide.

Subtitle C—Improving State, Local, and Hospital Preparedness for and Response to Bioterrorism and Other Public Health Emergencies

Sec. 131. Grants to improve State, local, and hospital preparedness for and response to bioterrorism and other public health emergencies.

Subtitle D—Emergency Authorities; Additional Provisions

Sec. 141. Reporting deadlines.
Sec. 142. Streamlining and clarifying communicable disease quarantine provisions.
Sec. 143. Emergency waiver of Medicare, Medicaid, and SCHIP requirements.
Sec. 144. Provision for expiration of public health emergencies.

Subtitle E—Additional Provisions

Sec. 151. Designated State public emergency announcement plan.
Sec. 152. Expanded research by Secretary of Energy.
Sec. 153. Expanded research on worker health and safety.
Sec. 154. Enhancement of emergency preparedness of Department of Veterans Affairs.
Sec. 155. Reauthorization of existing program.
Sec. 156. Sense of Congress.
Sec. 157. General Accounting Office report.
Sec. 158. Certain awards.
Sec. 159. Public access defibrillation programs and public access defibrillation demonstration projects.

TITLE II—ENHANCING CONTROLS ON DANGEROUS BIOLOGICAL AGENTS AND TOXINS

Subtitle A—Department of Health and Human Services

Sec. 201. Regulation of certain biological agents and toxins.
Sec. 202. Implementation by Department of Health and Human Services.
Sec. 203. Effective dates.
Sec. 204. Conforming amendment.

Subtitle B—Department of Agriculture

Sec. 211. Short title.
Sec. 212. Regulation of certain biological agents and toxins.
Sec. 213. Implementation by Department of Agriculture.

Subtitle C—Interagency Coordination Regarding Overlap Agents and Toxins

Sec. 221. Interagency coordination.

Subtitle D—Criminal Penalties Regarding Certain Biological Agents and Toxins

Sec. 231. Criminal penalties.

TITLE III—PROTECTING SAFETY AND SECURITY OF FOOD AND DRUG SUPPLY

Subtitle A—Protection of Food Supply

Sec. 301. Food safety and security strategy.
Sec. 302. Protection against adulteration of food.
Sec. 303. Administrative detention.
Sec. 304. Debarment for repeated or serious food import violations.
Sec. 305. Registration of food facilities.
Sec. 306. Maintenance and inspection of records for foods.
Sec. 307. Prior notice of imported food shipments.
Sec. 308. Authority to mark articles refused admission into United States.
Sec. 309. Prohibition against port shopping.
Sec. 310. Notices to States regarding imported food.
Sec. 311. Grants to States for inspections.
Sec. 312. Surveillance and information grants and authorities.
Sec. 313. Surveillance of zoonotic diseases.
Sec. 314. Authority to commission other Federal officials to conduct inspections.
Sec. 315. Rule of construction.

Subtitle B—Protection of Drug Supply

Sec. 321. Annual registration of foreign manufacturers; shipping information; drug and device listing.
Sec. 322. Requirement of additional information regarding import components intended for use in export products.

Subtitle C—General Provisions Relating to Upgrade of Agricultural Security

Sec. 331. Expansion of Animal and Plant Health Inspection Service activities.
Sec. 332. Expansion of Food Safety Inspection Service activities.
Sec. 333. Biosecurity upgrades at the Department of Agriculture.
Sec. 334. Agricultural biosecurity.
Sec. 335. Agricultural bioterrorism research and development.
Sec. 336. Animal enterprise terrorism penalties.

TITLE IV—DRINKING WATER SECURITY AND SAFETY

Sec. 401. Terrorist and other intentional acts.
Sec. 402. Other Safe Drinking Water Act amendments.
Sec. 403. Miscellaneous and technical amendments.

TITLE V—ADDITIONAL PROVISIONS

Subtitle A—Prescription Drug User Fees

Sec. 501. Short title.
Sec. 502. Findings.

Sec. 503. Definitions.
Sec. 504. Authority to assess and use drug fees.
Sec. 505. Accountability and reports.
Sec. 506. Reports of postmarketing studies.
Sec. 507. Savings clause.
Sec. 508. Effective date.
Sec. 509. Sunset clause.
Subtitle B—Funding Provisions Regarding Food and Drug Administration
Sec. 521. Office of Drug Safety.
Sec. 522. Division of Drug Marketing, Advertising, and Communications.
Sec. 523. Office of Generic Drugs.
Subtitle C—Additional Provisions
Sec. 531. Transition to digital television.
Sec. 532. 3-year delay in lock in procedures for Medicare+Choice plans; change in Medicare+Choice reporting deadlines and annual, coordinated election period for 2003, 2004, and 2005.

TITLE I—NATIONAL PREPAREDNESS FOR BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES

Subtitle A—National Preparedness and Response Planning, Coordinating, and Reporting

SEC. 101. NATIONAL PREPAREDNESS AND RESPONSE.

(a) IN GENERAL.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following title:

"TITLE XXVIII—NATIONAL PREPAREDNESS FOR BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES

"Subtitle A—National Preparedness and Response Planning, Coordinating, and Reporting

"SEC. 2801. NATIONAL PREPAREDNESS PLAN.

''(a) IN GENERAL.—

''(1) PREPAREDNESS AND RESPONSE REGARDING PUBLIC HEALTH EMERGENCIES.—The Secretary shall further develop and implement a coordinated strategy, building upon the core public health capabilities established pursuant to section 319A, for carrying out health-related activities to prepare for and respond effectively to bioterrorism and other public health emergencies, including the preparation of a plan under this section. The Secretary shall periodically thereafter review and, as appropriate, revise the plan.

''(2) NATIONAL APPROACH.—In carrying out paragraph (1), the Secretary shall collaborate with the States toward the goal of ensuring that the activities of the Secretary regarding bioterrorism and other public health emergencies are coordinated with activities of the States, including local governments.

''(3) EVALUATION OF PROGRESS.—The plan under paragraph (1) shall provide for specific benchmarks and outcome measures for evaluating the progress of the Secretary and the States, including local governments, with respect to the plan under paragraph (1), including progress toward achieving the goals specified in subsection (b).

''(b) PREPAREDNESS GOALS.—The plan under subsection (a) should include provisions in furtherance of the following:

''(1) Providing effective assistance to State and local governments in the event of bioterrorism or other public health emergency.

''(2) Ensuring that State and local governments have appropriate capacity to detect and respond effectively to such emergencies, including capacities for the following:

''(A) Effective public health surveillance and reporting mechanisms at the State and local levels.

''(B) Appropriate laboratory readiness.

''(C) Properly trained and equipped emergency response, public health, and medical personnel.

''(D) Health and safety protection of workers responding to such an emergency.

''(E) Public health agencies that are prepared to coordinate health services (including mental health services) during and after such emergencies.

''(F) Participation in communications networks that can effectively disseminate relevant information in a timely and secure manner to appropriate public and private entities and to the public.

''(3) Developing and maintaining medical countermeasures (such as drugs, vaccines and other biological products, medical devices, and other supplies) against biological agents and toxins that may be involved in such emergencies.

''(4) Ensuring coordination and minimizing duplication of Federal, State, and local planning, preparedness, and response activities, including during the investigation of a suspicious disease outbreak or other potential public health emergency.

''(5) Enhancing the readiness of hospitals and other health care facilities to respond effectively to such emergencies.

''(c) REPORTS TO CONGRESS.—

''(1) IN GENERAL.—Not later than one year after the date of the enactment of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, and biennially thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report concerning progress with respect to the plan under subsection (a), including progress toward achieving the goals specified in subsection (b).

''(2) ADDITIONAL AUTHORITY.—Reports submitted under paragraph (1) by the Secretary (other than the first report) shall make recommendations concerning—

''(A) any additional legislative authority that the Secretary determines is necessary for fully implementing the plan under subsection (a), including meeting the goals under subsection (b); and

''(B) any additional legislative authority that the Secretary determines is necessary under section 319 to protect the public health in the event of an emergency described in section 319(a).

''(d) RULE OF CONSTRUCTION.—This section may not be construed as expanding or limiting any of the authorities of the Secretary that, on the day before the date of the enactment of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, were in effect with respect to preparing for and responding effectively to bioterrorism and other public health emergencies.''.

(b) OTHER REPORTS.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services (referred to in this subsection as the ''Secretary'') shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report concerning—

(A) the recommendations and findings of the National Advisory Committee on Children and Terrorism under section 319F(c)(2) of the Public Health Service Act;

(B) the recommendations and findings of the EPIC Advisory Committee under section 319F(c)(3) of such Act;

(C) the characteristics that may render a rural community uniquely vulnerable to a biological attack, including distance, lack of emergency transport, hospital or laboratory capacity, lack of integration of Federal or State public health networks, workforce deficits, or other relevant characteristics;

(D) the characteristics that may render areas or populations designated as medically underserved populations (as defined in section 330 of such Act) uniquely vulnerable to a biological attack, including significant numbers of low-income or uninsured individuals, lack of affordable and accessible health care services, insufficient public and primary health care resources, lack of integration of Federal or State public health networks, workforce deficits, or other relevant characteristics;

(E) the recommendations of the Secretary with respect to additional legislative authority that the Secretary determines is necessary to effectively strengthen rural communities, or medically underserved populations (as defined in section 330 of such Act); and

(F) the need for and benefits of a National Disaster Response Medical Volunteer Service that would be a private-sector, community-based rapid response corps of medical volunteers.

(2) STUDY REGARDING LOCAL EMERGENCY RESPONSE METHODS.—The Secretary shall conduct a study of effective methods for the provision of emergency response services through local governments (including through private response contractors and volunteers of such governments) in a consistent manner in response to acts of bioterrorism or other public health emergencies. Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report describing the findings of the study.

SEC. 102. ASSISTANT SECRETARY FOR PUBLIC HEALTH EMERGENCY PREPAREDNESS; NATIONAL DISASTER MEDICAL SYSTEM.

(a) IN GENERAL.—Title XXVIII of the Public Health Service Act, as added by section 101 of this Act, is amended by adding at the end the following subtitle:

"Subtitle B—Emergency Preparedness and Response

"SEC. 2811. COORDINATION OF PREPAREDNESS FOR AND RESPONSE TO BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES.

''(a) ASSISTANT SECRETARY FOR PUBLIC HEALTH EMERGENCY PREPAREDNESS.—

''(1) IN GENERAL.—There is established within the Department of Health and Human Services the position of Assistant Secretary for Public Health Emergency Preparedness. The President shall appoint an individual to serve in such position. Such Assistant Secretary shall report to the Secretary.

''(2) DUTIES.—Subject to the authority of the Secretary, the Assistant Secretary for Public Health Emergency Preparedness shall carry out the following duties with respect to bioterrorism and other public health emergencies:

''(A) Coordinate on behalf of the Secretary—

''(i) interagency interfaces between the Department of Health and Human Services (referred to in this paragraph as the 'Department') and other departments, agencies, and offices of the United States; and

''(ii) interfaces between the Department and State and local entities with responsibility for emergency preparedness.

''(B) Coordinate the operations of the National Disaster Medical System and any other emergency response activities within the Department of Health and Human Services that are related to bioterrorism and other public health emergencies.

''(C) Coordinate the efforts of the Department to bolster State and local emergency preparedness for a bioterrorist attack or other public health emergency, and evaluate the progress of such entities in meeting the benchmarks and other outcome measures contained in the national plan and in meeting the core public health capabilities established pursuant to 319A.

''(D) Any other duties determined appropriate by the Secretary.

''(b) NATIONAL DISASTER MEDICAL SYSTEM.—

''(1) IN GENERAL.—The Secretary shall provide for the operation in accordance with this section of a system to be known as the National Disaster Medical System. The Secretary shall designate the Assistant Secretary for Public Health

Emergency Preparedness as the head of the National Disaster Medical System, subject to the authority of the Secretary.

''(2) FEDERAL AND STATE COLLABORATIVE SYSTEM.—

''(A) IN GENERAL.—The National Disaster Medical System shall be a coordinated effort by the Federal agencies specified in subparagraph (B), working in collaboration with the States and other appropriate public or private entities, to carry out the purposes described in paragraph (3).

''(B) PARTICIPATING FEDERAL AGENCIES.—The Federal agencies referred to in subparagraph (A) are the Department of Health and Human Services, the Federal Emergency Management Agency, the Department of Defense, and the Department of Veterans Affairs.

''(3) PURPOSE OF SYSTEM.—

''(A) IN GENERAL.—The Secretary may activate the National Disaster Medical System to—

''(i) provide health services, health-related social services, other appropriate human services, and appropriate auxiliary services to respond to the needs of victims of a public health emergency (whether or not determined to be a public health emergency under section 319); or

''(ii) be present at locations, and for limited periods of time, specified by the Secretary on the basis that the Secretary has determined that a location is at risk of a public health emergency during the time specified.

''(B) ONGOING ACTIVITIES.—The National Disaster Medical System shall carry out such ongoing activities as may be necessary to prepare for the provision of services described in subparagraph (A) in the event that the Secretary activates the National Disaster Medical System for such purposes.

''(C) TEST FOR MOBILIZATION OF SYSTEM.—During the one-year period beginning on the date of the enactment of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, the Secretary shall conduct an exercise to test the capability and timeliness of the National Disaster Medical System to mobilize and otherwise respond effectively to a bioterrorist attack or other public health emergency that affects two or more geographic locations concurrently. Thereafter, the Secretary may periodically conduct such exercises regarding the National Disaster Medical System as the Secretary determines to be appropriate.

''(c) CRITERIA.—

''(1) IN GENERAL.—The Secretary shall establish criteria for the operation of the National Disaster Medical System.

''(2) PARTICIPATION AGREEMENTS FOR NON-FEDERAL ENTITIES.—In carrying out paragraph (1), the Secretary shall establish criteria regarding the participation of States and private entities in the National Disaster Medical System, including criteria regarding agreements for such participation. The criteria shall include the following:

''(A) Provisions relating to the custody and use of Federal personal property by such entities, which may in the discretion of the Secretary include authorizing the custody and use of such property to respond to emergency situations for which the National Disaster Medical System has not been activated by the Secretary pursuant to subsection (b)(3)(A). Any such custody and use of Federal personal property shall be on a reimbursable basis.

''(B) Provisions relating to circumstances in which an individual or entity has agreements with both the National Disaster Medical System and another entity regarding the provision of emergency services by the individual. Such provisions shall address the issue of priorities among the agreements involved.

''(d) INTERMITTENT DISASTER-RESPONSE PERSONNEL.—

''(1) IN GENERAL.—For the purpose of assisting the National Disaster Medical System in carrying out duties under this section, the Secretary may appoint individuals to serve as intermittent personnel of such System in accordance with applicable civil service laws and regulations.

''(2) LIABILITY.—For purposes of section 224(a) and the remedies described in such section, an individual appointed under paragraph (1) shall, while acting within the scope of such appointment, be considered to be an employee of the Public Health Service performing medical, surgical, dental, or related functions. With respect to the participation of individuals appointed under paragraph (1) in training programs authorized by the Assistant Secretary for Public Health Emergency Preparedness or a comparable official of any Federal agency specified in subsection (b)(2)(B), acts of individuals so appointed that are within the scope of such participation shall be considered within the scope of the appointment under paragraph (1) (regardless of whether the individuals receive compensation for such participation).

''(e) CERTAIN EMPLOYMENT ISSUES REGARDING INTERMITTENT APPOINTMENTS.—

''(1) INTERMITTENT DISASTER-RESPONSE APPOINTEE.—For purposes of this subsection, the term 'intermittent disaster-response appointee' means an individual appointed by the Secretary under subsection (d).

''(2) COMPENSATION FOR WORK INJURIES.—An intermittent disaster-response appointee shall, while acting in the scope of such appointment, be considered to be an employee of the Public Health Service performing medical, surgical, dental, or related functions, and an injury sustained by such an individual shall be deemed 'in the performance of duty', for purposes of chapter 81 of title 5, United States Code, pertaining to compensation for work injuries. With respect to the participation of individuals appointed under subsection (d) in training programs authorized by the Assistant Secretary for Public Health Emergency Preparedness or a comparable official of any Federal agency specified in subsection (b)(2)(B), injuries sustained by such an individual, while acting within the scope of such participation, also shall be deemed 'in the performance of duty' for purposes of chapter 81 of title 5, United States Code (regardless of whether the individuals receive compensation for such participation). In the event of an injury to such an intermittent disaster-response appointee, the Secretary of Labor shall be responsible for making determinations as to whether the claimant is entitled to compensation or other benefits in accordance with chapter 81 of title 5, United States Code.

''(3) EMPLOYMENT AND REEMPLOYMENT RIGHTS.—

''(A) IN GENERAL.—Service as an intermittent disaster-response appointee when the Secretary activates the National Disaster Medical System or when the individual participates in a training program authorized by the Assistant Secretary for Public Health Emergency Preparedness or a comparable official of any Federal agency specified in subsection (b)(2)(B) shall be deemed 'service in the uniformed services' for purposes of chapter 43 of title 38, United States Code, pertaining to employment and reemployment rights of individuals who have performed service in the uniformed services (regardless of whether the individual receives compensation for such participation). All rights and obligations of such persons and procedures for assistance, enforcement, and investigation shall be as provided for in chapter 43 of title 38, United States Code.

''(B) NOTICE OF ABSENCE FROM POSITION OF EMPLOYMENT.—Preclusion of giving notice of service by necessity of Service as an intermittent disaster-response appointee when the Secretary activates the National Disaster Medical System shall be deemed preclusion by 'military necessity' for purposes of section 4312(b) of title 38, United States Code, pertaining to giving notice of absence from a position of employment. A determination of such necessity shall be made by the Secretary, in consultation with the Secretary of Defense, and shall not be subject to judicial review.

''(4) LIMITATION.—An intermittent disaster-response appointee shall not be deemed an employee of the Department of Health and Human Services for purposes other than those specifically set forth in this section.

''(f) RULE OF CONSTRUCTION REGARDING USE OF COMMISSIONED CORPS.—If the Secretary assigns commissioned officers of the Regular or Reserve Corps to serve with the National Disaster Medical System, such assignments do not affect the terms and conditions of their appointments as commissioned officers of the Regular or Reserve Corps, respectively (including with respect to pay and allowances, retirement, benefits, rights, privileges, and immunities).

''(g) DEFINITION.—For purposes of this section, the term 'auxiliary services' includes mortuary services, veterinary services, and other services that are determined by the Secretary to be appropriate with respect to the needs referred to in subsection (b)(3)(A).

''(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of providing for the Assistant Secretary for Public Health Emergency Preparedness and the operations of the National Disaster Medical System, other than purposes for which amounts in the Public Health Emergency Fund under section 319 are available, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2006.''.

(b) SENSE OF CONGRESS REGARDING RESOURCES OF NATIONAL DISASTER MEDICAL SYSTEM.—It is the sense of the Congress that the Secretary of Health and Human Services should provide sufficient resources to entities tasked to carry out the duties of the National Disaster Medical System for reimbursement of expenses, operations, purchase and maintenance of equipment, training, and other funds expended in furtherance of the National Disaster Medical System.

SEC. 103. IMPROVING ABILITY OF CENTERS FOR DISEASE CONTROL AND PREVENTION.

Section 319D of the Public Health Service Act (42 U.S.C. 247d–4) is amended to read as follows:

''SEC. 319D. REVITALIZING THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

''(a) FACILITIES; CAPACITIES.—

''(1) FINDINGS.—Congress finds that the Centers for Disease Control and Prevention has an essential role in defending against and combatting public health threats and requires secure and modern facilities, and expanded and improved capabilities related to bioterrorism and other public health emergencies, sufficient to enable such Centers to conduct this important mission.

''(2) FACILITIES.—

''(A) IN GENERAL.—The Director of the Centers for Disease Control and Prevention may design, construct, and equip new facilities, renovate existing facilities (including laboratories, laboratory support buildings, scientific communication facilities, transshipment complexes, secured and isolated parking structures, office buildings, and other facilities and infrastructure), and upgrade security of such facilities, in order to better conduct the capacities described in section 319A, and for supporting public health activities.

''(B) MULTIYEAR CONTRACTING AUTHORITY.—For any project of designing, constructing, equipping, or renovating any facility under subparagraph (A), the Director of the Centers for Disease Control and Prevention may enter into a single contract or related contracts that collectively include the full scope of the project, and the solicitation and contract shall contain the clause 'availability of funds' found at section 52.232–18 of title 48, Code of Federal Regulations.

''(3) IMPROVING THE CAPACITIES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.—The Secretary, taking into account evaluations under section 319B(a), shall expand, enhance,

and improve the capabilities of the Centers for Disease Control and Prevention relating to preparedness for and responding effectively to bioterrorism and other public health emergencies. Activities that may be carried out under the preceding sentence include—

''(A) expanding or enhancing the training of personnel;

''(B) improving communications facilities and networks, including delivery of necessary information to rural areas;

''(C) improving capabilities for public health surveillance and reporting activities, taking into account the integrated system or systems of public health alert communications and surveillance networks under subsection (b); and

''(D) improving laboratory facilities related to bioterrorism and other public health emergencies, including increasing the security of such facilities.

''(b) NATIONAL COMMUNICATIONS AND SURVEILLANCE NETWORKS.—

''(1) IN GENERAL.—The Secretary, directly or through awards of grants, contracts, or cooperative agreements, shall provide for the establishment of an integrated system or systems of public health alert communications and surveillance networks between and among—

''(A) Federal, State, and local public health officials;

''(B) public and private health-related laboratories, hospitals, and other health care facilities; and

''(C) any other entities determined appropriate by the Secretary.

''(2) REQUIREMENTS.—The Secretary shall ensure that networks under paragraph (1) allow for the timely sharing and discussion, in a secure manner, of essential information concerning bioterrorism or another public health emergency, or recommended methods for responding to such an attack or emergency.

''(3) STANDARDS.—Not later than one year after the date of the enactment of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, the Secretary, in cooperation with health care providers and State and local public health officials, shall establish any additional technical and reporting standards (including standards for interoperability) for networks under paragraph (1).

''(c) AUTHORIZATION OF APPROPRIATIONS.—

''(1) FACILITIES; CAPACITIES.—

''(A) FACILITIES.—For the purpose of carrying out subsection (a)(2), there are authorized to be appropriated $300,000,000 for each of the fiscal years 2002 and 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2006.

''(B) MISSION; IMPROVING CAPACITIES.—For the purposes of achieving the mission of the Centers for Disease Control and Prevention described in subsection (a)(1), for carrying out subsection (a)(3), for better conducting the capacities described in section 319A, and for supporting public health activities, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2006.

''(2) NATIONAL COMMUNICATIONS AND SURVEILLANCE NETWORKS.—For the purpose of carrying out subsection (b), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2006.''.

SEC. 104. ADVISORY COMMITTEES AND COMMUNICATIONS; STUDY REGARDING COMMUNICATIONS ABILITIES OF PUBLIC HEALTH AGENCIES.

(a) IN GENERAL.—Section 319F of the Public Health Service Act (42 U.S.C. 247d–6) is amended—

(1) by striking subsections (b) and (i);

(2) by redesignating subsections (c) through (h) as subsections (e) through (j), respectively; and

(3) by inserting after subsection (a) the following subsections:

''(b) ADVICE TO THE FEDERAL GOVERNMENT.—

''(1) REQUIRED ADVISORY COMMITTEES.—In coordination with the working group under subsection (a), the Secretary shall establish advisory committees in accordance with paragraphs (2) and (3) to provide expert recommendations to assist such working groups in carrying out their respective responsibilities under subsections (a) and (b).

''(2) NATIONAL ADVISORY COMMITTEE ON CHILDREN AND TERRORISM.—

''(A) IN GENERAL.—For purposes of paragraph (1), the Secretary shall establish an advisory committee to be known as the National Advisory Committee on Children and Terrorism (referred to in this paragraph as the 'Advisory Committee').

''(B) DUTIES.—The Advisory Committee shall provide recommendations regarding—

''(i) the preparedness of the health care (including mental health care) system to respond to bioterrorism as it relates to children;

''(ii) needed changes to the health care and emergency medical service systems and emergency medical services protocols to meet the special needs of children; and

''(iii) changes, if necessary, to the national stockpile under section 121 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 to meet the emergency health security of children.

''(C) COMPOSITION.—The Advisory Committee shall be composed of such Federal officials as may be appropriate to address the special needs of the diverse population groups of children, and child health experts on infectious disease, environmental health, toxicology, and other relevant professional disciplines.

''(D) TERMINATION.—The Advisory Committee terminates one year after the date of the enactment of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002.

''(3) EMERGENCY PUBLIC INFORMATION AND COMMUNICATIONS ADVISORY COMMITTEE.—

''(A) IN GENERAL.—For purposes of paragraph (1), the Secretary shall establish an advisory committee to be known as the Emergency Public Information and Communications Advisory Committee (referred to in this paragraph as the 'EPIC Advisory Committee').

''(B) DUTIES.—The EPIC Advisory Committee shall make recommendations to the Secretary and the working group under subsection (a) and report on appropriate ways to communicate public health information regarding bioterrorism and other public health emergencies to the public.

''(C) COMPOSITION.—The EPIC Advisory Committee shall be composed of individuals representing a diverse group of experts in public health, medicine, communications, behavioral psychology, and other areas determined appropriate by the Secretary.

''(D) DISSEMINATION.—The Secretary shall review the recommendations of the EPIC Advisory Committee and ensure that appropriate information is disseminated to the public.

''(E) TERMINATION.—The EPIC Advisory Committee terminates one year after the date of the enactment of Public Health Security and Bioterrorism Preparedness and Response Act of 2002.

''(c) STRATEGY FOR COMMUNICATION OF INFORMATION REGARDING BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES.—In coordination with working group under subsection (a), the Secretary shall develop a strategy for effectively communicating information regarding bioterrorism and other public health emergencies, and shall develop means by which to communicate such information. The Secretary may carry out the preceding sentence directly or through grants, contracts, or cooperative agreements.

''(d) RECOMMENDATION OF CONGRESS REGARDING OFFICIAL FEDERAL INTERNET SITE ON BIOTERRORISM.—It is the recommendation of Congress that there should be established an official Federal Internet site on bioterrorism, either directly or through provision of a grant to an entity that has expertise in bioterrorism and the development of websites, that should include information relevant to diverse populations (including messages directed at the general public and such relevant groups as medical personnel, public safety workers, and agricultural workers) and links to appropriate State and local government sites.''.

(b) STUDY REGARDING COMMUNICATIONS ABILITIES OF PUBLIC HEALTH AGENCIES.—The Secretary of Health and Human Services, in consultation with the Federal Communications Commission, the National Telecommunications and Information Administration, and other appropriate Federal agencies, shall conduct a study to determine whether local public health entities have the ability to maintain communications in the event of a bioterrorist attack or other public health emergency. The study shall examine whether redundancies are required in the telecommunications system, particularly with respect to mobile communications, for public health entities to maintain systems operability and connectivity during such emergencies. The study shall also include recommendations to industry and public health entities about how to implement such redundancies if necessary.

SEC. 105. EDUCATION OF HEALTH CARE PERSONNEL; TRAINING REGARDING PEDIATRIC ISSUES.

Section 319F(g) of the Public Health Service Act, as redesignated by section 104(a)(2) of this Act, is amended to read as follows:

''(g) EDUCATION; TRAINING REGARDING PEDIATRIC ISSUES.—

''(1) MATERIALS; CORE CURRICULUM.—The Secretary, in collaboration with members of the working group described in subsection (b), and professional organizations and societies, shall—

''(A) develop materials for teaching the elements of a core curriculum for the recognition and identification of potential bioweapons and other agents that may create a public health emergency, and for the care of victims of such emergencies, recognizing the special needs of children and other vulnerable populations, to public health officials, medical professionals, emergency physicians and other emergency department staff, laboratory personnel, and other personnel working in health care facilities (including poison control centers);

''(B) develop a core curriculum and materials for community-wide planning by State and local governments, hospitals and other health care facilities, emergency response units, and appropriate public and private sector entities to respond to a bioterrorist attack or other public health emergency;

''(C) develop materials for proficiency testing of laboratory and other public health personnel for the recognition and identification of potential bioweapons and other agents that may create a public health emergency; and

''(D) provide for dissemination and teaching of the materials described in subparagraphs (A) through (C) by appropriate means, which may include telemedicine, long-distance learning, or other such means.

''(2) CERTAIN ENTITIES.—The entities through which education and training activities described in paragraph (1) may be carried out include Public Health Preparedness Centers, the Public Health Service's Noble Training Center, the Emerging Infections Program, the Epidemic Intelligence Service, the Public Health Leadership Institute, multi-State, multi-institutional consortia, other appropriate educational entities, professional organizations and societies, private accrediting organizations, and other nonprofit institutions or entities meeting criteria established by the Secretary.

''(3) GRANTS AND CONTRACTS.—In carrying out paragraph (1), the Secretary may carry out activities directly and through the award of grants and contracts, and may enter into interagency cooperative agreements with other Federal agencies.

''(4) HEALTH-RELATED ASSISTANCE FOR EMERGENCY RESPONSE PERSONNEL TRAINING.—The Secretary, in consultation with the Attorney General and the Director of the Federal Emergency Management Agency, may provide technical assistance with respect to health-related aspects of emergency response personnel training carried out by the Department of Justice and the Federal Emergency Management Agency.''.

SEC. 106. GRANTS REGARDING SHORTAGES OF CERTAIN HEALTH PROFESSIONALS.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 319G the following section:

''SEC. 319H. GRANTS REGARDING TRAINING AND EDUCATION OF CERTAIN HEALTH PROFESSIONALS.

''(a) IN GENERAL.—The Secretary may make awards of grants and cooperative agreements to appropriate public and nonprofit private health or educational entities, including health professions schools and programs as defined in section 799B, for the purpose of providing low-interest loans, partial scholarships, partial fellowships, revolving loan funds, or other cost-sharing forms of assistance for the education and training of individuals in any category of health professions for which there is a shortage that the Secretary determines should be alleviated in order to prepare for or respond effectively to bioterrorism and other public health emergencies.

''(b) AUTHORITY REGARDING NON-FEDERAL CONTRIBUTIONS.—The Secretary may require as a condition of an award under subsection (a) that a grantee under such subsection provide non-Federal contributions toward the purpose described in such subsection.

''(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2006.''.

SEC. 107. EMERGENCY SYSTEM FOR ADVANCE REGISTRATION OF HEALTH PROFESSIONS VOLUNTEERS.

Part B of title III of the Public Health Service Act, as amended by section 106 of this Act, is amended by inserting after section 319H the following section:

''SEC. 319I. EMERGENCY SYSTEM FOR ADVANCE REGISTRATION OF HEALTH PROFESSIONS VOLUNTEERS.

''(a) IN GENERAL.—The Secretary shall, directly or through an award of a grant, contract, or cooperative agreement, establish and maintain a system for the advance registration of health professionals for the purpose of verifying the credentials, licenses, accreditations, and hospital privileges of such professionals when, during public health emergencies, the professionals volunteer to provide health services (referred to in this section as the 'verification system'). In carrying out the preceding sentence, the Secretary shall provide for an electronic database for the verification system.

''(b) CERTAIN CRITERIA.—The Secretary shall establish provisions regarding the promptness and efficiency of the system in collecting, storing, updating, and disseminating information on the credentials, licenses, accreditations, and hospital privileges of volunteers described in subsection (a).

''(c) OTHER ASSISTANCE.—The Secretary may make grants and provide technical assistance to States and other public or nonprofit private entities for activities relating to the verification system developed under subsection (a).

''(d) COORDINATION AMONG STATES.—The Secretary may encourage each State to provide legal authority during a public health emergency for health professionals authorized in another State to provide certain health services to provide such health services in the State.

''(e) RULE OF CONSTRUCTION.—This section may not be construed as authorizing the Secretary to issue requirements regarding the provision by the States of credentials, licenses, accreditations, or hospital privileges.

''(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $2,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2006.''.

SEC. 108. WORKING GROUP.

Section 319F of the Public Health Service Act, as amended by section 104(a), is amended by striking subsection (a) and inserting the following:

''(a) WORKING GROUP ON BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES.—

''(1) IN GENERAL.—The Secretary, in coordination with the Secretary of Agriculture, the Attorney General, the Director of Central Intelligence, the Secretary of Defense, the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Director of the Federal Emergency Management Agency, the Secretary of Labor, the Secretary of Veterans Affairs, and with other similar Federal officials as determined appropriate, shall establish a working group on the prevention, preparedness, and response to bioterrorism and other public health emergencies. Such joint working group, or subcommittees thereof, shall meet periodically for the purpose of consultation on, assisting in, and making recommendations on—

''(A) responding to a bioterrorist attack, including the provision of appropriate safety and health training and protective measures for medical, emergency service, and other personnel responding to such attacks;

''(B) prioritizing countermeasures required to treat, prevent, or identify exposure to a biological agent or toxin pursuant to section 351A;

''(C) facilitation of the awarding of grants, contracts, or cooperative agreements for the development, manufacture, distribution, supply-chain management, and purchase of priority countermeasures;

''(D) research on pathogens likely to be used in a biological threat or attack on the civilian population;

''(E) development of shared standards for equipment to detect and to protect against biological agents and toxins;

''(F) assessment of the priorities for and enhancement of the preparedness of public health institutions, providers of medical care, and other emergency service personnel (including firefighters) to detect, diagnose, and respond (including mental health response) to a biological threat or attack;

''(G) in the recognition that medical and public health professionals are likely to provide much of the first response to such an attack, development and enhancement of the quality of joint planning and training programs that address the public health and medical consequences of a biological threat or attack on the civilian population between—

''(i) local firefighters, ambulance personnel, police and public security officers, or other emergency response personnel; and

''(ii) hospitals, primary care facilities, and public health agencies;

''(H) development of strategies for Federal, State, and local agencies to communicate information to the public regarding biological threats or attacks;

''(I) ensuring that the activities under this subsection address the health security needs of children and other vulnerable populations;

''(J) strategies for decontaminating facilities contaminated as a result of a biological attack, including appropriate protections for the safety of workers conducting such activities;

''(K) subject to compliance with other provisions of Federal law, clarifying the responsibilities among Federal officials for the investigation of suspicious outbreaks of disease and other potential public health emergencies, and for related revisions of the interagency plan known as the Federal response plan; and

''(L) in consultation with the National Highway Traffic Safety Administration and the U.S. Fire Administration, ways to enhance coordination among Federal agencies involved with State, local, and community based emergency medical services, including issuing a report that—

''(i) identifies needs of community-based emergency medical services; and

''(ii) identifies ways to streamline and enhance the process through which Federal agencies support community-based emergency medical services.

''(2) CONSULTATION WITH EXPERTS.—In carrying out subparagraphs (B) and (C) of paragraph (1), the working group under such paragraph shall consult with the pharmaceutical, biotechnology, and medical device industries, and other appropriate experts.

''(3) USE OF SUBCOMMITTEES REGARDING CONSULTATION REQUIREMENTS.—With respect to a requirement under law that the working group under paragraph (1) be consulted on a matter, the working group may designate an appropriate subcommittee of the working group to engage in the consultation.

''(4) DISCRETION IN EXERCISE OF DUTIES.—Determinations made by the working group under paragraph (1) with respect to carrying out duties under such paragraph are matters committed to agency discretion for purposes of section 701(a) of title 5, Unites States Code.

''(5) RULE OF CONSTRUCTION.—This subsection may not be construed as establishing new regulatory authority for any of the officials specified in paragraph (1), or as having any legal effect on any other provision of law, including the responsibilities and authorities of the Environmental Protection Agency.''.

SEC. 109. ANTIMICROBIAL RESISTANCE.

Section 319E of the Public Health Service Act (42 U.S.C. 247d–5) is amended—

(1) in subsection (b)—

(A) by striking ''shall conduct and support'' and inserting ''shall directly or through awards of grants or cooperative agreements to public or private entities provide for the conduct of''; and

(B) by amending paragraph (4) to read as follows:

''(4) the sequencing of the genomes, or other DNA analysis, or other comparative analysis, of priority pathogens (as determined by the Director of the National Institutes of Health in consultation with the task force established under subsection (a)), in collaboration and coordination with the activities of the Department of Defense and the Joint Genome Institute of the Department of Energy; and'';

(2) in subsection (e)(2), by inserting after ''societies,'' the following: ''schools or programs that train medical laboratory personnel,''; and

(3) in subsection (g), by striking ''and such sums'' and all that follows and inserting the following: ''$25,000,000 for each of the fiscal years 2002 and 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2006.''.

SEC. 110. SUPPLIES AND SERVICES IN LIEU OF AWARD FUNDS.

Part B of title III of the Public Health Service Act, as amended by section 107 of this Act, is amended by inserting after section 319I the following section:

''SEC. 319J. SUPPLIES AND SERVICES IN LIEU OF AWARD FUNDS

''(a) IN GENERAL.—Upon the request of a recipient of an award under any of sections 319 through 319I or section 319K, the Secretary may, subject to subsection (b), provide supplies, equipment, and services for the purpose of aiding the recipient in carrying out the purposes for which the award is made and, for such purposes, may detail to the recipient any officer or employee of the Department of Health and Human Services.

''(b) CORRESPONDING REDUCTION IN PAYMENTS.—With respect to a request described in

subsection (a), the Secretary shall reduce the amount of payments under the award involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.''.

SEC. 111. ADDITIONAL AMENDMENTS.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq) is amended—

(1) in section 319A(a)(1), by striking ''10 years'' and inserting ''five years'';

(2) in section 319B(a), in the first sentence, by striking ''10 years'' and inserting ''five years''; and

(3) in section 391F(e)(2), as redesignated by section 104(a)(2) of this Act—

(A) by striking ''or'' after ''clinic,''; and

(B) by inserting before the period following: '', professional organization or society, school or program that trains medical laboratory personnel, private accrediting organization, or other nonprofit private institution or entity meeting criteria established by the Secretary''.

Subtitle B—Strategic National Stockpile; Development of Priority Countermeasures

SEC. 121. STRATEGIC NATIONAL STOCKPILE.

(a) STRATEGIC NATIONAL STOCKPILE.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary''), in coordination with the Secretary of Veterans Affairs, shall maintain a stockpile or stockpiles of drugs, vaccines and other biological products, medical devices, and other supplies in such numbers, types, and amounts as are determined by the Secretary to be appropriate and practicable, taking into account other available sources, to provide for the emergency health security of the United States, including the emergency health security of children and other vulnerable populations, in the event of a bioterrorist attack or other public health emergency.

(2) PROCEDURES.—The Secretary, in managing the stockpile under paragraph (1), shall—

(A) consult with the working group under section 319F(a) of the Public Health Service Act;

(B) ensure that adequate procedures are followed with respect to such stockpile for inventory management and accounting, and for the physical security of the stockpile;

(C) in consultation with Federal, State, and local officials, take into consideration the timing and location of special events;

(D) review and revise, as appropriate, the contents of the stockpile on a regular basis to ensure that emerging threats, advanced technologies, and new countermeasures are adequately considered;

(E) devise plans for the effective and timely supply-chain management of the stockpile, in consultation with appropriate Federal, State and local agencies, and the public and private health care infrastructure; and

(F) ensure the adequate physical security of the stockpile.

(b) SMALLPOX VACCINE DEVELOPMENT.—

(1) IN GENERAL.—The Secretary shall award contracts, enter into cooperative agreements, or carry out such other activities as may reasonably be required in order to ensure that the stockpile under subsection (a) includes an amount of vaccine against smallpox as determined by the Secretary to be sufficient to meet the health security needs of the United States.

(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the private distribution, purchase, or sale of vaccines from sources other than the stockpile described in subsection (a).

(c) DISCLOSURES.—No Federal agency shall disclose under section 552, United States Code, any information identifying the location at which materials in the stockpile under subsection (a) are stored.

(d) DEFINITION.—For purposes of subsection (a), the term ''stockpile'' includes—

(1) a physical accumulation (at one or more locations) of the supplies described in subsection (a); or

(2) a contractual agreement between the Secretary and a vendor or vendors under which such vendor or vendors agree to provide to the Secretary supplies described in subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) STRATEGIC NATIONAL STOCKPILE.—For the purpose of carrying out subsection (a), there are authorized to be appropriated $640,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.

(2) SMALLPOX VACCINE DEVELOPMENT.—For the purpose of carrying out subsection (b), there are authorized to be appropriated $509,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.

SEC. 122. ACCELERATED APPROVAL OF PRIORITY COUNTERMEASURES.

(a) IN GENERAL.—The Secretary of Health and Human Services may designate a priority countermeasure as a fast-track product pursuant to section 506 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356) or as a device granted review priority pursuant to section 515(d)(5) of such Act (21 U.S.C. 360e(d)(5)). Such a designation may be made prior to the submission of—

(1) a request for designation by the sponsor or applicant; or

(2) an application for the investigation of the drug under section 505(i) of such Act or section 351(a)(3) of the Public Health Service Act.

Nothing in this subsection shall be construed to prohibit a sponsor or applicant from declining such a designation.

(b) USE OF ANIMAL TRIALS.—A drug for which approval is sought under section 505(b) of the Federal Food, Drug, and Cosmetic Act or section 351 of the Public Health Service Act on the basis of evidence of effectiveness that is derived from animal studies pursuant to section 123 may be designated as a fast track product for purposes of this section.

(c) PRIORITY REVIEW OF DRUGS AND BIOLOGICAL PRODUCTS.—A priority countermeasure that is a drug or biological product shall be considered a priority drug or biological product for purposes of performance goals for priority drugs or biological products agreed to by the Commissioner of Food and Drugs.

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

(1) The term ''priority countermeasure'' has the meaning given such term in section 319F(h)(4) of the Public Health Service Act.

(2) The term ''priority drugs or biological products'' means a drug or biological product that is the subject of a drug or biologics application referred to in section 101(4) of the Food and Drug Administration Modernization Act of 1997.

SEC. 123. ISSUANCE OF RULE ON ANIMAL TRIALS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall complete the process of rulemaking that was commenced under authority of section 505 of the Federal Food, Drug, and Cosmetic Act and section 351 of the Public Health Service Act with the issuance of the proposed rule entitled ''New Drug and Biological Drug Products; Evidence Needed to Demonstrate Efficacy of New Drugs for Use Against Lethal or Permanently Disabling Toxic Substances When Efficacy Studies in Humans Ethically Cannot be Conducted'' published in the Federal Register on October 5, 1999 (64 Fed. Reg. 53960), and shall promulgate a final rule.

SEC. 124. SECURITY FOR COUNTERMEASURE DEVELOPMENT AND PRODUCTION.

Part B of title III of the Public Health Service Act, as amended by section 110 of this Act, is amended by inserting after section 319J the following section:

''SEC. 319K. SECURITY FOR COUNTERMEASURE DEVELOPMENT AND PRODUCTION.

''(a) IN GENERAL.—The Secretary, in consultation with the Attorney General and the Secretary of Defense, may provide technical or other assistance to provide security to persons or facilities that conduct development, production, distribution, or storage of priority countermeasures (as defined in section 319F(h)(4)).

''(b) GUIDELINES.—The Secretary may develop guidelines to enable entities eligible to receive assistance under subsection (a) to secure their facilities against potential terrorist attack.''.

SEC. 125. ACCELERATED COUNTERMEASURE RESEARCH AND DEVELOPMENT.

Section 319F(h) of the Public Health Service Act, as redesignated by section 104(a)(2) of this Act, is amended to read as follows:

''(h) ACCELERATED RESEARCH AND DEVELOPMENT ON PRIORITY PATHOGENS AND COUNTERMEASURES.—

''(1) IN GENERAL.—With respect to pathogens of potential use in a bioterrorist attack, and other agents that may cause a public health emergency, the Secretary, taking into consideration any recommendations of the working group under subsection (a), shall conduct, and award grants, contracts, or cooperative agreements for, research, investigations, experiments, demonstrations, and studies in the health sciences relating to—

''(A) the epidemiology and pathogenesis of such pathogens;

''(B) the sequencing of the genomes, or other DNA analysis, or other comparative analysis, of priority pathogens (as determined by the Director of the National Institutes of Health in consultation with the working group established in subsection (a)), in collaboration and coordination with the activities of the Department of Defense and the Joint Genome Institute of the Department of Energy;

''(C) the development of priority countermeasures; and

''(D) other relevant areas of research;

with consideration given to the needs of children and other vulnerable populations.

''(2) PRIORITY.—The Secretary shall give priority under this section to the funding of research and other studies related to priority countermeasures.

''(3) ROLE OF DEPARTMENT OF VETERANS AFFAIRS.—In carrying out paragraph (1), the Secretary shall consider using the biomedical research and development capabilities of the Department of Veterans Affairs, in conjunction with that Department's affiliations with health-professions universities. When advantageous to the Government in furtherance of the purposes of such paragraph, the Secretary may enter into cooperative agreements with the Secretary of Veterans Affairs to achieve such purposes.

''(4) PRIORITY COUNTERMEASURES.—For purposes of this section, the term 'priority countermeasure' means a drug, biological product, device, vaccine, vaccine adjuvant, antiviral, or diagnostic test that the Secretary determines to be—

''(A) a priority to treat, identify, or prevent infection by a biological agent or toxin listed pursuant to section 351A(a)(1), or harm from any other agent that may cause a public health emergency; or

''(B) a priority to diagnose conditions that may result in adverse health consequences or death and may be caused by the administering of a drug, biological product, device, vaccine, vaccine adjuvant, antiviral, or diagnostic test that is a priority under subparagraph (A).''.

SEC. 126. EVALUATION OF NEW AND EMERGING TECHNOLOGIES REGARDING BIOTERRORIST ATTACK AND OTHER PUBLIC HEALTH EMERGENCIES.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall promptly carry out a program to periodically evaluate new and emerging technologies that, in the determination of the Secretary, are designed to improve or enhance the ability of public health or safety officials to conduct public health surveillance activities relating to a bioterrorist attack or other public health emergency.

(b) CERTAIN ACTIVITIES.—In carrying out this subsection, the Secretary shall, to the extent practicable—

(1) survey existing technology programs funded by the Federal Government for potentially useful technologies;

(2) promptly issue a request, as necessary, for information from non-Federal public and private entities for ongoing activities in this area; and

(3) evaluate technologies identified under paragraphs (1) and (2) pursuant to subsection (c).

(c) CONSULTATION AND EVALUATION.—In carrying out subsection (b)(3), the Secretary shall consult with the working group under section 319F(a) of the Public Health Service Act, as well as other appropriate public, nonprofit, and private entities, to develop criteria for the evaluation of such technologies and to conduct such evaluations.

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, and periodically thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report on the activities under this section.

SEC. 127. POTASSIUM IODIDE.

(a) IN GENERAL.—Through the national stockpile under section 121, the President, subject to subsections (b) and (c), shall make available to State and local governments potassium iodide tablets for stockpiling and for distribution as appropriate to public facilities, such as schools and hospitals, in quantities sufficient to provide adequate protection for the population within 20 miles of a nuclear power plant.

(b) STATE AND LOCAL PLANS.—

(1) IN GENERAL.—Subsection (a) applies with respect to a State or local government, subject to paragraph (2), if the government involved meets the following conditions:

(A) Such government submits to the President a plan for the stockpiling of potassium iodide tablets, and for the distribution and utilization of potassium iodide tablets in the event of a nuclear incident.

(B) The plan is accompanied by certifications by such government that the government has not already received sufficient quantities of potassium iodide tablets from the Federal Government.

(2) LOCAL GOVERNMENTS.—Subsection (a) applies with respect to a local government only if, in addition to the conditions described in paragraph (1), the following conditions are met:

(A) The State in which the locality involved is located—

(i) does not have a plan described in paragraph (1)(A); or

(ii) has a plan described in such paragraph, but the plan does not address populations at a distance greater than 10 miles from the nuclear power plant involved.

(B) The local government has petitioned the State to modify the State plan to address such populations, not exceeding 20 miles from such plant, and 60 days have elapsed without the State modifying the State plan to address populations at the full distance sought by the local government through the petition.

(C) The local government has submitted its local plan under paragraph (1)(A) to the State, and the State has approved the plan and certified that the plan is not inconsistent with the State emergency plan.

(c) GUIDELINES.—Not later than one year after the date of the enactment of this Act, the President, in consultation with individuals representing appropriate Federal, State, and local agencies, shall establish guidelines for the stockpiling of potassium iodide tablets, and for the distribution and utilization of potassium iodide tablets in the event of a nuclear incident. Such tablets may not be made available under subsection (a) until such guidelines have been established.

(d) INFORMATION.—The President shall carry out activities to inform State and local governments of the program under this section.

(e) REPORTS.—

(1) PRESIDENT.—Not later than six months after the date on which the guidelines under subsection (c) are issued, the President shall submit to the Congress a report—

(A) on whether potassium iodide tablets have been made available under subsection (a) or other Federal, State, or local programs, and the extent to which State and local governments have established stockpiles of such tablets; and

(B) the measures taken by the President to implement this section.

(2) NATIONAL ACADEMY OF SCIENCES.—

(A) IN GENERAL.—The President shall request the National Academy of Sciences to enter into an agreement with the President under which the Academy conducts a study to determine what is the most effective and safe way to distribute and administer potassium iodide tablets on a mass scale. If the Academy declines to conduct the study, the President shall enter into an agreement with another appropriate public or nonprofit private entity to conduct the study.

(B) REPORT.—The President shall ensure that, not later than six months after the date of the enactment of this Act, the study required in subparagraph (A) is completed and a report describing the findings made in the study is submitted to the Congress.

(f) APPLICABILITY.—Subsections (a) and (d) cease to apply as requirements if the President determines that there is an alternative and more effective prophylaxis or preventive measures for adverse thyroid conditions that may result from the release of radionuclides from nuclear power plants.

Subtitle C—Improving State, Local, and Hospital Preparedness for and Response to Bioterrorism and Other Public Health Emergencies

SEC. 131. GRANTS TO IMPROVE STATE, LOCAL, AND HOSPITAL PREPAREDNESS FOR AND RESPONSE TO BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES.

(a) IN GENERAL.—Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 319C the following sections:

"SEC. 319C–1. GRANTS TO IMPROVE STATE, LOCAL, AND HOSPITAL PREPAREDNESS FOR AND RESPONSE TO BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES.

''(a) IN GENERAL.—To enhance the security of the United States with respect to bioterrorism and other public health emergencies, the Secretary shall make awards of grants or cooperative agreements to eligible entities to enable such entities to conduct the activities described in subsection (d).

''(b) ELIGIBLE ENTITIES.—

''(1) IN GENERAL.—To be eligible to receive an award under subsection (a), an entity shall—

''(A)(i) be a State; and

''(ii) prepare and submit to the Secretary an application at such time, and in such manner, and containing such information as the Secretary may require, including an assurance that the State—

''(I) has completed an evaluation under section 319B(a), or an evaluation that is substantially equivalent to an evaluation described in such section (as determined by the Secretary);

''(II) has prepared, or will (within 60 days of receiving an award under this section) prepare, a Bioterrorism and Other Public Health Emergency Preparedness and Response Plan in accordance with subsection (c);

''(III) has established a means by which to obtain public comment and input on the plan prepared under subclause (II), and on the implementation of such plan, that shall include an advisory committee or other similar mechanism for obtaining comment from the public at large as well as from other State and local stakeholders;

''(IV) will use amounts received under the award in accordance with the plan prepared under subclause (II), including making expenditures to carry out the strategy contained in the plan; and

''(V) with respect to the plan prepared under subclause (II), will establish reasonable criteria to evaluate the effective performance of entities that receive funds under the award and include relevant benchmarks in the plan; or

''(B)(i) be a political subdivision of a State or a consortium of 2 or more such subdivisions; and

''(ii) prepare and submit to the Secretary an application at such time, and in such manner, and containing such information as the Secretary may require.

''(2) COORDINATION WITH STATEWIDE PLANS.—An award under subsection (a) to an eligible entity described in paragraph (1)(B) may not be made unless the application of such entity is in coordination with, and consistent with, applicable Statewide plans described in subsection (d)(1).

''(c) BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCY PREPAREDNESS AND RESPONSE PLAN.—Not later than 60 days after receiving amounts under an award under subsection (a), an eligible entity described in subsection (b)(1)(A) shall prepare and submit to the Secretary a Bioterrorism and Other Public Health Emergency Preparedness and Response Plan. Recognizing the assessment of public health needs conducted under section 319B, such plan shall include a description of activities to be carried out by the entity to address the needs identified in such assessment (or an equivalent assessment).

''(d) USE OF FUNDS.—An award under subsection (a) may be expended for activities that may include the following and similar activities:

''(1) To develop Statewide plans (including the development of the Bioterrorism and Other Public Health Emergency Preparedness and Response Plan required under subsection (c)), and community-wide plans for responding to bioterrorism and other public health emergencies that are coordinated with the capacities of applicable national, State, and local health agencies and health care providers, including poison control centers.

''(2) To address deficiencies identified in the assessment conducted under section 319B.

''(3) To purchase or upgrade equipment (including stationary or mobile communications equipment), supplies, pharmaceuticals or other priority countermeasures to enhance preparedness for and response to bioterrorism or other public health emergencies, consistent with the plan described in subsection (c).

''(4) To conduct exercises to test the capability and timeliness of public health emergency response activities.

''(5) To develop and implement the trauma care and burn center care components of the State plans for the provision of emergency medical services.

''(6) To improve training or workforce development to enhance public health laboratories.

''(7) To train public health and health care personnel to enhance the ability of such personnel—

''(A) to detect, provide accurate identification of, and recognize the symptoms and epidemiological characteristics of exposure to a biological agent that may cause a public health emergency; and

''(B) to provide treatment to individuals who are exposed to such an agent.

''(8) To develop, enhance, coordinate, or improve participation in systems by which disease detection and information about biological attacks and other public health emergencies can be rapidly communicated among national, State, and local health agencies, emergency response

personnel, and health care providers and facilities to detect and respond to a bioterrorist attack or other public health emergency, including activities to improve information technology and communications equipment available to health care and public health officials for use in responding to a biological threat or attack or other public health emergency.

''(9) To enhance communication to the public of information on bioterrorism and other public health emergencies, including through the use of 2-1-1 call centers.

''(10) To address the health security needs of children and other vulnerable populations with respect to bioterrorism and other public health emergencies.

''(11) To provide training and develop, enhance, coordinate, or improve methods to enhance the safety of workers and workplaces in the event of bioterrorism.

''(12) To prepare and plan for contamination prevention efforts related to public health that may be implemented in the event of a bioterrorist attack, including training and planning to protect the health and safety of workers conducting the activities described in this paragraph.

''(13) To prepare a plan for triage and transport management in the event of bioterrorism or other public health emergencies.

''(14) To enhance the training of health care professionals to recognize and treat the mental health consequences of bioterrorism or other public health emergencies.

''(15) To enhance the training of health care professionals to assist in providing appropriate health care for large numbers of individuals exposed to a bioweapon.

''(16) To enhance training and planning to protect the health and safety of personnel, including health care professionals, involved in responding to a biological attack.

''(17) To improve surveillance, detection, and response activities to prepare for emergency response activities including biological threats or attacks, including training personnel in these and other necessary functions and including early warning and surveillance networks that use advanced information technology to provide early detection of biological threats or attacks.

''(18) To develop, enhance, and coordinate or improve the ability of existing telemedicine programs to provide health care information and advice as part of the emergency public health response to bioterrorism or other public health emergencies.

Nothing in this subsection may be construed as establishing new regulatory authority or as modifying any existing regulatory authority.

''(e) PRIORITIES IN USE OF GRANTS.—

''(1) IN GENERAL.—

''(A) PRIORITIES.—Except as provided in subparagraph (B), the Secretary shall, in carrying out the activities described in this section, address the following hazards in the following priority:

''(i) Bioterrorism or acute outbreaks of infectious diseases.

''(ii) Other public health threats and emergencies.

''(B) DETERMINATION OF THE SECRETARY.—In the case of the hazard involved, the degree of priority that would apply to the hazard based on the categories specified in clauses (i) and (ii) of subparagraph (A) may be modified by the Secretary if the following conditions are met:

''(i) The Secretary determines that the modification is appropriate on the basis of the following factors:

''(I) The extent to which eligible entities are adequately prepared for responding to hazards within the category specified in clause (i) of subparagraph (A).

''(II) There has been a significant change in the assessment of risks to the public health posed by hazards within the category specified in clause (ii) of such subparagraph.

''(ii) Prior to modifying the priority, the Secretary notifies the appropriate committees of the Congress of the determination of the Secretary under clause (i) of this subparagraph.

''(2) AREAS OF EMPHASIS WITHIN CATEGORIES.—The Secretary shall determine areas of emphasis within the category of hazards specified in clause (i) of paragraph (1)(A), and shall determine areas of emphasis within the category of hazards specified in clause (ii) of such paragraph, based on an assessment of the risk and likely consequences of such hazards and on an evaluation of Federal, State, and local needs, and may also take into account the extent to which receiving an award under subsection (a) will develop capacities that can be used for public health emergencies of varying types.

''(f) CERTAIN ACTIVITIES.—In administering activities under section 319C(c)(4) or similar activities, the Secretary shall, where appropriate, give priority to activities that include State or local government financial commitments, that seek to incorporate multiple public health and safety services or diagnostic databases into an integrated public health entity, and that cover geographic areas lacking advanced diagnostic and laboratory capabilities.

''(g) COORDINATION WITH LOCAL MEDICAL RESPONSE SYSTEM.—An eligible entity and local Metropolitan Medical Response Systems shall, to the extent practicable, ensure that activities carried out under an award under subsection (a) are coordinated with activities that are carried out by local Metropolitan Medical Response Systems.

''(h) COORDINATION OF FEDERAL ACTIVITIES.—In making awards under subsection (a), the Secretary shall—

''(1) annually notify the Director of the Federal Emergency Management Agency, the Director of the Office of Justice Programs, and the Director of the National Domestic Preparedness Office, as to the amount, activities covered under, and status of such awards; and

''(2) coordinate such awards with other activities conducted or supported by the Secretary to enhance preparedness for bioterrorism and other public health emergencies.

''(i) DEFINITION.—For purposes of this section, the term 'eligible entity' means an entity that meets the conditions described in subparagraph (A) or (B) of subsection (b)(1).

''(j) FUNDING.—

''(1) AUTHORIZATIONS OF APPROPRIATIONS.—

''(A) FISCAL YEAR 2003.—

''(i) AUTHORIZATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $1,600,000,000 for fiscal year 2003, of which—

''(I) $1,080,000,000 is authorized to be appropriated for awards pursuant to paragraph (3) (subject to the authority of the Secretary to make awards pursuant to paragraphs (4) and (5)); and

''(II) $520,000,000 is authorized to be appropriated—

''(aa) for awards under subsection (a) to States, notwitstanding the eligibility conditions under subsection (b), for the purpose of enhancing the preparedness of hospitals (including children's hospitals), clinics, health centers, and primary care facilities for bioterrorism and other public health emergencies; and

''(bb) for Federal, State, and local planning and administrative activities related to such purpose.

''(ii) CONTINGENT ADDITIONAL AUTHORIZATION.—If a significant change in circumstances warrants an increase in the amount authorized to be appropriated under clause (i) for fiscal year 2003, there are authorized to be appropriated such sums as may be necessary for such year for carrying out this section, in addition to the amount authorized in clause (i).

''(B) OTHER FISCAL YEARS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2006.

''(2) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated under paragraph (1) shall be used to supplement and not supplant other State and local public funds provided for activities under this section.

''(3) STATE BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCY PREPAREDNESS AND RESPONSE BLOCK GRANT FOR FISCAL YEAR 2003.—

''(A) IN GENERAL.—For fiscal year 2003, the Secretary shall, in an amount determined in accordance with subparagraphs (B) through (D), make an award under subsection (a) to each State, notwithstanding the eligibility conditions described in subsection (b), that submits to the Secretary an application for the award that meets the criteria of the Secretary for the receipt of such an award and that meets other implementation conditions established by the Secretary for such awards. No other awards may be made under subsection (a) for such fiscal year, except as provided in paragraph (1)(A)(i)(II) and paragraphs (4) and (5).

''(B) BASE AMOUNT.—In determining the amount of an award pursuant to subparagraph (A) for a State, the Secretary shall first determine an amount the Secretary considers appropriate for the State (referred to in this paragraph as the 'base amount'), except that such amount may not be greater than the minimum amount determined under subparagraph (D).

''(C) INCREASE ON BASIS OF POPULATION.—After determining the base amount for a State under subparagraph (B), the Secretary shall increase the base amount by an amount equal to the product of—

''(i) the amount appropriated under paragraph (1)(A)(i)(I) for the fiscal year, less an amount equal to the sum of all base amounts determined for the States under subparagraph (B), and less the amount, if any, reserved by the Secretary under paragraphs (4) and (5); and

''(ii) subject to paragraph (4)(C), the percentage constituted by the ratio of an amount equal to the population of the State over an amount equal to the total population of the States (as indicated by the most recent data collected by the Bureau of the Census).

''(D) MINIMUM AMOUNT.—Subject to the amount appropriated under paragraph (1)(A)(i)(I), an award pursuant to subparagraph (A) for a State shall be the greater of the base amount as increased under subparagraph (C), or the minimum amount under this subparagraph. The minimum amount under this subparagraph is—

''(i) in the case of each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, an amount equal to the lesser of—

''(I) $5,000,000; or

''(II) if the amount appropriated under paragraph (1)(A)(i)(I) is less than $667,000,000, an amount equal to 0.75 percent of the amount appropriated under such paragraph, less the amount, if any, reserved by the Secretary under paragraphs (4) and (5); or

''(ii) in the case of each of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands, an amount determined by the Secretary to be appropriate, except that such amount may not exceed the amount determined under clause (i).

''(4) CERTAIN POLITICAL SUBDIVISIONS.—

''(A) IN GENERAL.—For fiscal year 2003, the Secretary may, before making awards pursuant to paragraph (3) for such year, reserve from the amount appropriated under paragraph (1)(A)(i)(I) for the year an amount determined necessary by the Secretary to make awards under subsection (a) to political subdivisions that have a substantial number of residents, have a substantial local infrastructure for responding to public health emergencies, and face a high degree of risk from bioterrorist attacks or other public health emergencies. Not more than three political subdivisions may receive awards pursuant to this subparagraph.

''(B) COORDINATION WITH STATEWIDE PLANS.—An award pursuant to subparagraph (A) may not be made unless the application of the political subdivision involved is in coordination with, and consistent with, applicable Statewide plans described in subsection (c)(1).

''(C) RELATIONSHIP TO FORMULA GRANTS.—In the case of a State that will receive an award pursuant to paragraph (3), and in which there is located a political subdivision that will receive an award pursuant to subparagraph (A), the Secretary shall, in determining the amount under paragraph (3)(B) for the State, subtract from the population of the State an amount equal to the population of such political subdivision.

''(D) CONTINUITY OF FUNDING.—In determining whether to make an award pursuant to subparagraph (A) to a political subdivision, the Secretary may consider, as a factor indicating that the award should be made, that the political subdivision received public health funding from the Secretary for fiscal year 2002.

''(5) SIGNIFICANT UNMET NEEDS; DEGREE OF RISK.—

''(A) IN GENERAL.—For fiscal year 2003, the Secretary may, before making awards pursuant to paragraph (3) for such year, reserve from the amount appropriated under paragraph (1)(A)(i)(I) for the year an amount determined necessary by the Secretary to make awards under subsection (a) to eligible entities that—

''(i) have a significant need for funds to build capacity to identify, detect, monitor, and respond to a bioterrorist or other threat to the public health, which need will not be met by awards pursuant to paragraph (3); and

''(ii) face a particularly high degree of risk of such a threat.

''(B) RECIPIENTS OF GRANTS.—Awards pursuant to subparagraph (A) may be supplemental awards to States that receive awards pursuant to paragraph (3), or may be awards to eligible entities described in subsection (b)(1)(B) within such States.

''(C) FINDING WITH RESPECT TO DISTRICT OF COLUMBIA.—The Secretary shall consider the District of Columbia to have a significant unmet need for purposes of subparagraph (A), and to face a particularly high degree of risk for such purposes, on the basis of the concentration of entities of national significance located within the District.

''(6) FUNDING OF LOCAL ENTITIES.—For fiscal year 2003, the Secretary shall in making awards under this section ensure that appropriate portions of such awards are made available to political subdivisions, local departments of public health, hospitals (including children's hospitals), clinics, health centers, or primary care facilities, or consortia of such entities.

"SEC. 319C–2. PARTNERSHIPS FOR COMMUNITY AND HOSPITAL PREPAREDNESS.

''(a) GRANTS.—The Secretary shall make awards of grants or cooperative agreements to eligible entities to enable such entities to improve community and hospital preparedness for bioterrorism and other public health emergencies.

''(b) ELIGIBILITY.—To be eligible for an award under subsection (a), an entity shall—

''(1) be a partnership consisting of—

''(A) one or more hospitals (including children's hospitals), clinics, health centers, or primary care facilities; and

''(B)(i) one or more political subdivisions of States;

''(ii) one or more States; or

''(iii) one or more States and one or more political subdivisions of States; and

''(2) prepare, in consultation with the Chief Executive Officer of the State, District, or territory in which the hospital, clinic, health center, or primary care facility described in paragraph (1)(A) is located, and submit to the Secretary, an application at such time, in such manner, and containing such information as the Secretary may require.

''(c) REGIONAL COORDINATION.—In making awards under subsection (a), the Secretary shall give preference to eligible entities that submit applications that, in the determination of the Secretary, will—

''(1) enhance coordination—

''(A) among the entities described in subsection (b)(1)(A); and

''(B) between such entities and the entities described in subsection (b)(1)(B); and

''(2) serve the needs of a defined geographic area.

''(d) CONSISTENCY OF PLANNED ACTIVITIES.—An entity described in subsection (b)(1) shall utilize amounts received under an award under subsection (a) in a manner that is coordinated and consistent, as determined by the Secretary, with an applicable State Bioterrorism and Other Public Health Emergency Preparedness and Response Plan.

''(e) USE OF FUNDS.—An award under subsection (a) may be expended for activities that may include the following and similar activities—

''(1) planning and administration for such award;

''(2) preparing a plan for triage and transport management in the event of bioterrorism or other public health emergencies;

''(3) enhancing the training of health care professionals to improve the ability of such professionals to recognize the symptoms of exposure to a potential bioweapon, to make appropriate diagnosis, and to provide treatment to those individuals so exposed;

''(4) enhancing the training of health care professionals to recognize and treat the mental health consequences of bioterrorism or other public health emergencies;

''(5) enhancing the training of health care professionals to assist in providing appropriate health care for large numbers of individuals exposed to a bioweapon;

''(6) enhancing training and planning to protect the health and safety of personnel involved in responding to a biological attack;

''(7) developing and implementing the trauma care and burn center care components of the State plans for the provision of emergency medical services; or

''(8) conducting such activities as are described in section 319C–1(d) that are appropriate for hospitals (including children's hospitals), clinics, health centers, or primary care facilities.

''(f) LIMITATION ON AWARDS.—A political subdivision of a State shall not participate in more than one partnership described in subsection (b)(1).

''(g) PRIORITIES IN USE OF GRANTS.—

''(1) IN GENERAL.—

''(A) PRIORITIES.—Except as provided in subparagraph (B), the Secretary shall, in carrying out the activities described in this section, address the following hazards in the following priority:

''(i) Bioterrorism or acute outbreaks of infectious diseases.

''(ii) Other public health threats and emergencies.

''(B) DETERMINATION OF THE SECRETARY.—In the case of the hazard involved, the degree of priority that would apply to the hazard based on the categories specified in clauses (i) and (ii) of subparagraph (A) may be modified by the Secretary if the following conditions are met:

''(i) The Secretary determines that the modification is appropriate on the basis of the following factors:

''(I) The extent to which eligible entities are adequately prepared for responding to hazards within the category specified in clause (i) of subparagraph (A).

''(II) There has been a significant change in the assessment of risks to the public health posed by hazards within the category specified in clause (ii) of such subparagraph.

''(ii) Prior to modifying the priority, the Secretary notifies the appropriate committees of the Congress of the determination of the Secretary under clause (i) of this subparagraph.

''(2) AREAS OF EMPHASIS WITHIN CATEGORIES.—The Secretary shall determine areas of emphasis within the category of hazards specified in clause (i) of paragraph (1)(A), and shall determine areas of emphasis within the category of hazards specified in clause (ii) of such paragraph, based on an assessment of the risk and likely consequences of such hazards and on an evaluation of Federal, State, and local needs, and may also take into account the extent to which receiving an award under subsection (a) will develop capacities that can be used for public health emergencies of varying types.

''(h) COORDINATION WITH LOCAL MEDICAL RESPONSE SYSTEM.—An eligible entity and local Metropolitan Medical Response Systems shall, to the extent practicable, ensure that activities carried out under an award under subsection (a) are coordinated with activities that are carried out by local Metropolitan Medical Response Systems.

''(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2004 through 2006.''.

(b) CERTAIN GRANTS.—Section 319C of the Public Health Service Act (42 U.S.C. 247d–3) is amended by striking subsection (f).

Subtitle D—Emergency Authorities; Additional Provisions

SEC. 141. REPORTING DEADLINES.

Section 319 of the Public Health Service Act (42 U.S.C. 247d) is amended by adding at the end the following:

''(d) DATA SUBMITTAL AND REPORTING DEADLINES.—In any case in which the Secretary determines that, wholly or partially as a result of a public health emergency that has been determined pursuant to subsection (a), individuals or public or private entities are unable to comply with deadlines for the submission to the Secretary of data or reports required under any law administered by the Secretary, the Secretary may, notwithstanding any other provision of law, grant such extensions of such deadlines as the circumstances reasonably require, and may waive, wholly or partially, any sanctions otherwise applicable to such failure to comply. Before or promptly after granting such an extension or waiver, the Secretary shall notify the Congress of such action and publish in the Federal Register a notice of the extension or waiver.''.

SEC. 142. STREAMLINING AND CLARIFYING COMMUNICABLE DISEASE QUARANTINE PROVISIONS.

(a) ELIMINATION OF PREREQUISITE FOR NATIONAL ADVISORY HEALTH COUNCIL RECOMMENDATION BEFORE ISSUING QUARANTINE RULES.—

(1) EXECUTIVE ORDERS SPECIFYING DISEASES SUBJECT TO INDIVIDUAL DETENTIONS.—Section 361(b) of the Public Health Act (42 U.S.C. 264(b)) is amended by striking ''Executive orders of the President upon the recommendation of the National Advisory Health Council and the Surgeon General'' and inserting ''Executive orders of the President upon the recommendation of the Secretary, in consultation with the Surgeon General,''.

(2) REGULATIONS PROVIDING FOR APPREHENSION OF INDIVIDUALS.—Section 361(d) of the Public Health Act (42 U.S.C. 264(d)) is amended by striking ''On recommendation of the National Advisory Health Council, regulations'' and inserting ''Regulations''.

(3) REGULATIONS PROVIDING FOR APPREHENSION OF INDIVIDUALS IN WARTIME.—Section 363 of the Public Health Act (42 U.S.C. 266) is amended by striking ''the Surgeon General, on recommendation of the National Advisory Health Council,'' and inserting ''the Secretary, in consultation with the Surgeon General,''.

(b) APPREHENSION AUTHORITY TO APPLY IN CASES OF EXPOSURE TO DISEASE.—

(1) REGULATIONS PROVIDING FOR APPREHENSION OF INDIVIDUALS.—Section 361(d) of the Public Health Act (42 U.S.C. 264(d)), as amended by subsection (a)(2), is further amended—

(A) by striking ''(1)'' and ''(2)'' and inserting ''(A)'' and ''(B)'', respectively;

(B) by striking ''(d)'' and inserting ''(d)(1)'';

(C) in paragraph (1) (as designated by subparagraph (B) of this paragraph), in the first sentence, by striking ''in a communicable stage'' each place such term appears and inserting ''in a qualifying stage''; and

(D) by adding at the end the following paragraph:

''(2) For purposes of this subsection, the term 'qualifying stage', with respect to a communicable disease, means that such disease—

''(A) is in a communicable stage; or

''(B) is in a precommunicable stage, if the disease would be likely to cause a public health emergency if transmitted to other individuals.''.

(2) REGULATIONS PROVIDING FOR APPREHENSION OF INDIVIDUALS IN WARTIME.—Section 363 of the Public Health Act (42 U.S.C. 266), as amended by subsection (a)(3), is further amended by striking ''in a communicable stage''

(c) STATE AUTHORITY.—Section 361 of the Public Health Act (42 U.S.C. 264) is amended by adding at the end the following:

''(e) Nothing in this section or section 363, or the regulations promulgated under such sections, may be construed as superseding any provision under State law (including regulations and including provisions established by political subdivisions of States), except to the extent that such a provision conflicts with an exercise of Federal authority under this section or section 363.''.

SEC. 143. EMERGENCY WAIVER OF MEDICARE, MEDICAID, AND SCHIP REQUIREMENTS.

(a) WAIVER AUTHORITY.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1134 the following new section:

''AUTHORITY TO WAIVE REQUIREMENTS DURING NATIONAL EMERGENCIES

''SEC. 1135. (a) PURPOSE.—The purpose of this section is to enable the Secretary to ensure to the maximum extent feasible, in any emergency area and during an emergency period (as defined in subsection (g)(1))—

''(1) that sufficient health care items and services are available to meet the needs of individuals in such area enrolled in the programs under titles XVIII, XIX, and XXI; and

''(2) that health care providers (as defined in subsection (g)(2)) that furnish such items and services in good faith, but that are unable to comply with one or more requirements described in subsection (b), may be reimbursed for such items and services and exempted from sanctions for such noncompliance, absent any determination of fraud or abuse.

''(b) SECRETARIAL AUTHORITY.—To the extent necessary to accomplish the purpose specified in subsection (a), the Secretary is authorized, subject to the provisions of this section, to temporarily waive or modify the application of, with respect to health care items and services furnished by a health care provider (or classes of health care providers) in any emergency area (or portion of such an area) during any portion of an emergency period, the requirements of titles XVIII, XIX, or XXI, or any regulation thereunder (and the requirements of this title other than this section, and regulations thereunder, insofar as they relate to such titles), pertaining to—

''(1)(A) conditions of participation or other certification requirements for an individual health care provider or types of providers,

''(B) program participation and similar requirements for an individual health care provider or types of providers, and

''(C) pre-approval requirements;

''(2) requirements that physicians and other health care professionals be licensed in the State in which they provide such services, if they have equivalent licensing in another State and are not affirmatively excluded from practice in that State or in any State a part of which is included in the emergency area;

''(3) sanctions under section 1867 (relating to examination and treatment for emergency medical conditions and women in labor) for a transfer of an individual who has not been stabilized in violation of subsection (c) of such section if the transfer arises out of the circumstances of the emergency;

''(4) sanctions under section 1877(g) (relating to limitations on physician referral);

''(5) deadlines and timetables for performance of required activities, except that such deadlines and timetables may only be modified, not waived; and

''(6) limitations on payments under section 1851(i) for health care items and services furnished to individuals enrolled in a Medicare+Choice plan by health care professionals or facilities not included under such plan.

Insofar as the Secretary exercises authority under paragraph (6) with respect to individuals enrolled in a Medicare+Choice plan, to the extent possible given the circumstances, the Secretary shall reconcile payments made on behalf of such enrollees to ensure that the enrollees do not pay more than would be required had they received services from providers within the network of the plan and may reconcile payments to the organization offering the plan to ensure that such organization pays for services for which payment is included in the capitation payment it receives under part C of title XVIII.

''(c) AUTHORITY FOR RETROACTIVE WAIVER.—A waiver or modification of requirements pursuant to this section may, at the Secretary's discretion, be made retroactive to the beginning of the emergency period or any subsequent date in such period specified by the Secretary.

''(d) CERTIFICATION TO CONGRESS.—The Secretary shall provide a certification and advance written notice to the Congress at least two days before exercising the authority under this section with respect to an emergency area. Such a certification and notice shall include—

''(1) a description of—

''(A) the specific provisions that will be waived or modified;

''(B) the health care providers to whom the waiver or modification will apply;

''(C) the geographic area in which the waiver or modification will apply; and

''(D) the period of time for which the waiver or modification will be in effect; and

''(2) a certification that the waiver or modification is necessary to carry out the purpose specified in subsection (a).

''(e) DURATION OF WAIVER.—

''(1) IN GENERAL.—A waiver or modification of requirements pursuant to this section terminates upon—

''(A) the termination of the applicable declaration of emergency or disaster described in subsection (g)(1)(A);

''(B) the termination of the applicable declaration of public health emergency described in subsection (g)(1)(B); or

''(C) subject to paragraph (2), the termination of a period of 60 days from the date the waiver or modification is first published (or, if applicable, the date of extension of the waiver or modification under paragraph (2)).

''(2) EXTENSION OF 60-DAY PERIODS.—The Secretary may, by notice, provide for an extension of a 60-day period described in paragraph (1)(C) (or an additional period provided under this paragraph) for additional period or periods (not to exceed, except as subsequently provided under this paragraph, 60 days each), but any such extension shall not affect or prevent the termination of a waiver or modification under subparagraph (A) or (B) of paragraph (1).

''(f) REPORT TO CONGRESS.—Within one year after the end of the emergency period in an emergency area in which the Secretary exercised the authority provided under this section, the Secretary shall report to the Congress regarding the approaches used to accomplish the purposes described in subsection (a), including an evaluation of such approaches and recommendations for improved approaches should the need for such emergency authority arise in the future.

''(g) DEFINITIONS.—For purposes of this section:

''(1) EMERGENCY AREA; EMERGENCY PERIOD.—An 'emergency area' is a geographical area in which, and an 'emergency period' is the period during which, there exists—

''(A) an emergency or disaster declared by the President pursuant to the National Emergencies Act or the Robert T. Stafford Disaster Relief and Emergency Assistance Act; and

''(B) a public health emergency declared by the Secretary pursuant to section 319 of the Public Health Service Act.

''(2) HEALTH CARE PROVIDER.—The term 'health care provider' means any entity that furnishes health care items or services, and includes a hospital or other provider of services, a physician or other health care practitioner or professional, a health care facility, or a supplier of health care items or services.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective on and after September 11, 2001.

SEC. 144. PROVISION FOR EXPIRATION OF PUBLIC HEALTH EMERGENCIES.

(a) IN GENERAL.—Section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), is amended by adding at the end the following new sentence: ''Any such determination of a public health emergency terminates upon the Secretary declaring that the emergency no longer exists, or upon the expiration of the 90-day period beginning on the date on which the determination is made by the Secretary, whichever occurs first. Determinations that terminate under the preceding sentence may be renewed by the Secretary (on the basis of the same or additional facts), and the preceding sentence applies to each such renewal. Not later than 48 hours after making a determination under this subsection of a public health emergency (including a renewal), the Secretary shall submit to the Congress written notification of the determination.''.

(b) APPLICABILITY.—The amendment made by subsection (a) applies to any public health emergency under section 319(a) of the Public Health Service Act, including any such emergency that was in effect as of the day before the date of the enactment of this Act. In the case of such an emergency that was in effect as of such day, the 90-day period described in such section with respect to the termination of the emergency is deemed to begin on such date of enactment.

Subtitle E—Additional Provisions

SEC. 151. DESIGNATED STATE PUBLIC EMERGENCY ANNOUNCEMENT PLAN.

Section 613(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196b(b)) is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(7) include a plan for providing information to the public in a coordinated manner.''.

SEC. 152. EXPANDED RESEARCH BY SECRETARY OF ENERGY.

(a) DETECTION AND IDENTIFICATION RESEARCH.—

(1) IN GENERAL.—In conjunction with the working group under section 319F(a) of the Public Health Service Act, the Secretary of Energy and the Administrator of the National Nuclear Security Administration shall expand, enhance, and intensify research relevant to the rapid detection and identification of pathogens likely to be used in a bioterrorism attack or other agents that may cause a public health emergency.

(2) AUTHORIZED ACTIVITIES.—Activities carried out under paragraph (1) may include—

(A) the improvement of methods for detecting biological agents or toxins of potential use in a biological attack and the testing of such methods under variable conditions;

(B) the improvement or pursuit of methods for testing, verifying, and calibrating new detection and surveillance tools and techniques; and

(C) carrying out other research activities in relevant areas.

(3) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the National Nuclear Security Administration shall submit to the Committee on Energy and Natural Resources and the Committee on Armed Services of the Senate, and the Committee on Energy and Commerce and the Committee on Armed Services of the House of Representatives, a report setting forth the programs and projects that will be funded prior to the obligation of funds appropriated under subsection (b).

(b) AUTHORIZATION.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary in each of fiscal years 2002 through 2006.

SEC. 153. EXPANDED RESEARCH ON WORKER HEALTH AND SAFETY.

The Secretary of Health and Human Services (referred to in this section as the ''Secretary''), acting through the Director of the National Institute of Occupational Safety and Health, shall enhance and expand research as deemed appropriate on the health and safety of workers who are at risk for bioterrorist threats or attacks in the workplace, including research on the health effects of measures taken to treat or protect such workers for diseases or disorders resulting from a bioterrorist threat or attack. Nothing in this section may be construed as establishing new regulatory authority for the Secretary or the Director to issue or modify any occupational safety and health rule or regulation.

SEC. 154. ENHANCEMENT OF EMERGENCY PREPAREDNESS OF DEPARTMENT OF VETERANS AFFAIRS.

(a) READINESS OF DEPARTMENT MEDICAL CENTER.—(1) The Secretary of Veterans Affairs shall take appropriate actions to enhance the readiness of Department of Veterans Affairs medical centers to protect the patients and staff of such centers from chemical or biological attack or otherwise to respond to such an attack and so as to enable such centers to fulfil their obligations as part of the Federal response to public health emegencies.

(2) Actions under paragraph (1) shall include—

(A) the provision of decontamination equipment and personal protection equipment at Department medical centers; and

(B) the provision of training in the use of such equipment to staff of such centers.

(b) SECURITY AT DEPARTMENT MEDICAL AND RESEARCH FACILITIES.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary shall carry out an evaluation of the security needs at Department medical centers and research facilities. The evaluation shall address the following needs:

(A) Needs for the protection of patients and medical staff during emergencies, including a chemical or biological attack or other terrorist attack.

(B) Needs, if any, for screening personnel engaged in research relating to biological pathogens or agents, including work associated with such research.

(C) Needs for securing laboratories or other facilities engaged in research relating to biological pathogens or agents.

(D) Any other needs the Secretary considers appropriate.

(2) The Secretary shall take appropriate actions to enhance the security of Department medical centers and research facilities, including staff and patients at such centers and facilities. In taking such actions, the Secretary shall take into account the results of the evaluation required by paragraph (1).

(c) TRACKING OF PHARMACEUTICALS AND MEDICAL SUPPLIES AND EQUIPMENT.—The Secretary shall develop and maintain a centralized system for tracking the current location and availability of pharmaceuticals, medical supplies, and medical equipment throughout the Department health care system in order to permit the ready identification and utilization of such pharmaceuticals, supplies, and equipment for a variety of purposes, including response to a chemical or biological attack or other terrorist attack.

(d) TRAINING.—The Secretary shall ensure that the Department medical centers, in consultation with the accredited medical school affiliates of such medical centers, develop and implement curricula to train resident physicians and health care personnel in medical matters relating to biological, chemical, or radiological attacks.

(e) PARTICIPATION IN NATIONAL DISASTER MEDICAL SYSTEM.—(1) The Secretary shall, in consultation with the Secretary of Defense, the Secretary of Health and Human Services, and the Director of the Federal Emergency Management Agency, establish and maintain a training program to facilitate the participation of the staff of Department medical centers, and of the community partners of such centers, in the National Disaster Medical System.

(2) The Secretary shall establish and maintain the training program under paragraph (1) in accordance with the recommendations of the working group under section 319F(a) of the Public Health Service Act.

(f) MENTAL HEALTH COUNSELING.—(1) With respect to activities conducted by personnel serving at Department medical centers, the Secretary shall, in consultation with the Secretary of Health and Human Services, the American Red Cross, and the working group under section 319F(a) of the Public Health Service Act, develop and maintain various strategies for providing mental health counseling and assistance, including counseling and assistance for post-traumatic stress disorder, to local and community emergency response providers, veterans, active duty military personnel, and individuals seeking care at Department medical centers following a bioterrorist attack or other public health emergency.

(2) The strategies under paragraph (1) shall include the following:

(A) Training and certification of providers of mental health counseling and assistance.

(B) Mechanisms for coordinating the provision of mental health counseling and assistance to emergency response providers referred to in that paragraph.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs amounts as follows:

(1) To carry out activities required by subsection (a)—

(A) $100,000,000 for fiscal year 2002; and

(B) such sums as may be necessary for each of fiscal years 2003 through 2006.

(2) To carry out activities required by subsections (b) through (f)—

(A) $33,000,000 for fiscal year 2002; and

(B) such sums as may be necessary for each of fiscal years 2003 through 2006.

SEC. 155. REAUTHORIZATION OF EXISTING PROGRAM.

Section 582(f) of the Public Health Service Act (42 U.S.C. 290hh-1(f)) is amended by striking ''2002 and 2003'' and inserting ''2003 through 2006''.

SEC. 156. SENSE OF CONGRESS.

It is the sense of the Congress that—

(1) many excellent university-based programs are already functioning and developing important biodefense products and solutions throughout the United States;

(2) accelerating the crucial work done at university centers and laboratories will contribute significantly to the United States capacity to defend against any biological threat or attack;

(3) maximizing the effectiveness of, and extending the mission of, established university programs would be one appropriate use of the additional resources provided for in this Act and the amendments made by this Act; and

(4) the Secretary of Health and Human Services should, as appropriate, recognize the importance of existing public and private university-based research, training, public awareness, and safety related biological defense programs when the Secretary makes awards of grants and contracts in accordance with this Act and the amendments made by this Act.

SEC. 157. GENERAL ACCOUNTING OFFICE REPORT.

(a) IN GENERAL.—The Comptroller General shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate, and to the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives, a report that describes—

(1) Federal activities primarily related to research on, preparedness for, and the management of the public health and medical consequences of a bioterrorist attack against the civilian population;

(2) the coordination of the activities described in paragraph (1);

(3) the effectiveness of such efforts in preparing national, State, and local authorities to address the public health and medical consequences of a potential bioterrorist attack against the civilian population;

(4) the activities and costs of the Civil Support Teams of the National Guard in responding to biological threats or attacks against the civilian population;

(5) the activities of the working group under subsection (a) and the efforts made by such group to carry out the activities described in such subsection; and

(6) the ability of private sector contractors to enhance governmental responses to biological threats or attacks.

SEC. 158. CERTAIN AWARDS.

Section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)) is amended in the matter after and below paragraph (2) by striking ''grants and'' and inserting ''grants, providing awards for expenses, and''

SEC. 159. PUBLIC ACCESS DEFIBRILLATION PROGRAMS AND PUBLIC ACCESS DEFIBRILLATION DEMONSTRATION PROJECTS.

(a) SHORT TITLE.—This section may be cited as the ''Community Access to Emergency Defibrillation Act of 2002''.

(b) FINDINGS.—Congress makes the following findings:

(1) Over 220,000 Americans die each year from cardiac arrest. Every 2 minutes, an individual goes into cardiac arrest in the United States.

(2) The chance of successfully returning to a normal heart rhythm diminishes by 10 percent each minute following sudden cardiac arrest.

(3) Eighty percent of cardiac arrests are caused by ventricular fibrillation, for which defibrillation is the only effective treatment.

(4) Sixty percent of all cardiac arrests occur outside the hospital. The average national survival rate for out-of-hospital cardiac arrest is only 5 percent.

(5) Communities that have established and implemented public access defibrillation programs have achieved average survival rates for out-of-hospital cardiac arrest as high as 50 percent.

(6) According to the American Heart Association, wide use of defibrillators could save as many as 50,000 lives nationally each year.

(7) Successful public access defibrillation programs ensure that cardiac arrest victims have access to early 911 notification, early

cardiopulmonary resuscitation, early defibrillation, and early advanced care.

(c) PUBLIC ACCESS DEFIBRILLATION PROGRAMS AND PROJECTS.—Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.), as amended by Public Law 106–310, is amended by adding after section 311 the following:

"SEC. 312. PUBLIC ACCESS DEFIBRILLATION PROGRAMS.

''(a) IN GENERAL.—The Secretary shall award grants to States, political subdivisions of States, Indian tribes, and tribal organizations to develop and implement public access defibrillation programs—

''(1) by training and equipping local emergency medical services personnel, including firefighters, police officers, paramedics, emergency medical technicians, and other first responders, to administer immediate care, including cardiopulmonary resuscitation and automated external defibrillation, to cardiac arrest victims;

''(2) by purchasing automated external defibrillators, placing the defibrillators in public places where cardiac arrests are likely to occur, and training personnel in such places to administer cardiopulmonary resuscitation and automated external defibrillation to cardiac arrest victims;

''(3) by setting procedures for proper maintenance and testing of such devices, according to the guidelines of the manufacturers of the devices;

''(4) by providing training to members of the public in cardiopulmonary resuscitation and automated external defibrillation;

''(5) by integrating the emergency medical services system with the public access defibrillation programs so that emergency medical services personnel, including dispatchers, are informed about the location of automated external defibrillators in their community; and

''(6) by encouraging private companies, including small businesses, to purchase automated external defibrillators and provide training for their employees to administer cardiopulmonary resuscitation and external automated defibrillation to cardiac arrest victims in their community.

''(b) PREFERENCE.—In awarding grants under subsection (a), the Secretary shall give a preference to a State, political subdivision of a State, Indian tribe, or tribal organization that—

''(1) has a particularly low local survival rate for cardiac arrests, or a particularly low local response rate for cardiac arrest victims; or

''(2) demonstrates in its application the greatest commitment to establishing and maintaining a public access defibrillation program.

''(c) USE OF FUNDS.—A State, political subdivision of a State, Indian tribe, or tribal organization that receives a grant under subsection (a) may use funds received through such grant to—

''(1) purchase automated external defibrillators that have been approved, or cleared for marketing, by the Food and Drug Administration;

''(2) provide automated external defibrillation and basic life support training in automated external defibrillator usage through nationally recognized courses;

''(3) provide information to community members about the public access defibrillation program to be funded with the grant;

''(4) provide information to the local emergency medical services system regarding the placement of automated external defibrillators in public places;

''(5) produce materials to encourage private companies, including small businesses, to purchase automated external defibrillators; and

''(6) further develop strategies to improve access to automated external defibrillators in public places.

''(d) APPLICATION.—

''(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), a State, political subdivision of a State, Indian tribe, or tribal organization shall prepare and submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(2) CONTENTS.—An application submitted under paragraph (1) shall—

''(A) describe the comprehensive public access defibrillation program to be funded with the grant and demonstrate how such program would make automated external defibrillation accessible and available to cardiac arrest victims in the community;

''(B) contain procedures for implementing appropriate nationally recognized training courses in performing cardiopulmonary resuscitation and the use of automated external defibrillators;

''(C) contain procedures for ensuring direct involvement of a licensed medical professional and coordination with the local emergency medical services system in the oversight of training and notification of incidents of the use of the automated external defibrillators;

''(D) contain procedures for proper maintenance and testing of the automated external defibrillators, according to the labeling of the manufacturer;

''(E) contain procedures for ensuring notification of local emergency medical services system personnel, including dispatchers, of the location and type of devices used in the public access defibrillation program; and

''(F) provide for the collection of data regarding the effectiveness of the public access defibrillation program to be funded with the grant in affecting the out-of-hospital cardiac arrest survival rate.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $25,000,000 for fiscal year 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2006. Not more than 10 percent of amounts received under a grant awarded under this section may be used for administrative expenses.

"SEC. 313. PUBLIC ACCESS DEFIBRILLATION DEMONSTRATION PROJECTS.

''(a) IN GENERAL.—The Secretary shall award grants to political subdivisions of States, Indian tribes, and tribal organizations to develop and implement innovative, comprehensive, community-based public access defibrillation demonstration projects that—

''(1) provide cardiopulmonary resuscitation and automated external defibrillation to cardiac arrest victims in unique settings;

''(2) provide training to community members in cardiopulmonary resuscitation and automated external defibrillation; and

''(3) maximize community access to automated external defibrillators.

''(b) USE OF FUNDS.—A recipient of a grant under subsection (a) shall use the funds provided through the grant to—

''(1) purchase automated external defibrillators that have been approved, or cleared for marketing, by the Food and Drug Administration;

''(2) provide basic life training in automated external defibrillator usage through nationally recognized courses;

''(3) provide information to community members about the public access defibrillation demonstration project to be funded with the grant;

''(4) provide information to the local emergency medical services system regarding the placement of automated external defibrillators in the unique settings; and

''(5) further develop strategies to improve access to automated external defibrillators in public places.

''(c) APPLICATION.—

''(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), a political subdivision of a State, Indian tribe, or tribal organization shall prepare and submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(2) CONTENTS.—An application submitted under paragraph (1) may—

''(A) describe the innovative, comprehensive, community-based public access defibrillation demonstration project to be funded with the grant;

''(B) explain how such public access defibrillation demonstration project represents innovation in providing public access to automated external defibrillation; and

''(C) provide for the collection of data regarding the effectiveness of the demonstration project to be funded with the grant in—

''(i) providing emergency cardiopulmonary resuscitation and automated external defibrillation to cardiac arrest victims in the setting served by the demonstration project; and

''(ii) affecting the cardiac arrest survival rate in the setting served by the demonstration project.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2002 through 2006. Not more than 10 percent of amounts received under a grant awarded under this section may be used for administrative expenses.''.

TITLE II—ENHANCING CONTROLS ON DANGEROUS BIOLOGICAL AGENTS AND TOXINS

Subtitle A—Department of Health and Human Services

SEC. 201. REGULATION OF CERTAIN BIOLOGICAL AGENTS AND TOXINS.

(a) BIOLOGICAL AGENTS PROVISIONS OF THE ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996; CODIFICATION IN THE PUBLIC HEALTH SERVICE ACT, WITH AMENDMENTS.—Subpart 1 of part F of title III of the Public Health Service Act (42 U.S.C. 262 et seq.) is amended by inserting after section 351 the following:

"SEC. 351A. ENHANCED CONTROL OF DANGEROUS BIOLOGICAL AGENTS AND TOXINS.

''(a) REGULATORY CONTROL OF CERTAIN BIOLOGICAL AGENTS AND TOXINS.—

''(1) LIST OF BIOLOGICAL AGENTS AND TOXINS.—

''(A) IN GENERAL.—The Secretary shall by regulation establish and maintain a list of each biological agent and each toxin that has the potential to pose a severe threat to public health and safety.

''(B) CRITERIA.—In determining whether to include an agent or toxin on the list under subparagraph (A), the Secretary shall—

''(i) consider—

''(I) the effect on human health of exposure to the agent or toxin;

''(II) the degree of contagiousness of the agent or toxin and the methods by which the agent or toxin is transferred to humans;

''(III) the availability and effectiveness of pharmacotherapies and immunizations to treat and prevent any illness resulting from infection by the agent or toxin; and

''(IV) any other criteria, including the needs of children and other vulnerable populations, that the Secretary considers appropriate; and

''(ii) consult with appropriate Federal departments and agencies and with scientific experts representing appropriate professional groups, including groups with pediatric expertise.

''(2) BIENNIAL REVIEW.—The Secretary shall review and republish the list under paragraph (1) biennially, or more often as needed, and shall by regulation revise the list as necessary in accordance with such paragraph.

''(b) REGULATION OF TRANSFERS OF LISTED AGENTS AND TOXINS.—The Secretary shall by regulation provide for—

''(1) the establishment and enforcement of safety procedures for the transfer of listed agents and toxins, including measures to ensure—

''(A) proper training and appropriate skills to handle such agents and toxins; and

''(B) proper laboratory facilities to contain and dispose of such agents and toxins;

''(2) the establishment and enforcement of safeguard and security measures to prevent access to such agents and toxins for use in domestic or international terrorism or for any other criminal purpose;

''(3) the establishment of procedures to protect the public safety in the event of a transfer or potential transfer of such an agent or toxin in violation of the safety procedures established under paragraph (1) or the safeguard and security measures established under paragraph (2); and

''(4) appropriate availability of biological agents and toxins for research, education, and other legitimate purposes.

''(c) POSSESSION AND USE OF LISTED AGENTS AND TOXINS.—The Secretary shall by regulation provide for the establishment and enforcement of standards and procedures governing the possession and use of listed agents and toxins, including the provisions described in paragraphs (1) through (4) of subsection (b), in order to protect the public health and safety.

''(d) REGISTRATION; IDENTIFICATION; DATABASE.—

''(1) REGISTRATION.—Regulations under subsections (b) and (c) shall require registration with the Secretary of the possession, use, and transfer of listed agents and toxins, and shall include provisions to ensure that persons seeking to register under such regulations have a lawful purpose to possess, use, or transfer such agents and toxins, including provisions in accordance with subsection (e)(6).

''(2) IDENTIFICATION; DATABASE.—Regulations under subsections (b) and (c) shall require that registration include (if available to the person registering) information regarding the characterization of listed agents and toxins to facilitate their identification, including their source. The Secretary shall maintain a national database that includes the names and locations of registered persons, the listed agents and toxins such persons are possessing, using, or transferring, and information regarding the characterization of such agents and toxins.

''(e) SAFEGUARD AND SECURITY REQUIREMENTS FOR REGISTERED PERSONS.—

''(1) IN GENERAL.—Regulations under subsections (b) and (c) shall include appropriate safeguard and security requirements for persons possessing, using, or transferring a listed agent or toxin commensurate with the risk such agent or toxin poses to public health and safety (including the risk of use in domestic or international terrorism). The Secretary shall establish such requirements in consultation with the Attorney General, and shall ensure compliance with such requirements as part of the registration system under such regulations.

''(2) LIMITING ACCESS TO LISTED AGENTS AND TOXINS.—Requirements under paragraph (1) shall include provisions to ensure that registered persons—

''(A) provide access to listed agents and toxins to only those individuals whom the registered person involved determines have a legitimate need to handle or use such agents and toxins;

''(B) submit the names and other identifying information for such individuals to the Secretary and the Attorney General, promptly after first determining that the individuals need access under subparagraph (A), and periodically thereafter while the individuals have such access, not less frequently than once every five years;

''(C) deny access to such agents and toxins by individuals whom the Attorney General has identified as restricted persons; and

''(D) limit or deny access to such agents and toxins by individuals whom the Attorney General has identified as within any category under paragraph (3)(B)(ii), if limiting or denying such access by the individuals involved is determined appropriate by the Secretary, in consultation with the Attorney General.

''(3) SUBMITTED NAMES; USE OF DATABASES BY ATTORNEY GENERAL.—

''(A) IN GENERAL.—Upon the receipt of names and other identifying information under paragraph (2)(B), the Attorney General shall, for the sole purpose of identifying whether the individuals involved are within any of the categories specified in subparagraph (B), promptly use criminal, immigration, national security, and other electronic databases that are available to the Federal Government and are appropriate for such purpose.

''(B) CERTAIN INDIVIDUALS.—For purposes of subparagraph (A), the categories specified in this subparagraph regarding an individual are that—

''(i) the individual is a restricted person; or

''(ii) the individual is reasonably suspected by any Federal law enforcement or intelligence agency of—

''(I) committing a crime set forth in section 2332b(g)(5) of title 18, United States Code;

''(II) knowing involvement with an organization that engages in domestic or international terrorism (as defined in section 2331 of such title 18) or with any other organization that engages in intentional crimes of violence; or

''(III) being an agent of a foreign power (as defined in section 1801 of title 50, United States Code).

''(C) NOTIFICATION BY ATTORNEY GENERAL REGARDING SUBMITTED NAMES.—After the receipt of a name and other identifying information under paragraph (2)(B), the Attorney General shall promptly notify the Secretary whether the individual is within any of the categories specified in subparagraph (B).

''(4) NOTIFICATIONS BY SECRETARY.—The Secretary, after receiving notice under paragraph (3) regarding an individual, shall promptly notify the registered person involved of whether the individual is granted or denied access under paragraph (2). If the individual is denied such access, the Secretary shall promptly notify the individual of the denial.

''(5) EXPEDITED REVIEW.—Regulations under subsections (b) and (c) shall provide for a procedure through which, upon request to the Secretary by a registered person who submits names and other identifying information under paragraph (2)(B) and who demonstrates good cause, the Secretary may, as determined appropriate by the Secretary—

''(A) request the Attorney General to expedite the process of identification under paragraph (3)(A) and notification of the Secretary under paragraph (3)(C); and

''(B) expedite the notification of the registered person by the Secretary under paragraph (4).

''(6) PROCESS REGARDING PERSONS SEEKING TO REGISTER.—

''(A) INDIVIDUALS.—Regulations under subsections (b) and (c) shall provide that an individual who seeks to register under either of such subsections is subject to the same processes described in paragraphs (2) through (4) as apply to names and other identifying information submitted to the Attorney General under paragraph (2)(B). Paragraph (5) does not apply for purposes of this subparagraph.

''(B) OTHER PERSONS.—Regulations under subsections (b) and (c) shall provide that, in determining whether to deny or revoke registration by a person other than an individual, the Secretary shall submit the name of such person to the Attorney General, who shall use criminal, immigration, national security, and other electronic databases available to the Federal Government, as appropriate for the purpose of promptly notifying the Secretary whether the person, or, where relevant, the individual who owns or controls such person, is a restricted person or is reasonably suspected by any Federal law enforcement or intelligence agency of being within any category specified in paragraph (3)(B)(ii) (as applied to persons, including individuals). Such regulations shall provide that a person who seeks to register under either of such subsections is subject to the same processes described in paragraphs (2) and (4) as apply to names and other identifying information submitted to the Attorney General under paragraph (2)(B). Paragraph (5) does not apply for purposes of this subparagraph. The Secretary may exempt Federal, State, or local governmental agencies from the requirements of this subparagraph.

''(7) REVIEW.—

''(A) ADMINISTRATIVE REVIEW.—

''(i) IN GENERAL.—Regulations under subsections (b) and (c) shall provide for an opportunity for a review by the Secretary—

''(I) when requested by the individual involved, of a determination under paragraph (2) to deny the individual access to listed agents and toxins; and

''(II) when requested by the person involved, of a determination under paragraph (6) to deny or revoke registration for such person.

''(ii) EX PARTE REVIEW.—During a review under clause (i), the Secretary may consider information relevant to the review ex parte to the extent that disclosure of the information could compromise national security or an investigation by any law enforcement agency.

''(iii) FINAL AGENCY ACTION.—The decision of the Secretary in a review under clause (i) constitutes final agency action for purposes of section 702 of title 5, United States Code.

''(B) CERTAIN PROCEDURES.—

''(i) SUBMISSION OF EX PARTE MATERIALS IN JUDICIAL PROCEEDINGS.—When reviewing a decision of the Secretary under subparagraph (A), and upon request made ex parte and in writing by the United States, a court, upon a sufficient showing, may review and consider ex parte documents containing information the disclosure of which could compromise national security or an investigation by any law enforcement agency. If the court determines that portions of the documents considered ex parte should be disclosed to the person involved to allow a response, the court shall authorize the United States to delete from such documents specified items of information the disclosure of which could compromise national security or an investigation by any law enforcement agency, or to substitute a summary of the information to which the person may respond. Any order by the court authorizing the disclosure of information that the United States believes could compromise national security or an investigation by any law enforcement agency shall be subject to the processes set forth in subparagraphs (A) and (B)(i) of section 2339B(f)(5) of title 18, United States Code (relating to interlocutory appeal and expedited consideration).

''(ii) DISCLOSURE OF INFORMATION.—In a review under subparagraph (A), and in any judical proceeding conducted pursuant to such review, neither the Secretary nor the Attorney General may be required to disclose to the public any information that under subsection (h) shall not be disclosed under section 552 of title 5, United States Code.

''(8) NOTIFICATIONS REGARDING THEFT OR LOSS OF AGENTS.—Requirements under paragraph (1) shall include the prompt notification of the Secretary, and appropriate Federal, State, and local law enforcement agencies, of the theft or loss of listed agents and toxins.

''(9) TECHNICAL ASSISTANCE FOR REGISTERED PERSONS.—The Secretary, in consultation with the Attorney General, may provide technical assistance to registered persons to improve security of the facilities of such persons.

''(f) INSPECTIONS.—The Secretary shall have the authority to inspect persons subject to regulations under subsection (b) or (c) to ensure their compliance with such regulations, including prohibitions on restricted persons and other provisions of subsection (e).

''(g) EXEMPTIONS.—

''(1) CLINICAL OR DIAGNOSTIC LABORATORIES.—Regulations under subsections (b) and (c) shall exempt clinical or diagnostic laboratories and other persons who possess, use, or transfer listed

agents or toxins that are contained in specimens presented for diagnosis, verification, or proficiency testing, provided that—

''(A) the identification of such agents or toxins is reported to the Secretary, and when required under Federal, State, or local law, to other appropriate authorities; and

''(B) such agents or toxins are transferred or destroyed in a manner set forth by the Secretary by regulation.

''(2) PRODUCTS.—

''(A) IN GENERAL.—Regulations under subsections (b) and (c) shall exempt products that are, bear, or contain listed agents or toxins and are cleared, approved, licensed, or registered under any of the Acts specified in subparagraph (B), unless the Secretary by order determines that applying additional regulation under subsection (b) or (c) to a specific product is necessary to protect public health and safety.

''(B) RELEVANT LAWS.—For purposes of subparagraph (A), the Acts specified in this subparagraph are the following:

''(i) The Federal Food, Drug, and Cosmetic Act.

''(ii) Section 351 of this Act.

''(iii) The Act commonly known as the Virus-Serum-Toxin Act (the eighth paragraph under the heading 'Bureau of Animal Industry' in the Act of March 4, 1913; 21 U.S.C. 151-159).

''(iv) The Federal Insecticide, Fungicide, and Rodenticide Act.

''(C) INVESTIGATIONAL USE.—

''(i) IN GENERAL.—The Secretary may exempt an investigational product that is, bears, or contains a listed agent or toxin from the applicability of provisions of regulations under subsection (b) or (c) when such product is being used in an investigation authorized under any Federal Act and the Secretary determines that applying additional regulation under subsection (b) or (c) to such product is not necessary to protect public health and safety.

''(ii) CERTAIN PROCESSES.—Regulations under subsections (b) and (c) shall set forth the procedures for applying for an exemption under clause (i). In the case of investigational products authorized under any of the Acts specified in subparagraph (B), the Secretary shall make a determination regarding a request for an exemption not later than 14 days after the first date on which both of the following conditions have been met by the person requesting the exemption:

''(I) The person has submitted to the Secretary an application for the exemption meeting the requirements established by the Secretary.

''(II) The person has notified the Secretary that the investigation has been authorized under such an Act.

''(3) PUBLIC HEALTH EMERGENCIES.—The Secretary may temporarily exempt a person from the applicability of the requirements of this section, in whole or in part, if the Secretary determines that such exemption is necessary to provide for the timely participation of the person in a response to a domestic or foreign public health emergency (whether determined under section 319(a) or otherwise) that involves a listed agent or toxin. With respect to the emergency involved, such exemption for a person may not exceed 30 days, except that the Secretary, after review of whether such exemption remains necessary, may provide one extension of an additional 30 days.

''(4) AGRICULTURAL EMERGENCIES.—Upon request of the Secretary of Agriculture, after the granting by such Secretary of an exemption under section 212(g)(1)(D) of the Agricultural Bioterrorism Protection Act of 2002 pursuant to a finding that there is an agricultural emergency, the Secretary of Health and Human Services may temporarily exempt a person from the applicability of the requirements of this section, in whole or in part, to provide for the timely participation of the person in a response to the agricultural emergency. With respect to the emergency involved, the exemption under this paragraph for a person may not exceed 30 days, except that upon request of the Secretary of Agriculture, the Secretary of Health and Human Services may, after review of whether such exemption remains necessary, provide one extension of an additional 30 days.

''(h) DISCLOSURE OF INFORMATION.—

''(1) NONDISCLOSURE OF CERTAIN INFORMATION.—No Federal agency specified in paragraph (2) shall disclose under section 552 of title 5, United States Code, any of the following:

''(A) Any registration or transfer documentation submitted under subsections (b) and (c) for the possession, use, or transfer of a listed agent or toxin; or information derived therefrom to the extent that it identifies the listed agent or toxin possessed, used, or transferred by a specific registered person or discloses the identity or location of a specific registered person.

''(B) The national database developed pursuant to subsection (d), or any other compilation of the registration or transfer information submitted under subsections (b) and (c) to the extent that such compilation discloses site-specific registration or transfer information.

''(C) Any portion of a record that discloses the site-specific or transfer-specific safeguard and security measures used by a registered person to prevent unauthorized access to listed agents and toxins.

''(D) Any notification of a release of a listed agent or toxin submitted under subsections (b) and (c), or any notification of theft or loss submitted under such subsections.

''(E) Any portion of an evaluation or report of an inspection of a specific registered person conducted under subsection (f) that identifies the listed agent or toxin possessed by a specific registered person or that discloses the identity or location of a specific registered person if the agency determines that public disclosure of the information would endanger public health or safety.

''(2) COVERED AGENCIES.—For purposes of paragraph (1) only, the Federal agencies specified in this paragraph are the following:

''(A) The Department of Health and Human Services, the Department of Justice, the Department of Agriculture, and the Department of Transportation.

''(B) Any Federal agency to which information specified in paragraph (1) is transferred by any agency specified in subparagraph (A) of this paragraph.

''(C) Any Federal agency that is a registered person, or has a sub-agency component that is a registered person.

''(D) Any Federal agency that awards grants or enters into contracts or cooperative agreements involving listed agents and toxins to or with a registered person, and to which information specified in paragraph (1) is transferred by any such registered person.

''(3) OTHER EXEMPTIONS.—This subsection may not be construed as altering the application of any exemptions to public disclosure under section 552 of title 5, United States Code, except as to subsection 552(b)(3) of such title, to any of the information specified in paragraph (1).

''(4) RULE OF CONSTRUCTION.—Except as specifically provided in paragraph (1), this subsection may not be construed as altering the authority of any Federal agency to withhold under section 552 of title 5, United States Code, or the obligation of any Federal agency to disclose under section 552 of title 5, United States Code, any information, including information relating to—

''(A) listed agents and toxins, or individuals seeking access to such agents and toxins;

''(B) registered persons, or persons seeking to register their possession, use, or transfer of such agents and toxins;

''(C) general safeguard and security policies and requirements under regulations under subsections (b) and (c); or

''(D) summary or statistical information concerning registrations, registrants, denials or revocations of registrations, listed agents and toxins, inspection evaluations and reports, or individuals seeking access to such agents and toxins.

''(5) DISCLOSURES TO CONGRESS; OTHER DISCLOSURES.—This subsection may not be construed as providing any authority—

''(A) to withhold information from the Congress or any committee or subcommittee thereof; or

''(B) to withhold information from any person under any other Federal law or treaty.

''(i) CIVIL MONEY PENALTY.—

''(1) IN GENERAL.—In addition to any other penalties that may apply under law, any person who violates any provision of regulations under subsection (b) or (c) shall be subject to the United States for a civil money penalty in an amount not exceeding $250,000 in the case of an individual and $500,000 in the case of any other person.

''(2) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of section 1128A of the Social Security Act (other than subsections (a), (b), (h), and (i), the first sentence of subsection (c), and paragraphs (1) and (2) of subsection (f)) shall apply to a civil money penalty under paragraph (1) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act. The Secretary may delegate authority under this subsection in the same manner as provided in section 1128A(j)(2) of the Social Security Act, and such authority shall include all powers as contained in section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).

''(j) NOTIFICATION IN EVENT OF RELEASE.—Regulations under subsections (b) and (c) shall require the prompt notification of the Secretary by a registered person whenever a release, meeting criteria established by the Secretary, of a listed agent or toxin has occurred outside of the biocontainment area of a facility of the registered person. Upon receipt of such notification and a finding by the Secretary that the release poses a threat to public health or safety, the Secretary shall take appropriate action to notify relevant State and local public health authorities, other relevant Federal authorities, and, if necessary, other appropriate persons (including the public). If the released listed agent or toxin is an overlap agent or toxin (as defined in subsection (l)), the Secretary shall promptly notify the Secretary of Agriculture upon notification by the registered person.

''(k) REPORTS.—The Secretary shall report to the Congress annually on the number and nature of notifications received under subsection (e)(8) (relating to theft or loss) and subsection (j) (relating to releases).

''(l) DEFINITIONS.—For purposes of this section:

''(1) The terms 'biological agent' and 'toxin' have the meanings given such terms in section 178 of title 18, United States Code.

''(2) The term 'listed agents and toxins' means biological agents and toxins listed pursuant to subsection (a)(1).

''(3) The term 'listed agents or toxins' means biological agents or toxins listed pursuant to subsection (a)(1).

''(4) The term 'overlap agents and toxins' means biological agents and toxins that—

''(A) are listed pursuant to subsection (a)(1); and

''(B) are listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002.

''(5) The term 'overlap agent or toxin' means a biological agent or toxin that—

''(A) is listed pursuant to subsection (a)(1); and

''(B) is listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002.

''(6) The term 'person' includes Federal, State, and local governmental entities.

''(7) The term 'registered person' means a person registered under regulations under subsection (b) or (c).

''(8) The term 'restricted person' has the meaning given such term in section 175b of title 18, United States Code.

''(m) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2007.''.

(b) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services, after consultation with other appropriate Federal agencies, shall submit to the Congress a report that—

(1) describes the extent to which there has been compliance by governmental and private entities with applicable regulations under section 351A of the Public Health Service Act (as added by subsection (a) of this section), including the extent of compliance before the date of the enactment of this Act, and including the extent of compliance with regulations promulgated after such date of enactment;

(2) describes the actions to date and future plans of the Secretary for updating the list of biological agents and toxins under such section 351A;

(3) describes the actions to date and future plans of the Secretary for determining compliance with regulations under such section 351A and for taking appropriate enforcement actions;

(4) evaluates the impact of such section 351A on research on biological agents and toxins listed pursuant to such section; and

(5) provides any recommendations of the Secretary for administrative or legislative initiatives regarding such section 351A.

SEC. 202. IMPLEMENTATION BY DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) DATE CERTAIN FOR NOTICE OF POSSESSION.—Not later than 90 days after the date of the enactment of this Act, all persons (unless exempt under subsection (g) of section 351A of the Public Health Service Act, as added by section 201 of this Act) in possession of biological agents or toxins listed under such section 351A of the Public Health Service Act shall notify the Secretary of Health and Human Services of such possession. Not later than 30 days after such date of enactment, the Secretary shall provide written guidance on how such notice is to be provided to the Secretary.

(b) DATE CERTAIN FOR PROMULGATION; EFFECTIVE DATE REGARDING CRIMINAL AND CIVIL PENALTIES.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate an interim final rule for carrying out section 351A of the Public Health Service Act, subject to subsection (c). Such interim final rule shall take effect 60 days after the date on which such rule is promulgated, including for purposes of—

(1) section 175b(c) of title 18, United States Code (relating to criminal penalties), as added by section 231(a)(5) of this Act; and

(2) section 351A(i) of the Public Health Service Act (relating to civil penalties).

(c) TRANSITIONAL PROVISION REGARDING CURRENT RESEARCH AND EDUCATION.—The interim final rule under subsection (b) shall include time frames for the applicability of the rule that minimize disruption of research or educational projects that involve biological agents and toxins listed pursuant to section 351A(a)(1) of the Public Health Service Act and that were underway as of the effective date of such rule.

SEC. 203. EFFECTIVE DATES.

(a) IN GENERAL.—Regulations promulgated by the Secretary of Health and Human Services under section 511 of the Antiterrorism and Effective Death Penalty Act of 1996 are deemed to have been promulgated under section 351A of the Public Health Service Act, as added by section 201 of this Act. Such regulations, including the list under subsection (d)(1) of such section 511, that were in effect on the day before the date of the enactment of this Act remain in effect until modified by the Secretary in accordance with such section 351A and with section 202 of this Act.

(b) EFFECTIVE DATE REGARDING DISCLOSURE OF INFORMATION.—Subsection (h) of section 351A of the Public Health Service Act, as added by section 201 of this Act, is deemed to have taken effect on the effective date of the Antiterrorism and Effective Death Penalty Act of 1996.

SEC. 204. CONFORMING AMENDMENT.

Subsections (d), (e), (f), and (g) of section 511 of the Antiterrorism and Effective Death Penalty Act of 1996 (42 U.S.C. 262 note) are repealed.

Subtitle B—Department of Agriculture

SEC. 211. SHORT TITLE.

This subtitle may be cited as the ''Agricultural Bioterrorism Protection Act of 2002''.

SEC. 212. REGULATION OF CERTAIN BIOLOGICAL AGENTS AND TOXINS.

(a) REGULATORY CONTROL OF CERTAIN BIOLOGICAL AGENTS AND TOXINS.—

(1) LIST OF BIOLOGICAL AGENTS AND TOXINS.—

(A) IN GENERAL.—The Secretary of Agriculture shall by regulation establish and maintain a list of each biological agent and each toxin that the Secretary determines has the potential to pose a severe threat to animal or plant health, or to animal or plant products.

(B) CRITERIA.—In determining whether to include an agent or toxin on the list under subparagraph (A), the Secretary shall—

(i) consider—

(I) the effect of exposure to the agent or toxin on animal or plant health, and on the production and marketability of animal or plant products;

(II) the pathogenicity of the agent or the toxicity of the toxin and the methods by which the agent or toxin is transferred to animals or plants;

(III) the availability and effectiveness of pharmacotherapies and prophylaxis to treat and prevent any illness caused by the agent or toxin; and

(IV) any other criteria that the Secretary considers appropriate to protect animal or plant health, or animal or plant products; and

(ii) consult with appropriate Federal departments and agencies and with scientific experts representing appropriate professional groups.

(2) BIENNIAL REVIEW.—The Secretary shall review and republish the list under paragraph (1) biennially, or more often as needed, and shall by regulation revise the list as necessary in accordance with such paragraph.

(b) REGULATION OF TRANSFERS OF LISTED AGENTS AND TOXINS.—The Secretary shall by regulation provide for—

(1) the establishment and enforcement of safety procedures for the transfer of listed agents and toxins, including measures to ensure—

(A) proper training and appropriate skills to handle such agents and toxins; and

(B) proper laboratory facilities to contain and dispose of such agents and toxins;

(2) the establishment and enforcement of safeguard and security measures to prevent access to such agents and toxins for use in domestic or international terrorism or for any other criminal purpose;

(3) the establishment of procedures to protect animal and plant health, and animal and plant products, in the event of a transfer or potential transfer of such an agent or toxin in violation of the safety procedures established under paragraph (1) or the safeguard and security measures established under paragraph (2); and

(4) appropriate availability of biological agents and toxins for research, education, and other legitimate purposes.

(c) POSSESSION AND USE OF LISTED AGENTS AND TOXINS.—The Secretary shall by regulation provide for the establishment and enforcement of standards and procedures governing the possession and use of listed agents and toxins, including the provisions described in paragraphs (1) through (4) of subsection (b), in order to protect animal and plant health, and animal and plant products.

(d) REGISTRATION; IDENTIFICATION; DATABASE.—

(1) REGISTRATION.—Regulations under subsections (b) and (c) shall require registration with the Secretary of the possession, use, and transfer of listed agents and toxins, and shall include provisions to ensure that persons seeking to register under such regulations have a lawful purpose to possess, use, or transfer such agents and toxins, including provisions in accordance with subsection (e)(6).

(2) IDENTIFICATION; DATABASE.—Regulations under subsections (b) and (c) shall require that registration include (if available to the person registering) information regarding the characterization of listed agents and toxins to facilitate their identification, including their source. The Secretary shall maintain a national database that includes the names and locations of registered persons, the listed agents and toxins such persons are possessing, using, or transferring, and information regarding the characterization of such agents and toxins.

(e) SAFEGUARD AND SECURITY REQUIREMENTS FOR REGISTERED PERSONS.—

(1) IN GENERAL.—Regulations under subsections (b) and (c) shall include appropriate safeguard and security requirements for persons possessing, using, or transferring a listed agent or toxin commensurate with the risk such agent or toxin poses to animal and plant health, and animal and plant products (including the risk of use in domestic or international terrorism). The Secretary shall establish such requirements in consultation with the Attorney General, and shall ensure compliance with such requirements as part of the registration system under such regulations.

(2) LIMITING ACCESS TO LISTED AGENTS AND TOXINS.—Requirements under paragraph (1) shall include provisions to ensure that registered persons—

(A) provide access to listed agents and toxins to only those individuals whom the registered person involved determines have a legitimate need to handle or use such agents and toxins;

(B) submit the names and other identifying information for such individuals to the Secretary and the Attorney General, promptly after first determining that the individuals need access under subparagraph (A), and periodically thereafter while the individuals have such access, not less frequently than once every five years; and

(C)(i) in the case of listed agents and toxins that are not overlap agents and toxins (as defined in subsection (g)(1)(A)(ii)), limit or deny access to such agents and toxins by individuals whom the Attorney General has identified as within any category under paragraph (3)(B), if limiting or denying such access by the individuals involved is determined appropriate by the Secretary, in consultation with the Attorney General; and

(ii) in the case of listed agents and toxins that are overlap agents—

(I) deny access to such agents and toxins by individuals whom the Attorney General has identified as within any category referred to in paragraph (3)(B)(i); and

(II) limit or deny access to such agents and toxins by individuals whom the Attorney General has identified as within any category under paragraph (3)(B)(ii), if limiting or denying such access by the individuals involved is determined appropriate by the Secretary, in consultation with the Attorney General.

(3) SUBMITTED NAMES; USE OF DATABASES BY ATTORNEY GENERAL.—

(A) IN GENERAL.—Upon the receipt of names and other identifying information under paragraph (2)(B), the Attorney General shall, for the sole purpose of identifying whether the individuals involved are within any of the categories

specified in subparagraph (B), promptly use criminal, immigration, national security, and other electronic databases that are available to the Federal Government and are appropriate for such purpose.

(B) CERTAIN INDIVIDUALS.—For purposes of subparagraph (A), the categories specified in this subparagraph regarding an individual are that—

(i) the individual is within any of the categories described in section 175b(d)(1) of title 18, United States Code (relating to restricted persons); or

(ii) the individual is reasonably suspected by any Federal law enforcement or intelligence agency of—

(I) committing a crime set forth in section 2332b(g)(5) of title 18, United States Code;

(II) knowing involvement with an organization that engages in domestic or international terrorism (as defined in section 2331 of such title 18) or with any other organization that engages in intentional crimes of violence; or

(III) being an agent of a foreign power (as defined in section 1801 of title 50, United States Code).

(C) NOTIFICATION BY ATTORNEY GENERAL REGARDING SUBMITTED NAMES.—After the receipt of a name and other identifying information under paragraph (2)(B), the Attorney General shall promptly notify the Secretary whether the individual is within any of the categories specified in subparagraph (B).

(4) NOTIFICATIONS BY SECRETARY.—The Secretary, after receiving notice under paragraph (3) regarding an individual, shall promptly notify the registered person involved of whether the individual is granted or denied access under paragraph (2). If the individual is denied such access, the Secretary shall promptly notify the individual of the denial.

(5) EXPEDITED REVIEW.—Regulations under subsections (b) and (c) shall provide for a procedure through which, upon request to the Secretary by a registered person who submits names and other identifying information under paragraph (2)(B) and who demonstrates good cause, the Secretary may, as determined appropriate by the Secretary—

(A) request the Attorney General to expedite the process of identification under paragraph (3)(A) and notification of the Secretary under paragraph (3)(C); and

(B) expedite the notification of the registered person by the Secretary under paragraph (4).

(6) PROCESS REGARDING PERSONS SEEKING TO REGISTER.—

(A) INDIVIDUALS.—Regulations under subsections (b) and (c) shall provide that an individual who seeks to register under either of such subsections is subject to the same processes described in paragraphs (2) through (4) as apply to names and other identifying information submitted to the Attorney General under paragraph (2)(B). Paragraph (5) does not apply for purposes of this subparagraph.

(B) OTHER PERSONS.—Regulations under subsections (b) and (c) shall provide that, in determining whether to deny or revoke registration by a person other than an individual, the Secretary shall submit the name of such person to the Attorney General, who shall use criminal, immigration, national security, and other electronic databases available to the Federal Government, as appropriate for the purpose of promptly notifying the Secretary whether the person, or, where relevant, the individual who owns or controls such person, is within any of the categories described in section 175b(d)(1) of title 18, United States Code (relating to restricted persons), or is reasonably suspected by any Federal law enforcement or intelligence agency of being within any category specified in paragraph (3)(B)(ii) (as applied to persons, including individuals). Such regulations shall provide that a person who seeks to register under either of such subsections is subject to the same processes described in paragraphs (2) and (4) as apply to names and other identifying information submitted to the Attorney General under paragraph (2)(B). Paragraph (5) does not apply for purposes of this subparagraph. The Secretary may exempt Federal, State, or local governmental agencies from the requirements of this subparagraph.

(7) REVIEW.—

(A) ADMINISTRATIVE REVIEW.—

(i) IN GENERAL.—Regulations under subsections (b) and (c) shall provide for an opportunity for a review by the Secretary—

(I) when requested by the individual involved, of a determination under paragraph (2) to deny the individual access to listed agents and toxins; and

(II) when requested by the person involved, of a determination under under paragraph (6) to deny or revoke registration for such person.

(ii) EX PARTE REVIEW.—During a review under clause (i), the Secretary may consider information relevant to the review ex parte to the extent that disclosure of the information could compromise national security or an investigation by any law enforcement agency.

(iii) FINAL AGENCY ACTION.—The decision of the Secretary in a review under clause (i) constitutes final agency action for purposes of section 702 of title 5, United States Code.

(B) CERTAIN PROCEDURES.—

(i) SUBMISSION OF EX PARTE MATERIALS IN JUDICIAL PROCEEDINGS.—When reviewing a decision of the Secretary under subparagraph (A), and upon request made ex parte and in writing by the United States, a court, upon a sufficient showing, may review and consider ex parte documents containing information the disclosure of which could compromise national security or an investigation by any law enforcement agency. If the court determines that portions of the documents considered ex parte should be disclosed to the person involved to allow a response, the court shall authorize the United States to delete from such documents specified items of information the disclosure of which could compromise national security or an investigation by any law enforcement agency, or to substitute a summary of the information to which the person may respond. Any order by the court authorizing the disclosure of information that the United States believes could compromise national security or an investigation by any law enforcement agency shall be subject to the processes set forth in subparagraphs (A) and (B)(i) of section 2339B(f)(5) of title 18, United States Code (relating to interlocutory appeal and expedited consideration).

(ii) DISCLOSURE OF INFORMATION.—In a review under subparagraph (A), and in any judical proceeding conducted pursuant to such review, neither the Secretary nor the Attorney General may be required to disclose to the public any information that under subsection (h) shall not be disclosed under section 552 of title 5, United States Code.

(8) NOTIFICATIONS REGARDING THEFT OR LOSS OF AGENTS.—Requirements under paragraph (1) shall include the prompt notification of the Secretary, and appropriate Federal, State, and local law enforcement agencies, of the theft or loss of listed agents and toxins.

(9) TECHNICAL ASSISTANCE FOR REGISTERED PERSONS.—The Secretary, in consultation with the Attorney General, may provide technical assistance to registered persons to improve security of the facilities of such persons.

(f) INSPECTIONS.—The Secretary shall have the authority to inspect persons subject to regulations under subsection (b) or (c) to ensure their compliance with such regulations, including prohibitions on restricted persons and other provisions of subsection (e).

(g) EXEMPTIONS.—

(1) OVERLAP AGENTS AND TOXINS.—

(A) IN GENERAL.—

(i) LIMITATION.—In the case of overlap agents and toxins, exemptions from the applicability of provisions of regulations under subsection (b) or (c) may be granted only to the extent provided in this paragraph.

(ii) DEFINITIONS.—For purposes of this section:

(I) The term ''overlap agents and toxins'' means biological agents and toxins that—

(aa) are listed pursuant to subsection (a)(1); and

(bb) are listed pursuant to section 315A(a)(1) of the Public Health Service Act.

(II) The term ''overlap agent or toxin'' means a biological agent or toxin that—

(aa) is listed pursuant to subsection (a)(1); and

(bb) is listed pursuant to section 315A(a)(1) of the Public Health Service Act.

(B) CLINICAL OR DIAGNOSTIC LABORATORIES.—Regulations under subsections (b) and (c) shall exempt clinical or diagnostic laboratories and other persons who possess, use, or transfer overlap agents or toxins that are contained in specimens presented for diagnosis, verification, or proficiency testing, provided that—

(i) the identification of such agents or toxins is reported to the Secretary, and when required under Federal, State, or local law, to other appropriate authorities; and

(ii) such agents or toxins are transferred or destroyed in a manner set forth by the Secretary by regulation.

(C) PRODUCTS.—

(i) IN GENERAL.—Regulations under subsections (b) and (c) shall exempt products that are, bear, or contain overlap agents or toxins and are cleared, approved, licensed, or registered under any of the Acts specified in clause (ii), unless the Secretary by order determines that applying additional regulation under subsection (b) or (c) to a specific product is necessary to protect animal or plant health, or animal or plant products.

(ii) RELEVANT LAWS.—For purposes of clause (i), the Acts specified in this clause are the following:

(I) The Federal Food, Drug, and Cosmetic Act.

(II) Section 351 of the Public Health Service Act.

(III) The Act commonly known as the Virus-Serum-Toxin Act (the eighth paragraph under the heading 'Bureau of Animal Industry' in the Act of March 4, 1913; 21 U.S.C. 151-159).

(IV) The Federal Insecticide, Fungicide, and Rodenticide Act.

(iii) INVESTIGATIONAL USE.—

(I) IN GENERAL.—The Secretary may exempt an investigational product that is, bears, or contains an overlap agent or toxin from the applicability of provisions of regulations under subsection (b) or (c) when such product is being used in an investigation authorized under any Federal Act and the Secretary determines that applying additional regulation under subsection (b) or (c) to such product is not necessary to protect animal and plant health, and animal and plant products.

(II) CERTAIN PROCESSES.—Regulations under subsections (b) and (c) shall set forth the procedures for applying for an exemption under subclause (I). In the case of investigational products authorized under any of the Acts specified in clause (ii), the Secretary shall make a determination regarding a request for an exemption not later than 14 days after the first date on which both of the following conditions have been met by the person requesting the exemption:

(aa) The person has submitted to the Secretary an application for the exemption meeting the requirements established by the Secretary.

(bb) The person has notified the Secretary that the investigation has been authorized under such an Act.

(D) AGRICULTURAL EMERGENCIES.— The Secretary may temporarily exempt a person from the applicability of the requirements of this section with respect to an overlap agent or toxin, in whole or in part, if the Secretary determines that such exemption is necessary to provide for the timely participation of the person in a response to a domestic or foreign agricultural

emergency that involves such an agent or toxin. With respect to the emergency involved, the exemption under this subparagraph for a person may not exceed 30 days, except that the Secretary, after review of whether such exemption remains necessary, may provide one extension of an additional 30 days.

(E) PUBLIC HEALTH EMERGENCIES.—Upon request of the Secretary of Health and Human Services, after the granting by such Secretary of an exemption under 351A(g)(3) of the Public Health Service Act pursuant to a finding that there is a public health emergency, the Secretary of Agriculture may temporarily exempt a person from the applicability of the requirements of this section with respect to an overlap agent or toxin, in whole or in part, to provide for the timely participation of the person in a response to the public health emergency. With respect to the emergency involved, such exemption for a person may not exceed 30 days, except that upon request of the Secretary of Health and Human Services, the Secretary of Agriculture may, after review of whether such exemption remains necessary, provide one extension of an additional 30 days.

(2) GENERAL AUTHORITY FOR EXEMPTIONS NOT INVOLVING OVERLAP AGENTS OR TOXINS.—In the case of listed agents or toxins that are not overlap agents or toxins, the Secretary may grant exemptions from the applicability of provisions of regulations under subsection (b) or (c) if the Secretary determines that such exemptions are consistent with protecting animal and plant health, and animal and plant products.

(h) DISCLOSURE OF INFORMATION.—

(1) NONDISCLOSURE OF CERTAIN INFORMATION.—No Federal agency specified in paragraph (2) shall disclose under section 552 of title 5, United States Code, any of the following:

(A) Any registration or transfer documentation submitted under subsections (b) and (c), or permits issued prior to the date of the enactment of this Act, for the possession, use or transfer of a listed agent or toxin; or information derived therefrom to the extent that it identifies the listed agent or toxin possessed, used or transferred by a specific person or discloses the identity or location of a specific person.

(B) The national database developed pursuant to subsection (d), or any other compilation of the registration or transfer information submitted under subsections (b) and (c) to the extent that such compilation discloses site-specific registration or transfer information.

(C) Any portion of a record that discloses the site-specific or transfer-specific safeguard and security measures used by a registered person to prevent unauthorized access to listed agents and toxins.

(D) Any notification of a release of a listed agent or toxin submitted under subsections (b) and (c), or any notification of theft or loss submitted under such subsections.

(E) Any portion of an evaluation or report of an inspection of a specific registered person conducted under subsection (f) that identifies the listed agent or toxin possessed by a specific registered person or that discloses the identity or location of a specific registered person if the agency determines that public disclosure of the information would endanger animal or plant health, or animal or plant products.

(2) COVERED AGENCIES.—For purposes of paragraph (1) only, the Federal agencies specified in this paragraph are the following:

(A) The Department of Health and Human Services, the Department of Justice, the Department of Agriculture, and the Department of Transportation.

(B) Any Federal agency to which information specified in paragraph (1) is transferred by any agency specified in subparagraph (A) of this paragraph.

(C) Any Federal agency that is a registered person, or has a sub-agency component that is a registered person.

(D) Any Federal agency that awards grants or enters into contracts or cooperative agreements involving listed agents and toxins to or with a registered person, and to which information specified in paragraph (1) is transferred by any such registered person.

(3) OTHER EXEMPTIONS.—This subsection may not be construed as altering the application of any exemptions to public disclosure under section 552 of title 5, United States Code, except as to subsection 552(b)(3) of such title, to any of the information specified in paragraph (1).

(4) RULE OF CONSTRUCTION.—Except as specifically provided in paragraph (1), this subsection may not be construed as altering the authority of any Federal agency to withhold under section 552 of title 5, United States Code, or the obligation of any Federal agency to disclose under section 552 of title 5, United States Code, any information, including information relating to—

(A) listed agents and toxins, or individuals seeking access to such agents and toxins;

(B) registered persons, or persons seeking to register their possession, use, or transfer of such agents and toxins;

(C) general safeguard and security policies and requirements under regulations under subsections (b) and (c); or

(D) summary or statistical information concerning registrations, registrants, denials or revocations of registrations, listed agents and toxins, inspection evaluations and reports, or individuals seeking access to such agents and toxins.

(5) DISCLOSURES TO CONGRESS; OTHER DISCLOSURES.—This subsection may not be construed as providing any authority—

(A) to withhold information from the Congress or any committee or subcommittee thereof; or

(B) to withhold information from any person under any other Federal law or treaty.

(i) CIVIL MONEY PENALTY.—

(1) IN GENERAL.—In addition to any other penalties that may apply under law, any person who violates any provision of regulations under subsection (b) or (c) shall be subject to the United States for a civil money penalty in an amount not exceeding $250,000 in the case of an individual and $500,000 in the case of any other person.

(2) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of sections 423 and 425(2) of the Plant Protection Act (7 U.S.C. 7733 and 7735(2) shall apply to a civil money penalty or activity under paragraph (1) in the same manner as such provisions apply to a penalty or activity under the Plant Protection Act.

(j) NOTIFICATION IN EVENT OF RELEASE.—Regulations under subsections (b) and (c) shall require the prompt notification of the Secretary by a registered person whenever a release, meeting criteria established by the Secretary, of a listed agent or toxin has occurred outside of the biocontainment area of a facility of the registered person. Upon receipt of such notification and a finding by the Secretary that the release poses a threat to animal or plant health, or animal or plant products, the Secretary shall take appropriate action to notify relevant Federal, State, and local authorities, and, if necessary, other appropriate persons (including the public). If the released listed agent or toxin is an overlap agent or toxin, the Secretary shall promptly notify the Secretary of Health and Human Services upon notification by the registered person.

(k) REPORTS.—The Secretary shall report to the Congress annually on the number and nature of notifications received under subsection (e)(8) (relating to theft or loss) and subsection (j) (relating to releases).

(l) DEFINITIONS.—For purposes of this section:

(1) The terms ''biological agent'' and ''toxin'' have the meanings given such terms in section 178 of title 18, United States Code.

(2) The term ''listed agents and toxins'' means biological agents and toxins listed pursuant to subsection (a)(1).

(3) The term ''listed agents or toxins'' means biological agents or toxins listed pursuant to subsection (a)(1).

(4) The terms ''overlap agents and toxins'' and ''overlap agent or toxin'' have the meaning given such terms in subsection (g)(1)(A)(ii).

(5) The term ''person'' includes Federal, State, and local governmental entities.

(6) The term ''registered person'' means a person registered under regulations under subsection (b) or (c).

(7) The term '''Secretary'' means the Secretary of Agriculture.

(m) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2007, in addition to other funds that may be available.

SEC. 213. IMPLEMENTATION BY DEPARTMENT OF AGRICULTURE.

(a) DATE CERTAIN FOR PROMULGATION OF LIST.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Agriculture (referred to in this section as the ''Secretary'') shall promulgate an interim final rule that establishes the initial list under section 212(a)(1). In promulgating such rule, the Secretary shall provide written guidance on the manner in which the notice required in subsection (b) is to be provided to the Secretary.

(b) DATE CERTAIN FOR NOTICE OF POSSESSION.—Not later than 60 days after the date on which the Secretary promulgates the interim final rule under subsection (a), all persons (unless exempt under section 212(g)) in possession of biological agents or toxins included on the list referred to in subsection (a) shall notify the Secretary of such possession.

(c) DATE CERTAIN FOR PROMULGATION; EFFECTIVE DATE REGARDING CRIMINAL AND CIVIL PENALTIES.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall promulgate an interim final rule for carrying out section 212, other than for the list referred to in subsection (a) of this section (but such rule may incorporate by reference provisions promulgated pursuant to subsection (a)). Such interim final rule shall take effect 60 days after the date on which such rule is promulgated, including for purposes of—

(1) section 175b(c) of title 18, United States Code (relating to criminal penalties), as added by section 231(a)(5) of this Act; and

(2) section 212(i) of this Act (relating to civil penalties).

(d) TRANSITIONAL PROVISION REGARDING CURRENT RESEARCH AND EDUCATION.—The interim final rule under subsection (c) shall include time frames for the applicability of the rule that minimize disruption of research or educational projects that involve biological agents and toxins listed pursuant to section 212(a)(1) and that were underway as of the effective date of such rule.

Subtitle C—Interagency Coordination Regarding Overlap Agents and Toxins

SEC. 221. INTERAGENCY COORDINATION.

(a) IN GENERAL.—

(1) COORDINATION.—The Secretary of Agriculture and the Secretary of Health and Human Services shall in accordance with this section coordinate activities regarding overlap agents and toxins.

(2) OVERLAP AGENTS AND TOXINS; OTHER TERMS.—For purposes of this section:

(A) The term ''overlap agent or toxin'' means a biological agent or toxin that—

(i) is listed pursuant to section 315A(a)(1) of the Public Health Service Act, as added by section 201 of this Act; and

(ii) is listed pursuant to section 212(a)(1) of this Act.

(B) The term ''section 351A program'' means the program under section 351A of the Public Health Service Act.

(C) The term ''section 212 program'' means the program under section 212 of this Act.

(b) CERTAIN MATTERS.—In carrying out the section 351A program and the section 212 program, the Secretary of Health and Human Services and the Secretary of Agriculture shall, to

the greatest extent practicable, coordinate activities to achieve the following purposes:

(1) To minimize any conflicts between the regulations issued under, and activities carried out under, such programs.

(2) To minimize the administrative burden on persons subject to regulation under both of such programs.

(3) To ensure the appropriate availability of biological agents and toxins for legitimate biomedical, agricultural or veterinary research, education, or other such purposes.

(4) To ensure that registration information for overlap agents and toxins under the section 351A and section 212 programs is contained in both the national database under the section 351A program and the national database under the section 212 program.

(c) MEMORANDUM OF UNDERSTANDING.—

(1) IN GENERAL.—Promptly after the date of the enactment of this Act, the Secretary of Agriculture and the Secretary of Health and Human Services shall enter into a memorandum of understanding regarding overlap agents and toxins that is in accordance with paragraphs (2) through (4) and contains such additional provisions as the Secretary of Agriculture and the Secretary of Health and Human Services determine to be appropriate.

(2) SINGLE REGISTRATION SYSTEM REGARDING REGISTERED PERSONS.—The memorandum of understanding under paragraph (1) shall provide for the development and implementation of a single system of registration for persons who possess, use, or transfer overlap agents or toxins and are required to register under both the section 351A program and the section 212 program. For purposes of such system, the memorandum shall provide for the development and implementation of the following:

(A) A single registration form through which the person submitting the form provides all information that is required for registration under the section 351A program and all information that is required for registration under the section 212 program.

(B) A procedure through which a person may choose to submit the single registration form to the agency administering the section 351A program (in the manner provided under such program), or to the agency administering the section 212 program (in the manner provided under such program).

(C) A procedure through which a copy of a single registration form received pursuant to subparagraph (B) by the agency administering one of such programs is promptly provided to the agency administering the other program.

(D) A procedure through which the agency receiving the single registration form under one of such programs obtains the concurrence of the agency administering the other program that the requirements for registration under the other program have been met.

(E) A procedure through which—

(i) the agency receiving the single registration form under one of such programs informs the agency administering the other program whether the receiving agency has denied the registration; and

(ii) each of such agencies ensures that registrations are entered into the national database of registered persons that is maintained by each such agency.

(3) PROCESS OF IDENTIFICATION.—With respect to the process of identification under the section 351A program and the section 212 program for names and other identifying information submitted to the Attorney General (relating to certain categories of individuals and entities), the memorandum of understanding under paragraph (1) shall provide for the development and implementation of the following:

(A) A procedure through which a person who is required to submit information pursuant to such process makes (in addition to the submission to the Attorney General) a submission, at the option of the person, to either the agency administering the section 351A program or the agency administering the section 212 program, but not both, which submission satisfies the requirement of submission for both of such programs.

(B) A procedure for the sharing by both of such agencies of information received from the Attorney General by one of such agencies pursuant to the submission under subparagraph (A).

(C) A procedure through which the agencies administering such programs concur in determinations that access to overlap agents and toxins will be granted.

(4) COORDINATION OF INSPECTIONS AND ENFORCEMENT.—The memorandum of understanding under paragraph (1) shall provide for the development and implementation of procedures under which Federal personnel under the section 351A program and the section 212 program may share responsibilities for inspections and enforcement activities under such programs regarding overlap agents and toxins. Activities carried out under such procedures by one of such programs on behalf of the other may be carried out with or without reimbursement by the agency that administers the other program.

(5) DATE CERTAIN FOR IMPLEMENTATION.—The memorandum of understanding under paragraph (1) shall be implemented not later than 180 days after the date of the enactment of this Act. Until the single system of registration under paragraph (2) is implemented, persons who possess, use, or transfer overlap agents or toxins shall register under both the section 351A program and the section 212 program.

(d) JOINT REGULATIONS.—Not later than 18 months after the date on which the single system of registration under subsection (c)(2) is implemented, the Secretary of Health and Human Services and the Secretary of Agriculture shall jointly issue regulations for the possession, use, and transfer of overlap agents and toxins that meet the requirements of both the section 351A program and the section 212 program.

Subtitle D—Criminal Penalties Regarding Certain Biological Agents and Toxins

SEC. 231. CRIMINAL PENALTIES.

(a) IN GENERAL.—Section 175b of title 18, United States Code, as added by section 817 of Public Law 107–56, is amended—

(1) by striking ''(a)'' and inserting ''(a)(1)'';

(2) by transferring subsection (c) from the current placement of the subsection and inserting the subsection before subsection (b);

(3) by striking ''(c)'' and inserting ''(2);

(4) by redesignating subsection (b) as subsection (d); and

(5) by inserting before subsection (d) (as so redesignated) the following subsections:

''(b) TRANSFER TO UNREGISTERED PERSON.—

''(1) SELECT AGENTS.—Whoever transfers a select agent to a person who the transferor knows or has reasonable cause to believe is not registered as required by regulations under subsection (b) or (c) of section 351A of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

''(2) CERTAIN OTHER BIOLOGICAL AGENTS AND TOXINS.—Whoever transfers a biological agent or toxin listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002 to a person who the transferor knows or has reasonable cause to believe is not registered as required by regulations under subsection (b) or (c) of section 212 of such Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

''(c) UNREGISTERED FOR POSSESSION.—

''(1) SELECT AGENTS.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a select agent for which such person has not obtained a registration required by regulations under section 351A(c) of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

''(2) CERTAIN OTHER BIOLOGICAL AGENTS AND TOXINS.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a biological agent or toxin listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002 for which such person has not obtained a registration required by regulations under section 212(c) of such Act shall be fined under this title, or imprisoned for not more than 5 years, or both.''.

(b) CONFORMING AMENDMENTS.—Chapter 10 of title 18, United States Code, is amended—

(1) in section 175b (as added by section 817 of Public Law 107–56 and amended by subsection (a) of this section)—

(A) in subsection (d)(1), by striking ''The term'' and all that follows through ''does not include'' and inserting the following: ''The term 'select agent' means a biological agent or toxin to which subsection (a) applies. Such term (including for purposes of subsection (a)) does not include''; and

*(B) in the heading for the section, by striking ''**Possession by restricted persons**'' and inserting ''**Select agents; certain other agents**''; and*

(2) in the chapter analysis, in the item relating to section 175b, by striking ''Possession by restricted persons.'' and inserting ''Select agents; certain other agents.''.

(c) TECHNICAL CORRECTIONS.—Chapter 10 of title 18, United States Code, as amended by section 817 of Public Law 107–56 and subsections (a) and (b) of this section, is amended—

(1) in section 175(c), by striking ''protective'' and all that follows and inserting ''protective, bona fide research, or other peaceful purposes.'';

(2) in section 175b—

(A) in subsection (a)(1), by striking ''described in subsection (b)'' and all that follows and inserting the following: ''shall ship or transport in or affecting interstate or foreign commerce, or possess in or affecting interstate or foreign commerce, any biological agent or toxin, or receive any biological agent or toxin that has been shipped or transported in interstate or foreign commerce, if the biological agent or toxin is listed as a select agent in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not exempted under subsection (h) of section 72.6, or Appendix A of part 72, of title 42, Code of Federal Regulations.''; and

(B) in subsection (d)(3), by striking ''section 1010(a)(3)'' and inserting ''section 101(a)(3)'';

(3) in section 176(a)(1)(A), by striking ''exists by reason of'' and inserting ''pertains to''; and

(4) in section 178—

(A) in paragraph (1), by striking ''means any micro-organism'' and all that follows through ''product, capable of'' and inserting the following: ''means any microorganism (including, but not limited to, bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substance, or any naturally occurring, bioengineered or synthesized component of any such microorganism or infectious substance, capable of'';

(B) in paragraph (2), by striking ''means the toxic'' and all that follows through ''including—'' and inserting the following: ''means the toxic material or product of plants, animals, microorganisms (including, but not limited to, bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substances, or a recombinant or synthesized molecule, whatever their origin and method of production, and includes—''; and

(C) in paragraph (4), by striking ''recombinant molecule,'' and all that follows through ''biotechnology,'' and inserting ''recombinant or synthesized molecule,''.

(d) ADDITIONAL TECHNICAL CORRECTION.—Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking ''section 229F)'' and all that follows through ''section 178)—'' and inserting ''section 229F)—''; and

(2) in subsection (c)(2)(C), by striking ''a disease organism'' and inserting ''a biological

agent, toxin, or vector (as those terms are defined in section 178 of this title)''.

TITLE III—PROTECTING SAFETY AND SECURITY OF FOOD AND DRUG SUPPLY

Subtitle A—Protection of Food Supply

SEC. 301. FOOD SAFETY AND SECURITY STRATEGY.

(a) IN GENERAL.—The President's Council on Food Safety (as established by Executive Order 13100) shall, in consultation with the Secretary of Transportation, the Secretary of the Treasury, other relevant Federal agencies, the food industry, consumer and producer groups, scientific organizations, and the States, develop a crisis communications and education strategy with respect to bioterrorist threats to the food supply. Such strategy shall address threat assessments; technologies and procedures for securing food processing and manufacturing facilities and modes of transportation; response and notification procedures; and risk communications to the public.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of implementing the strategy developed under subsection (a), there are authorized to be appropriated $750,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year.

SEC. 302. PROTECTION AGAINST ADULTERATION OF FOOD.

(a) INCREASING INSPECTIONS FOR DETECTION OF ADULTERATION OF FOOD.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended by adding at the end the following subsection:

''(h)(1) The Secretary shall give high priority to increasing the number of inspections under this section for the purpose of enabling the Secretary to inspect food offered for import at ports of entry into the United States, with the greatest priority given to inspections to detect the intentional adulteration of food.''.

(b) IMPROVEMENTS TO INFORMATION MANAGEMENT SYSTEMS.—Section 801(h) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a) of this section, is amended by adding at the end the following paragraph:

''(2) The Secretary shall give high priority to making necessary improvements to the information management systems of the Food and Drug Administration that contain information related to foods imported or offered for import into the United States for purposes of improving the ability of the Secretary to allocate resources, detect the intentional adulteration of food, and facilitate the importation of food that is in compliance with this Act.''.

(c) LINKAGES WITH APPROPRIATE PUBLIC ENTITIES.—Section 801(h) of the Federal Food, Drug, and Cosmetic Act, as amended by subsection (b) of this section, is amended by adding at the end the following paragraph:

''(3) The Secretary shall improve linkages with other regulatory agencies of the Federal Government that share responsibility for food safety, and shall with respect to such safety improve linkages with the States and Indian tribes (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))).''.

(d) TESTING FOR RAPID DETECTION OF ADULTERATION OF FOOD.—Section 801 of the Federal Food, Drug, and Cosmetic Act, as amended by subsection (a) of this section, is amended by adding at the end the following:

''(i)(1) For use in inspections of food under this section, the Secretary shall provide for research on the development of tests and sampling methodologies—

''(A) whose purpose is to test food in order to rapidly detect the adulteration of the food, with the greatest priority given to detect the intentional adulteration of food; and

''(B) whose results offer significant improvements over the available technology in terms of accuracy, timing, or costs.

''(2) In providing for research under paragraph (1), the Secretary shall give priority to conducting research on the development of tests that are suitable for inspections of food at ports of entry into the United States.

''(3) In providing for research under paragraph (1), the Secretary shall as appropriate coordinate with the Director of the Centers for Disease Control and Prevention, the Director of the National Institutes of Health, the Administrator of the Environmental Protection Agency, and the Secretary of Agriculture.

''(4) The Secretary shall annually submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report describing the progress made in research under paragraph (1), including progress regarding paragraph (2).''.

(e) ASSESSMENT OF THREAT OF INTENTIONAL ADULTERATION OF FOOD.—The Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall ensure that, not later than six months after the date of the enactment of this Act—

(1) the assessment that (as of such date of enactment) is being conducted on the threat of the intentional adulteration of food is completed; and

(2) a report describing the findings of the assessment is submitted to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Health, Education, Labor, and Pensions of the Senate.

(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section and the amendments made by this section, there are authorized to be appropriated $100,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2006, in addition to other authorizations of appropriations that are available for such purpose.

SEC. 303. ADMINISTRATIVE DETENTION.

(a) EXPANDED AUTHORITY.—Section 304 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334) is amended by adding at the end the following subsection:

''(h) ADMINISTRATIVE DETENTION OF FOODS.—

''(1) DETENTION AUTHORITY.—

''(A) IN GENERAL.—An officer or qualified employee of the Food and Drug Administration may order the detention, in accordance with this subsection, of any article of food that is found during an inspection, examination, or investigation under this Act conducted by such officer or qualified employee, if the officer or qualified employee has credible evidence or information indicating that such article presents a threat of serious adverse health consequences or death to humans or animals.

''(B) SECRETARY'S APPROVAL.—An article of food may be ordered detained under subparagraph (A) only if the Secretary or an official designated by the Secretary approves the order. An official may not be so designated unless the official is the director of the district under this Act in which the article involved is located, or is an official senior to such director.

''(2) PERIOD OF DETENTION.—An article of food may be detained under paragraph (1) for a reasonable period, not to exceed 20 days, unless a greater period, not to exceed 30 days, is necessary, to enable the Secretary to institute an action under subsection (a) or section 302. The Secretary shall by regulation provide for procedures for instituting such action on an expedited basis with respect to perishable foods.

''(3) SECURITY OF DETAINED ARTICLE.—An order under paragraph (1) with respect to an article of food may require that such article be labeled or marked as detained, and shall require that the article be removed to a secure facility, as appropriate. An article subject to such an order shall not be transferred by any person from the place at which the article is ordered detained, or from the place to which the article is so removed, as the case may be, until released by the Secretary or until the expiration of the detention period applicable under such order, whichever occurs first. This subsection may not be construed as authorizing the delivery of the article pursuant to the execution of a bond while the article is subject to the order, and section 801(b) does not authorize the delivery of the article pursuant to the execution of a bond while the article is subject to the order.

''(4) APPEAL OF DETENTION ORDER.—

''(A) IN GENERAL.—With respect to an article of food ordered detained under paragraph (1), any person who would be entitled to be a claimant for such article if the article were seized under subsection (a) may appeal the order to the Secretary. Within five days after such an appeal is filed, the Secretary, after providing opportunity for an informal hearing, shall confirm or terminate the order involved, and such confirmation by the Secretary shall be considered a final agency action for purposes of section 702 of title 5, United States Code. If during such five-day period the Secretary fails to provide such an opportunity, or to confirm or terminate such order, the order is deemed to be terminated.

''(B) EFFECT OF INSTITUTING COURT ACTION.—The process under subparagraph (A) for the appeal of an order under paragraph (1) terminates if the Secretary institutes an action under subsection (a) or section 302 regarding the article of food involved.''.

(b) PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

''(bb) The transfer of an article of food in violation of an order under section 304(h), or the removal or alteration of any mark or label required by the order to identify the article as detained.''.

(c) TEMPORARY HOLDS AT PORTS OF ENTRY.—Section 801 of the Federal Food, Drug, and Cosmetic Act, as amended by section 302(d)of this Act, is amended by adding at the end the following:

''(j)(1) If an officer or qualified employee of the Food and Drug Administration has credible evidence or information indicating that an article of food presents a threat of serious adverse health consequences or death to humans or animals, and such officer or qualified employee is unable to inspect, examine, or investigate such article upon the article being offered for import at a port of entry into the United States, the officer or qualified employee shall request the Secretary of Treasury to hold the food at the port of entry for a reasonable period of time, not to exceed 24 hours, for the purpose of enabling the Secretary to inspect, examine, or investigate the article as appropriate.

''(2) The Secretary shall request the Secretary of Treasury to remove an article held pursuant to paragraph (1) to a secure facility, as appropriate. During the period of time that such article is so held, the article shall not be transferred by any person from the port of entry into the United States for the article, or from the secure facility to which the article has been removed, as the case may be. Subsection (b) does not authorize the delivery of the article pursuant to the execution of a bond while the article is so held.

''(3) An officer or qualified employee of the Food and Drug Administration may make a request under paragraph (1) only if the Secretary or an official designated by the Secretary approves the request. An official may not be so designated unless the official is the director of the district under this Act in which the article involved is located, or is an official senior to such director.

''(4) With respect to an article of food for which a request under paragraph (1) is made, the Secretary, promptly after the request is made, shall notify the State in which the port of entry involved is located that the request has been made, and as applicable, that such article is being held under this subsection.''.

SEC. 304. DEBARMENT FOR REPEATED OR SERIOUS FOOD IMPORT VIOLATIONS.

(a) DEBARMENT AUTHORITY.—

(1) PERMISSIVE DEBARMENT.—Section 306(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a(b)(1)) is amended—

(A) in subparagraph (A), by striking ''or'' after the comma at the end;

(B) in subparagraph (B), by striking the period at the end and inserting '', or''; and

(C) by adding at the end the following subparagraph:

''(C) a person from importing an article of food or offering such an article for import into the United States.'';

(2) AMENDMENT REGARDING DEBARMENT GROUNDS.—Section 306(b)) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a(b)) is amended—

(A) in paragraph (2), in the matter preceding subparagraph (A), by inserting ''subparagraph (A) or (B) of'' before ''paragraph (1)'';

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following paragraph:

''(3) PERSONS SUBJECT TO PERMISSIVE DEBARMENT; FOOD IMPORTATION.—A person is subject to debarment under paragraph (1)(C) if—

''(A) the person has been convicted of a felony for conduct relating to the importation into the United States of any food; or

''(B) the person has engaged in a pattern of importing or offering for import adulterated food that presents a threat of serious adverse health consequences or death to humans or animals.''.

(b) CONFORMING AMENDMENTS.—Section 306 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a) is amended—

(1) in subsection (a), in the heading for the subsection, by striking ''MANDATORY DEBARMENT.—'' and inserting ''MANDATORY DEBARMENT; CERTAIN DRUG APPLICATIONS.—'';

(2) in subsection (b)—

(A) in the heading for the subsection, by striking ''PERMISSIVE DEBARMENT.—'' and inserting ''PERMISSIVE DEBARMENT; CERTAIN DRUG APPLICATIONS; FOOD IMPORTS.—''; and

(B) in paragraph (2), in the heading for the paragraph, by striking ''PERMISSIVE DEBARMENT.—'' and inserting ''PERMISSIVE DEBARMENT; CERTAIN DRUG APPLICATIONS.—'';

(3) in subsection (c)(2)(A)(iii), by striking ''subsection (b)(2)'' and inserting ''paragraph (2) or (3) of subsection (b)'';

(4) in subsection (d)(3)—

(A) in subparagraph (A)(i), by striking ''or (b)(2)(A)'' and inserting '' or paragraph (2)(A) or (3) of subsection (b)'';

(B) in subparagraph (A)(ii)(II), by inserting ''in applicable cases,'' before ''sufficient audits'';

(C) in subparagraph (B), in each of clauses (i) and (ii), by inserting ''or subsection (b)(3)'' after ''subsection (b)(2)(B)''; and

(D) in subparagraph (B)(ii), by inserting before the period the following: ''or the food importation process, as the case may be''.

(c) EFFECTIVE DATES.—Section 306(l)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a(l)(2)) is amended—

(1) in the first sentence—

(A) by striking ''and'' after ''subsection (b)(2),''; and

(B) by inserting '', and subsection (b)(3)(A)'' after ''subsection (b)(2)(B)''; and

(2) in the second sentence, by inserting '', subsection (b)(3)(B),'' after ''subsection (b)(2)(B)''.

(d) PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act, as amended by section 303(b) of this Act, is amended by adding at the end the following:

''(cc) The importing or offering for import into the United States of an article of food by, with the assistance of, or at the direction of, a person debarred under section 306(b)(3).''.

(e) IMPORTATION BY DEBARRED PERSONS.—Section 801 of the Federal Food, Drug, and Cosmetic Act, as amended by section 303(c) of this Act, is amended by adding at the end the following subsection:

''(k)(1) If an article of food is being imported or offered for import into the United States, and the importer, owner, or consignee of the article is a person who has been debarred under section 306(b)(3), such article shall be held at the port of entry for the article, and may not be delivered to such person. Subsection (b) does not authorize the delivery of the article pursuant to the execution of a bond while the article is so held. The article shall be removed to a secure facility, as appropriate. During the period of time that such article is so held, the article shall not be transferred by any person from the port of entry into the United States for the article, or from the secure facility to which the article has been removed, as the case may be.

''(2) An article of food held under paragraph (1) may be delivered to a person who is not a debarred person under section 306(b)(3) if such person affirmatively establishes, at the expense of the person, that the article complies with the requirements of this Act, as determined by the Secretary.''.

SEC. 305. REGISTRATION OF FOOD FACILITIES.

(a) IN GENERAL.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

''SEC. 415. REGISTRATION OF FOOD FACILITIES.

''(a) REGISTRATION.—

''(1) IN GENERAL.—The Secretary shall by regulation require that any facility engaged in manufacturing, processing, packing, or holding food for consumption in the United States be registered with the Secretary. To be registered—

''(A) for a domestic facility, the owner, operator, or agent in charge of the facility shall submit a registration to the Secretary; and

''(B) for a foreign facility, the owner, operator, or agent in charge of the facility shall submit a registration to the Secretary and shall include with the registration the name of the United States agent for the facility.

''(2) REGISTRATION.—An entity (referred to in this section as the 'registrant') shall submit a registration under paragraph (1) to the Secretary containing information necessary to notify the Secretary of the name and address of each facility at which, and all trade names under which, the registrant conducts business and, when determined necessary by the Secretary through guidance, the general food category (as identified under section 170.3 of title 21, Code of Federal Regulations) of any food manufactured, processed, packed, or held at such facility. The registrant shall notify the Secretary in a timely manner of changes to such information.

''(3) PROCEDURE.—Upon receipt of a completed registration described in paragraph (1), the Secretary shall notify the registrant of the receipt of such registration and assign a registration number to each registered facility.

''(4) LIST.—The Secretary shall compile and maintain an up-to-date list of facilities that are registered under this section. Such list and any registration documents submitted pursuant to this subsection shall not be subject to disclosure under section 552 of title 5, United States Code. Information derived from such list or registration documents shall not be subject to disclosure under section 552 of title 5, United States Code, to the extent that it discloses the identity or location of a specific registered person.

''(b) FACILITY.—For purposes of this section:

''(1) The term 'facility' includes any factory, warehouse, or establishment (including a factory, warehouse, or establishment of an importer) that manufactures, processes, packs, or holds food. Such term does not include farms; restaurants; other retail food establishments; nonprofit food establishments in which food is prepared for or served directly to the consumer; or fishing vessels (except such vessels engaged in processing as defined in section 123.3(k) of title 21, Code of Federal Regulations).

''(2) The term 'domestic facility' means a facility located in any of the States or Territories.

''(3)(A) The term 'foreign facility' means a facility that manufacturers, processes, packs, or holds food, but only if food from such facility is exported to the United States without further processing or packaging outside the United States.

''(B) A food may not be considered to have undergone further processing or packaging for purposes of subparagraph (A) solely on the basis that labeling was added or that any similar activity of a de minimis nature was carried out with respect to the food.

''(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to authorize the Secretary to require an application, review, or licensing process.''.

(b) PROHIBITED ACTS.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331), as amended by section 304(d) of this Act, is amended by adding at the end the following:

''(dd) The failure to register in accordance with section 415.''.

(c) IMPORTATION; FAILURE TO REGISTER.—Section 801 of the Federal Food, Drug, and Cosmetic Act, as amended by section 304(e) of this Act, is amended by adding at the end the following subsection:

''(l)(1) If an article of food is being imported or offered for import into the United States, and such article is from a foreign facility for which a registration has not been submitted to the Secretary under section 415, such article shall be held at the port of entry for the article, and may not be delivered to the importer, owner, or consignee of the article, until the foreign facility is so registered. Subsection (b) does not authorize the delivery of the article pursuant to the execution of a bond while the article is so held. The article shall be removed to a secure facility, as appropriate. During the period of time that such article is so held, the article shall not be transferred by any person from the port of entry into the United States for the article, or from the secure facility to which the article has been removed, as the case may be.''.

(d) ELECTRONIC FILING.—For the purpose of reducing paperwork and reporting burdens, the Secretary of Health and Human Services may provide for, and encourage the use of, electronic methods of submitting to the Secretary registrations required pursuant to this section. In providing for the electronic submission of such registrations, the Secretary shall ensure adequate authentication protocols are used to enable identification of the registrant and validation of the data as appropriate.

(e) RULEMAKING; EFFECTIVE DATE.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate proposed and final regulations for the requirement of registration under section 415 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section). Such requirement of registration takes effect—

(1) upon the effective date of such final regulations; or

(2) upon the expiration of such 18-month period if the final regulations have not been made effective as of the expiration of such period, subject to compliance with the final regulations when the final regulations are made effective.

SEC. 306. MAINTENANCE AND INSPECTION OF RECORDS FOR FOODS.

(a) IN GENERAL.—Chapter IV of the Federal Food, Drug, and Cosmetic Act, as amended by section 305 of this Act, is amended by inserting before section 415 the following section:

''SEC. 414. MAINTENANCE AND INSPECTION OF RECORDS.

''(a) RECORDS INSPECTION.—If the Secretary has a reasonable belief that an article of food is adulterated and presents a threat of serious adverse health consequences or death to humans

or animals, each person (excluding farms and restaurants) who manufactures, processes, packs, distributes, receives, holds, or imports such article shall, at the request of an officer or employee duly designated by the Secretary, permit such officer or employee, upon presentation of appropriate credentials and a written notice to such person, at reasonable times and within reasonable limits and in a reasonable manner, to have access to and copy all records relating to such article that are needed to assist the Secretary in determining whether the food is adulterated and presents a threat of serious adverse health consequences or death to humans or animals. The requirement under the preceding sentence applies to all records relating to the manufacture, processing, packing, distribution, receipt, holding, or importation of such article maintained by or on behalf of such person in any format (including paper and electronic formats) and at any location.

''(b) REGULATIONS CONCERNING RECORDKEEPING.—The Secretary, in consultation and coordination, as appropriate, with other Federal departments and agencies with responsibilities for regulating food safety, may by regulation establish requirements regarding the establishment and maintenance, for not longer than two years, of records by persons (excluding farms and restaurants) who manufacture, process, pack, transport, distribute, receive, hold, or import food, which records are needed by the Secretary for inspection to allow the Secretary to identify the immediate previous sources and the immediate subsequent recipients of food, including its packaging, in order to address credible threats of serious adverse health consequences or death to humans or animals. The Secretary shall take into account the size of a business in promulgating regulations under this section.

''(c) PROTECTION OF SENSITIVE INFORMATION.—The Secretary shall take appropriate measures to ensure that there are in effect effective procedures to prevent the unauthorized disclosure of any trade secret or confidential information that is obtained by the Secretary pursuant to this section.

''(d) LIMITATIONS.—This section shall not be construed—

''(1) to limit the authority of the Secretary to inspect records or to require establishment and maintenance of records under any other provision of this Act;

''(2) to authorize the Secretary to impose any requirements with respect to a food to the extent that it is within the exclusive jurisdiction of the Secretary of Agriculture pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), or the Egg Products Inspection Act (21 U.S.C. 1031 et seq);

''(3) to have any legal effect on section 552 of title 5, United States Code, or section 1905 of title 18, United States Code; or

''(4) to extend to recipes for food, financial data, pricing data, personnel data, research data, or sales data (other than shipment data regarding sales).''.

(b) FACTORY INSPECTION.—Section 704(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374(a)) is amended—

(1) in paragraph (1), by inserting after the first sentence the following new sentence: ''In the case of any person (excluding farms and restaurants) who manufactures, processes, packs, transports, distributes, holds, or imports foods, the inspection shall extend to all records and other information described in section 414 when the Secretary has a reasonable belief that an article of food is adulterated and presents a threat of serious adverse health consequences or death to humans or animals, subject to the limitations established in section 414(d).''; and

(2) in paragraph (2), in the matter preceding subparagraph (A), by striking ''second sentence'' and inserting ''third sentence''.

(c) PROHIBITED ACT.—Section 301 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 331) is amended—

(1) in paragraph (e)—

(A) by striking ''by section 412, 504, or 703'' and inserting ''by section 412, 414, 504, 703, or 704(a)''; and

(B) by striking ''under section 412'' and inserting ''under section 412, 414(b)''; and

(2) in paragraph (j), by inserting ''414,'' after ''412,''.

(d) EXPEDITED RULEMAKING.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall promulgate proposed and final regulations establishing recordkeeping requirements under subsection 414(b) of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)).

SEC. 307. PRIOR NOTICE OF IMPORTED FOOD SHIPMENTS.

(a) IN GENERAL.—Section 801 of the Federal Food, Drug, and Cosmetic Act, as amended by section 305(c) of this Act, is amended by adding at the end the following subsection:

''(m)(1) In the case of an article of food that is being imported or offered for import into the United States, the Secretary, after consultation with the Secretary of the Treasury, shall by regulation require, for the purpose of enabling such article to be inspected at ports of entry into the United States, the submission to the Secretary of a notice providing the identity of each of the following: The article; the manufacturer and shipper of the article; if known within the specified period of time that notice is required to be provided, the grower of the article; the country from which the article originates; the country from which the article is shipped; and the anticipated port of entry for the article. An article of food imported or offered for import without submission of such notice in accordance with the requirements under this paragraph shall be refused admission into the United States. Nothing in this section may be construed as a limitation on the port of entry for an article of food.

''(2)(A) Regulations under paragraph (1) shall require that a notice under such paragraph be provided by a specified period of time in advance of the time of the importation of the article of food involved or the offering of the food for import, which period shall be no less than the minimum amount of time necessary for the Secretary to receive, review, and appropriately respond to such notification, but may not exceed five days. In determining the specified period of time required under this subparagraph, the Secretary may consider, but is not limited to consideration of, the effect on commerce of such period of time, the locations of the various ports of entry into the United States, the various modes of transportation, the types of food imported into the United States, and any other such consideration. Nothing in the preceding sentence may be construed as a limitation on the obligation of the Secretary to receive, review, and appropriately respond to any notice under paragraph (1).

''(B)(i) If an article of food is being imported or offered for import into the United States and a notice under paragraph (1) is not provided in advance in accordance with the requirements under paragraph (1), such article shall be held at the port of entry for the article, and may not be delivered to the importer, owner, or consignee of the article, until such notice is submitted to the Secretary, and the Secretary examines the notice and determines that the notice is in accordance with the requirements under paragraph (1). Subsection (b) does not authorize the delivery of the article pursuant to the execution of a bond while the article is so held. The article shall be removed to a secure facility, as appropriate. During the period of time that such article is so held, the article shall not be transferred by any person from the port of entry into the United States for the article, or from the secure facility to which the article has been removed, as the case may be.

''(ii) In carrying out clause (i) with respect to an article of food, the Secretary shall determine whether there is in the possession of the Secretary any credible evidence or information indicating that such article presents a threat of serious adverse health consequences or death to humans or animals.

''(3)(A) This subsection may not be construed as limiting the authority of the Secretary to obtain information under any other provision of this Act.

''(B) This subsection may not be construed as authorizing the Secretary to impose any requirements with respect to a food to the extent that it is within the exclusive jurisdiction of the Secretary of Agriculture pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), or the Egg Products Inspection Act (21 U.S.C. 1031 et seq).''.

(b) PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act, as amended by section 305(b) of this Act, is amended by adding at the end the following:

''(ee) The importing or offering for import into the United States of an article of food in violation of the requirements under section 801(m).''.

(c) RULEMAKING; EFFECTIVE DATE.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate proposed and final regulations for the requirement of providing notice in accordance with section 801(m) of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section). Such requirement of notification takes effect—

(A) upon the effective date of such final regulations; or

(B) upon the expiration of such 18-month period if the final regulations have not been made effective as of the expiration of such period, subject to compliance with the final regulations when the final regulations are made effective.

(2) DEFAULT; MINIMUM PERIOD OF ADVANCE NOTICE.—If under paragraph (1) the requirement for providing notice in accordance with section 801(m) of the Federal Food, Drug, and Cosmetic Act takes effect without final regulations having been made effective, then for purposes of such requirement, the specified period of time that the notice is required to be made in advance of the time of the importation of the article of food involved or the offering of the food for import shall be not fewer than eight hours and not more than five days, which shall remain in effect until the final regulations are made effective.

SEC. 308. AUTHORITY TO MARK ARTICLES REFUSED ADMISSION INTO UNITED STATES.

(a) IN GENERAL.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)), as amended by section 307(a) of this Act, is amended by adding at the end the following:

''(n)(1) If a food has been refused admission under subsection (a), other than such a food that is required to be destroyed, the Secretary may require the owner or consignee of the food to affix to the container of the food a label that clearly and conspicuously bears the statement: 'UNITED STATES: REFUSED ENTRY'.

''(2) All expenses in connection with affixing a label under paragraph (1) shall be paid by the owner or consignee of the food involved, and in default of such payment, shall constitute a lien against future importations made by such owner or consignee.

''(3) A requirement under paragraph (1) remains in effect until the Secretary determines that the food involved has been brought into compliance with this Act.''.

(b) MISBRANDED FOODS.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following:

''(v) If—

''(1) it fails to bear a label required by the Secretary under section 801(n)(1) (relating to food refused admission into the United States);

''(2) the Secretary finds that the food presents a threat of serious adverse health consequences or death to humans or animals; and

''(3) upon or after notifying the owner or consignee involved that the label is required under section 801, the Secretary informs the owner or consignee that the food presents such a threat.''.

(c) RULE OF CONSTRUCTION.—With respect to articles of food that are imported or offered for import into the United States, nothing in this section shall be construed to limit the authority of the Secretary of Health and Human Services or the Secretary of the Treasury to require the marking of refused articles of food under any other provision of law.

SEC. 309. PROHIBITION AGAINST PORT SHOPPING.

Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

''(h) If it is an article of food imported or offered for import into the United States and the article of food has previously been refused admission under section 801(a), unless the person reoffering the article affirmatively establishes, at the expense of the owner or consignee of the article, that the article complies with the applicable requirements of this Act, as determined by the Secretary.''.

SEC. 310. NOTICES TO STATES REGARDING IMPORTED FOOD.

Chapter IX of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.) is amended by adding at the end the following section:

''SEC. 908. NOTICES TO STATES REGARDING IMPORTED FOOD.

''(a) IN GENERAL.—If the Secretary has credible evidence or information indicating that a shipment of imported food or portion thereof presents a threat of serious adverse health consequences or death to humans or animals, the Secretary shall provide notice regarding such threat to the States in which the food is held or will be held, and to the States in which the manufacturer, packer, or distributor of the food is located, to the extent that the Secretary has knowledge of which States are so involved. In providing notice to a State, the Secretary shall request the State to take such action as the State considers appropriate, if any, to protect the public health regarding the food involved.

''(b) RULE OF CONSTRUCTION.—Subsection (a) may not be construed as limiting the authority of the Secretary with respect to food under any other provision of this Act.''.

SEC. 311. GRANTS TO STATES FOR INSPECTIONS.

Chapter IX of the Federal Food, Drug and Cosmetic Act, as amended by section 310 of this Act, is amended by adding at the end the following section:

''SEC. 909. GRANTS TO STATES FOR INSPECTIONS.

''(a) IN GENERAL.—The Secretary is authorized to make grants to States, territories, and Indian tribes (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))) that undertake examinations, inspections, and investigations, and related activities under section 702. The funds provided under such grants shall only be available for the costs of conducting such examinations, inspections, investigations, and related activities.

''(b) NOTICES REGARDING ADULTERATED IMPORTED FOOD.—The Secretary may make grants to the States for the purpose of assisting the States with the costs of taking appropriate action to protect the public health in response to notification under section 908, including planning and otherwise preparing to take such action.

''(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $10,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2006.''.

SEC. 312. SURVEILLANCE AND INFORMATION GRANTS AND AUTHORITIES.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 317P the following:

''SEC. 317R. FOOD SAFETY GRANTS.

''(a) IN GENERAL.—The Secretary may award grants to States and Indian tribes (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))) to expand participation in networks to enhance Federal, State, and local food safety efforts, including meeting the costs of establishing and maintaining the food safety surveillance, technical, and laboratory capacity needed for such participation.

''(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $19,500,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2006.''.

SEC. 313. SURVEILLANCE OF ZOONOTIC DISEASES.

The Secretary of Health and Human Services, through the Commissioner of Food and Drugs and the Director of the Centers for Disease Control and Prevention, and the Secretary of Agriculture shall coordinate the surveillance of zoonotic diseases.

SEC. 314. AUTHORITY TO COMMISSION OTHER FEDERAL OFFICIALS TO CONDUCT INSPECTIONS.

Section 702(a) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 372(a)) is amended—

(1) by striking ''(a)'' and inserting ''(a)(1)'';

(2) by striking ''In the case of food packed'' and inserting the following:

''(3) In the case of food packed'';

(3) by striking ''For the purposes of this subsection'' and inserting the following:

''(4) For the purposes of this subsection,''; and

(4) by inserting after paragraph (1) (as designated by paragraph (1) of this section) the following paragraph:

''(2)(A) In addition to the authority established in paragraph (1), the Secretary, pursuant to a memorandum of understanding between the Secretary and the head of another Federal department or agency, is authorized to conduct examinations and investigations for the purposes of this Act through the officers and employees of such other department or agency, subject to subparagraph (B). Such a memorandum shall include provisions to ensure adequate training of such officers and employees to conduct the examinations and investigations. The memorandum of understanding shall contain provisions regarding reimbursement. Such provisions may, at the sole discretion of the head of the other department or agency, require reimbursement, in whole or in part, from the Secretary for the examinations or investigations performed under this section by the officers or employees of the other department or agency.

''(B) A memorandum of understanding under subparagraph (A) between the Secretary and another Federal department or agency is effective only in the case of examinations or inspections at facilities or other locations that are jointly regulated by the Secretary and such department or agency.

''(C) For any fiscal year in which the Secretary and the head of another Federal department or agency carries out one or more examinations or inspections under a memorandum of understanding under subparagraph (A), the Secretary and the head of such department or agency shall with respect to their respective departments or agencies submit to the committees of jurisdiction (authorizing and appropriating) in the House of Representatives and the Senate a report that provides, for such year—

''(i) the number of officers or employees that carried out one or more programs, projects, or activities under such memorandum;

''(ii) the number of additional articles that were inspected or examined as a result of such memorandum; and

''(iii) the number of additional examinations or investigations that were carried out pursuant to such memorandum.''.

SEC. 315. RULE OF CONSTRUCTION.

Nothing in this title, or an amendment made by this title, shall be construed to alter the jurisdiction between the Secretaries of Agriculture and of Health and Human Services, under applicable statutes and regulations.

Subtitle B—Protection of Drug Supply

SEC. 321. ANNUAL REGISTRATION OF FOREIGN MANUFACTURERS; SHIPPING INFORMATION; DRUG AND DEVICE LISTING.

(a) ANNUAL REGISTRATION; LISTING.—Section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) is amended—

(1) in subsection (i)(1)—

(A) by striking ''Any establishment'' and inserting ''On or before December 31 of each year, any establishment''; and

(B) by striking ''shall register'' and all that follows and inserting the following: ''shall, through electronic means in accordance with the criteria of the Secretary, register with the Secretary the name and place of business of the establishment, the name of the United States agent for the establishment, the name of each importer of such drug or device in the United States that is known to the establishment, and the name of each person who imports or offers for import such drug or device to the United States for purposes of importation.''; and

(2) in subsection (j)(1), in the first sentence, by striking ''or (d)'' and inserting ''(d), or (i)''.

(b) IMPORTATION; STATEMENT REGARDING REGISTRATION OF MANUFACTURER.—

(1) IN GENERAL.—Section 801 of the Federal Food, Drug, and Cosmetic Act, as amended by section 308(a) of this Act, is amended by adding at the end the following subsection:

''(o) If an article that is a drug or device is being imported or offered for import into the United States, and the importer, owner, or consignee of such article does not, at the time of offering the article for import, submit to the Secretary a statement that identifies the registration under section 510(i) of each establishment that with respect to such article is required under such section to register with the Secretary, the article may be refused admission. If the article is refused admission for failure to submit such a statement, the article shall be held at the port of entry for the article, and may not be delivered to the importer, owner, or consignee of the article, until such a statement is submitted to the Secretary. Subsection (b) does not authorize the delivery of the article pursuant to the execution of a bond while the article is so held. The article shall be removed to a secure facility, as appropriate. During the period of time that such article is so held, the article shall not be transferred by any person from the port of entry into the United States for the article, or from the secure facility to which the article has been removed, as the case may be.''.

(2) PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act, as amended by section 307(b) of this Act, is amended by adding at the end the following:

''(ff) The importing or offering for import into the United States of a drug or device with respect to which there is a failure to comply with a request of the Secretary to submit to the Secretary a statement under section 801(o).''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect upon the expiration of the 180-day period beginning on the date of the enactment of this Act.

SEC. 322. REQUIREMENT OF ADDITIONAL INFORMATION REGARDING IMPORT COMPONENTS INTENDED FOR USE IN EXPORT PRODUCTS.

(a) IN GENERAL.—Section 801(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(d)(3)) is amended to read as follows:

''(3)(A) Subject to subparagraph (B), no component of a drug, no component part or accessory of a device, or other article of device requiring further processing, which is ready or suitable for use for health-related purposes, and no article of a food additive, color additive, or dietary supplement, including a product in bulk form, shall be excluded from importation into the United States under subsection (a) if each of the following conditions is met:

''(i) The importer of such article of a drug or device or importer of such article of a food additive, color additive, or dietary supplement submits to the Secretary, at the time of initial importation, a statement in accordance with the following:

''(I) Such statement provides that such article is intended to be further processed by the initial owner or consignee, or incorporated by the initial owner or consignee, into a drug, biological product, device, food, food additive, color additive, or dietary supplement that will be exported by the initial owner or consignee from the United States in accordance with subsection (e) or section 802, or with section 351(h) of the Public Health Service Act.

''(II) The statement identifies the manufacturer of such article and each processor, packer, distributor, or other entity that had possession of the article in the chain of possession of the article from the manufacturer to such importer of the article.

''(III) The statement is accompanied by such certificates of analysis as are necessary to identify such article, unless the article is a device or is an article described in paragraph (4).

''(ii) At the time of initial importation and before the delivery of such article to the importer or the initial owner or consignee, such owner or consignee executes a good and sufficient bond providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury.

''(iii) Such article is used and exported by the initial owner or consignee in accordance with the intent described under clause (i)(I), except for any portions of the article that are destroyed.

''(iv) The initial owner or consignee maintains records on the use or destruction of such article or portions thereof, as the case may be, and submits to the Secretary any such records requested by the Secretary.

''(v) Upon request of the Secretary, the initial owner or consignee submits a report that provides an accounting of the exportation or destruction of such article or portions thereof, and the manner in which such owner or consignee complied with the requirements of this subparagraph.

''(B) Notwithstanding subparagraph (A), the Secretary may refuse admission to an article that otherwise would be imported into the United States under such subparagraph if the Secretary determines that there is credible evidence or information indicating that such article is not intended to be further processed by the initial owner or consignee, or incorporated by the initial owner or consignee, into a drug, biological product, device, food, food additive, color additive, or dietary supplement that will be exported by the initial owner or consignee from the United States in accordance with subsection (e) or section 802, or with section 351(h) of the Public Health Service Act.

''(C) This section may not be construed as affecting the responsibility of the Secretary to ensure that articles imported into the United States under authority of subparagraph (A) meet each of the conditions established in such subparagraph for importation.''.

(b) PROHIBITED ACT.—Section 301(w) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(w)) is amended to read as follows:

''(w) The making of a knowingly false statement in any statement, certificate of analysis, record, or report required or requested under section 801(d)(3); the failure to submit a certificate of analysis as required under such section; the failure to maintain records or to submit records or reports as required by such section; the release into interstate commerce of any article or portion thereof imported into the United States under such section or any finished product made from such article or portion, except for export in accordance with section 801(e) or 802, or with section 351(h) of the Public Health Service Act; or the failure to so export or to destroy such an article or portions thereof, or such a finished product.''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect upon the expiration of the 90-day period beginning on the date of the enactment of this Act.

Subtitle C—General Provisions Relating to Upgrade of Agricultural Security

SEC. 331. EXPANSION OF ANIMAL AND PLANT HEALTH INSPECTION SERVICE ACTIVITIES.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the ''Secretary'') may utilize existing authorities to give high priority to enhancing and expanding the capacity of the Animal and Plant Health Inspection Service to conduct activities to—

(1) increase the inspection capacity of the Service at international points of origin;

(2) improve surveillance at ports of entry and customs;

(3) enhance methods of protecting against the introduction of plant and animal disease organisms by terrorists;

(4) develop new and improve existing strategies and technologies for dealing with intentional outbreaks of plant and animal disease arising from acts of terrorism or from unintentional introduction, including—

(A) establishing cooperative agreements among Veterinary Services of the Animal and Plant Health Inspection Service, State animal health commissions and regulatory agencies for livestock and poultry health, and private veterinary practitioners to enhance the preparedness and ability of Veterinary Services and the commissions and agencies to respond to outbreaks of such animal diseases; and

(B) strengthening planning and coordination with State and local agencies, including—

(i) State animal health commissions and regulatory agencies for livestock and poultry health; and

(ii) State agriculture departments; and

(5) otherwise improve the capacity of the Service to protect against the threat of bioterrorism.

(b) AUTOMATED RECORDKEEPING SYSTEM.—The Administrator of the Animal and Plant Health Inspection Service may implement a central automated recordkeeping system to provide for the reliable tracking of the status of animal and plant shipments, including those shipments on hold at ports of entry and customs. The Secretary shall ensure that such a system shall be fully accessible to or fully integrated with the Food Safety Inspection Service.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $30,000,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year.

SEC. 332. EXPANSION OF FOOD SAFETY INSPECTION SERVICE ACTIVITIES.

(a) IN GENERAL.—The Secretary of Agriculture may utilize existing authorities to give high priority to enhancing and expanding the capacity of the Food Safety Inspection Service to conduct activities to—

(1) enhance the ability of the Service to inspect and ensure the safety and wholesomeness of meat and poultry products;

(2) improve the capacity of the Service to inspect international meat and meat products, poultry and poultry products, and egg products at points of origin and at ports of entry;

(3) strengthen the ability of the Service to collaborate with relevant agencies within the Department of Agriculture and with other entities in the Federal Government, the States, and Indian tribes (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))) through the sharing of information and technology; and

(4) otherwise expand the capacity of the Service to protect against the threat of bioterrorism.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $15,000,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year.

SEC. 333. BIOSECURITY UPGRADES AT THE DEPARTMENT OF AGRICULTURE.

There is authorized to be appropriated for fiscal year 2002, $180,000,000 for the purpose of enabling the Agricultural Research Service to conduct building upgrades to modernize existing facilities, of which (1) $100,000,000 shall be allocated for renovation, updating, and expansion of the Biosafety Level 3 laboratory and animal research facilities at the Plum Island Animal Disease Center (Greenport, New York), and of which (2) $80,000,000 shall be allocated for the Agricultural Research Service/Animal and Plant Health Inspection Service facility in Ames, Iowa. There are authorized to be appropriated such sums as may be necessary for fiscal years 2003 through 2006 for the purpose described in the preceding sentence, for the planning and design of an Agricultural Research Service biocontainment laboratory for poultry research in Athens, Georgia, and for the planning, updating, and renovation of the Arthropod-Borne Animal Disease Laboratory in Laramie, Wyoming.

SEC. 334. AGRICULTURAL BIOSECURITY.

(a) SECURITY AT COLLEGES AND UNIVERSITIES.—

(1) GRANTS.—The Secretary of Agriculture (referred to in this section as the ''Secretary'') may award grants to covered entities to review security standards and practices at their facilities in order to protect against bioterrorist attacks.

(2) COVERED ENTITIES.—Covered entities under this subsection are colleges or universities that—

(A) are colleges or universities as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103); and

(B) have programs in food and agricultural sciences, as defined in such section.

(3) LIMITATION.—Each individual covered entity may be awarded one grant under paragraph (1), the amount of which shall not exceed $50,000.

(4) CONTRACT AUTHORITY.—Colleges and universities receiving grants under paragraph (1) may use such grants to enter into contracts with independent private organizations with established and demonstrated security expertise to conduct the security reviews specified in such paragraph.

(b) GUIDELINES FOR AGRICULTURAL BIOSECURITY.—

(1) IN GENERAL.—The Secretary may award grants to associations of food producers or consortia of such associations for the development and implementation of educational programs to improve biosecurity on farms in order to ensure the security of farm facilities against potential bioterrorist attacks.

(2) LIMITATION.—Each individual association eligible under paragraph (1) may be awarded one grant under such paragraph, the amount of which shall not exceed $100,000. Each consortium eligible under paragraph (1) may be awarded one grant under such paragraph, the amount of which shall not exceed $100,000 per association participating in the consortium.

(3) CONTRACT AUTHORITY.—Associations of food producers receiving grants under paragraph (1) may use such grants to enter into contracts with independent private organizations with established and demonstrated expertise in biosecurity to assist in the development and implementation of educational programs to improve biosecurity specified in such paragraph.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each fiscal year.

SEC. 335. AGRICULTURAL BIOTERRORISM RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the ''Secretary'') may utilize existing research authorities and research programs to protect the food supply of the United States by conducting and supporting research activities to—

(1) enhance the capability of the Secretary to respond in a timely manner to emerging or existing bioterrorist threats to the food and agricultural system of the United States;

(2) develop new and continue partnerships with institutions of higher education and other institutions to help form stable, long-term programs to enhance the biosecurity and food safety of the United States, including the coordination of the development, implementation, and enhancement of diverse capabilities for addressing threats to the nation's agricultural economy and food supply, with special emphasis on planning, training, outreach, and research activities related to vulnerability analyses, incident response, detection, and prevention technologies;

(3) strengthen coordination with the intelligence community to better identify research needs and evaluate materials or information acquired by the intelligence community relating to potential threats to United States agriculture;

(4) expand the involvement of the Secretary with international organizations dealing with plant and animal disease control;

(5) continue research to develop rapid detection field test kits to detect biological threats to plants and animals and to provide such test kits to State and local agencies preparing for or responding to bioterrorism;

(6) develop an agricultural bioterrorism early warning surveillance system through enhancing the capacity of and coordination between State veterinary diagnostic laboratories, Federal and State agricultural research facilities, and public health agencies; and

(7) otherwise improve the capacity of the Secretary to protect against the threat of bioterrorism.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $190,000,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year.

SEC. 336. ANIMAL ENTERPRISE TERRORISM PENALTIES.

(a) IN GENERAL.—Section 43(a) of title 18, United States Code, is amended to read as follows:

''(a) OFFENSE.—Whoever—

''(1) travels in interstate or foreign commerce, or uses or causes to be used the mail or any facility in interstate or foreign commerce for the purpose of causing physical disruption to the functioning of an animal enterprise; and

''(2) intentionally damages or causes the loss of any property (including animals or records) used by the animal enterprise, or conspires to do so,

shall be punished as provided for in subsection (b).''.

(b) PENALTIES.—Section 43(b) of title 18, United States Code, is amended to read as follows:

''(b) PENALTIES.—

''(1) ECONOMIC DAMAGE.—Any person who, in the course of a violation of subsection (a), causes economic damage not exceeding $10,000 to an animal enterprise shall be fined under this title or imprisoned not more than 6 months, or both.

''(2) MAJOR ECONOMIC DAMAGE.—Any person who, in the course of a violation of subsection (a), causes economic damage exceeding $10,000 to an animal enterprise shall be fined under this title or imprisoned not more than 3 years, or both.

''(3) SERIOUS BODILY INJURY.—Any person who, in the course of a violation of subsection (a), causes serious bodily injury to another individual shall be fined under this title or imprisoned not more than 20 years, or both.

''(4) DEATH.—Any person who, in the course of a violation of subsection (a), causes the death of an individual shall be fined under this title and imprisoned for life or for any term of years.''.

(c) RESTITUTION.—Section 43(c) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) for any other economic damage resulting from the offense.''.

TITLE IV—DRINKING WATER SECURITY AND SAFETY

SEC. 401. TERRORIST AND OTHER INTENTIONAL ACTS.

The Safe Drinking Water Act (title XIV of the Public Health Service Act) is amended by inserting the following new section after section 1432:

''SEC. 1433. TERRORIST AND OTHER INTENTIONAL ACTS.

''(a) VULNERABILITY ASSESSMENTS.—(1) Each community water system serving a population of greater than 3,300 persons shall conduct an assessment of the vulnerability of its system to a terrorist attack or other intentional acts intended to substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water. The vulnerability assessment shall include, but not be limited to, a review of pipes and constructed conveyances, physical barriers, water collection, pretreatment, treatment, storage and distribution facilities, electronic, computer or other automated systems which are utilized by the public water system, the use, storage, or handling of various chemicals, and the operation and maintenance of such system. The Administrator, not later than August 1, 2002, after consultation with appropriate departments and agencies of the Federal Government and with State and local governments, shall provide baseline information to community water systems required to conduct vulnerability assessments regarding which kinds of terrorist attacks or other intentional acts are the probable threats to—

''(A) substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water; or

''(B) otherwise present significant public health concerns.

''(2) Each community water system referred to in paragraph (1) shall certify to the Administrator that the system has conducted an assessment complying with paragraph (1) and shall submit to the Administrator a written copy of the assessment. Such certification and submission shall be made prior to:

''(A) March 31, 2003, in the case of systems serving a population of 100,000 or more.

''(B) December 31, 2003, in the case of systems serving a population of 50,000 or more but less than 100,000.

''(C) June 30, 2004, in the case of systems serving a population greater than 3,300 but less than 50,000.

''(3) Except for information contained in a certification under this subsection identifying the system submitting the certification and the date of the certification, all information provided to the Administrator under this subsection and all information derived therefrom shall be exempt from disclosure under section 552 of title 5 of the United States Code.

''(4) No community water system shall be required under State or local law to provide an assessment described in this section to any State, regional, or local governmental entity solely by reason of the requirement set forth in paragraph (2) that the system submit such assessment to the Administrator.

''(5) Not later than November 30, 2002, the Administrator, in consultation with appropriate Federal law enforcement and intelligence officials, shall develop such protocols as may be necessary to protect the copies of the assessments required to be submitted under this subsection (and the information contained therein) from unauthorized disclosure. Such protocols shall ensure that—

''(A) each copy of such assessment, and all information contained in or derived from the assessment, is kept in a secure location;

''(B) only individuals designated by the Administrator may have access to the copies of the assessments; and

''(C) no copy of an assessment, or part of an assessment, or information contained in or derived from an assessment shall be available to anyone other than an individual designated by the Administrator.

At the earliest possible time prior to November 30, 2002, the Administrator shall complete the development of such protocols for the purpose of having them in place prior to receiving any vulnerability assessments from community water systems under this subsection.

''(6)(A) Except as provided in subparagraph (B), any individual referred to in paragraph (5)(B) who acquires the assessment submitted under paragraph (2), or any reproduction of such assessment, or any information derived from such assessment, and who knowingly or recklessly reveals such assessment, reproduction, or information other than—

''(i) to an individual designated by the Administrator under paragraph (5),

''(ii) for purposes of section 1445 or for actions under section 1431, or

''(iii) for use in any administrative or judicial proceeding to impose a penalty for failure to comply with this section,

shall upon conviction be imprisoned for not more than one year or fined in accordance with the provisions of chapter 227 of title 18, United States Code, applicable to class A misdemeanors, or both, and shall be removed from Federal office or employment.

''(B) Notwithstanding subparagraph (A), an individual referred to in paragraph (5)(B) who is an officer or employee of the United States may discuss the contents of a vulnerability assessment submitted under this section with a State or local official.

''(7) Nothing in this section authorizes any person to withhold any information from Congress or from any committee or subcommittee of Congress.

''(b) EMERGENCY RESPONSE PLAN.—Each community water system serving a population greater than 3,300 shall prepare or revise, where necessary, an emergency response plan that incorporates the results of vulnerability assessments that have been completed. Each such community water system shall certify to the Administrator, as soon as reasonably possible after the enactment of this section, but not later than 6 months after the completion of the vulnerability assessment under subsection (a), that the system has completed such plan. The emergency response plan shall include, but not be limited to, plans, procedures, and identification of equipment that can be implemented or utilized in the event of a terrorist or other intentional attack on the public water system. The emergency response plan shall also include actions, procedures, and identification of equipment which can obviate or significantly lessen the impact of terrorist attacks or other intentional actions on the public health and the safety and supply of drinking water provided to communities and individuals. Community water systems shall, to the extent possible, coordinate with existing Local Emergency Planning Committees established under the Emergency Planning and Community Right-to-Know Act (42 U.S.C. 11001, et seq.) when preparing or revising an emergency response plan under this subsection.

''(c) RECORD MAINTENANCE.—Each community water system shall maintain a copy of the emergency response plan completed pursuant to subsection (b) for 5 years after such plan has been certified to the Administrator under this section.

''(d) GUIDANCE TO SMALL PUBLIC WATER SYSTEMS.—The Administrator shall provide guidance to community water systems serving a population of less than 3,300 persons on how to conduct vulnerability assessments, prepare emergency response plans, and address threats from terrorist attacks or other intentional actions designed to disrupt the provision of safe drinking water or significantly affect the public health or significantly affect the safety or supply of drinking water provided to communities and individuals.

''(e) FUNDING.—(1) There are authorized to be appropriated to carry out this section not more than $160,000,000 for the fiscal year 2002 and such sums as may be necessary for the fiscal years 2003 through 2005.

''(2) The Administrator, in coordination with State and local governments, may use funds made available under paragraph (1) to provide financial assistance to community water systems for purposes of compliance with the requirements of subsections (a) and (b) and to community water systems for expenses and contracts designed to address basic security enhancements of critical importance and significant threats to public health and the supply of drinking water as determined by a vulnerability assessment conducted under subsection (a). Such basic security enhancements may include, but shall not be limited to the following:

''(A) the purchase and installation of equipment for detection of intruders;

''(B) the purchase and installation of fencing, gating, lighting, or security cameras;

''(C) the tamper-proofing of manhole covers, fire hydrants, and valve boxes;

''(D) the rekeying of doors and locks;

''(E) improvements to electronic, computer, or other automated systems and remote security systems;

''(F) participation in training programs, and the purchase of training manuals and guidance materials, relating to security against terrorist attacks;

''(G) improvements in the use, storage, or handling of various chemicals; and

''(H) security screening of employees or contractor support services.

Funding under this subsection for basic security enhancements shall not include expenditures for personnel costs, or monitoring, operation, or maintenance of facilities, equipment, or systems.

''(3) The Administrator may use not more than $5,000,000 from the funds made available under paragraph (1) to make grants to community water systems to assist in responding to and alleviating any vulnerability to a terrorist attack or other intentional acts intended to substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water (including sources of water for such systems) which the Administrator determines to present an immediate and urgent security need.

''(4) The Administrator may use not more than $5,000,000 from the funds made available under paragraph (1) to make grants to community water systems serving a population of less than 3,300 persons for activities and projects undertaken in accordance with the guidance provided to such systems under subsection (d).

SEC. 402. OTHER SAFE DRINKING WATER ACT AMENDMENTS.

The Safe Drinking Water Act (title XIV of the Public Health Service Act) is amended by inserting the following new sections after section 1433 (as added by section 401 of this Act):

''SEC. 1434. CONTAMINANT PREVENTION, DETECTION AND RESPONSE.

''(a) IN GENERAL.—The Administrator, in consultation with the Centers for Disease Control and, after consultation with appropriate departments and agencies of the Federal Government and with State and local governments, shall review (or enter into contracts or cooperative agreements to provide for a review of) current and future methods to prevent, detect and respond to the intentional introduction of chemical, biological or radiological contaminants into community water systems and source water for community water systems, including each of the following:

''(1) Methods, means and equipment, including real time monitoring systems, designed to monitor and detect various levels of chemical, biological, and radiological contaminants or indicators of contaminants and reduce the likelihood that such contaminants can be successfully introduced into public water systems and source water intended to be used for drinking water.

''(2) Methods and means to provide sufficient notice to operators of public water systems, and individuals served by such systems, of the introduction of chemical, biological or radiological contaminants and the possible effect of such introduction on public health and the safety and supply of drinking water.

''(3) Methods and means for developing educational and awareness programs for community water systems.

''(4) Procedures and equipment necessary to prevent the flow of contaminated drinking water to individuals served by public water systems.

''(5) Methods, means, and equipment which could negate or mitigate deleterious effects on public health and the safety and supply caused by the introduction of contaminants into water intended to be used for drinking water, including an examination of the effectiveness of various drinking water technologies in removing, inactivating, or neutralizing biological, chemical, and radiological contaminants.

''(6) Biomedical research into the short-term and long-term impact on public health of various chemical, biological and radiological contaminants that may be introduced into public water systems through terrorist or other intentional acts.

''(b) FUNDING.—For the authorization of appropriations to carry out this section, see section 1435(e).

''SEC. 1435. SUPPLY DISRUPTION PREVENTION, DETECTION AND RESPONSE.

''(a) DISRUPTION OF SUPPLY OR SAFETY.—The Administrator, in coordination with the appropriate departments and agencies of the Federal Government, shall review (or enter into contracts or cooperative agreements to provide for a review of) methods and means by which terrorists or other individuals or groups could disrupt the supply of safe drinking water or take other actions against water collection, pretreatment, treatment, storage and distribution facilities which could render such water significantly less safe for human consumption, including each of the following:

''(1) Methods and means by which pipes and other constructed conveyances utilized in public water systems could be destroyed or otherwise prevented from providing adequate supplies of drinking water meeting applicable public health standards.

''(2) Methods and means by which collection, pretreatment, treatment, storage and distribution facilities utilized or used in connection with public water systems and collection and pretreatment storage facilities used in connection with public water systems could be destroyed or otherwise prevented from providing adequate supplies of drinking water meeting applicable public health standards.

''(3) Methods and means by which pipes, constructed conveyances, collection, pretreatment, treatment, storage and distribution systems that are utilized in connection with public water systems could be altered or affected so as to be subject to cross-contamination of drinking water supplies.

''(4) Methods and means by which pipes, constructed conveyances, collection, pretreatment, treatment, storage and distribution systems that are utilized in connection with public water systems could be reasonably protected from terrorist attacks or other acts intended to disrupt the supply or affect the safety of drinking water.

''(5) Methods and means by which information systems, including process controls and supervisory control and data acquisition and cyber systems at community water systems could be disrupted by terrorists or other groups.

''(b) ALTERNATIVE SOURCES.—The review under this section shall also include a review of the methods and means by which alternative supplies of drinking water could be provided in the event of the destruction, impairment or contamination of public water systems.

''(c) REQUIREMENTS AND CONSIDERATIONS.—In carrying out this section and section 1434—

''(1) the Administrator shall ensure that reviews carried out under this section reflect the needs of community water systems of various sizes and various geographic areas of the United States; and

''(2) the Administrator may consider the vulnerability of, or potential for forced interruption of service for, a region or service area, including community water systems that provide service to the National Capital area.

''(d) INFORMATION SHARING.—As soon as practicable after reviews carried out under this section or section 1434 have been evaluated, the Administrator shall disseminate, as appropriate as determined by the Administrator, to community water systems information on the results of the project through the Information Sharing and Analysis Center, or other appropriate means.

''(e) FUNDING.—There are authorized to be appropriated to carry out this section and section 1434 not more than $15,000,000 for the fiscal year 2002 and such sums as may be necessary for the fiscal years 2003 through 2005.''.

SEC. 403. MISCELLANEOUS AND TECHNICAL AMENDMENTS.

The Safe Drinking Water Act is amended as follows:

(1) Section 1414(i)(1) is amended by inserting ''1433'' after ''1417''.

(2) Section 1431 is amended by inserting in the first sentence after ''drinking water'' the following: '', or that there is a threatened or potential terrorist attack (or other intentional act designed to disrupt the provision of safe drinking water or to impact adversely the safety of drinking water supplied to communities and individuals), which''.

(3) Section 1432 is amended as follows:

(A) By striking ''5 years'' in subsection (a) and inserting ''20 years''.

(B) By striking ''3 years'' in subsection (b) and inserting ''10 years''.

(C) By striking ''$50,000'' in subsection (c) and inserting ''$1,000,000''.

(D) By striking ''$20,000'' in subsection (c) and inserting ''$100,000''.

(4) Section 1442 is amended as follows:

(A) By striking ''this subparagraph'' in subsection (b) and inserting ''this subsection''.

(B) By amending subsection (d) to read as follows:

''(d) There are authorized to be appropriated to carry out subsection (b) not more than $35,000,000 for the fiscal year 2002 and such sums as may be necessary for each fiscal year thereafter.''.

TITLE V—ADDITIONAL PROVISIONS

Subtitle A—Prescription Drug User Fees

SEC. 501. SHORT TITLE.

This subtitle may be cited as the ''Prescription Drug User Fee Amendments of 2002''.

SEC. 502. FINDINGS.

The Congress finds that—

(1) prompt approval of safe and effective new drugs and other therapies is critical to the improvement of the public health so that patients

may enjoy the benefits provided by these therapies to treat and prevent illness and disease;

(2) the public health will be served by making additional funds available for the purpose of augmenting the resources of the Food and Drug Administration that are devoted to the process for the review of human drug applications and the assurance of drug safety;

(3) the provisions added by the Prescription Drug User Fee Act of 1992, as amended by the Food and Drug Administration Modernization Act of 1997, have been successful in substantially reducing review times for human drug applications and should be—

(A) reauthorized for an additional 5 years, with certain technical improvements; and

(B) carried out by the Food and Drug Administration with new commitments to implement more ambitious and comprehensive improvements in regulatory processes of the Food and Drug Administration, including—

(i) strengthening and improving the review and monitoring of drug safety;

(ii) considering greater interaction between the agency and sponsors during the review of drugs and biologics intended to treat serious diseases and life-threatening diseases; and

(iii) developing principles for improving first-cycle reviews; and

(4) the fees authorized by amendments made in this subtitle will be dedicated towards expediting the drug development process and the process for the review of human drug applications as set forth in the goals identified for purposes of part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, in the letters from the Secretary of Health and Human Services to the chairman of the Committee on Energy and Commerce of the House of Representatives and the chairman of the Committee on Health, Education, Labor and Pensions of the Senate, as set forth in the Congressional Record.

SEC. 503. DEFINITIONS.

Section 735 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379g) is amended—

(1) in paragraph (1), in the matter after and below subparagraph (C), by striking ''licensure, as described in subparagraph (D)'' and inserting ''licensure, as described in subparagraph (C)'';

(2) in paragraph (3)—

(A) in subparagraph (A), by striking ''and'' at the end;

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

(C) by inserting after subparagraph (B) the following subparagraph:

''(C) which is on the list of products described in section 505(j)(7)(A) or is on a list created and maintained by the Secretary of products approved under human drug applications under section 351 of the Public Health Service Act.''; and

(D) in the matter after and below subparagraph (C) (as added by subparagraph (C) of this paragraph), by striking ''Service Act,'' and all that follows through ''biological product'' and inserting the following: ''Service Act. Such term does not include a biological product'';

(3) in paragraph (6), by adding at the end the following subparagraph:

''(F) In the case of drugs approved after October 1, 2002, under human drug applications or supplements: collecting, developing, and reviewing safety information on the drugs, including adverse event reports, during a period of time after approval of such applications or supplements, not to exceed three years.''; and

(4) in paragraph (8)—

(A) by striking the matter after and below subparagraph (B);

(B) by striking subparagraph (B);

(C) by striking ''is the lower of'' and all that follows through ''Consumer Price Index'' and inserting ''is the Consumer Price Index''; and

(D) by striking ''1997, or'' and inserting ''1997.''.

SEC. 504. AUTHORITY TO ASSESS AND USE DRUG FEES.

(a) TYPES OF FEES.—Section 736(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(a)) is amended—

(1) in the matter preceding paragraph (1), by striking ''fiscal year 1998'' and inserting ''fiscal year 2003'';

(2) in paragraph (1)(A)—

(A) in each of clauses (i) and (ii), by striking ''in subsection (b)'' and inserting ''under subsection (c)(4)''; and

(B) in clause (ii), by adding at the end the following sentence: ''Such fee shall be half of the amount of the fee established under clause (i).'';

(3) in paragraph (2)(A), in the matter after and below clause (ii)—

(A) by striking ''in subsection (b)'' and inserting ''under subsection (c)(4)''; and

(B) by striking ''payable on or before January 31'' and inserting ''payable on or before October 1''; and

(4) in paragraph (3)—

(A) by amending subparagraph (A) to read as follows:

''(A) IN GENERAL.—Except as provided in subparagraph (B), each person who is named as the applicant in a human drug application, and who, after September 1, 1992, had pending before the Secretary a human drug application or supplement, shall pay for each such prescription drug product the annual fee established under subsection (c)(4). Such fee shall be payable on or before October 1 of each year. Such fee shall be paid only once for each product for a fiscal year in which the fee is payable.''; and

(B) in subparagraph (B), by striking ''The listing'' and all that follows through ''filed under section 505(b)(2)'' and inserting the following: ''A prescription drug product shall not be assessed a fee under subparagraph (A) if such product is identified on the list compiled under section 505(j)(7)(A) with a potency described in terms of per 100 mL, or if such product is the same product as another product approved under an application filed under section 505(b)''.

(b) FEE AMOUNTS.—Section 736(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(b)) is amended to read as follows:

''(b) FEE REVENUE AMOUNTS.—Except as provided in subsections (c), (d), (f), and (g), fees under subsection (a) shall be established to generate the following revenue amounts:

''Type of Fee Revenue	*Fiscal Year 2003*	*Fiscal Year 2004*	*Fiscal Year 2005*	*Fiscal Year 2006*	*Fiscal Year 2007*
Application/Supplement	*$74,300,000*	*$77,000,000*	*$84,000,000*	*$86,434,000*	*$86,434,000*
Establishment	*$74,300,000*	*$77,000,000*	*$84,000,000*	*$86,433,000*	*$86,433,000*
Product	*$74,300,000*	*$77,000,000*	*$84,000,000*	*$86,433,000*	*$86,433,000*
Total Fee Revenue	*$222,900,000*	*$231,000,000*	*$252,000,000*	*$259,300,000*	*$259,300,000*

If, after the date of the enactment of the Prescription Drug User Fee Amendments of 2002, legislation is enacted requiring the Secretary to fund additional costs of the retirement of Federal personnel, fee revenue amounts shall be increased in each year by the amount necessary to fully fund the portion of such additional costs that are attributable to the process for the review of human drug applications.''.

(c) ADJUSTMENTS.—Section 736(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(c)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking ''fees and total fee revenues'' and inserting ''revenues'';

(B) in subparagraph (A)—

(i) by striking ''during the preceding fiscal year''; and

(ii) by striking '', or'' and inserting the following: ''for the 12 month period ending June 30 preceding the fiscal year for which fees are being established, or'';

(C) in subparagraph (B), by striking ''for such fiscal year'' and inserting ''for the previous fiscal year''; and

(D) in the matter after and below subparagraph (B), by striking ''fiscal year 1997''; and inserting ''fiscal year 2003'';

(2) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively;

(3) by inserting after paragraph (1) the following paragraphs:

''(2) WORKLOAD ADJUSTMENT.—Beginning with fiscal year 2004, after the fee revenues established in subsection (b) are adjusted for a fiscal year for inflation in accordance with paragraph (1), the fee revenues shall be adjusted further for such fiscal year to reflect changes in the workload of the Secretary for the process for the review of human drug applications. With respect to such adjustment:

''(A) The adjustment shall be determined by the Secretary based on a weighted average of the change in the total number of human drug applications, commercial investigational new drug applications, efficacy supplements, and manufacturing supplements submitted to the Secretary. The Secretary shall publish in the Federal Register the fee revenues and fees resulting from the adjustment and the supporting methodologies.

''(B) Under no circumstances shall the adjustment result in fee revenues for a fiscal year that are less than the fee revenues for the fiscal year established in subsection (b), as adjusted for inflation under paragraph (1).

''(3) FINAL YEAR ADJUSTMENT.—For fiscal year 2007, the Secretary may, in addition to adjustments under paragraphs (1) and (2), further increase the fee revenues and fees established in subsection (b) if such an adjustment is necessary to provide for not more than three months of operating reserves of carryover user fees for the process for the review of human drug applications for the first three months of fiscal year 2008. If such an adjustment is necessary, the rationale for the amount of the increase shall be contained in the annual notice establishing fee revenues and fees for fiscal year 2007. If the Secretary has carryover balances for such process in excess of three months of such operating reserves, the adjustment under this paragraph shall not be made.''; and

(4) in paragraph (4) (as redesignated by paragraph (2) of this subsection), by amending such paragraph to read as follows:

''(4) ANNUAL FEE SETTING.—The Secretary shall, 60 days before the start of each fiscal year that begins after September 30, 2002, establish, for the next fiscal year, application, product, and establishment fees under subsection (a), based on the revenue amounts established under subsection (b) and the adjustments provided under this subsection.''.

(d) FEE WAIVER OR REDUCTION.—Section 736(d)) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(d)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (C), by inserting ''or'' after the comma at the end;

(B) by striking subparagraph (D); and

(C) by redesignating subparagraph (E) as subparagraph (D); and

(2) in paragraph (3), in each of subparagraphs (A) and (B), by striking ''paragraph (1)(E)'' each place such term appears and inserting ''paragraph (1)(D)''.

(e) ASSESSMENT OF FEES.—Section 736(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(f)) is amended—

(1) in the heading for the subsection, by striking ''ASSESSMENT OF FEES.—'' and inserting ''LIMITATIONS.—''; and

(2) in paragraph (1), by striking the heading for the paragraph and all that follows through ''fiscal year beginning'' and inserting the following: ''IN GENERAL.—Fees under subsection (a) shall be refunded for a fiscal year beginning''.

(f) CREDITING AND AVAILABILITY OF FEES.—

(1) IN GENERAL.—Section 736(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(g)(1)) is amended by striking ''Fees collected for a fiscal year'' and all that follows through ''fiscal year limitation.'' and inserting the following: ''Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Such fees are authorized to remain available until expended.''.

(2) COLLECTIONS AND APPROPRIATION ACTS.—Section 736(g)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(g)(2)) is amended—

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

(B) by striking ''(2) COLLECTIONS'' and all that follows through ''the amount specified'' in clause (i) (as so redesignated) and inserting the following:

''(2) COLLECTIONS AND APPROPRIATION ACTS.—

''(A) IN GENERAL.—The fees authorized by this section—

''(i) shall be retained in each fiscal year in an amount not to exceed the amount specified'';

(C) by moving clause (ii) (as so redesignated) two ems to the right; and

(D) by adding at the end the following subparagraph:

''(B) COMPLIANCE.—The Secretary shall be considered to have met the requirements of subparagraph (A)(ii) in any fiscal year if the costs funded by appropriations and allocated for the process for the review of human drug applications—

''(i) are not more than 3 percent below the level specified in subparagraph (A)(ii); or

''(ii)(I) are more than 3 percent below the level specified in subparagraph (A)(ii), and fees assessed for the fiscal year following the subsequent fiscal year are decreased by the amount in excess of 3 percent by which such costs fell below the level specified in such subparagraph; and

''(II) such costs are not more than 5 percent below the level specified in such subparagraph.''.

(3) AUTHORIZATION OF APPROPRIATIONS.—Section 736(g)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(g)(3)) is amended by striking subparagraphs (A) through (E) and inserting the following:

''(A) $222,900,000 for fiscal year 2003;

''(B) $231,000,000 for fiscal year 2004;

''(C) $252,000,000 for fiscal year 2005;

''(D) $259,300,000 for fiscal year 2006; and

''(E) $259,300,000 for fiscal year 2007;''.

SEC. 505. ACCOUNTABILITY AND REPORTS.

(a) PUBLIC ACCOUNTABILITY.—

(1) CONSULTATION.—In developing recommendations to the Congress for the goals and plans for meeting the goals for the process for the review of human drug applications for the fiscal years after fiscal year 2007, and for the reauthorization of sections 735 and 736 of the Federal Food, Drug, and Cosmetic Act, the Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall consult with the Committee on Energy and Commerce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, appropriate scientific and academic experts, health care professionals, representatives of patient and consumer advocacy groups, and the regulated industry.

(2) RECOMMENDATIONS.—The Secretary shall publish in the Federal Register recommendations under paragraph (1), after negotiations with the regulated industry; shall present such recommendations to the congressional committees specified in such paragraph; shall hold a meeting at which the public may present its views on such recommendations; and shall provide for a period of 30 days for the public to provide written comments on such recommendations.

(b) PERFORMANCE REPORT.—Beginning with fiscal year 2003, not later than 60 days after the end of each fiscal year during which fees are collected under part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379g et seq.), the Secretary of Health and Human Services shall prepare and submit to the President, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 502(4) during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals.

(c) FISCAL REPORT.—Beginning with fiscal year 2003, not later than 120 days after the end of each fiscal year during which fees are collected under the part described in subsection (b), the Secretary of Health and Human Services shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.

SEC. 506. REPORTS OF POSTMARKETING STUDIES.

Section 506B of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356b) is amended by adding at the end the following subsections:

''(d) DISCLOSURE.—If a sponsor fails to complete an agreed upon study required by this section by its original or otherwise negotiated deadline, the Secretary shall publish a statement on the Internet site of the Food and Drug Administration stating that the study was not completed and, if the reasons for such failure to complete the study were not satisfactory to the Secretary, a statement that such reasons were not satisfactory to the Secretary.

''(e) NOTIFICATION.—With respect to studies of the type required under section 506(b)(2)(A) or under section 314.510 or 601.41 of title 21, Code of Federal Regulations, as each of such sections was in effect on the day before the effective date of this subsection, the Secretary may require that a sponsor who, for reasons not satisfactory to the Secretary, fails to complete by its deadline a study under any of such sections of such type for a drug or biological product (including such a study conducted after such effective date) notify practitioners who prescribe such drug or biological product of the failure to complete such study and the questions of clinical benefit, and, where appropriate, questions of safety, that remain unanswered as a result of the failure to complete such study. Nothing in this subsection shall be construed as altering the requirements of the types of studies required under section 506(b)(2)(A) or under section 314.510 or 601.41 of title 21, Code of Federal Regulations, as so in effect, or as prohibiting the Secretary from modifying such sections of title 21 of such Code to provide for studies in addition to those of such type.''.

SEC. 507. SAVINGS CLAUSE.

Notwithstanding section 107 of the Food and Drug Administration Modernization Act of 1997, and notwithstanding the amendments made by this subtitle, part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, as in effect on the day before the date of the enactment of this Act, continues to be in effect with respect to human drug applications and supplements (as defined in such part as of such day) that, on or after October 1, 1997, but before October 1, 2002, were accepted by the Food and Drug Administration for filing.

SEC. 508. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect October 1, 2002.

SEC. 509. SUNSET CLAUSE.

The amendments made by sections 503 and 504 cease to be effective October 1, 2007, and section 505 ceases to be effective 120 days after such date.

Subtitle B—Funding Provisions Regarding Food and Drug Administration

SEC. 521. OFFICE OF DRUG SAFETY.

Of the amounts appropriated for the Food and Drug Administration for a fiscal year, the Secretary of Health and Human Services shall reserve for the Office of Drug Safety (within such Administration), the following amounts:

(1) For fiscal year 2003, an amount equal to the sum of $5,000,000 and the amount made available under appropriations Acts for such Office for fiscal year 2002.

(2) For fiscal year 2004, an amount equal to the sum of $10,000,000 and the amount made available under appropriations Acts for such Office for fiscal year 2002.

(3) For each subsequent fiscal year, an amount equal to the sum of the amount made available under appropriations Acts for such Office for fiscal year 2004 and an amount sufficient to offset the effects of inflation occurring after the beginning of fiscal year 2004.

SEC. 522. DIVISION OF DRUG MARKETING, ADVERTISING, AND COMMUNICATIONS.

For the Division of Drug Marketing, Advertising, and Communications (within the Office of Medical Policy, Food and Drug Administration), there are authorized to be appropriated the following amounts, stated as increases above the amount made available under appropriations Acts for such Division for fiscal year 2002:

(1) For fiscal year 2003, an increase of $2,500,000.

(2) For fiscal year 2004, an increase of $4,000,000.

(3) For fiscal year 2005, an increase of $5,500,000.

(4) For fiscal year 2006, an increase of $7,500,000.

(5) For fiscal year 2007, an increase of $7,500,000.

SEC. 523. OFFICE OF GENERIC DRUGS.

For the Office of Generic Drugs (within the Food and Drug Administration), there are authorized to be appropriated the following amounts, stated as increases above the amount made available under appropriations Acts for such Office for fiscal year 2002:

(1) For fiscal year 2003, an increase of $3,000,000.

(2) For fiscal year 2004, an increase of $6,000,000.

(3) For fiscal year 2005, an increase of $9,000,000.

(4) For fiscal year 2006, an increase of $12,000,000.

(5) For fiscal year 2007, an increase of $15,000,000.

Subtitle C—Additional Provisions

SEC. 531. TRANSITION TO DIGITAL TELEVISION.

(a) PAIR ASSIGNMENT REQUIRED.—In order to further promote the orderly transition to digital

television, and to promote the equitable allocation and use of digital channels by television broadcast permittees and licensees, the Federal Communications Commission, at the request of an eligible licensee or permittee, shall, within 90 days after the date of enactment of this Act, allot, if necessary, and assign a paired digital television channel to that licensee or permittee, provided that—

(1) such channel can be allotted and assigned without further modification of the tables of allotments as set forth in sections 73.606 and 73.622 of the Commission's regulations (47 CFR 73.606, 73.622); and

(2) such allotment and assignment is otherwise consistent with the Commission's rules (47 CFR part 73).

(b) ELIGIBLE TRANSITION LICENSEE OR PERMITTEE.—For purposes of subsection (a), the term ''eligible licensee or permittee'' means only a full power television broadcast licensee or permittee (or its successor in interest) that—

(1) had an application pending for an analog television station construction permit as of October 24, 1991, which application was granted after April 3, 1997; and

(2) as of the date of enactment of this Act, is the permittee or licensee of that station.

(c) REQUIREMENTS ON LICENSEE OR PERMITTEE.—

(1) CONSTRUCTION DEADLINE.—Any licensee or permittee receiving a paired digital channel pursuant to this section—

(A) shall be required to construct the digital television broadcast facility within 18 months of the date on which the Federal Communications Commission issues a construction permit therefore, and

(B) shall be prohibited from obtaining or receiving an extension of time from the Commission beyond the construction deadline established by paragraph (1).

(2) PROHIBITION OF ANALOG OPERATION USING DIGITAL PAIR.— Any licensee or permittee receiving a paired digital channel pursuant to this section shall be prohibited from giving up its current paired analog assignment and becoming a single-channel broadcaster and operating in analog on such paired digital channel.

(d) RELIEF RESTRICTED.—Any paired digital allotment and assignment made under this section shall not be available to any other applicant unless such applicant is an eligible licensee or permittee within the meaning of subsection (b).

SEC. 532. 3-YEAR DELAY IN LOCK IN PROCEDURES FOR MEDICARE+CHOICE PLANS; CHANGE IN CERTAIN MEDICARE+CHOICE DEADLINES AND ANNUAL, COORDINATED ELECTION PERIOD FOR 2003, 2004, AND 2005.

(a) LOCK-IN DELAY.—Section 1851(e) of the Social Security Act (42 U.S.C. 1395w–21(e)) is amended—

(1) in paragraph (2)(A), by striking ''THROUGH 2001'' and ''during 1998, 1999, 2000, and 2001'' and inserting ''THROUGH 2004'' and ''during the period beginning January 1, 1998, and ending on December 31, 2004'', respectively;

(2) in the heading to paragraph (2)(B), by striking ''DURING 2002'' and inserting ''DURING 2005'';

(3) in paragraphs (2)(B)(i) and (2)(C)(i), by striking ''2002'' and inserting ''2005'' each place it appears;

(4) in paragraph (2)(D), by striking ''2001'' and inserting ''2004''; and

(5) in paragraph (4), by striking ''2002'' and inserting ''2005'' each place it appears.

(b) CHANGE IN REPORTING DEADLINE.—

(1) IN GENERAL.—Section 1854(a)(1) of such Act (42 U.S.C. 1395w–24(a)(1)) is amended by striking ''Not later than July 1 of each year'' and inserting ''Not later than the second Monday in September of 2002, 2003, and 2004 (or July 1 of each other year)''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to information submitted for years beginning with 2003.

(c) DELAY IN ANNUAL, COORDINATED ELECTION PERIOD.—

(1) IN GENERAL.—Section 1851(e) of such Act (42 U.S.C. 1395w–21(e)) is amended—

(A) in paragraph (3)(B), by striking ''means'' and all that follows and inserting the following: ''means, with respect to a year before 2003 and after 2005, the month of November before such year and with respect to 2003, 2004, and 2005, the period beginning on November 15 and ending on December 31 of the year before such year.''; and

(B) in paragraph (6)(A), by striking ''each subsequent year (as provided in paragraph (3))'' and inserting ''during the annual, coordinated election period under paragraph (3) for each subsequent year''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to the annual, coordinated election period for years beginning with 2003.

(d) CHANGE TO ANNUAL ANNOUNCEMENT OF PAYMENT RATES.—

(1) IN GENERAL.—Section 1853(b)(1) of such Act (42 U.S.C. 1395w–23(b)(1)) is amended by striking ''not later than March 1 before the calendar year concerned'' and inserting ''for years before 2004 and after 2005 not later than March 1 before the calendar year concerned and for 2004 and 2005 not later than the second Monday in May before the respective calendar year''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall first apply to announcements for years after 2003.

And the Senate agree to the same.

From the Committee on Energy and Commerce, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

BILLY TAUZIN,
MICHAEL BILIRAKIS,
PAUL E. GILLMOR,
RICHARD BURR,
JOHN SHIMKUS,
JOHN D. DINGELL,
HENRY A. WAXMAN,
SHERROD BROWN,

Provided that Mr. Pallone is appointed in lieu of Mr. Brown of Ohio for consideration of title IV of the House bill, and modifications committed to conference:

FRANK PALLONE, Jr.,

From the Committee on Agriculture, for consideration of title II of the House bill and sec. 216 and title V of the Senate amendment, and modifications committed to conference:

LARRY COMBEST,
FRANK D. LUCAS,
SAXBY CHAMBLISS,
CHARLES STENHOLM,
TIM HOLDEN,

From the Committee on the Judiciary, for consideration of title II of the House bill and secs. 216 and 401 of the Senate amendment, and modifications committed to conference:

F. JAMES SENSENBRENNER, Jr.,
LAMAR SMITH,
JOHN CONYERS, Jr.,

Managers on the Part of the House.

EDWARD KENNEDY,
CHRIS DODD,
TOM HARKIN,
BARBARA A. MIKULSKI,
JIM JEFFORDS,
JUDD GREGG,
BILL FRIST,
MIKE ENZI,
TIM HUTCHINSON,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3448), to improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

TITLE I—NATIONAL PREPAREDNESS FOR BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES

As approved by the conference Managers, Title I addresses core public health concerns associated with preparedness for and effective response to bioterrorism and other public health emergencies in a number of different ways. First Title I improves communications between and among all levels of government, public health officials, first responders, and health care providers and facilities during emergencies. The Managers have authorized substantial sums in FY 2002 and beyond in grants to States, local governments, and other public and private health care facilities and other entities to improve planning and preparedness activities, and educate and train health care personnel. Under Title I, the Department of Health and Human Services (HHS) will have a new focus, and improved coordination and accountability, through a new Assistant Secretary for Public Health emergency preparedness. The legislation also authorizes the National Disaster medical system, new planning and reporting provisions, training exercises, and improved communications strategies and networks. The Managers also believe that the provisions of Title I will ensure that the nation has sufficient drugs, vaccines, and other supplies for our emergency health security. The Managers intend for activities under Title I to enhance the Nation's public health infrastructure at the national, state, and local levels. The Managers believe that an effective public health system is essential to responding effectively to bioterrorism and other public health emergencies.

Subtitle A—National Preparedness and Response Planning, Coordinating, and Reporting

Section 101. National Preparedness and Response

House provision: The House provision requires the Secretary of HHS to continue the process of developing and implementing a coordinated strategy, including the preparation of a national plan for carrying out health-related activities to prepare for and respond effectively to bioterrorism and other public health emergencies. The plan would be in consultation with other Federal agencies and other appropriate public and private entities. The plan also would be coordinated with activities of State and local governments to meet preparedness goals set out under the Act. National preparedness goals include providing effective assistance to State and local governments to ensure that they and their health care facilities have

adequate capacity and properly trained response personnel; a coordinated plan, effective communications networks, and laboratory readiness, training and surveillance; developing and maintaining medical countermeasures against biological agents; and effective coordination at all levels of government. There would be evaluations and reports of progress.

Senate amendment: The Senate amendment contains similar provisions.

Conference substitute: The Conference adopts the House provisions with certain modifications to clarify the provision does not expand regulatory or other authority, and to incorporate various advisory committee and study provisions. A study to emergency response services and their use during public health emergencies, formerly located in section 114 of the House bill, is now located in this section.

Section 102. Assistant Secretary for Public Health Emergency Preparedness; National Disaster Medical System

House provision: The House provision establishes the new position of Assistant Secretary for Emergency Preparedness to coordinate HHS activities under the new Act. The provision also would authorize the National Disaster Medical System, under the new Assistant Secretary to provide for further National capacity during public health emergencies.

Senate amendment: The Senate amendment contains a similar provision in section 211 of the Senate amendment.

Conference substitute: The Conference substitute uses the House language with modification. The managers believe that there is a need to increase coordination of the Department of Health and Human Services' efforts in responding to bioterrorism and other public health emergencies, and thus has provided for the creation of an Assistant Secretary for Public Health Emergency Preparedness. The substitute also formally establishes the National Disaster Medical System (NDMS), recognizing the important role already played by the NDMS in the Federal government's response to all types of emergencies and disasters. The substitute also addresses a number of critical personnel issues within the NDMS, including liability protections, employment rights, and compensation for work injuries. In addition, the Secretary shall take into account the role and expertise of the Agency for Toxic Substances and Disease Registry.

Section 103. Improving Ability of Centers for Disease Control and Prevention

House provision: The House bill provides authorization and multi-year contracting authority for the renovation, development and security at facilities for the Centers for Disease Control and Prevention (CDC). The House bill also enhances training and nationwide laboratory capacity, and the establishment of integrated, national public health communications and surveillance networks.

Senate amendment: The Senate amendment, in section 202, also contains provisions for upgrading CDC's activities and facilities.

Conference substitute: The Conference substitute adopts the House provision with modifications. The substitute recognizes the critical role played by CDC in the nation's efforts to defend against bioterrorism and other public health emergencies. The Managers are concerned by extreme disrepair at many CDC laboratories and believe that repair and modernization funds are desperately needed. To that end, the substitute has provided multi-year contracting authority for CDC and has authorized an accelerated program of facilities funding. The substitute also recognizes the central role played by CDC in maintaining robust public health alert communications and surveillance networks, and has provided for grants, contracts, and cooperative agreements to further strengthen a national network that includes public health laboratories and other health care facilities. Provisions concerning priorities for public health lab enhancements have been moved to the general grants section, section 131, of the Conference substitute.

Section 104. Advisory Committees and Communications; Study Regarding Communications Abilities of Public Health Agencies

House provision: Section 104 of the House bill establishes an advisory committee on children and terrorism and also one on emergency public information and communications. The provision also requires a coordinated strategy on public health communications during a bioterrorism attack. Section 111 also contains a provision for a study regarding the communications ability of public health agencies and to improve telecommunications infrastructure and connectivity during public health emergencies.

Senate amendment: Section 213 of the Senate amendment contains similar provisions. Section 214 of the Senate amendment also contains a provision establishing the official Federal Internet Site on Bioterrorism.

Conference substitute: The Conference substitute adopts, with minor modification, the provisions from the House and Senate establishing an advisory committee on children and terrorism; an advisory committee on emergency public information and communications; a coordinated strategy on public health communications during a bioterrorism attack; and the official Federal Internet Site on Bioterrorism.

Section 105. Education of Health Care Personnel; Training Regarding Pediatric Issues

House provision: The House bill requires the establishment of core curriculum materials for public health emergencies, for the purpose of education and training of health care personnel.

Senate amendment: Section 105 of the Senate amendment contains a similar provision.

Conference substitute: The Conference substitute adopts the House provision with minor modification. The Managers intend that the eligible entity phrase ''other appropriate educational entities'' includes medical schools that have established departments of medical education.

Section 106. Grants Regarding Shortages of Certain Health Professionals

House provision: The House bill provides grants for training and education to certain categories of health care professionals for which there exist shortages impacting the ability to respond to bioterrorism and other public health emergencies.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference adopts the House provision without modification.

Section 107. Emergency System for Advance Registration of Health Professions Volunteers

House provision: The House bill establishes a national system to help verify the licenses, credentials and hospital privileges of health professionals who volunteer to respond during public health emergencies.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference adopts the House provision with modifications to make clear that use of the verification database is entirely voluntary, and that nothing in the section changes the roles of States in licensing or hospitals in establishing privileging requirements.

Section 108. Working Groups

House provision: House section 108 makes modifications to the existing working groups in section 319 of the Public Health Service Act (PHSA).

Senate amendment: The Senate amendment also makes modifications and additions to the working group provisions. The Senate amendment also consolidates the two existing working groups in sections 319F of the Public Health Service Act.

Conference substitute: The Conference substitute adopts a single working group, but allows for subcommittees to represent the working group with respect to particular matters. The authority of the working group is limited through various savings clauses. The primary purposes of the working group are consultation, assisting in coordination, and making recommendations on a variety of topics related to preparedness for and response to bioterrorism and other public health emergencies. The Managers expect the working group to take into account the role and expertise of the Agency for Toxic Substances and Disease Registry. Additionally, the Managers encourage the working group to recognize the role of private ambulance services, especially when they may be the only ambulance services in the area.

Section 109. Antimicrobial Resistance

House provision: The House bill authorizes further research and DNA analysis of priority pathogens that may be used by bioterrorists, and contains other provisions concerning antimicrobial resistance.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House provision on antimicrobial resistance. The provision concerning priority pathogens has been moved to section 125 of the Conference substitute.

Section 110. Supplies and Services in Lieu of Award Funds

House provision: The House bill provides flexibility to allow the Secretary of HHS to supply actual supplies, equipment, or services instead of, or in conjunction with, grants.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House provision.

Section 111. Additional Amendments

House provision: The House bill makes revisions to time frames to accelerate preparedness planning.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House provision.

Subtitle B—Strategic National Stockpile; Development of Priority Countermeasures

Section 121. Strategic National Stockpile

House provision: The House bill authorizes a national stockpile or stockpiles of drugs, vaccines, biologic products, medical devices and supplies to meet the health security needs of the United States. It requires enhanced procedures for coordination, maintenance, delivery, and distribution. House authorization language in section 151 of the House bill specifies specific sums for smallpox vaccines.

Senate amendment: Section 201 of the Senate amendment also authorizes a national stockpile, and separately has a provision under section 402 for authorizing smallpox vaccines for the stockpile.

Conferece substitute: The Conference substitute adopts the House provision with modifications and inclusion of a specific provision on smallpox vaccines. The Managers believe that antiviral products may be appropriate for the strategic national stockpile

and may include antiviral products reviewed by the Food and Drug Administration (FDA) or National Institutes of Health (NIH).

Section 122. Accelerated Approval of Priority Countermeasures

House provision: The House bill clarifies certain fast-track authority for drug priority countermeasures under the Federal Food, Drug, and Cosmetic Act.

Senate amendment: Section 405 of the Senate amendment contains a similar provision.

Conference substitute: The Conference substitute adopts the Senate provision with modification.

Section 123. Issuance of Rule on Animal Trials

House provision: The House bill requires the FDA to issue a final rule within six months allowing reliance on animal trials for certain priority countermeasures for public health emergencies.

Senate amendment: The Senate amendment contains a similar requirement with a 30-day time frame.

Conference substitute: The Conference substitute adopts the House provision with modifications to provide the rule within 90 days of the date of enactment.

Section 124. Security for Countermeasure Development and Production

House provision: The House bill authorizes the Secretary, in consultation with the Attorney General and Secretary of Defense, to provide technical or other assistance to enhance security at facilities that conduct development, production, distribution, or storage of priority countermeasures.

Senate amendment: Section 402 of the Senate amendment contains a similar provision and also provides for best practices guidelines.

Conference substitute: The Conference substitute adopts the House provisions without a requirement for best practices guidelines.

Section 125. Accelerated Countermeasure Research and Development

House provision: The House bill directs the Secretary to conduct an accelerated countermeasure development program, and to award grants for biomedical research, development of vaccines, and diagnostic tests for priority countermeasures.

Senate amendment: Section 404 of the Senate amendment contains similar provisions.

Conference substitute: The Conference substitute adopts the Senate provisions with modifications. The House provision concerning priority pathogens is included. The Managers encourage the Secretary to consider novel methods for detecting and identifying viral and bacterial pathogens, and developing and manufacturing effective therapeutic responses, including both vaccines and antibiotics. The Managers also encourage the Secretary to consider the use of emerging biophysical and biomanufacturing technologies that hold the promise of producing rapid detection/response programs that can achieve accelerated responses to bioterrist attacks or threats. In addition, the Managers encourage the Secretary, in coordination with the Administrator of the Environmental Protection Agency, to develop protocols for and enhance facilities for testing technologies used to decontaminate facilities contaminated as a result of bioterrorism.

Section 126. Evaluation of New and Emerging Technologies Regarding Bioterrist Attack and Other Public Health Emergencies

House provision: The House bill requires the Secretary to evaluate new and emerging technologies to help detect, identify, diagnose, or conduct public health surveillance activities for public health emergencies, and prioritize development and deployment where warranted.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House provision with limiting modifications.

Section 127. Potassium Iodide

House provision: The House bill requires the Secretary to make potassium iodide available to States and local governments that submit a plan for local stockpile and distribution for the population within 20 miles of a nuclear power plant.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House provision with modifications that include authority provided to the President; additional restrictions on the eligibility of local governments; and a different schedule for effective dates, and other modifications.

Subtitle C—Improving State, Local, and Hospital Preparedness for and Response to Bioterrorism and Other Public Health Emergencies

Section 131. Grants to Improve State, Local, and Hospital Preparedness for and Response to Bioterrorism and Other Public Health Emergencies

House provision: The House bill modifies current authorities under section 319 of the PHSA and otherwise authorized grant funding to improve State, local, and hospital preparedness for and response to bioterrorism and other public health emergencies through the existing mechanisms of the PHSA. Authorization was provided from FY 2002–2006.

Senate amendment: The Senate amendment contains a provision for State block grants for fiscal years 2002–2003 for bioterrorism activities only, and the authorization would not continue past FY 2003. It also provides an authorization for bioterrorism medical centers with authorization from FY 2002–2006, limited to bioterrorism activities. Finally, the Senate amendment maintains and authorizes a portion of funding under section 319 for a broader list of purposes and eligible entities.

Conference substitute: The Conference substitute reflects a compromise between House and Senate approaches. For FY 2003, there is a modified State block grant provision. Beyond FY 2003, greater flexibility is provided to the Secretary to either continue the same approach or modify the approach without the restrictions of the FY 2003 formulas. The substitute also provides authorization for the purpose of enhancing the preparedness of hospitals (including children's hospitals), clinics, health centers, and primary care facilities, and for planning and administrative purposes relating to such authorizations. For FY 2004–2006, there is a new section 319 C–2.

The Managers want to ensure that section 131 does not delay or disrupt the current grants and cooperative agreements that the Administration has been using in FY 2002, including those programs administered by CDC and the Health Resources and Services Administration (HRSA). It is the Managers' intent to allow the Administration to continue this approach. The Managers expect the Administration to evaluate the effectiveness of the program and make revisions where necessary to improve effectiveness and accountability.

The Managers intend that a permissible use of funds under this section includes grants to one or more centers of excellence to develop appropriate innovative technology projects—for example, the development of a web-based computerized planning application that incorporates standardized language and utilizes wireless mobile technology. The Managers intend that training programs pursuant to this section could include the use of virtual reality training methods, human patient simulators, computer-assisted training modalities, and internet-based training and modeling capabilities. One or more centers of excellence could be established to develop, deploy, and evaluate virtual and augmented reality-based, internet-ready training capabilities.

Subtitle D—Emergency Authorities; Additional Provisions

Section 141. Reporting Deadlines

House provision: The House bill provides extensions for certain reporting deadlines during a public health emergency, and for transfer authority for funds during a public health emergency.

Senate amendment: The Senate amendment contains an analogous provision on reporting deadlines and no new transfer authority.

Conference substitute: The Conference substitute adopts the Senate provision on reporting deadlines with minor modifications.

Section 142. Streamlining and Clarifying Communicable Disease Quarantine Provisions

House provision: The House bill changes existing law to expand the authority of the Secretary, in consultation with the Surgeon General, and under certain conditions, to specify diseases that are subject to individual detention orders.

Senate amendment: The senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House provision with modifications to the standards required before the Secretary may exercise this authority.

Section 143. Emergency Waiver of Medicare, Medicaid, and SCHIP Requirements

House provision: Section 143 allows the Secretary of Health and Human Services to waive certain requirements (and related regulations) in of titles XVIII, XIX, and XXI of the Social Security Act (as well as requirements and regulations under title XI of the Social Security Act, only as necessary to effectuate the waiver of the enumerated requirements of titles XVIII, XIX, and XXI to meet the purposes of this section) in the event of an emergency or disaster in order to: (1) facilitate the provision of health services in the emergency or disaster area, and (2) ensure that health care providers who furnish care in good faith to individuals enrolled in these programs during an emergency or disaster may be reimbursed without penalty. The Secretary can waive requirements pertaining to: conditions of participation for providers; provider licensing requirements; sanctions for physician self-referral; sanctions relating to transferring patients in an emergency; and deadlines for filing reports for periods of up to 90 days.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House provision with modifications. The Managers agree that the Secretary shall provide written notice to Congress, including a certification that a waiver is necessary. This notice shall be issued before the waiver authority is exercised. Additionally, the Secretary must report to Congress within a year evaluating the effectiveness of the approaches used during the operation of the waiver. The time frame for such waivers shall be 60 days.

Section 144. Provision for Expiration of Public Health Emergencies

House provision: The House bill provides that public health emergencies expire by announcement of the Secretary, or after 90 days. The Secretary may renew emergency declarations at his or her discretion.

Senate amendment: Section 212 of the Senate Amendment contains a similar provision, but with a 180-day expiration period.

Conference substitute: The Conference substitute adopts the House provision with amendments, including clarifying the status of any existing declaration of public health emergencies.

Subtitle—Additional Provisions

Section 151. Designated State Public Emergency Announcement Plan

House provision: Section 135 of the House bill amends the Stafford Act to provide for coordinated communications response.

Senate amendment: Section 312 of the Senate amendment contains an identical provision.

Conference substitute: The Conference substitute adopts the identical House and Senate provisions.

Section 152. Expanded Research by Secretary of Energy

House provision: The House bill expands current research at the Department of Energy (DOE) and the National Nuclear Security Administration (NNSA) on rapid detection of pathogens likely to be used in bioterrorist attacks or other agents that may cause a public health emergency.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House provision.

Section 153. Expanded Research on Worker Health and Safety

House provision: The House bill authorizes the National Institutes of Occupational Safety and Health (NIOSH) to expand research on health and safety of workers who are at risk for bioterrorist threats or attacks in the workplace.

Senate amendment: The Senate amendment contains an analogous provision.

Conference substitute: The Conference substitute adopts the Senate Amendment with minor modification.

Section 154. Enhancement of Emergency Preparedness of Department of Veterans Affairs

House provision: The House bill has no analogous provision.

Senate amendment: The Senate amendment has no analogous provision.

Conference substitute: The Conference substitute instructs the Secretary of Veterans Affairs to take appropriate actions to enhance the readiness of the Department's medical centers and research facilities for a chemical or biological attack, based on the results of an evaluation to be conducted by the Secretary on the security needs at these facilities.

Section 155. Reauthorization of Existing Program

House provision: The House bill has no analogous provision.

Senate amendment: The Senate amendment has no analogous provision.

Conference substitute: The Conference substitute amends section 582(f) of the Public Health Service Act by reauthorizing a grant program through 2006 that provides awards to public and private entities, as well as Indian tribes and tribal organizations, that develop programs focusing on the behavioral and biological aspects of psychological trauma response and research that will help treat psychiatric disorders of children and youth resulting from witnessing or experiencing a traumatic event.

Section 156. Sense of Congress

House provision: The House bill has no analogous provision.

Senate amendment: The Senate amendment states that Congress recognizes that many university-based programs are already functioning and developing important biodefense products and solutions. Congress should recognize the importance of supporting work done at university centers and laboratories. In addition, Congress should recognize the importance of existing public and private university-based research, training, public awareness, and safety-related biological defense programs in the awarding of grants and contracts made in accordance with this Act.

Conference substitute: The Conference substitute contains one modification to the Senate amendment, which clarifies that the Secretary of Health and Human Services may recognize the importance of existing public and private university-based efforts in grants and cooperative agreements.

Section 157. General Accounting Office Report

House provision: The House bill has no analogous provision.

Senate amendment: The Senate amendment requires a General Accounting Office (GAO) report to Congress on Federal bioterrorism-related activities.

Conference substitute: The Conference substitute amends section 319F of the Public Health Service Act to require GAO to report on Federal bioterrorism-related activities, including research, preparedness, and response, to the following committees: Senate Health, Education, Labor, and Pensions; Senate Appropriations; House Energy and Commerce; and House Appropriations.

Section 158. Certain Awards

House provision: The House bill has no analogous provision.

Senate amendment: The Senate amendment has no analogous provision.

Conference substitute: The Conference substitute amends section 319(a) of the Public Health Service Act by inserting after ''grants,'' ''providing awards for expenses, and.''

Section 159. Public Access Defibrillation Programs and Public Access Defibrillation Demonstration Projects

House provision: The House bill contains no such analogous provision.

Senate amendment: The Senate amendment contains no such analogous provision.

Conference substitute: The Conference substitute amends section 243 of title 42, United States Code, to enact the ''Community Access to Emergency Defibrillation Act of 2002.'' The Conference substitute directs the Secretary to establish a new grant program for States, political subdivisions of States, Indian tribes, and tribal organizations to develop and implement public access defibrillation programs. These grants may be used to purchase automated external defibrillators (AEDs), to provide automated external defibrillation and basic life support training in AED usage, to provide information to community members about the public access defibrillation program, to provide information to the local emergency medical system regarding the placement of AEDs, and to produce materials to encourage private companies to purchase AEDs. For this new grant program, the Conference substitute authorizes the appropriation of $25 million in fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2004 through 2006. The Conference substitute also establishes a new grant program for political divisions of States, Indian tribes, and tribal organizations to develop and implement innovative, comprehensive, community-based public access defibrillation demonstration projects. These grants may be used to purchase AEDs, to provide basic life training in automated external defibrillator usage, to provide information to community members about the public access defibrillation demonstration project, and to provide information to the local emergency medical services system regarding the placement of AEDs. For these demonstration projects, the Conference substitute authorizes the appropriation of $5 million for fiscal years 2003 through 2006. The Managers intend that the ''Good Samaritan'' protections regarding emergency use of AEDs outlined in section 238(q) of title 42, United States Code will apply to this section. It is the intent of the Managers that this new program coordinates its activities with the Rural AED program and avoid duplication of effort.

TITLE II—ENHANCING CONTROLS ON DANGEROUS BIOLOGICAL AGENTS AND TOXINS

Subtitle A—Department of Health and Human Services

Section 201. Regulation of Certain Biological Agents and Toxins

House provision: The House bill requires all persons who possess, use or transfer ''select agents''—the 36 biological agents or toxins currently determined by the Secretary of the Department of Health and Human Services (HHS) to pose ''a severe threat to public health and safety''—to register with the Secretary and be subject to reasonable safety and security requirements and inspections. Current law requires registration only of those entities transferring such agents. The House bill also directs that the Secretary maintain a national database of all such agents, with sufficient information to facilitate their identification and traceability. The Secretary, in consultation with the Attorney General, must establish specific security requirements for registered facilities and a personnel screening protocol to ensure that access to such agents is not permitted by individuals who are ''restricted persons'' under the USA PATRIOT Act (18 U.S.C. 175b), are named in a warrant for violent criminal or terrorist activity, are under investigation for involvement in domestic or international terrorist or criminal organizations, or suspected of spying for the military or intelligence operations of a foreign nation. The Secretary is granted authority to assist public and nonprofit private entities in meeting such security requirements. The House bill also imposes civil penalties for those who violate the regulations, up to $500,000.

The House bill grants the Secretary discretion to make exemptions to the registration requirements only where those exemptions are consistent with protecting the public health and safety—for example, with respect to inactivated or attenuated strains of select agents used in vaccines or other products for legitimate medical research or use—or when the agent is presented for diagnosis, verification or proficiency testing purposes at a clinical laboratory and is promptly destroyed or transferred to a registered facility after such identification. The House bill also exempts from mandatory disclosure under the Freedom of Information Act (FOIA) site-specific or identifying information submitted under these regulations concerning registered persons, select agents, and security mechanisms.

Senate amendment: The Senate amendment is substantially similar to the House bill but differs in a few respects. First, in developing the list of select agents, the Secretary is directed to consider the needs of children and other vulnerable populations. Second, individuals who seek access to select agents are screened only to identify if they are ''restricted persons'' under the USA PATRIOT Act, or are named in a warrant for participation in a domestic or international act of terrorism. Third, the Secretary is permitted

to exempt certain attenuated or inactive biological agents or toxins and certain approved medical products from the list of select agents.

Conference substitute: The Conference substitute adopts provisions of both bills, with significant modifications. The primary goals of this subtitle are to ensure the prompt reporting to the Federal government of possession of select agents (including by those who were in possession prior to April 15, 1997, the effective date for reporting transfers of select agents), to increase the security over such agents (including access controls and screening of personnel), and to establish a comprehensive and detailed national database of the location and characterization of such agents and the identities of those in possession of them. To effectuate these goals, the substitute requires that, at a minimum, all possession of select agents (unless exempt under the provisions of this subtitle) must be registered with the Secretary. The Managers expect that most ''persons'' who register under this subtitle will be public and private entities, rather than individuals. But these provisions also will cover individuals possessing, using or transferring select agents who have not been granted authority to do so by registered persons. If an individual has not been granted such authority, then that individual would be a person required to register under this subtitle. If an individual has been granted such authority without proper authorization from the Secretary, as required by this subtitle, then the registered person is subject to any penalties provided for violation of such regulations. The Managers emphasize that the primary responsibility for registration and the screening of employees working with select agents is with the entity or employer, not the individual employee. The Secretary also is required to promulgate regulations establishing safety requirements for the possession, use, and transfer of select agents. These regulations must include procedures to protect the public safety in the event the safety requirements for possession, use or transfer are violated.

The Managers recognize that some select agents may pose a greater threat to the public health and safety than others. Accordingly, the Conference substitute amends the security requirements of both bills by adding the phrase ''commensurate with the risk such agent or toxin poses to public health and safety (including the risk of use in domestic or international terrorism).'' The Secretary will have flexibility to impose different levels of security requirements on different select agents based on his or her evaluation of the level of threat to the public, as is currently done with respect to laboratory biosafety levels. Because an agent must pose a severe threat to human health to be placed on the select agent list, the Secretary may not decide that security requirements or registration of possession are unnecessary for a particular select agent.

The substitute also modifies the existing statutory requirements for the transfer regulations by adding ''and security measures'' after ''safeguards'' in the term ''safeguards to prevent access . . . for use in domestic or international terrorism or for any other criminal purposes'' to clarify that such regulations include the imposition of security requirements. The substitute also requires that registered persons promptly notify the Secretary whenever a select agent is lost, stolen, or released outside of a biocontainment area of a facility. Current HHS regulations do not mandate such notifications.

The Conference substitute adds new provisions regarding the screening of entities and individuals seeking to register their possession, use or transfer of select agents. While both the House and Senate bills mandate screening of individuals seeking access to agents through a registered person, neither bill required screening of the registered persons themselves. The substitute provides for such screening in a similar manner to that performed for individuals working at the facilities of registered persons. Further with respect to screening, the substitute drops the provision in both bills relating to outstanding warrants, as duplicative of the fugitive provision in the restricted person categories of the USA PATRIOT Act, and adds a screening category that was in neither bill—those reasonably suspected of committing Federal crimes of terrorism. The substitute includes but makes revisions to the two additional screening categories contained in the House bill to ensure an objective basis for governmental suspicion of involvement with terrorist or criminal organizations, or with foreign powers. In the case of restricted persons, the substitute mandates that access to select agents be denied, because of the criminal prohibition on possession by such persons. In the case of persons falling within the other three specified categories, the substitute grants the Secretary and Attorney General discretion in determining how to proceed, given the law enforcement sensitivity of such situations. By making this distinction between the handling of restricted persons and other screening categories, the Managers do not intend that potential terrorists or foreign agents should be subject to a less strict screening standard than restricted persons. The substitute also clarifies that the screening performed by the Attorney General is for the sole purpose of identifying—through the use of official, electronic databases available to the Federal government—whether an individual or entity falls within any of the specified categories, and for notifying the HHS Secretary of such identification. It is the Managers' intent that the term ''electronic databases'' is not meant to preclude the use of other databases or files by the Attorney General to clarify or confirm information obtained during the electronic database search.

To address concerns within the academic and research communities about the timeliness and accuracy of the background screening process, the Conference substitute amends both bills by requiring ''prompt'' action by the Attorney General and the Secretary with respect to screening of and notification to affected individuals, and by providing for an expedited review process where good cause has been demonstrated by the registered person. The substitute also provides for a review of denials by the Secretary based on the screening process, and subsequent judicial review—with provisions to ensure that classified or sensitive law enforcement information is not compromised during such reviews. Specifically, the substitute allows for ex parte review by the Secretary in administrative proceedings, and the court during judicial review, whenever a denial is challenged. In providing the right for ex parte review, the Managers intend to protect classified and law enforcement sensitive information, including through the use of in camera proceedings. Moreover, the Managers intend that a reviewing court should not order the disclosure of any information that the United States believes may compromise national security or an ongoing law enforcement investigation without affording the United States an opportunity for further review in accordance with this subtitle. It is the Managers' overall expectation that the screening process be conducted in a timely and fair manner, and that the Secretary and the Attorney General will work closely together to effectuate such intent.

With respect to the national database of select agents that the Secretary must develop pursuant to this section, the Conference substitute slightly alters the language used in both bills with respect to the database's purpose. The object of the registration and database requirements is to provide information about all persons possessing, using or transferring select agents, and to collect sufficiently detailed characterization information on the registered select agents so that the database can differentiate between and within strains of a given agent or toxin. Such information should be in a format that public health and law enforcement officials can use to identify the origin or source of an agent or toxin that is used to cause harm to the public. Because of concerns over the potential for misconstruction, the term ''traceability''—which could imply a chain of custody or tracking requirement—was eliminated, and was replaced with the concept of ''source.''

Significant modifications were made to both bills with respect to exemptions from the statutory and regulatory requirements governing select agents. The Conference substitute establishes several exemptions from the regulatory regime for select agents, most of which are consistent with the Secretary's current regulations and practices. First, the Conference substitute adopts, with modifications, the Senate amendment's language with respect to product exemptions. The substitute directs the Secretary to exempt from such regulations products that are, bear or contain a select agent and are licensed or approved under several specified Federal laws, unless the Secretary determines that additional regulation is necessary for a specific product to ensure protection of public health and safety. The Managers intend that the Secretary will exempt by regulation categories of products, consistent with current regulations, and will act to regulate a specific product, or a particular application of a specific product, only when existing regulation under other Federal laws is inadequate. For example, HHS currently exempts the FDA-approved medical product Botox, which is the select agent botulinum toxin, when it is used by licensed physicians in the treatment of patients. However, when it is used in purely research settings or as part of early-stage clinical trials, HHS has chosen not to exempt Botox from current regulations. The Managers do not intend to alter this flexibility.

Second, the Conference substitute adds a provision granting the Secretary discretionary authority to exempt, on a case-by-case basis, investigational products when they are being used in investigational or clinical trials authorized under other Federal laws, such as the Federal Food, Drug, and Cosmetic Act. Given the time sensitivity of such trials, the substitute also includes a provision mandating a prompt determination by the Secretary of such an exemption request—within 14 days after the applicant has submitted a complete exemption request and has notified the Secretary that the investigation may proceed as authorized under Federal law.

Third, with respect to clinical or diagnostic laboratories that may come into possession of select agents when conducting specimen diagnosis, verification or proficiency testing, the substitute adopts with minor changes the comparable provisions in the House and Senate bills. The Secretary shall exempt such laboratories from registration requirements, but only if they report the identification of select agents to the Secretary and either promptly transfer the agent to a registered person or destroy the agent on site, in accordance with regulations established by the Secretary. While HHS currently exempts such laboratories, existing

regulations permit them to transfer, destroy, or store the agent on site for reference purposes. The Conference substitute expressly rejects that regulatory approach, as it is inconsistent with the fundamental premise of this title—that all those who maintain possession of a select agent must register and be subject to appropriate security and safety requirements. The Secretary may not exempt laboratories that possess select agents for reference purposes, or any other clinical or diagnostic laboratories that do not qualify for an exemption under the terms of this title. In addition, the Conference substitute creates two temporary exemption authorities to deal with public health emergencies and agricultural emergencies, whether domestic or foreign.

With respect to funding, the Conference substitute authorizes such sums as may be necessary to carry out these new and expanded functions. The Managers note that, historically, HHS has had insufficient resources to properly run the existing select agent transfer program. While current regulations permit inspections, only 20 percent of all registered facilities have been inspected since the inception of the program in 1997, and virtually none of these inspections were conducted prior to registration. The Managers also note that HHS received a large increase in funding for this program in the Fiscal Year 2002 supplemental appropriations bill. Given the broader, but uncertain scope of the new regulatory regime, it is unclear whether additional funds beyond current appropriations will be necessary for Fiscal Year 2003. Once all persons possessing select agents notify the Secretary of such possession 90 days after enactment of this title, the appropriations level may need to be re-evaluated.

Section 202. Implementation by Department of Health and Human Services

House provision: The House bill requires notification to the Secretary by all persons possessing select agents within 60 days of enactment, and an interim final rule establishing a regulatory structure to be issued within 120 days of enactment.

Senate amendment: The Senate amendment requires the Secretary to issue an interim final rule within 180 days of enactment, and requires all persons possessing select agents to register within 60 days of issuance of the rule.

Conference substitute: The Conference substitute adopts the House bill with modifications. The substitute requires notification to the Secretary by all persons possessing select agents within 90 days of enactment, based on guidance issued by the Secretary within 30 days of enactment, and the issuance of an interim final rule within 180 days of enactment. The substitute also provides that the interim final rule shall include time frames for applicability of the rule that minimize disruption of research or educational projects that involves select agents and that were underway as of the effective date of such rule. The Managers note that the interim final rule and effective date provisions will result in these new regulations going into effect at approximately the same time as the National Institutes of Health (NIH) begins to award Fiscal Year 2003 grants for research, some of which will be in the select agent area. The Managers expect that the Secretary will encourage those seeking such grants to begin the registration and screening process under this title concurrently with the NIH grant process, and that the Secretary will ensure the timely registration and screening of such grantees, so as not to delay this important research.

Section 203. Effective dates

House provision and Senate amendment: both the House bill and the Senate amendment provide that regulations promulgated by the Secretary under section 511 of the Antiterrorism and Effective Death Penalty Act of 1996 are deemed to have been promulgated under section 351A of the Public Health Service Act, as added by this Act. They both also provide that the FOIA exemptions apply retroactively to the effective date of the Antiterrorism and Effective Death Penalty Act of 1996.

Conference substitute: The Conference substitute adopts the same provisions.

Section 204. Conforming Amendment

House provision and Senate amendment: Both the House bill and the Senate amendment repeal those provisions of the Antiterrorism and Effective Death Penalty Act of 1996 that have been codified in section 351A of the Public Health Service Act by this Act.

Conference substitute: The Conference substitute adopts the same provisions.

Subtitle B—Department of Agriculture

Section 211. Short Title

House provision and Senate amendment: Neither the House bill nor the Senate amendment contain any analogous provision.

Conference substitute: The Conference substitute includes a new subtitle, with its own short title—the Agricultural Bioterrorism Protection Act of 2002.

Section 212. Regulation of Certain Biological Agents and Toxins

House provision and Senate amendment: Neither the House bill nor the Senate amendment contain any analogous provision.

Conference substitute: The Conference substitute adopts provisions that would grant comparable regulatory authorities to the U.S. Department of Agriculture (USDA) as those granted to HHS under subtitle A of this title for the regulation of possession, use or transfer of listed biological agents and toxins that present a severe threat to plant or animal health, or animal or plant products. In an effort to minimize regulatory duplication and burden, the substitute seeks to ensure, to the greatest extent practicable, uniformity in the statutory authority that the two departments will administer. Exceptions exist in the criteria to be used by the Secretary of Agriculture in developing a list of agriculturally significant biological agents and toxins; considerations to be made in granting exemptions from regulation under the statute; procedures related to civil monetary penalties; and the time frames for promulgation of a biological agents and toxins list and the accompanying requirement that individuals who possess these agents notify the Secretary of such possession. In addition, with respect to the screening of persons registering or accessing listed agents, the substitute uses the same screening categories as are in subtitle A, but does not mandate any denials of access, given that possession of USDA-listed agents by restricted persons is not a Federal crime. Instead, the Secretary and Attorney General are granted discretion as to how to proceed in such situations.

The Managers recognize that, under provisions of current law, biologics manufacturers have had to register, maintain associated paperwork, and be subject to inspections and requirements from both USDA and HHS. Likewise, the Managers are aware that the inadequacy of the penalty provisions of the Virus-Serum-Toxin Act—enacted in 1913 and under which USDA currently regulates these dangerous agents—as well as the lack of authority for the Secretary of Agriculture to regulate possession of biological agents and toxins that pose a severe threat to plant or animal health may expose the Unite States to potential acts of bioterrorism that could have a devastating impact on animal and plant health, or the domestic agricultural economy.

The Managers intend that, in developing the list of agents and toxins to be regulated under this subtitle, the USDA Secretary shall consult with other appropriate Federal agencies. With regard to zoonotic agents, which pose a threat to both animals and humans, the Managers expect that the USDA Secretary will consult with the HHS Secretary in developing such a list. The Managers also intend that the USDA Secretary will develop the list of regulated agents and toxins based solely on the risk to animals or plants, or to animal or plant products, including consideration of the effect of exposure on the production and marketability of such products. The Managers do not intend that the USDA Secretary will include an agent or toxin on the USDA list because of the effect of that agent or toxin on human health, which is governed by the statutory provisions of section 351A of the Public Health Service Act, as amended by this title.

The Managers expect that most ''persons'' who register under this subtitle will be public and private entities, rather than individuals. But these provisions also will cover individuals possessing, using or transferring listed agents who have not been granted authority to do so by registered persons. If an individual has not been granted such authority, then that individual would be a person required to register under this subtitle. If an individual has been granted such authority without proper authorization from the Secretary, as required by this subtitle, then the registered person is subject to any penalties provided for violation of such regulations. The Managers emphasize that the primary responsibility for registration and the screening of employees working with listed agents is with the entity or employer, not the individual employee.

Procedures for the registration of persons, review of individuals, and inspection of facilities have been described in the statutory language in some detail. Of equal importance to the Managers are the regulations, to be established by the Secretary, which, to ensure compliance with this substitute, shall include provisions for the revocation and suspension of registrations for failure to maintain safe and secure facilities.

Section 213. Implementation by the Department of Agriculture

House provision and Senate amendment: Neither the House bill nor the Senate amendment contain any analagous provision.

Conference substitute: The Conference substitute provides that, within 60 days of enactment, the Secretary of Agriculture shall promulgate an interim final rule that establishes an initial list of agents and toxins meeting the statutory criteria for enhanced regulation. Within 60 days of the publishing of the interim final rule, all persons (unless exempt) must notify the Secretary of such possession. Within 180 days of enactment, the Secretary shall promulgate an interim final rule for carrying out the remainder of section 212, which such rule shall include time frames that minimize disruption of ongoing research and education with listed agents and toxins.

Subtitle C—Interagency Coordination Regarding Overlap Agents and Toxins

Section 221. Interagency Coordination

It is the Managers' intent that the two Secretaries will coordinate closely with respect to exemptions from these new regulatory regimes for overlap agents, so as to create a uniform and consistent approach. The Managers also intend that, under the Memorandum of Understanding, a regulated party will interact with one agency with respect to all matters—including registration,

screening, and inspections—so as to avoid confusion and forum shopping. The Managers also expect that the two Departments will coordinate and consult with respect to overlap agent registration, screening, and exemptions in a timely manner, particularly in situations of public health or agricultural emergencies.

Within 18 months of the implementation of a Memorandum of Understanding between USDA and HHS, the Managers intend that a formal, joint regulatory system shall be implemented by the two Departments for agents and toxins that appear on both the USDA and HHS lists. Once implemented, the Managers intend that these joint regulations shall supercede the Memorandum of Understanding with respect to matters covered by such regulations.

Subtitle D—Criminal Penalties Regarding Certain Biological Agents and Toxins

Section 231. Criminal Penalties

House provision: The House bill authorizes amendments to current law to require all persons who possess, use of transfer biological agents or toxins that have been listed as select agents by the HHS Secretary to register with the Secretary. To enforce these new regulatory provisions, subsection (a) of section 231 of the House bill provides that any person who knowingly transfers a select agent to any person without first verifying such registration with the Secretary could be fined or imprisoned up to five years, or both. The subsection also provides that any person who knowingly possesses a biological agent or toxin, where such agent or toxin is a select agent for which such person has not obtained a registration required by the Secretary, could be fined or imprisoned for up to five years, or both.

The House bill makes technical changes to 18 U.S.C. 175b to renumber current subsection (a) as (a)(1), and to redesignate subsection (c) as (a)(2). This change will result in the description of the possible penalties being placed immediately following the description of the unlawful conduct. The House bill also redesignates subsection (b) as subsection (d). The two new criminal provisions added under this bill are designated subsections (b) and (c) of section 175b. The House bill also makes conforming amendments to clarify the definition of the term ''select agent.'' The House bill also changes the title of section 175b from ''Possession by restricted persons'' to ''Select Agents.''

Senate amendment: The Senate amendment includes the same criminal provision relating to those who possess select agents without being registered, but differs with respect to the criminal penalty for unauthorized transfers. The Senate amendment criminalizes transfers to unregistered persons when the transferor has reason to believe that the recipient is not registered. The Senate amendment also differs by including the unlawful conduct in 18 U.S.C. 175, rather than 175b. The Senate amendment makes conforming changes to 18 U.S.C. 175 to make the sections technically correct and to eliminate a definition that is already provided in another section. The Senate amendment provides that current 18 U.S.C. 175(b) and (c) are redesignated as (c) and (d). New subsection (b) creates the criminal penalties referenced above. New subsection (d), which contains the definitions, amends current law to provide new definitions for the following terms: ''biological agent,'' ''for use as a weapon,'' and ''select agent.''

Conference substitute: The Conference substitute adopts the House language with regard to technical changes to 18 U.S.C. 175b, but adopts the Senate language with respect to new criminal penalties with modifications. The Conference substitute adopts the common language dealing with unlawful possession. However, the Conference substitute amends the Senate language regarding transfers to provide that any person who transfers a select agent to any person one knows or has reasonable cause to believe has not registered with the HHS Secretary could be fined or imprisoned up to five years, or both.

The Conference substitute also amends both bills by adding language that requires all persons who possess, use or transfer biological agents that have been listed as agents that pose a threat to agriculture by the Secretary of Agriculture to register with such Secretary. The Conference substitute provides that knowing possession of a biological agent or toxin, where such agent or toxin is listed by the Secretary of Agriculture under this Act and for which a required registration has not been obtained, is punishable by a fine or up to five years imprisonment, or both. Similarly, transfer of a biological agent or toxin listed by the Secretary of Agriculture to a person one knows or has reasonable cause to believe has not registered with the Secretary is punishable by a fine or up to five years imprisonment, or both.

The Conference substitute also makes additional conforming and technical amendments to title 18, including providing a comma in 18 U.S.C. 175(c); specifically describing what activities restricted persons are prohibited from engaging in under this section; referring to the correct code section for the definition of ''alien''; replacing legislative language in 176(a)(1)(A); modifying the definitions in 18 U.S.C. 178 for ''biological agent'', ''toxin'', and ''vector'' to make each more accurate; and modifying 18 U.S.C. 2332a regarding use of weapons of mass destruction to make it clear it refers to use of biological agents or toxins.

The Managers expect that most ''persons'' who register under this title will be public and private entities, rather than individuals. When an entity fails to register as required, the new criminal possession statutes will apply to that entity. These provisions also will cover individuals possessing select or listed agents who are unregistered and who have not been granted access to such agents by registered persons. If an individual has not been granted access by a registered person, then that individual would be a person required to register under this title for purposes of these criminal possession provisions. If an individual is granted access to a select or listed agent by a registered person without proper authorization from the Secretary, as required by this title, then the registered person is subject to any penalties provided for violation of such regulations. The Managers emphasize that the primary responsibility for registration and the screening of employees working with select or listed agents is with the entity or employer, not the individual employee. This same analysis applies to the criminal transfer provisions set forth in this section.

TITLE III—PROTECTING THE SAFETY AND SECURITY OF THE FOOD AND DRUG SUPPLY

Subtitle A—Protection of Food Supply

For purposes of this Title, the term ''Secretary'' refers to the Secretary of Health and Human Services, unless otherwise indicated.

Section 301. Food Safety and Security Strategy

House provision: The House bill contains no analogous provision.

Senate amendment: The Senate amendment expands the responsibilities of the President's Council on Food and Safety (established by Executive Order 13100) by directing the Council, with the Secretary of Commerce and the Secretary of Treasury to develop a crisis communications and education strategy with respect to bioterrorist threats to the flood supply. The Senate amendment authorizes to be appropriated $500,000 to develop such a strategy.

Conference substitute: The Conference substitute adopts the Senate amendment with modification. The Conference substitute expands the scope of consultation between the President's Council on Food Safety and other entities to include any other relevant Federal agencies, including law enforcement and intelligence related agencies, and scientific organizations. The Conference substitute also expands the scope of the food safety and security strategy to address technologies, threat assessments, risk communication, and procedures for securing food processing and manufacturing facilities and modes of transportation. The Conference substitute increases the amount of funds that are authorized to be appropriated for fiscal year 2002 to $750,000 to develop such a strategy.

Section 302. Protection Against Adulteration of Food

House provision: The House bill authorizes to be appropriated $100,000,000 for fiscal year 2002, and such sums as may be necessary for each year from fiscal year 2003 thorugh fiscal year 2006, for the Secretary to carry out increased activities to ensure the safety of the food supply. Specifically, the House bill amends section 801 of the Federal Food Drug and Cosmetic act (FFDCA) directing the Secretary to give high priority to increasing the number of food safety inspections at ports of entry, with highest priority on inspections to detect intentional adulteration of food. The House bill also directs the Secretary to give a high priority to improving the information management systems that support food safety inspection programs for the purpose of improving the ability of the Secretary to detect intentional adulteration of food and to facilitate the importation of food that is in compliance with the Act. Further, the House bill directs the Secretary to give high priority to researching and developing improved tests and sampling methods for the purpose of rapidly detecting adulterated foods, with highest priority on detection of intentional adulteration. Finally, the House bill directs the Secretary to complete an assessment of potential threats to the food supply posed by efforts to intentionally adulterate food, and to report the findings on such assessment to Congress within six months.

Senate amendment: The Senate amendment authorizes to be appropriated $59,000,000 for fiscal year 2002 and such sums as may be necessary for each year thereafter to expand the capacity of the Food and Drug Administration (FDA) to increase inspections to ensure the safety of the food supply and to improve linkages between the FDA and other Federal regulatory agencies, the States, and Indian tribes.

Conference substitute: The Conference substitute adopts the House bill with modification. The Conference substitute directs the Secretary to improve linkages with other Federal regulatory agencies that share responsibility for food safety, and directs the Secretary to improve linkages with the States and Indian tribes with respect to food safety. The Managers intend that the Secretary in making improvements to the information management systems that support food safety inspection programs, including the OASIS system, may include improvements that assist food importers and filers in providing accurate and timely information on entries filed on food import shipments. The Managers also intend that in conducting research to develop improved tests and sampling methods for the purpose of rapidly detecting adulterated foods, the Secretary may

involve institutions of higher education, including such institutions that receive Federal funding to operate consortiums within the food industries, for the purpose of conducting research and development in food safety and food security. Finally, it is the understanding of the Managers that FDA already has underway (under agreement with Battelle Laboratories) an assessment of potential threats to the food supply posed by efforts to intentionally adulterate food. For purposes of this section, the requirement to conduct an assessment of potential threats to the food supply posed by efforts to intentionally adulterate food refers to such threat assessment that is already underway or very recently completed.

Section 303. Administrative Detention

House provision: The House bill amends section 304 of the FFDCA by authorizing the Secretary to administratively detain an article of food that is found during an inspection, examination or investigation under this Act if the Secretary has credible evidence or information indicating that the article presents a threat of serious adverse health consequences or death to humans or animals. Such food may be detained for a reasonable period of up to 20 days, and where needed up to 30 days, for the purpose of enabling the Secretary to institute a seizure action under section 304(a) or injunctive relief under section 302, as warranted. The House bill authorizes the Secretary to move detained food from the place at which it has been detained to a secured facility, as appropriate, for the period of detention or until released by the Secretary. The House bill also authorizes a claimant of an article of food that has been detained under this section to appeal the detention of the article. In addition, where the Secretary already has credible evidence or information indicating that an imported article of food presents a threat of serious adverse health consequences or death to humans or animals, this section also requires the Secretary to request the Secretary of Treasury to temporarily hold imported food at a port of entry for up to 24 hours to enable the Secretary to inspect, examine or investigate the food. For an article of food temporarily held under this section, the Secretary is also required to notify the State in which the port of entry is located about such request or that such food is being temporarily held.

Senate amendment: The Senate amendment provides authority to administratively detain food that is similar to the House bill. The Senate amendment allows the Secretary to detain food that violates the FFDCA and that presents a threat of serious adverse health consequences or death, and requires that the Secretary provide an opportunity for a hearing (and to confirm or to revoke) a detention order within 15 days of the filing of an appeal by a claimant. Unlike the House bill, the Senate amendment does not include additional authority to temporarily hold food, nor does it require the Secretary to notify a State regarding the port of entry within such State at which food is being temporarily held.

Conference substitute: The Conference substitute adopts the House bill with modification. The Conference substitute clarifies that food that is detained under this section may not be delivered pursuant to an execution of a bond in accordance with section 801 of the FFDCA (if the detained food is imported) or otherwise (if the detained food is domestically produced), while the food is subject to the detention order, unless released by the Secretary. The Conference substitute requires the Secretary in response to an appeal filed by a claimant challenging the detention of an article of food to conduct an informal hearing and confirm or terminate a detention order within five days after an appeal is filed, at which time the Secretary's determination is subject to judicial review in accordance with section 702 of title 5, United States Code. The Conference substitute amends section 304 of the FFDCA by authorizing the Secretary to detain an article of food for the purpose of enabling the Secretary to institute a seizure action under section 304(a) or to seek injunctive relief under section 302 of the Act. This section provides a claimant of the food the right to appeal a detention order, but that right of appeal terminates if the Secretary institutes either a seizure action under section 304(a) or injunctive relief under section 302 of the Act. The Managers do not intend to terminate the claimant's right to appeal a detention order under paragraph 4(B) of such subsection, unless the basis for the seizure action instituted under section 304(a) or the injunctive relief sought under section 302 is related to the original basis for detention under this section.

The Conference substitute provides that an article of food subject to detention shall be held in a secure facility, as appropriate. Under this title, in instances where the Secretary moves food that has been refused admission to a secure facility, the Secretary should ensure that such food will be held under appropriate conditions of cleanliness, temperature, humidity and other such considerations that are necessary so as not to erode the safety and wholesomeness of the detained article.

The Managers recognize that perishable foods may be detained under this section. As a result, the Secretary is required to promulgate a rule to establish expedited procedures for instituting an action under section 304(a) or section 302 of the FFDCA for perishable foods, such as fresh produce, fresh fish and fresh seafood products. The Secretary should promptly complete such rule making.

The Conference substitute requires the Secretary to temporarily hold food for not longer than 24 hours, where the Secretary has credible evidence or information indicating that such article of food presents a threat of serious adverse health consequences or death to humans or animals. The period of temporary hold is intended to allow the Secretary time to dispatch an inspector to the port of entry in order to conduct the needed inspection, examination or investigation.

Section 304. Debarment For Repeated or Serious Food Import Violations

House provision: The House bill provides authority to the Secretary to debar from importing articles of food, any person that is convicted of a felony relating to food importation or any person that repeatedly imports food and who knew, or should have known, that such food was adulterated. The House bill treats the importation or offer for importation of an article of food by a debarred person as a prohibited act under section 301 of the FFDCA.

Senate amendment. The Senate amendment includes permissive debarment authority for food importers that is similar to the permissive debarment authority of the House bill, but replaces the standard in the House bill, allowing debarment for repeatedly importing unsafe food, with a different standard allowing debarment of food importers for engaging in a pattern of importing unsafe food. Unlike the House bill, the Senate amendment treats food that is imported by a debarred person as adulterated.

Conference substitute: The Conference substitute adopts the Senate amendment with modification. Unlike the Senate amendment, the Conference substitute does not treat food that is imported by a debarred person as adulterated solely on the basis of its importation by a debarred person. Rather the Conference substitute treats the importation or offering for importation into the United States of an article of food by, and with the assistance of, or at the direction of, a debarred person as a prohibited act under section 301 of the FFDCA. In addition, the Conference substitute requires food imported by a debarred person to be refused admission and held in a secure facility as appropriate, unless a person, other than a debarred person, affirmatively establishes that such food complies with the requirements of the FFDCA. The Conference substitute also clarifies that imported food that is refused admission may not be delivered pursuant to the execution of a bond under subsection (b) of section 801 of the FFDCA. For purposes of this section, the person other than the debarred person who may established that food, which has been refused admission under this section, is in compliance with this Act is intended to be an innocent purchaser of food, not a person that is engaged in the improper importation of food with a debarred person. In addition, the classification as a prohibited act (under section 301 of the FFDCA) of the importation or offer for importation of food ''with the assistance of'' a debarred person is not intended to include an innocent purchaser who did not have knowledge, actual or constructive, of the importer's debarred status. Finally, the Conference substitute clarifies that the Secretary has the authority to terminate the debarment of corporations or persons under this subsection.

Section 305. Registration of Food Facilities

House provision: The House bill requires facilities (excluding farms) that manufacture, process, pack or hold food for consumption in the United States to file with the Secretary, and keep up to date, a registration that contains the identity and address of the facility and, when the Secretary determines appropriate the general category of food manufactured, processed, packed or held at the facility. The House bill also authorizes the Secretary to exempt certain retail establishments only if the Secretary determines that the registration of such facilities is not needed for effective enforcement. Enforcement of this section is delayed one hundred and eighty days from the date of enactment, and this section requires the Secretary to notify and issue guidance within sixty days identifying facilities that are required to register under this section.

Senate amendment: The Senate amendment includes a requirement for certain food facilities to register with the Secretary that is similar to the registration requirement for food facilities that is contained in the House bill. The Senate amendment exempts types of farms or retail establishments but, unlike the House bill, farms can be exempted only if the Secretary determines that the registration of such facilities is not needed for effective enforcement of the FFDCA. The Senate amendment also lacks the requirements of the House bill relating to notice to those who must register and relating to electronic registration.

Conference substitute: The Conference substitute adopts the Senate amendment with modification. The Conference substitute requires the Secretary to establish registration requirements for specified food facilities by regulation not later than eighteen months after the date of enactment of this Act. If such regulations are not effective prior to the conclusion of such eighteen-month period, the requirements of this section are self-executing and enter into effect

at such time and remain in effect unless superseded by such final regulations. The Managers strongly encourage the Secretary to complete this rule making in a timely manner in order to enable the efficient operation of these registration requirements.

The Conference substitute treats the failure of a specified facility to register under this section as a prohibited act under section 301 of the FFDCA. The Conference substitute requires the Secretary to refuse admission to food imported from foreign facilities that have failed to register in accordance with this section until such facility is registered, and requires the Secretary to remove such food to a secure facility, as appropriate. The Conference substitute clarifies that imported food that is refused admission under this section shall not be delivered pursuant to the execution of a bond under subsection (b) of section 801 of the FFDCA.

The Conference substitute exempts from the requirements of registration farms, restaurants, other retail food establishments, non-profit food establishments in which food is prepared for, or served directly to, the consumer, and fishing vessels not engaged in processing, as defined in section 123.3(k) of title 21, Code of Federal Regulations. The Managers intend that, for purposes of this section, the term ''retail food establishments'' includes establishments that store, prepare, package, serve or otherwise provide articles of food directly to the retail consumer for human consumption, such as grocery stores, convenience stores, cafeterias, lunch rooms, food stands, saloons, taverns, bars, lounges, catering or vending facilities, or other similar establishments that provide food directly to a retail consumer. The term does not include a warehouse that does not provide articles of food directly to a retail consumer as its primary function. The Managers intend that, for purposes of this section, the term ''non-profit food establishments'' includes not-for-profit establishments in which food is prepared for, or served directly to the consumer, such as food banks, soup kitchens, homebound food delivery services, or other similar charitable organizations that provide food or meals for human consumption. In addition, the Managers intend that, for purposes of this section, ''facility'' does not include trucks or other motor carriers, by reason of their receipt, carriage, holding, or delivery of food in the usual course of business as carriers. In addition, nothing in this section shall be construed to alter or amend the treatment of carriers under section 703 of the FFDCA.

Finally, the Conference substitute calls for one-time registration of covered facilities, rather than annual registration of such facilities. Once a facility is registered it should amend its original registration in a timely manner to reflect any changes. The Conference substitute encourages electronic registration to help reduce paperwork and reporting burden, but registration is also promitted using a paper form.

Section 306. Maintenance and Inspectionse informa of Records for Foods

House provision: The House bill provides the Secretary with authority to inspect and copy all records relating to an article of food if the Secretary has credible evidence or information indicating that an article of food presents a threat of serious health consequences or death to humans or animals. The House bill contains certain limitations on the Secretary's authority, including limitations to ensure the protection of trade secrets and confidential information. The House bill provides the Secretary with the discretion to issue a regulation requiring maintenance of additional records that are needed to identify the source and chain of distribution of food, in order to address credible threats of serious adverse health consequences or death to humans or animals. The House bill excludes restaurants and farms, and the Secretary is provided the authority to take into account the size of the business when imposing any record keeping requirements.

Senate amendment: The Senate amendment includes records access authority that is similar to the records access authority granted to the Secretary in the House bill. The Senate amendment authorizes the Secretary to inspect and copy records relating to the violation when he has a reason to believe that an article of food is adulterated or misbranded and presents a threat of serious adverse health consequences or death. The Senate amendment also includes record keeping authority that is similar to the record keeping authority in the House bill. The Senate amendment requires the Secretary to issue a regulation to require the maintenance and retention of records to trace the chain and distribution of food within 18 months of enactment of the Act. In addition, the Senate amendment allows the Secretary to require maintenance and retention of records necessary to determine if a food may be adulterated or misbranded to the extent that it presents a threat of serious adverse health consequences or death. The Senate amendment limits the Secretary's authority to require the retention of either type of records for not longer than two years. The Senate amendment also criminalizes the release of trade secret information obtained by inspection of records under this section.

Conference substitute: The Conference substitute adopts the House bill with modification. The Conference substitute replaces the standard for records acccess in the House bill with a different standard that grants the Secretary records access if the Secretary has a reasonable belief that an article of food is adulterated and presents a threat of serious adverse health consequences or death to humans or animals. The Conference substitute limits access to those records relaitng to such artricle of food that are needed to assist the Secretary in determining whether food is adulterated and presents a threat of serious adverse health consequences or death to humans or animals.

The Conference substitute amends the scope of record keeping authority contained in the House bill by clarifying that the authority under this section applies to both the establishment and maintenance of records that meet the standard under this section and by limiting the record retention requirement to a period of not longer than 2 years. The Conference substitute also adopts the requirement of the Senate amendment to criminalize the disclosure of trade secrets obtained under this section.

The Conference substitute authorizes the issuance of regulations to require establishment and maintenance of chain of distribution records. This authority should not be used to require a business to maintain records regarding transactions or activities to which it was not a party. The Managers intend that those records that document the person from whom food was directly received, and to whom food was directly delivered, are adequate to enable identification of the source and distribution of food. As a result, for purposes of this section, the terms ''immediate previous sources'' and ''immediate subsequent recipients'' refer to the person from whom the food was received and the person to whom the food was delivered, respectively.

The Managers did not adopt a Senate proposal to authorize the Secretary to require the maintenance and retention of other records for inspection relating to food safety, because the Secretary has authority under section 701(a) of the FFDCA to issue regulations for the ''efficient enforcement of this Act'' and this authority, in combination with other provisions (such as section 402), gives the Secretary the authority to require appropriate record keeping in food safety regulations.

Section 307. Prior Notice of Imported Food Shipments

House provision: The House bill directs the Secretary by regulation to require importers of articles of food to provide up to seventy-two hours, but not less than twenty-four hours, prior notice that food will be imported or offered for import into the United States. The House bill requires that the notice contain the following information: a description of food to be imported; the identity of the manufacturer and shipper; and, if known within the specified period of time that notice is required to be provided, the identity of the grower; the country of origin of the article; the country from which the food is being shipped; and the anticipated port of entry into the United States. In the event notice is not provided in advance of importation in accordance with the Secretary's regulation, the food shall be held at the port of entry until notice is properly provided and the Secretary determines whether there is credible evidence or information in his possession indicating that the article presents a threat of serious adverse health consequences or death to humans or animals.

Senate amendment: The Senate amendment, like the House bill, includes a requirement that food importers provide prior notice to the Secretary of incoming food imports. The Senate amendment differs from the requirement in the House bill, because the prior notice requirement in the Senate amendment is self-effectuating upon enactment of the Act and requires at least four hours minimum prior notice and no limitation on the maximum notice allowable. The Senate amendment requires that the notification contain the identity of the food, the food's country of origin, the quantity imported, and other information that the Secretary may require by regulation. Finally, if an importer fails to provide the required prior notice, under the Senate amendment the Secretary is provided with discretion to refuse admission into the United States of the food.

Conference substitute: The Conference substitute adopts the House amendment with modification. The Conference substitute requires the Secretary to establish by regulation the period of time for prior notice, that must be no less than the minimum amount of time necessary for the Secretary to receive, review, and appropriately respond to the notice, but that may not exceed five days. In determining the specified period of time for prior notice, by regulation, the Conference substitute identified several factors the Secretary may take into account, including the effect on commerce, the locations of various ports of entry, the various modes of transportation, the types of food imported into the United States, and other such considerations. Nothing in the preceding sentence may be construed as a limitation on the obligation of the Secretary to receive, review, and appropriately respond to any notice under this section.

The Conference substitute treats the failure to provide adequate prior notice under this section as a prohibited act under section 301 of the FFDCA. The Conference substitute requires the Secretary to refuse admission to food imported without properly providing prior notice in accordance with this section until such prior notice is properly provided. In addition, the Conference substitute requires the Secretary to remove such food to

a secure facility, as appropriate and clarifies that imported food that is refused admission under this section shall not be delivered pursuant to the execution of a bond under subsection (b) of section 801 of the FFDCA.

The Conference substitute directs the Secretary to establish prior notice requirements for imported foods by regulation not later than eighteen months after the date of enactment of this Act. If such regulations are not effective prior to the conclusion of such eighteen-month period, the requirements of this section are self-executing and enter into effect at such time and remain in effect unless superseded by such final regulations. In addition, at the conclusion of the eighteen-month period, if such final regulations are not effective, the Conference substitute establishes a default period of time for prior notice of not less than 8 hours and not more than 5 days that remains in effect unless superseded by such final regulations. The Managers strongly encourage the Secretary to complete this rule making in a timely manner in order to enable the efficient operation of these requirements.

The Managers intend that the requirements of this section should not be construed to apply to packaging materials if, at the time of importation, such materials will not be used for, or in contact with, food as defined under section 201 of the FFDCA. Nothing in this section shall be construed to alter or amend the regulatory treatment of food packaging materials or food contact substances under the FFDCA. Also, the Conference substitute requires the importer of an article of food to provide information about the grower of the article of food, but this provision only requires the importer to provide the identity of the grower of the article of food if known during the period of time in which prior notice is required to be provided. Finally, the Secretary shall consult and coordinate with the Secretary of Treasury in developing the prior notice regulation. This section of the Conference substitute contains prior notice requirements for imported food and is not intended as a limitation on the port of entry for an article of food.

Section 308. Authority to Mark Articles Refused Admission into United States

House provision: The House bill requires that food that has been refused admission to the United States, but has not been ordered destroyed, may have a label affixed to its container at the expense of the owner or consignee indicating that it has been refused admission.

Senate amendment: The Senate amendment, similar to the House bill, includes authority regarding the marking of food that has been refused admission into the United States. Unlike the House bill, the Senate amendment provides the Secretary with a broader authority than the House bill to mark foods as refused admission, including foods that have not been determined to present a threat of serious adverse health consequences or death to humans or animals. The Senate contains an enforcement provision under which food that has been refused admission but that has not been properly marked as refused admission is treated as misbranded if it is determined that it presents a threat of serious adverse health consequences or death to humans or animals.

Conference substitute: The Conference substitute adopts the House bill with modification. The Conference substitute provides the Secretary with discretionary authority to require that items that have been refused admission to the United States under section 801 of the FFDCA shall be so marked. The Conference substitute clarifies that the marking of such items may be applied to the container of the food. The Conference substitute also requires the Secretary to notify the owner or consignee of an article of food that has been refused admission and that has been required to be so marked under this section, if at some time subsequent to requirement to mark the food, the Secretary determines that the food is misbranded and presents a threat of serious adverse health consequences or death to humans or animals.

Nothing in this section shall be construed to alter or amend the authority of the Secretary to authorize the admission of an article of food that has been relabeled, reconditioned or otherwise brought into compliance with the Act in accordance with subsection (b) of section 801 of the Act.

Section 309. Prohibition Against Port Shopping

House provision: The House bill requires any person attempting to re-offer for admission an article of food at a port of entry into the United States, after it has been previous refused admission at another port of entry into the United States, to affirmatively establish that the food is not adulterated.

Senate amendment: The Senate amendment contains a prohibition against port shopping that is comparable to the prohibition contained in the House bill. The Senate amendment prohibits a person from port shopping with respect to food that has been refused admission, by requiring that the person show that food that has been refused admission previously, has been brought into compliance with the applicable requirements of the FFDCA.

Conference substitute: The Conference substitute adopts the Senate amendment without modification.

Section 310. Notice to States Regarding Imported Food

House provision: The House bill requires that where the Secretary has credible evidence or information indicating that an article of food presents a threat of serious adverse health consequences or death to humans or animals, the Secretary shall provide notice regarding the threat posed by such food to those States in which the food is held or will be held and shall request that such States take appropriate remedial action.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House bill with modification. The Conference substitute clarifies the scope of the rule of construction included in subsection (b) of this section.

Section 311. Grants to States for Inspections

House provision: The House bill authorizes the Secretary to make grants for increased food safety inspections, examinations, investigations and related activities and to assist States in taking appropriate actions to respond to any Federal notice received pursuant to section 309 (governing notice to States) of the House bill. The House bill authorizes to be appropriated such sums as may be necessary for fiscal year 2002 through fiscal year 2006 to establish and carry out the grants under the section.

Senate amendment: The Senate amendment authorizes the Secretary to make grants to States, territories, and Federally recognized tribes to cover the cost of food safety examinations, inspections, investigations, and related activities under section 702 of the FFDCA, and it authorizes to be appropriated $10 million in fiscal year 2002 and such sums as may be necessary for each year thereafter for such purpose.

Conference substitute: The Conference substitute adopts the House bill with modification. The Conference substitute extends the grants made available under this section to Indian tribes to the extent they undertake inspections, investigations or examinations under section 702 of the FFDCA. The Conference substitute authorizes to be appropriated $10 million in fiscal year 2002 and such sums as may be necessary for each fiscal year 2003–2006 for such purpose.

Section 312. Surveillance and Information Grants and Authorities

House provision: The House bill contains no analogous provision.

Senate amendment: The Senate amendment authorizes the Secretary to award grants to States to increase participation in Pulsenet, the Foodborne Diseases Active Surveillance Network, and other such networks, and authorizes to be appropriated $19.5 million in fiscal year 2002, and such sums as may be necessary each year for such purpose from fiscal year 2003 through fiscal year 2006.

Conference substitute: The Conference substitute adopts the Senate amendment with modification. The Managers intend that funds awarded under this section shall be used by States and Indian tribes to assist in meeting the costs of establishing and maintaining the food safety surveillance, technical and laboratory capacity needed to participate in programs, including Pulsenet, Foodborne Diseases Active Surveillance Network, and other networks to enhance Federal, State, and local food safety efforts.

Section 313. Surveillance of Zoonotic Disease

House provision: The House bill contains no analogous provision.

Senate amendment: The Senate amendment requires the Secretary of Health and Human Services and the Secretary of Agriculture to develop and implement a plan for the surveillance of zoonotic and human disease.

Conference substitute: The Conference substitute adopts the Senate amendment with modification. The Conference substitute directs the Secretary, through the Commissioner of FDA and the Director of the Centers for Disease Control and Prevention (CDC), and the Secretary of Agriculture to coordinate the surveillance of zoonotic diseases.

Section 314. Authority to Commission Other Federal Officials to Conduct Inspections

House provision: The House bill does contain no analogous provision.

Senate amendment: The Senate amendment includes authority that is not included in the House bill that allows the Secretary to commission officers and qualified employees of other Federal Departments or Federal agencies to conduct examinations and inspections for the Secretary under section 702 of the FFDCA.

Conference substitute: The Conference substitute adopts the Senate amendment with modification. The Conference substitute clarifies that the authority of the Secretary to commission other Federal officials to conduct inspections, examinations and investigations under section 702 of the FFDCA shall be carried out pursuant to a memorandum of understanding between the Secretary and the head of the Department or agency of such other Federal employees.

Section 315. Rule of Construction

House provision: The House bill does contain no analogous provision.

Senate amendment: The Senate amendment includes a rule of construction that applies to the amendments made in Title V of the Senate amendment that provides that such amendments do not provide the FDA with additional authority over meat, poultry, and egg products, nor do such amendments limit the authority of the Department of Agriculture over such products.

Conference substitute: The Conference substitute adopts the Senate amendment with modification. The Conference substitute

clarifies that nothing in this Title, or an amendment made by this Title, shall be construed to alter the jurisdiction between the Secretary and the Secretary of Agriculture, under applicable statutes and regulations.

Subtitle B—Protection of Drug Supply

Section 321. Annual Registration of Foreign Manufacturers; Shipping Information; Drug and Device Listing

House provision: The House bill mandates annual registration of foreign manufacturers engaged in the import of drug and device products into United States. The House bill also requires that the annual registration include information on each importer or carrier transporting the foreign manufacturer's drug or device products. The House bill also directs that the registration and listing numbers be included in the declaration for the products when offered for import.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House bill with modification. The conference substitute requires registration through electronic means. The Conference substitute deletes carrier in the annual registration and replaces with ''person who imports or offers for import.'' The Conference substitute makes non-registration a prohibited act rather than deeming it misbranded. Non-registration is a failure to comply with the Secretary's request to submit registration information. The Conference substitute provides for a non-registered drug or device to be removed to a secure facility until non-registration is cured. For purposes of this section, the Managers intend ''person who imports or offers for import'' to capture import brokers and other persons who file import-related paperwork with the U.S. Customs Service or the FDA.

Section 322. Requirement of Additional Information Regarding Import Components Intended for Use in Export Products

House provision: The House bill mandates a chain of possession identification and a customs bond for those firms that seek to import components of drugs, devices, food additives, color additives, or dietary supplements for further processing and export. The House bill requires certificates of analysis for components containing any chemical substance or biological substance intended for export.

Senate provision: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House bill with modification. The Conference substitute deletes reference to carriers in chain of possession identification. The Conference substitute exempts devices and products covered by section 801(d)(4) of the FFDCA from the certificate of analysis requirement. The Conference substitute clarifies that the provisions permitting import-for-export do not apply to articles for which the Secretary of Health and Human Services determines that there is credible evidence or information indicating the article is not intended to be imported for export.

The Managers understand this section does not change any definitions of regulated articles or the scope of regulation of those articles as set forth in the FFDCA and its implementing regulations.

The Managers intend that this section shall not be construed to restrict or facilitate the entry of articles imported for research and development or quality assurance purposes under subsection 801(d)(3) of the FFDCA beyond the existing authority.

For the purposes of articles subject to subsection 801(d)(4) of the FFDCA, the Managers understand that the collection agency would be considered the first manufacturer under subsection 801(d)(3)(A)(i)(II) of the FFDCA, relating to the chain-of-possession.

The Managers agree that certificates of analysis are not required if the only chemical or biological component of the article imported under subsection 801(d)(3) of the FFDCA is de minimis, incidental and poses no danger to human or animal health. Further, the Managers expect that the Secretary will understand that ''certificate of analysis'' is a widely understood and utilized document to assure the identity of the substance and its components in the chemical and drug industries. However, the Secretary in consultation with other affected industries may accept documents that convey equivalent assurance as to the identity of the article and its components or substances. For example, the Secretary may determine that for an article of food additive or color additive, a document indicating specification of purity serves as the functional equivalent of a certificate of analysis and meets the requirement of a certificate analysis for purposes of this section. This section exempts devices and blood and blood products covered under subsection 801(d)(4) of the FFDCA from the certificate of analysis requirement.

The Managers do not intend the Secretary of the Treasury to engage in a new rulemaking to specify the requirement for the bonding of goods imported under subsection 801(d)(3) of FFDCA. Existing requirements for the bonding of goods imported for further processing and export should be applied.

The Managers agree that articles imported for export under this section 322 which otherwise meet the requirements of this section should be permitted entry unless the Secretary determines there is credible evidence or information that an article offered for import is not intended to be imported for export. In this regard, the Managers believe that refusal of entry should not involve shipments between known shippers and known recipients unless the Secretary has received credible evidence or information that suggests such shipments may not be legitimate. The Managers intend to permit the Secretary to refuse admission of articles if the Secretary determines there is credible evidence or information that the articles may be used as instruments of terror. Such evidence might include highly toxic or otherwise exceptionally dangerous products going to recipients unknown to the Secretary or to recipients believed to lack the capacity to further process such dangerous articles, for example, nitroglycerin imported under this section for delivery to a business other than a pharmaceutical manufacturer. Such standard may also include, for example, presentation for entry of articles not consistent with the accompanying documentation.

Subtitle C—General Provisions Relating to Upgrading of Agricultural Security

Section 331. Expansion of Animal and Plant Health Inspection Service Activities

House provision: The House bill contains no analogous provision.

Senate amendment: The Senate amendment requires the Secretary of Agriculture to enhance and expand the capacity of the Animal and Plant Health Inspection Service (APHIS) to protect against the threat of bioterrorism, including through increased inspection capacity internationally, improved surveillance at ports of entry, and enhanced protections against terrorist use of plant and animal disease organisms. The Senate amendment also requires the Secretary of Agriculture to implement and then expand a high-tech agriculture early warning and emergency response system, as well as an automated record keeping system to track animal and plant shipments. The Senate amendment authorizes the appropriation of $30 million in fiscal year 2002 and such sums in each year thereafter, as may be necessary for such purposes.

Conference substitute: The Conference substitute adopts the Senate amendment with modification. The Conference substitute clarifies that this section provides additional authorization of appropriations to the Secretary of Agriculture to utilize existing authorities to give high priority to enhancing and expanding the capacity of APHIS to conduct the specified activities and to otherwise improve the capacity of APHIS to protect against the threat of bioterrorism. The Conference substitute authorizes to be appropriated $30 million for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year.

Section 332. Expansion of Food Safety Inspection Service Activities

House provision: The House bill contains no analogous provision.

Senate amendment: The Senate amendment requires the Secretary of Agriculture to enhance and expand the capacity of the Food Safety Inspection Service (FSIS) to protect against the threat of bioterrorism, including through enhanced ability to inspect meat and poultry products and increased inspections of meat and meat products, poultry and poultry products, and egg products at ports of entry. The Senate amendment authorizes the appropriation of $15 million in fiscal year 2002 and such sums in each year thereafter, as may be necessary for such purposes.

Conference substitute: The Conference substitute adopts the Senate amendment with modification. The Conference substitute authorizes to be appropriated $15 million in fiscal year 2002 and such sums in each year thereafter, as may be necessary for the the purpose of providing additional authorization to the Secretary of Agriculture to utilize existing authorities to give high priority to enhancing and expanding the capacity of FSIS to conduct the specified activities and to otherwise improve the capacity of FSIS to protect against the threat of bioterrorism.

Section 333. Biosecurity Upgrades at the Department of Agriculture

House provision: The House bill contains no analogous provision.

Senate amendment: The Senate amendment authorizes to be appropriated $180 million in fiscal year 2002 to update, renovate, and expand the Department of Agriculture laboratory and research facilities at Plum Island Animal Disease Center and the Agricultural Research Service and Animal and Plant Health Inspection Service facility in Ames, Iowa, and also authorizes such sums as may be necessary in each year from fiscal year 2003 through fiscal year 2006, for those facilities, and for similar improvements at two other Department of Agriculture facilities, one in Athens, Georgia, and the other in Laramie, Wyoming.

Conference substitute: The Conference substitute adopts the Senate amendment without modification. In addition to the biosecurity upgrades at the Department of Agriculture authorized in this section, the Managers intend that the Secretary of Health and Human Services shall also continue to take such actions as may be necessary to secure existing facilities of the Department of Health and Human Services where potential animal and plant pathogens are housed and researched.

Section 334. Agricultural Biosecurity

House provision: The House bill contains no analogous provision.

Senate amendment: The Senate amendment requires the Secretary of Agriculture to establish minimum security standards and

award grants of up to $50,000 to land grant universities to assess security needs and plan upgrades of both security of facilities where hazardous biological agents or toxins are stored or used, and communication networks about such agents or toxins, as well as to develop a national inventory of such agents and toxins. The Senate amendment also requires the Secretary of Agriculture to provide for screening of personnel who require access at agricultural research facilities, and to develop and implement educational programs directed at biosecurity at agricultural facilities, including farms, livestock confinement operations, and crop producers, handlers, processors, and transporters, as well as educational programs related to animal quarantine and testing. The Senate amendment authorizes to be appropriated $20 million in fiscal year 2002 and such sums in each year thereafter, as may be necessary for such purposes.

Conference substitute: The Conference substitute adopts the Senate amendment with modification. The Conference substitute authorizes to be appropriated such sums as may be necessary for the Secretary of Agriculture to award grants of up to $50,000 each, to colleges and universities that have food and agricultural science programs to review security standards and practices at their facilities in order to protect against bioterrorist threats. The Conference substitute also authorizes the Secretary of Agriculture to award grants, of up to $100,000 per association, to associations of food producers or consortia of such associations for the development and implementation of educational programs to improve bio-security on farms against bioterrorist attacks.

Section 335. Agricultural Bioterrorism Research and Development

House provision: The House bill contains no analogous provision.

Senate amendment: The Senate amendment requires the Secretary of Agriculture, to the maximum extent practicable, to expand research and development programs of the Agricultural Research Service and the Cooperative State Research Education and Extension Service to protect the nation's food supply from bioterrorism, including by enhancing their capability to respond to the needs of other food and agricultural regulatory agencies, continuing existing partnerships with institutions of higher education with programs related to agricultural biosecurity, and by strengthening linkages with the intelligence community. The Senate amendment authorizes the appropriation of $190 million in fiscal year 2002 and such sums in each year thereafter, as may be necessary for such purposes.

Conference substitute: The Conference substitute adopts the Senate amendment with modification. The Conference substitute authorizes to be appropriated $190 million in fiscal year 2002 and such sums in each year thereafter, as may be necessary for the Secretary of Agriculture to utilize existing research authorities and programs to protect the food supply of the United States by conducting various research activities, including developing new and continuing partnerships with institutions of higher education and other institutions to establish and enhance bio-security and food safety programs, with special emphasis on vulnerability analyses, incident response, detection and prevention technologies. The Conference substitute also authorizes the Secretary of Agriculture to continue research to develop improved rapid detection field test kits to detect biological threats to plants and animals for use in responding to bioterrorism, and to develop an agriculture bioterrorism early warning surveillance system by enhancing the capacity of and coordination between State veterinary diagnostic laboratories, Federal and State agricultural research facilities, and public health agencies.

Section 336. Animal Enterprise Terrorism Penalties

House provision: The House bill contains no analogous provision.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute amends section 43(a) of title 18, United States Code, establishing a Federal criminal offense against a person traveling in interstate or foreign commerce for intentionally damaging or causing the loss of any property used by the animal enterprise, or conspiring to do such activities. The Conference substitute establishes penalties for such criminal offense and authorizes restitution for economic damage resulting from the loss.

TITLE IV—DRINKING WATER SECURITY AND SAFETY

The conference agreement builds upon title IV of the House bill to ensure that drinking water systems across the country assess their vulnerability to terrorist attack and develop emergency plans to prepare for and respond to such attacks. Americans deserve to know that the water they drink everyday is safe. The legislation will lay the groundwork for developing the necessary information, and emergency planning and response efforts that are needed to address potential terrorist attacks at drinking water systems.

Section 401. Terrorist and Other Intentional Acts

House provision: The House bill requires community water systems serving over 3,300 persons to conduct vulnerability assessments. These requirements are phased-in, depending on the size of the community water system. Community water systems serving over 100,000 persons must complete a vulnerability assessment by December 31, 2002; community water systems serving over 50,000 persons must complete a vulnerability assessment by June 30, 2003; community water systems serving over 3,300 persons must complete a vulnerability assessment by December 31, 2003. Each community water system must certify to the Administrator of the Environmental Protection Agency (EPA) that they have conducted a vulnerability assessment. The Administrator of EPA is also required to provide baseline information by June 1, 2002 regarding which kinds of terrorist attacks or other intentional acts are probable threats.

The House bill also requires community water systems to prepare or revise emergency response plans that incorporate the results of the vulnerability assessments. Community water systems must certify to the Administrator of the Environmental Protection Agency within 6 months of the completion of a vulnerability assessment that they have completed an emergency response plan. To the extent possible, community water systems are to coordinate with Local Emergency Planning Committees when preparing or revising an emergency response plan. The House bill additionally requires EPA to provide guidance to community water systems serving under 3,300 persons on how to conduct vulnerability assessments and prepare emergency response plans.

In order to carry out the provisions of the section, the House bill authorized $120 million in Fiscal Year 2002 and such sums as necessary in Fiscal Years 2003 and 2004. The funds are made available for purposes of complying with vulnerability assessment and emergency response plan requirements and to address basic security enhancements of critical importance and significant threats to public health as determined by a vulnerability assessment.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House provision with modifications. The Conference substitute extends dates for certifying that systems have completed a vulnerability assessment by three months for systems serving over 100,000 persons and by six months for all other systems. The substitute also extends the time for EPA baseline information to August 1, 2002 to reflect the passage of time between House action and conference agreement.

The Conference substitute also adds the requirement that community water systems provide a copy of their vulnerability assessment to the Administrator of the EPA. Under the conference substitute, however, information that is provided by a community water system to EPA and information that is derived thereof is exempt from disclosure under the Freedom of Information Act except for information that identifies the community water system and the date on which a community water system certifies to EPA that it has completed a vulnerability assessment. In addition, no community water system shall be required under State or local law to provide an assessment to any State, regional or local governmental authority solely by reason of the requirements to submit such assessment to the Administrator of EPA.

The Administrator of the EPA is also required, by November 30, 2002 to develop protocols to protect the assessments from unauthorized disclosure. These protocols shall ensure that all assessments and information are kept in a secure location, only individuals designated by the Administrator have access and that assessment in whole or in part or information contained or derived from such assessments shall not be available to anyone other than individuals designated by the Administrator.

The Conference substitute also provides that any individual designated by the Administrator who acquires assessments or information derived from assessments and who knowingly or recklessly reveals such information other than to an individual designated by the Administrator shall be subject to up to 1 year imprisonment, or a fine in accordance with 16 U.S.C. 227 and shall be removed from Federal office or employment unless the information is revealed for purposes of section 1445 of the Act, or actions taken under section 1431 of the Act, or for use in any administrative or judicial proceeding to impose a penalty to failure to comply with section 1433 of the bill. The substitute further provides that an individual designated by the Administrator who is an employee or officer of the United States may discuss the content of a vulnerability assessment submitted under this section with a State or local official. The Conference substitute provides that nothing authorizes any person to withhold any information from Congress.

The Conference substitute adds the requirement that each community water system maintain a copy of the emergency response plan it has completed for 5 years after it certifies to the Administrator of the EPA that it has completed such plan. The Conference agreement also increases authorized funding for Fiscal Year 2002 to $160 million and adds additional specification of basic security enhancements. The Conference Agreement also extends authorizations in this section through Fiscal year 2005. Finally, the Conference agreement provides that not more than $5,000,000 of the funds made available under the section may be used by the

Administrator of EPA for immediate and urgent security needs and for grants for community water systems under 3,300 in accordance with the guidance provided by EPA under the section.

Section 402. Other Safe Drinking Water Act Amendments

House provision: The House bill provides for a review of current and future methods to prevent, detect and respond to the intentional introduction of chemical, biological and radiological contaminants into community water systems and source water for community water systems. The review is to encompass methods and means to detect contaminants, to provide sufficient notice of contaminated drinking water, to negate or mitigate deleterious effects on public health and to conduct biomedical research.

The House bill also provides for a review of methods and means by which terrorists or other individuals or groups could disrupt the supply of safe drinking water or render a public water system significantly less safe for human consumption. The House bill required a review of the methods and means by which pipes, constructed conveyances, collection, pretreatment, storage or distribution facilities would be destroyed or otherwise prevented from providing adequate supplies of drinking water and methods and means by which they could be protected. The House bill also required a review of methods and means by which such items could be subjected to cross-contamination and a review of methods and means by which alternative supplies of water could be provided in the event of destruction, impairment or contamination of public water systems. The House bill authorized $15,000,000 in Fiscal Year 2002 to carry out sections 1434 and 1435 and such sums as may be necessary for Fiscal Years 2003 and 2004.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The Conference substitute adopts the House provision with modifications. The Conference substitute includes further specification in section 1434 as to the detection of various levels of contaminants and indicators of contaminants using methods, means and equipment that include real time monitoring systems. The Conference substitute additionally requires methods and means for developing education and awareness programs for community water systems.

The conference substitute also adds additional specification to the reviews undertaken under section 1435 to include methods and means by which information systems, including process controls, supervisory control and data acquisition and syber systems could be disrupted by terrorists or other groups. The Conference substitute also includes additional requirements and considerations that are applicable in the implementation of sections 1434 and 1435. These requirements and considerations include the assurance that reviews reflect the needs of various community water system sizes and geographical locations, the vulnerability of regions or service areas, including the National Capitol area, and that the Administrator of EPA disseminate certain information through the Information Sharing and Analysis Center. The Conference substitute also provides such sums as may be necessary in Fiscal Year 2005.

Section 403. Miscellaneous and Technical Amendments

House provision: The House bill provides that section 1433 be included as a cross-reference in section 1414(i)(1) on the Safe Drinking Water Act (SDWA), that section 1431 of the SDWA be amended, that existing penalties for tampering with drinking water systems under section 1432 be increased and that section 1442 of the SDWA be amended to provide authorization for $35 million in Fiscal Year 2002 and such sums as may be necessary in fiscal years thereafter.

Senate amendment: The Senate amendment contains no analogous provision.

Conference substitute: The conference substitute adopts the House provisions. The conferees encourage the committees of jurisdiction in the House and Senate to develop comparable legislation covering publicly owned treatment works in this legislative session. The conferees encourage EPA to work closely with organizations representing small and rural water systems to implement the provisions of this Title.

TITLE V—ADDITIONAL PROVISIONS

The Managers agree to the following provisions.

Subtitle A—Prescription Drug User Fees

Section 501. Short Title

Designates the name of this title as the ''Prescription Drug User Fee Amendments of 2002.''

Section 502. Findings

Declares the findings of Congress related to the reauthorization of prescription drug user fees.

Section 503. Definitions

The following terms in section 735 of the Federal Food, Drug, and Cosmetic Act (FFD&C Act) (21 U.S.C. 379g) are modified by this section: human drug application, prescription drug product, process for the review of human drug applications, and adjustment factor. These modifications are necessary to give effect to the changes instituted by the reauthorization of the Prescription Drug User Fee Act (PDUFA).

The term ''human drug application'' is modified to make a technical correction.

The term ''prescription drug product'' is modified to allow the Secretary to use the Prescription Drug Product List (the active portion) in the ''Approved Drug Products with Therapeutic Equivalence Evaluations,'' (the Orange Book) as the basis for identifying which products should be considered to be prescription drug products for fee assessment purposes. The Managers expect that these proposed changes will lead to a more efficient, less burdensome, billing procedure. Under current law, any prescription drug product eligible for drug listing is subject to product fees. Determining eligibility for listing is administratively complex and sometimes resource intensive. In addition, listing is often controlled by a re-packer or distributor rather than by the sponsor, but the sponsor must nonetheless pay the product fee. The Managers expect that the use of the Orange Book, which is found on FDA's Internet site, as the basis to identify products for user fee assessment purposes will not be construed to affect the legal status of the book or the products in the book. The purpose of using this method is merely a tool for the Secretary to provide a public, efficient billing process. It also provides sponsors an easier way to remove products from the list that is the basis for billing.

Also, the addition of the reference to the list of products approved under human drug applications under section 351 of the Public Health Service Act created and maintained by the Secretary refers to the current FDA method of identifying biological products considered to be prescription drug products for fee assessment determinations. The Managers do not intend this to be a change in practice; rather it documents FDA's current practice. The list is to be provided on FDA's Internet site.

A further change to the term ''prescription drug product'' deletes the clause ''does not include a large volume parenteral drug product approved before September 1, 1992.'' As a result, any large volume parenteral (LVP) product is treated as a prescription drug product and is subject to a fee. However, when coupled with a corresponding change proposed to section 736(a)(3)(B), all LVP's would be exempt from product fees in this reauthorization, including products approved after September 1, 1992. The Managers intend this change to decrease FDA's administrative burden in determining which products should be billed.

The term ''process for the review of human drug applications'' is modified to allow the use of funds, for a period of up to three years after approval, to cover risk management activities for products approved after October 1, 2002. This change is highly important to the Managers, as improving drug and biological product safety is a goal shared by all.

The term ''adjustment factor'' is modified to eliminate obsolete provisions.

Section 504. Authority to Assess and Use Drug Fees

Subsection (a) of this section allows fees authorized by the Act to be assessed beginning on October 1, 2002. With respect to prescription drug establishment fees and prescription drug product fees, the subsection advances the date by which fees are payable to October 1 of each year.

Under the second Prescription Drug User Fee Act (PDUFA), prescription drug establishment and product fees, which represent two-thirds of PDUFA fees were due January 31, four months into the fiscal year. This necessitated carrying forward funds from a previous year to sustain operations for the first four months of each new fiscal year. By advancing the date for annual fees to be paid to FDA, the necessity of carrying forward these large cash surpluses from year to year is eliminated. Also, by making this change effective for FY 2003, FDA will have access to revenue as early in FY 2003 as invoices can be issued and fees collected rather than having to wait until January 31 to collect funds. This is especially important for FDA operations in FY 2003 because the agency does not expect to have any appreciable carryover funds at the end of FY 2002.

Making the fee due and payable on October 1 necessitates other changes to the FFD&C Act that are executed in subsection (e) and (f) of this section.

This section sets forth a table containing the application, establishment, and product fee revenues, and total fee revenue, for fiscal years 2003 through 2007. The subsection further authorizes an increase in fee revenue amounts to fully fund the portion of additional costs attributable to the cost of the retirement of Federal personnel. This provision would go into effect, if, after the enactment of the Prescription Drug User Fee Amendments of 2002, legislation is enacted requiring the Secretary to fund additional costs of the retirement of Federal personnel.

This section also authorizes inflation adjustments, workload adjustments, and a final year adjustment. Under present law, annual inflation adjustments were based on the higher of the federal pay raise applicable for employees in the fiscal year for which the fees were set or the CPI for the previous year. In order to collect fees on October 1, FDA will have to set fees and issue invoices in August of each year well before the pay-raise determination for the next fiscal year is made. For this reason the inflation adjustment factors have been changed to the Federal pay raise for employees in the Washington, D.C., area for the previous fiscal year or the change in the CPI for the 12 month period ending June 30, whichever is higher. Both of these figures will be available in August when fees must be set. As has been the

case in the past, these inflationary changes will continue to be cumulative and compounded.

Under the workload adjustment, annual revenue adjustments are made that reflect changes in review workload, after inflation adjustments. the workload adjustment is to be determined by the Secretary based on a weighted average of the changes in the total number of (1) human drug applications, (2) commercial investigational new drug applications, (3) efficacy supplements, and (4) manufacturing supplements. The subsection provides that the Secretary shall publish in the Federal Register the fees resulting from this adjustment and the supporting methodologies. Each of the 4 components used to develop the workload adjustment is a defined category of applications that FDA currently counts. Each component will be given a weighting factor that corresponds to its percent of FDA review workload.

The workload adjustment envisioned for each component has as its base the average number of applications of each particular type that FDA received over the five-year period of current law. It requires that a rolling average of submissions also be calculated each year for the latest five-year period that ends on June 30 before the end of each fiscal year beginning on or after October 1, 2002. The percent change in the latest five-year average, compared to the base year is then multiplied by the weighting factor for that component. Then all four components of the workload adjuster are added together and the total percent that results is the workload adjuster that will be used to further adjust the inflation-adjusted statutory revenue levels each year after FY 2003. Use of five year rolling averages in this process dampens the impact of revenue fluctuations—both up and down.

Under this section, the revenue adjuster will never result in lower revenues than the inflation-adjusted statutory revenue levels. Nonetheless, in years when fee-paying applications fall below projections, FDA will automatically experience a shortfall in revenues due to the shortfall in fee-paying applications. Further downward adjustment of the revenues would over-compensate for such a decline in workload and is not authorized under the subsection. This is a lesson learned from experience during 1998 through 2002. If such a model had been in place for the past five years, revenues during PDUFA II would have been much more predictable year to year rather than exhibiting the volatility FDA experienced.

Also under this section, FDA is allowed to make a one-time increase in fees in FY 2007, if necessary, to assure that the agency will have no less than three months of operating reserves on hand at the end of FY 2007, when this legislation will expire. This final year adjustment will allow the agency sufficient fees to operate for up to 3 months in FY 2008 if there is any delay in the reauthorization of PDUFA at the end of FY 2007. Further, delaying this payment from industry until FY 2007 minimizes the need for FDA to carry large balances over from year to year, reducing industry outlays until they are necessary to support operations.

Finally, this section provides that application, product, and establishment fees are to be established 60 days before the start of the fiscal year based on the revenue amounts previously established in this section.

Under subsection (d), the waiver or fee reduction for supplements filed under section 505(b)(1) of the FFD&C Act is eliminated.

In this section the word ''assessed'' in section 736(f) of the FFD&C Act has been changed to ''retained.'' This change is part of a series of changes made to permit FDA to issue invoices and collect fees before an appropriation is actually made for the fiscal year. The change maintains the original intent of this and related provisions, however, by providing that the conditions originally specified in these sections must be fulfilled once all appropriations for the fiscal year, including any supplemental appropriations, are enacted. If the conditions are not fulfilled, FDA may not retain the fees it collects. Further, under this section, the word ''collected'' in section 736(g)(2)(A) of the FFD&C Act is changed to ''retained.'' Once again, this change is part of a series of changes made to permit FDA to issue invoices and collect fees before an appropriation is actually made for the fiscal year. The change maintains the original intent of this and related provisions by asserting that the conditions originally specified in these sections must be fulfilled once all appropriations for the fiscal year, including any supplemental appropriations, are enacted.

This section also responds to the problems associated with FDA's inability under the FFD&C Act to collect and spend fees in any year that FDA fails to spend from appropriations as much as it spend in FY 1997, adjusted for inflation. Failing to meet this obligation by as little as one dollar causes FDA to lose the authority to collect application, product and establishment fees for a given fiscal year. The consequence of failing to meet this ''trigger'' would be catastrophic. Since the trigger is based on the amount FDA spends, the agency can never identify exactly how much it has actually spend until after the end of the fiscal year. As a result, FDA consistently overspends by a substantial amount to be certain that FDA expenditures do not fall below the trigger amount and thereby cause the agency to lose the authority to collect fees.

Modifications to section 736(g)(2)(B) are proposed to provide FDA a margin of error in its effort to meet this requirement of the law. This section is being modified so that if FDA's spending is within five percent of the amount required by this section of the Act, the requirement of this section is considered to be satisfied. If FDA under-spends by three percent or less, there are no consequences. If FDA under-spends by more than three percent but not more than five percent, FDA will be required to reduce collections in the fiscal year following the subsequent fiscal year by the amount in excess of three percent by which FDA under-spent from appropriations. The intent is to relieve FDA of the need to overspend from appropriations each year, as it has done consistently since 1993 to assure that this trigger is met. Spending from appropriations on the drug review process each year is still expected to be at or very close to the amount specified by this trigger, and may never be more than five percent below the trigger amount.

This section also authorizes appropriations for fiscal years 2003 through 2007 in amounts consistent with the total fee revenue amounts set forth in subsection (b).

Section 505. Accountability and Annual Reports

This section for the first time requires the agency to meet with interested public and private stakeholders when considering the reauthorization of this program before its expiration. The Managers believe that the agency will be in the best position to recognize what best serves the public health by meeting with representatives of consumer and patient advocacy groups, industry, the Congress, health care professionals, and academic experts prior to the next reauthorization of PDUFA. Further, the Managers believe that it is very important for the agency to make any recommendations to the Congress public, so this section requires that the FDA both publish the recommendations, as well as hold a public hearing at which time the agency can receive public feedback.

This section also requires an annual Performance Report and a Financial Report.

Section 506. Reports of Postmarketing Studies

Under this section, the Managers intend that in instances wherein a study subject to the reporting requirements of Section 130 is not completed by the original or otherwise negotiated deadline agreed upon by the sponsor and if the reasons for such failure to complete the study were not satisfactory to the Secretary, the Secretary shall so note on the agency website. The Managers intend that the Secretary would not find the delay or termination of a study unsatisfactory if the Secretary determined that the delay or termination occurred through no fault of the sponsor (such as ethical concerns, or the study is no longer needed).

This section also empowers the Secretary to require a sponsor of a study required under section 505(b)(2)(A) or sections 314.510 or 601.41 of Title 21, Code of Federal Regulations, to notify health care practitioners who prescribe such drugs or biological products of the sponsor's failure to complete the study, and the questions of clinical benefit and, where appropriate, questions of safety, that remain unanswered as a result of such failure. The Managers intend that this authority not be utilized in cases where, through no fault of the sponsor (such as ethical concerns, or the study is no longer needed), the study has been delayed or terminated.

Section 507. Savings Clause

This section authorizes user fees to be assessed and collected after October 1, 2002 for human drug applications and supplements accepted for filing prior to October 1, 2002. For example, in the event that application fees are owed but have not been collected prior to the expiration date for PDUFA II established by section 107 of the Food and Drug Administration Modernization Act (FDAMA), the section will allow these fees to be collected after October 1, 2002. The section further authorizes assessment and collection of product and establishment fees after October 1, 2002 that are owed but have not been collected.

Section 508. Effective Date

Section 508 provides that the Prescription Drug User Fee Amendments of 2002 shall take effect October 1, 2002.

Section 509. Sunset Clause

Section 509 provides that the amendments made by sections 503 (relating to definitions) and 504 (relating to the authority to assess and use drug fees) shall cease to be effective on October 1, 2007.

The section further provides that the amendments made by section 505 (relating to annual reports) shall cease to be effective 120 days after October 1, 2007. The additional 120 days will allow the prescription drug user fee reports for fiscal year 2007 to be prepared and submitted.

Subtitle B—Additional Authorizations of Appropriations Regarding Food and Drug Administration

Section 521. Office of Drug Safety

This section will help the FDA fulfill its vitally important role of ensuring drug safety. The Managers are highly supportive of the postmarket surveillance activities conducted by the Office of Drug Safety (ODS), and to that end other provisions in this legislation ensure for the first time that user fee monies will be available for postmarket purposes. This section complements those efforts by ensuring that not only will new user fee monies be available for this very important purpose, but so will new appropriated monies.

Section 522. Division of Drug Marketing, Advertising, and Communications

This section provides an increased authorization for the Division of Drug Marketing, Advertising, and Communications (DDMAC) within the Office of Medical Policy, Center for Drug Evaluation and Research at the FDA. DDMAC plays a vital role in ensuring that promotional drug material is not false or misleading, and they do so on a limited budget. The authorized amounts will better ensure that DDMAC can perform its mission.

Section 523. Office of Generic Drugs

This section provides an increased authorization for the Office of Generic Drugs (OGD) within the Center for Drug Evaluation and Research at the FDA. OGD is vitally important to ensuring that Americans have access to safe, effective generic drugs. This Office needs increased funding, however, due to the fact that it presently takes OGD nearly 18 months to review the typical ANDA. This section will lead to increased funding, so that these review times can be decreased without compromising health and safety.

Subtitle C—Additional Provisions

Section 531. Transition to Digital Television

In an effort to further promote the orderly transition to digital television, and to promote the equitable allocation and use of digital channels by television broadcast permittees and licensees, the Managers direct the Federal Communications Commission, at the request of an eligible licensee or permittee, to, within 90 days after the date of enactment of this Act, allot, if necessary, and assign a requested and identified paired digital television channel to that licensee or permittee. In order to avoid any undue burden to the Commission, which is required to allot and assign the paired digital television channel within a short timeframe, the Managers expect all eligible applicants to file their applications as soon as practicable after the date of enactment. The FCC shall only do this if such channel can be allotted and assigned without further modification of the tables of allotments as set forth in sections 73.606 and 73.622 of the Commission's regulations (47 CFR 73.606, 73.622) and such allotment and assignment is consistent with the Commission's technical rules (47 CFR part 73). The only licensees or permittees eligible for this digital allotment are those that are full power television broadcast licensee or permittees (or their successors in interest) that had an application pending for an analog television station construction permit as of October 24, 1991, which application was granted after April 3, 1997; and as of the date of enactment of this Act, is the permittee or licensee of that station. This provision enables such licensees or permittees an opportunity to realize their expectations created by prior FCC action to foster a digital audience during the transition period to digital television without having to terminate abruptly analog service now enjoyed by their viewers. Without this change, those broadcast licensees or permittees would be denied the flexibility to operate an analog and a digital facility simultaneously in the near term, especially in a major market. This is contrary to the Congressional goals of increasing competition and accelerating the digital television transition. The Managers are ensuring that eligible licensees or permittees will meet the intended objectives by doing two important things. First, the Managers impose an unequivocally hard 18-month deadline for the construction of the digital facility from the time of the FCC's issuance of the construction permit for the new digital channel. In this regard, eligible licensees are absolutely prohibited from obtaining or receiving an extension of time from the Commission pursuant to 47 C.F.R. 73.624(d)(3). Second, the Managers safeguard against eligible licensees from using the newly granted ''in-core'' digital channel allotment and assignment to provide analog service.

Section 532. 3-Year Delay in Lock in Procedures for Medicare+Choice Plans; Change in Medicare+Choice Reporting Deadlines and Annual, Coordinated Election Period for 2003, 2004, and 2005

This section changes the deadline for Medicare+Choice plans to submit information to the Secretary on Medicare benefits, premiums, cost sharing, supplemental benefits, and actuarial values of such coverage from July 1 to the second Monday in September for the years 2002, 2003, and 2004. It would also delay the annual election period for Medicare enrollees to select a M+C plan to the period of time beginning on November 15 and ending on December 31 in 2002, 2003, and 2004. This section also delays the phase in of the limitation on Medicare beneficiaries changing health plans more than once a year (the ''lock-in''). This requirement, enacted in the Balanced Budget Act of 1997, was scheduled to phase in incrementally beginning in 2002. The substitute would postpone the lock-in requirements until 2005.

From the Committee on Energy and Commerce, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

BILLY TAUZIN,
MICHAEL BILIRAKIS,
PAUL E. GILLMOR,
RICHARD BURR,
JOHN SHIMKUS,
JOHN D. DINGELL,
HENRY A. WAXMAN,

Provided that Mr. Pallone is appointed in lieu of Mr. Brown of Ohio for consideration of title IV of the House bill, and modifications committed to conference:

SHERROD BROWN,
FRANK PALLONE, Jr.,

From the Committee on Agriculture, for consideration of title II of the House bill and sec. 216 and title V of the Senate amendment, and modifications committed to conference:

LARRY COMBEST,
FRANK D. LUCAS,
SAXBY CHAMBLISS,
CHARLES STENHOLM,
TIM HOLDEN,

From the Committee on the Judiciary, for consideration of title II of the House bill and secs. 216 and 401 of the Senate amendment, and modifications committed to conference:

F. JAMES SENSENBRENNER, Jr.,
LAMAR SMITH,
JOHN CONYERS, Jr.,

Managers on the Part of the House.

EDWARD KENNEDY,
CHRIS DODD,
TOM HARKIN,
BARBARA A. MIKULSKI,
JIM JEFFORDS,
JUDD GREGG,
BILL FRIST,
MIKE ENZI,
TIM HUTCHINSON,

Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. EMERSON (at the request of Mr. ARMEY) for today on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. SHERMAN) to revise and extend their remarks and include extraneous material:

Mrs. MALONEY of New York, for 5 minutes, today.
Mr. HOYER, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
Mr. DEFAZIO, for 5 minutes, today.
Mr. PALLONE, for 5 minutes, today.
Ms. CARSON of Indiana, for 5 minutes, today.
Ms. NORTON, for 5 minutes, today.
Mr. SHERMAN, for 5 minutes, today.
Mr. FALEOMAVAEGA, for 5 minutes, today.

The following Members (at the request of Mr. BILIRAKIS) to revise and extend their remarks and include extraneous material:

Mr. WILSON of South Carolina, for 5 minutes, May 23.
Mr. GEKAS, for 5 minutes, today.
Mr. NORWOOD, for 5 minutes, May 22.
Mr. SMITH of Michigan, for 5 minutes, today.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on May 20, 2002 he presented to the President of the United States, for his approval, the following bills.

H.R. 1840. To extend eligibility for refugee status of unmarried sons and daughters of certain Vietnamese refugees.

ADJOURNMENT

Mr. REYNOLDS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 32 minutes a.m.), the House adjourned until today, Wednesday, May 22, 2002, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

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

6929. A letter from the Congressional Review Coordinator Animal and Plant HealthInspection Service, transmitting the Department's final rule—Karnal Bunt Compensation (RIN: 0579–AB45) [Docket No. 01–112–1] received May 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6930. A letter from the Under Secretary, Department of Defense, transmitting the annual report on operations of the National Defense Stockpile, pursuant to 50 U.S.C. 98h—5; to the Committee on Armed Services.

6931. A letter from the Register Liaison Officer, Department of Defense, transmitting the Department's final rule—TRICARE; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Bonus Payments in Medically Underserved Areas (RIN: 0720–AA60) received April 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6932. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense

Federal Acquisition Regulation Supplement; Changes to Profit Policy [DFARS Case 2000–D018] received May 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6933. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Balance of Payments Program [DFARS Case 2000–D020] received May 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6934. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Balance of Payments Program [DFARS Case 2000–D020] received May 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6935. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Research and Development Streamlined Contracting Procedures [DFARS Case 2001–D002] received May 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6936. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Codification and Modification of Berry Amendment [DFARS Case 2002–D002] received May 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6937. A letter from the Register Liasion Officer, Department of Defense, transmitting the Department's final rule—TRICARE Prime Remote for Active Duty Family Members (RIN: 0720–AA68) received April 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6938. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Mandated Edgar Filing For Foreign Issuers (RIN: 3235–AI08) received May 15, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6939. A letter from the General Counsel, Consumer Product Safety Commission, transmitting the Commission's final rule—Household Products Containing Hydrocardons; Final Rules—received April 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6940. A letter from the Executive Director, District of Columbia Retirement Board, transmitting the personal financial disclosure statements of Board members, pursuant to D.C. Code section 1—732 and 1—734(a)(1)(A); to the Committee on Government Reform.

6941. A letter from the Chief Executive Officer, Corporation for National and Community Service, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6942. A letter from the Chair, Board of Directors, Corporation for Public Broadcasting, transmitting the Corporation's Semiannual Report for the period ending September 30, 2001, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6943. A letter from the Senior Attorney Federal Register Certifying Officer, Department of the Treasury, transmitting the Department's final rule—Rules and Procedures for Efficient Federal-State Funds Transfers (RIN: 1510–AA38) received May 10, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

6944. A letter from the Secretary, Department of Agriculture, transmitting the Department's Consolidated Financial Statements for Fiscal Year 2001; to the Committee on Government Reform.

6945. A letter from the General Counsel, Federal Retirement Thrift Investment Board, transmitting the Board's final rule—Employee Elections to Contribute to the Thrift Savings Plan and Methods of Withdrawing Funds from the Thrift Savings Plan—received April 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

6946. A letter from the District of Columbia Auditor, Office of the District of Columbia Auditor, transmitting a report entitled, ''City Charges DCPS Nearly $1 Million in Utility Expenses That Should Have Been Charged To Other Entities''; to the Committee on Government Reform.

6947. A letter from the Dircetor, Office of Personnel Management, transmitting the Office's final rule—Firefighter Pay (RIN: 3206–AI50) received May 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

6948. A letter from the Chairman, Federal Election Commission, transmitting the Commission's final rule—Technical Amendments To Election Cycle Reporting [Notice 2001–17] received May 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

6949. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule—Subsistence Management Regulations for Public Lands in Alaska (RIN: 1018–AH85) received May 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6950. A letter from the Regulatory Specialist, Department of the Interior, transmitting the Department's final rule—Trust Management Reform: Probate of Indian Trust Estates (RIN: 1090–AA78) received May 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6951. A letter from the Regulatory Specialist, Department of the Interior, transmitting the Department's final rule—Trust Management Reform: Probate of Indian Trust Estates (RIN: 1090–AA78) received May 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6952. A letter from the Regulations Coordinator, Department of Health and HumanServices, transmitting the Department's final rule—Tribal Self-Governance Amendments of 2000 (RIN: 0917–AA05) received May 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6953. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Black Sea Bass Fishery; Commercial Quota Harvested for Quarter 4 Period [Docket No. 001121328–1041–02; I.D. 102901B] received April 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6954. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Mid-Atlantic Fishery Management Council (Council); Request for Research Proposals (RFP) [Docket No. 020306047–2047–01; I.D. 020402E] (RIN: 0648–ZB14) received April 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6955. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Commercial Haddock Harvest [Docket No. 010313064–1064–01; I.D. 103101B] received April 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6956. A letter from the Acting Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fishery [Docket No. 010413094–1094–01; I.D. 060701A] (RIN: 0648–AP10) received April 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6957. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fraser River Sockeye and Pink Salmon Fisheries; 2001 Inseason Orders [I.D. 110801F] received April 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6958. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administation's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska [Docket No. 011218304–1304–01; I.D. 011602C] received April 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6959. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Closure of Directed Fishery for Pacific Mackerel [Docket No. 000831250–0250–01; 111601D] received April 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6960. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Documentation of Immigrants and Nonimmigrants under the Immigration and Nationality Act, As Amended—Visa Fees: Proposed Rule—received April 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

6961. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Regulated Navigation Area; Savannah River, Georgia [CGD07–01–037] (RIN: 2115–AE84) received May 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6962. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zones; Port Neches Riverfest, Neches River, Port Neches, Texas [COTP Port Arthur–02–002] (RIN: 2115–AA97) received May 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6963. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zones; Cruise Ships, San Pedro Bay, California (RIN: 2115–AA97) [COTP Los Angeles-Long Beach 02–009] received May 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6964. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone; Maumee River, Lake Erie, Ohio (RIN: 2115–AA97) [CGD09–02–015] received May 9, 2002, pursuant

to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6965. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zone; Potomac River, Washington Channel, Washington, DC [COTP Baltimore 02–002] (RIN: 2115–AA97) received May 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6966. A letter from the General Counsel, Office of Management and Budget, transmitting the Office's final rule—Air Transportation Safety and System Stabilization Act; Air Carrier Guarantee Loan Program—received May 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6967. A letter from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule—NASA Grant and Cooperative Agreement Handbook—Limitations on Incremental Funding and Deobligations on Grants, and Elimination of Delegation of Closeout of Grants and Cooperative Agreements to Office of Naval Research (ONR) (RIN: 2700–AC51) received May 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

6968. A letter from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule—NASA FAR Supplement—Conformance with FACs 01–01, 01–02, and 01–06; and Miscellaneous Administrative and Technical Revisions (RIN: 2700–AC33) received May 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

6969. A letter from the Acting Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule—Small Business Size Regulations; Size Standards for Programs of Other Agencies (RIN: 3245–AE42) received May 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

6970. A letter from the Acting Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule—Small Business Size Standards; Travel Agencies; Economic Injury Disaster Loan Program (RIN: 3245–AE93) received May 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

6971. A letter from the Chief, Regulations Division, ATF, Department of the Treasury, transmitting the Department's final rule—Delegation of Authority for Part 25 [T.D. ATF–437] (RIN: 1512–AC07) received May 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6972. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Changes in accounting periods [TD 8996] (RIN: 1545–AX15) received May 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6973. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and determination letters (Rev. Proc. 2002–4) received May 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6974. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Changes in accounting periods and in methods of accounting (Rev. Proc. 2002–38) received May 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6975. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Mid-contact Change in Taxpayer (RIN: 1545–AY31) received May 15, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6976. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Electing Small Business Trust [TD 8994] (RIN: 1545–AU76) received May 14, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6977. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Payment by Credit Card and Debit Card [TD 8969] (RIN: 1545–AW37) received May 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6978. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—PHedging Transactions [TD 8985] (RIN: 1545–AY02) received May 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6979. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Changes in accounting periods and methods of accounting (Rev. Proc. 2002–19) received May 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6980. A letter from the Social Security Administration Regulations Officer, Social Security Administration, transmitting the Administration's final rule—Supplemental Security Income; Disclosure of Information to Consumer Reporting Agencies and Overpayment Recovery Through Administrative Offset Against Federal Payments (RIN: 0960–AF31) received May 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. TAUZIN: Committee of Conference. Conference report on H.R. 3448. A bill to improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies (Rept. 107–481). Ordered to be printed.

Mrs. MYRICK: Committee on Rules. House Resolution 426. Resolution providing for consideration of the bill (H.R. 3129) to authorize appropriations for fiscal years 2002 and 2003 for the United States Customs Service for antiterrorism, drug interdiction, and other operations, for the Office of the United States Trade Representative, for the United States International Trade Commission, and for other purposes (Rept. 107–482). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 427. Resolution waiving points of order against the conference report to accompany the bill (H.R. 3448) to improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies (Rept. 107–483). Referred to the House Calendar.

Mr. SESSIONS: Committee on Rules. House Resolution 428. Resolution providing for consideration of the bill (H.R. 4775) making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes (Rept. 107–484). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

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

By Mr. CRANE:

H.R. 4779. A bill to authorize appropriations for fiscal years 2002 through 2004 for the United States Customs Service for antiterrorism, drug interdiction, and other operations, for the Office of the United States Trade Representative, for the United States International Trade Commission, and for other purposes; to the Committee on Ways and Means.

By Mr. MATSUI (for himself, Mr. GEPHARDT, Ms. PELOSI, Mr. RANGEL, and Mrs. THURMAN):

H.R. 4780. A bill to reject proposals to partially or completely substitute private saving accounts for the lifelong, guaranteed, inflation-protected insurance benefits provided through Social Security; to the Committee on Ways and Means.

By Mr. GILCHREST:

H.R. 4781. A bill to reauthorize the Marine Mammal Protection Act of 1972, and for other purposes; to the Committee on Resources.

By Mr. OXLEY:

H.R. 4782. A bill to extend the authority of the Export-Import Bank until June 14, 2002; to the Committee on Financial Services. considered and passed.

By Mr. BRADY of Texas (for himself, Mrs. MYRICK, Mr. PITTS, Mr. TERRY, Mr. SOUDER, Mr. ISTOOK, Mr. BARR of Georgia, and Ms. HART):

H.R. 4783. A bill to authorize States under Federal health care grant-in-aid programs to require parental consent or notification for purpose of purchase of prescription drugs or devices for minors; to the Committee on Energy and Commerce.

By Mr. DUNCAN:

H.R. 4784. A bill to direct the Secretary of the Interior to replace the U.S. Fish and Wildlife Service as the Federal agency responsible for the administration, protection, and preservation of Midway Atoll, and for other purposes; to the Committee on Resources.

By Mr. FERGUSON (for himself, Mr. SOUDER, Mr. LATOURETTE, Mr. SMITH of New Jersey, and Mr. SAXTON):

H.R. 4785. A bill to establish a program to transfer surplus computers of Federal agencies to schools and nonprofit community-based educational organizations, and for other purposes; to the Committee on Government Reform.

By Mr. HINCHEY (for himself, Mr. RANGEL, Mr. FROST, Mr. MCNULTY, Mr. MCGOVERN, Mr. BOEHLERT, Mr. NEAL of Massachusetts, Mrs. JO ANN DAVIS of Virginia, Mr. ENGEL, Mr. FATTAH, Mr. GILMAN, Mr. KINGSTON, Mr. SOUDER, Ms. SLAUGHTER, and Mr. CAPUANO):

H.R. 4786. A bill to establish within the National Park Service the 225th Anniversary of the American Revolution Commemorative program, and for other purposes; to the Committee on Resources.

By Mrs. MINK of Hawaii:

H.R. 4787. A bill to amend the impact aid program under section 8003 of the Elementary and Secondary Education Act of 1965 to include children who are citizens of the freely associated states in the computation of the amount of basic support payments to local educational agencies under the program; to the Committee on Education and the Workforce.

By Mr. SIMMONS:

H.R. 4788. A bill to extend the deadline for commencement of construction of a hydroelectric project in Connecticut, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WILSON of South Carolina:

H. Con. Res. 407. Concurrent resolution expressing the sense of the Congress that all

people in the United States should take an active role in the fight against Huntington's disease, and for other purposes; to the Committee on Energy and Commerce.

By Mr. FOSSELLA:

H. Res. 424. A resolution paying tribute to the workers in New York City for their rescue, recovery, and clean-up efforts at the site of the World Trade Center; to the Committee on Government Reform.

By Mrs. THURMAN:

H. Res. 425. A resolution providing for the consideration of the bill (H.R. 3497) to amend the Social Security Act and the Internal Revenue Code of 1986 to preserve and strengthen the Social Security Program through the creation of personal Social Security guarantee accounts ensuring full benifits for all workers and their families, restoring long-term Social Security solvency, to make certain benefit improvements, and for other purposes; to the Committee on Rules.

ADDITIONAL SPONSORS

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

H.R. 17: Ms. MCKINNEY.
H.R. 285: Mr. BONIOR.
H.R. 436: Mr. OTTER.
H.R. 448: Mr. CARSON of Oklahoma.
H.R. 488: Mr. GEPHARDT.
H.R. 633: Mr. CROWLEY.
H.R. 840: Mr. TOM DAVIS of Virginia, Mr. KENNEDY of Rhode Island, and Ms. WATSON.
H.R. 854: Mr. MEEHAN, Mr. LAMPSON, and Mr. DOGGETT.
H.R. 858: Mr. BISHOP, Mr. MALONEY of Connecticut, and Mr. HOLT.
H.R. 877: Mr. LAMPSON.
H.R. 898: Mr. DAVIS of Illinois and Mr. LANTOS.
H.R. 1043: Mr. LYNCH.
H.R. 1073: Mr. BISHOP.
H.R. 1109: Mr. COMBEST.
H.R. 1143: Mrs. LOWEY.
H.R. 1144: Mr. LANTOS.
H.R. 1274: Mr. WILSON of South Carolina, Mr. MICA, Mr. PAUL, and Mr. HORN.
H.R. 1305: Mr. BROWN of South Carolina and Mr. HOEKSTRA.
H.R. 1310: Mr. STARK.
H.R. 1460: Mr. THUNE.
H.R. 1522: Mr. LAMPSON.
H.R. 1556: Mr. DOGGETT.
H.R. 1581: Mr. WILSON of South Carolina.
H.R. 1637: Mr. LAFALCE.
H.R. 1650: Ms. CARSON of Indiana.
H.R. 1704: Mr. SESSIONS.
H.R. 1733: Mr. MEEKS of New York and Mr. OWENS.
H.R. 1779: Ms. VELAZQUEZ.
H.R. 1808: Mr. RUSH.
H.R. 1897: Mr. CAPUANO.
H.R. 1904: Ms. PELOSI.
H.R. 1911: Mr. WILSON of South Carolina.
H.R. 1919: Mr. HOEKSTRA and Mr. ROYCE.
H.R. 1935: Mr. CALLAHAN, Mr. ACEVEDO-VILA, Mr. TIERNEY, Mr. ISTOOK, Mr. WATKINS, and Mr. LUCAS of Oklahoma.
H.R. 1950: Mr. BISHOP.
H.R. 1966: Mr. SOUDER and Mr. KERNS.
H.R. 1987: Mr. LARSON of Connecticut.
H.R. 2057: Mr. SMITH of New Jersey, Mr. HOEFFEL, and Mr. SAXTON.
H.R. 2158: Ms. MCCOLLUM, Mr. HINCHEY, Mrs. TAUSCHER, Ms. SCHAKOWSKY, Ms. ESHOO, and Mr. UDALL of New Mexico.
H.R. 2352: Mr. PALLONE.
H.R. 2373: Mr. OTTER, Mr. RYUN of Kansas, Mr. BACHUS, Mr. SULLIVAN, and Mr. DEAL of Georgia.
H.R. 2466: Mr. HOEKSTRA and Mr. BARCIA.
H.R. 2573: Ms. LEE, Mr. ENGEL, and Mr. WALSH.
H.R. 2638: Mr. MCDERMOTT, Mr. CAPUANO, and Mr. ORITZ.
H.R. 2670: Mr. KIND.
H.R. 2746: Mr. SHERMAN.
H.R. 2796: Mr. SHERMAN.
H.R. 2874: Mr. GONZALEZ, Mr. BERMAN, Ms. WATSON, and Mr. DAVIS of Illinois.
H.R. 2878: Mr. HINCHEY.
H.R. 3100: Ms. SLAUGHTER.
H.R. 3131: Mr. SMITH of Texas.
H.R. 3218: Mr. HILLIARD.
H.R. 3238: Mr. GRUCCI and Mr. BAIRD.
H.R. 3267: Mr. LANTOS.
H.R. 3284: Mr. MURTHA.
H.R. 3296: Mr. GEORGE MILLER of California.
H.R. 3320: Mr. LAHOOD.
H.R. 3321: Mr. LOBIONDO.
H.R. 3390: Mr. ROSS.
H.R. 3397: Ms. LOFGREN and Mrs. DAVIS of California.
H.R. 3450: Mr. UDALL of New Mexico, Mr. HOYER, Mrs. LOWEY, and Mr. WILSON of South Carolina.
H.R. 3547: Mr. GIBBONS and Mr. HANSEN.
H.R. 3567: Mr. ROGERS of Michigan.
H.R. 3594: Mr. PLATTS.
H.R. 3612: Mr. ENGLISH, Ms. RIVERS, Mr. REYES, Ms. KAPTUR, Mr. FORD, Mr. LANTOS, and Mr. UDALL of Colorado.
H.R. 3624: Mr. WILSON of South Carolina.
H.R. 3661: Mr. SHERMAN, Mr. LEWIS of Kentucky, and Mr. LARSEN of Washington.
H.R. 3670: Mr. WATT of North Carolina, Mr. MATHESON, Mr. LUCAS of Kentucky, and Mr. DICKS.
H.R. 3749: Mr. HORN, Mr. DELAHUNT, Mr. GEORGE MILLER of California, and Mr. GUTIERREZ.
H.R. 3807: Ms. SCHAKOWSKY.
H.R. 3831: Mr. DOYLE.
H.R. 3834: Mr. SHERMAN, Mr. SNYDER, Mr. COMBEST, Mr. LAMPSON, Mr. WEXLER, Mr. CLAY, and Mr. CAPUANO.
H.R. 3915: Ms. WATSON.
H.R. 3956: Mr. ENGLISH.
H.R. 3961: Ms. NORTON, Ms. MCKINNEY, Mr. CONYERS, Mr. JACKSON of Illinois, Mrs. CLAYTON, Mr. KUCINICH, Mr. FRANK, and Mr. SANDERS.
H.R. 3973: Mr. CAPUANO, Mr. MICA, Mr. KERNS, Ms. MCKINNEY, Mr. FRANK, Mr. HALL of Texas, Mr. HOSTETTLER, Mr. SKELTON, Mr. ORTIZ, Mr. SPRATT, and Mr. FILNER.
H.R. 3974: Ms. MCKINNEY and Mr. ALLEN.
H.R. 4003: Mr. WAXMAN.
H.R. 4013: Mrs. LOWEY.
H.R. 4014: Mrs. LOWEY.
H.R. 4018: Mr. BONIOR and Mr. GILMAN.
H.R. 4058: Mr. TIERNEY.
H.R. 4066: Mr. COSTELLO, Mr. POMEROY, Mr. THOMPSON of California, Mrs. CLAYTON, Mr. HOYER, Mrs. MEEK of Florida, Mr. GEPHARDT, Mr. ROSS, Mr. ETHERIDGE, Mr. ALLEN, and Mr. GORDON.
H.R. 4071: Mr. OTTER.
H.R. 4078: Mr. WEXLER and Mr. KANJORSKI.
H.R. 4086: Mr. LEACH.
H.R. 4123: Ms. MILLENDER-MCDONALD, Ms. SCHAKOWSKY, and Mr. SANDERS.
H.R. 4169: Mr. BURTON of Indiana, Mr. GREEN of Wisconsin, and Mr. GOODLATTE.
H.R. 4483: Mr. SIMMONS, Ms. BACHUS, Mr. BROWN of South Carolina, Mr. SESSIONS, Ms. GRANGER, Mrs. JO ANN DAVIS of Virginia, Mrs. MORELLA, Mr. FORBES, Mr. HOLDEN, Mrs. MALONEY of New York, and Mrs. MCCARTHY of New York.
H.R. 4515: Mr. THORNBERRY and Mr. BRYANT.
H.R. 4545: Mr. CASTLE.
H.R. 4614: Mr. FILNER and Mr. BISHOP.
H.R. 4621: Mr. ENGLISH, Mr. HASTINGS of Florida, Mr. GREEN of Texas, Mr. RANGEL, and Mr. FROST.
H.R. 4635: Mr. BAKER, Mr. KERNS, and Mr. TIBERI.
H.R. 4646: Mr. BACHUS, Ms. MCCOLLUM, Mr. BRADY of Pennsylvania, Mr. PASTOR, Ms. SANCHEZ, Mr. GRUCCI, Mrs. CAPPS, Mr. THOMPSON of California, and Ms. HOOLEY of Oregon.
H.R. 4654: Ms. MCKINNEY, Mr. ACKERMAN, Mrs. LOWEY, Mr. ENGEL, and Mrs. KELLY.
H.R. 4658: Mr. WOLF, Mr. BERRY, and Mr. FROST.
H.R. 4663: Mrs. LOWEY.
H.R. 4664: Ms. RIVERS.
H.R. 4669: Ms. SOLIS.
H.R. 4679: Mr. TIBERI.
H.R. 4715: Mr. HILLIARD, Ms. MCKINNEY, and Ms. BROWN of Florida.
H.R. 4752: Mr. KLECZKA.
H.R. 4754: Ms. JACKSON-LEE of Texas, Mr. ETHERIDGE, Mr. KENNEDY of Rhode Island, Mr. HOEFFEL, and Mrs. THURMAN.
H.R. 4756: Mr. MCINNIS and Mr. HAYWORTH.
H.R. 4758: Mr. TANNER and Mr. HILL.
H.R. 4777: Mr. DEFAZIO, Mr. KIND, Ms. ESHOO, Mr. WU, Ms. DEGETTE, Mr. SANDLIN, Mr. GEORGE MILLER of California, Mr. FROST, Mr. MCGOVERN, Mr. TURNER, Mr. HOLT, Mr. GREEN of Texas, Mr. HOEFFEL, Ms. SLAUGHTER, Mr. GONZALEZ, Mr. BENTSEN, Ms. DELAURO, and Mr. ABERCROMBIE.
H.R. 4778: Ms. KAPTUR, Ms. BROWN of Florida, Mr. TIERNEY, Ms. LEE, Mr. LUTHER, Mr. GEORGE MILLER of California, Ms. SLAUGHTER, and Ms. ROYBAL-ALLARD.
H.J. Res. 23: Mr. BILIRAKIS.
H.J. Res. 40: Mr. CASTLE and Mr. BASS.
H.J. Res. 89: Mr. HOYER.
H.J. Res. 92: Mr. SWEENEY, Mrs. TAUSCHER, Ms. MCCARTHY of Missouri, Ms. MCKINNEY, Mr. WEINER, Mr. MATSUI, Mr. FRANK, Mr. HILLIARD, Mr. SANDERS, and Mr. LANGEVIN.
H.J. Res. 93: Mr. JONES of North Carolina.
H. Con. Res. 99: Mrs. LOWEY and Mr. ENGEL.
H. Con. Res. 164: Mr. EHRLICH.
H. Con. Res. 315: Mr. BALLENGER.
H. Con. Res. 333: Mr. LIPINSKI.
H. Con. Res. 385: Mr. THOMPSON of California, Mr. LANGEVIN, Mr. HINOJOSA, Mr. BLAGOJEVICH, Mr. FARR of California, Mr. STRICKLAND, Mr. SCOTT, Mr. SHOWS, Mr. LARSEN of Washington, Mr. MATSUI, and Mr. MEEKS of New York.
H. Con. Res. 400: Mr. WICKER.
H. Con. Res. 405: Mr. HASTINGS of Florida, Mr. MCNULTY, Mr. KILDEE, Ms. LEE, Mr. LANGEVIN, Ms. BALDWIN, Mr. HYDE, Mr. CAPUANO, Mr. SANDERS, Mr. MALONEY of Connecticut, and Mr. WEINER.
H. Res. 253: Mr. INSLEE, Mr. DELAHUNT, Mr. SAWYER, Mr. KLECZKA, Mr. HOLDEN, Mr. KANJORSKI, Mr. BALDACCI, Mr. FATTAH, Mr. DOYLE, Mr. VISCLOSKY, Mr. HOEFFEL, Mr. GREEN of Texas, Mr. LARSON of Connecticut, Mr. PALLONE, Mr. JOHN, Mr. BRADY of Pennsylvania, Mr. PASCRELL, Mr. KILDEE, Mr. ANDREWS, Mr. WU, Mr. MCDERMOTT, Mr. MICA, Mr. LANGEVIN, Mr. BORSKI, Mr. FORD, Mr. FILNER, Mr. GILMAN, Mr. LAFALCE, Mr. POMEROY, Mr. BARRETT, Mrs. MCCARTHY of New York, Mr. CAPUANO, Mr. MATHESON, Mr. BONIOR, and Mr. SHOWS.
H. Res. 407: Mr. HOLT.
H. Res. 416: Mr. BURTON of Indiana and Mr. DEAL of Georgia.

AMENDMENTS

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

H.R. 4775

OFFERED BY: MR. CALLAHAN

AMENDMENT NO. 4: In chapter 6 of title I, strike the second paragraph under the heading ''ECONOMIC SUPPORT FUND''.

H.R. 4775

OFFERED BY: MR. CALLAHAN

AMENDMENT NO. 5: In chapter 6 of title I, in the second paragraph under the heading ''ECONOMIC SUPPORT FUND''—

(1) after the aggregate dollar amount, insert ''(reduced by $50,000,000)''; and

(2) strike the second and third provisos.

H.R. 4775

OFFERED BY: MR. CALLAHAN

AMENDMENT NO. 6: In chapter 6 of title I, in the second paragraph under the heading ''ECONOMIC SUPPORT FUND'', insert after the third proviso the following:

'': *Provided further*, That the funds appropriated in this paragraph shall be available for obligation only if the President determines and certifies to the Congress that Israel and the Palestinian Authority are engaged in formal negotiations on a peace treaty''

H.R. 4775

OFFERED BY: MR. CALLAHAN

AMENDMENT NO. 7: In chapter 6 of title I, in the second paragraph under the heading ''ECONOMIC SUPPORT FUND''—

(1) after the aggregate dollar amount, insert ''(increased by $134,000,000)''; and

(2) after the third proviso, insert the following: '': *Provided further*, That $134,000,000 of the funds appropriated in this paragraph shall be made available for assistance for Egypt''.

H.R. 4775

OFFERED BY: MR. KUCINICH

AMENDMENT NO. 8: Page 52, line 20, after the dollar figure insert ''(reduced by $147,000,000)''.

H.R. 4775

OFFERED BY: MR. ROEMER

AMENDMENT NO. 9: Page 138, after line 12, insert the following new title:

TITLE III—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES.

SEC. 3001. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on Terrorist Attacks Upon the United States (in this title referred to as the ''Commission'').

SEC. 3002. PURPOSES.

The purposes of the Commission are to—

(1) examine and report upon the facts and causes relating to the terrorist attacks of September 11, 2001, occurring at the World Trade Center in New York, New York and at the Pentagon in Virginia;

(2) ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks;

(3) make a full and complete accounting of the circumstances surrounding the attacks, and the extent of the United States' preparedness for, and response to, the attacks; and

(4) investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.

SEC. 3003. COMPOSITION OF THE COMMISSION.

(a) MEMBERS.—Subject to the requirements of subsection (b), the Commission shall be composed of 10 members, of whom—

(1) 3 members shall be appointed by the majority leader of the Senate;

(2) 3 members shall be appointed by the Speaker of the House of Representatives;

(3) 2 members shall be appointed by the minority leader of the Senate; and

(4) 2 members shall be appointed by the minority leader of the House of Representatives.

(b) QUALIFICATIONS.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—No member of the Commission shall be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, legal practice, public administration, intelligence gathering, commerce, including aviation matters, and foreign affairs.

(c) CHAIRPERSON; VICE CHAIRPERSON.—

(1) IN GENERAL.—Subject to the requirement of paragraph (2), the Chairperson and Vice Chairperson of the Commission shall be elected by the members.

(2) POLITICAL PARTY AFFILIATION.—The Chairperson and Vice Chairperson shall not be from the same political party.

(d) INITIAL MEETING.—If 60 days after the date of enactment of this Act, 6 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, select a temporary Chairperson and Vice Chairperson, who may begin the operations of the Commission, including the hiring of staff.

(e) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the Chairperson or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 3004. FUNCTIONS OF THE COMMISSION.

(a) IN GENERAL.—The functions of the Commission are to—

(1) investigate the relevant facts and circumstances relating to the terrorist attacks of September 11, 2001, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure;

(2) identify, review, and evaluate the lessons learned from the terrorist attacks of September 11, 2001, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, relative to detecting, preventing, and responding to such terrorist attacks; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

(b) SCOPE OF INVESTIGATION.—For purposes of subsection (a)(1), the term ''facts and circumstances'' includes facts and circumstances relating to—

(1) intelligence agencies;

(2) law enforcement agencies;

(3) diplomacy;

(4) immigration, nonimmigrant visas, and border control;

(5) the flow of assets to terrorist organizations;

(6) commercial aviation; and

(7) other areas of the public and private sectors determined relevant by the Commission for its inquiry.

SEC. 3005. POWERS OF THE COMMISSION.

(a) HEARINGS AND EVIDENCE.—The Commission may, for purposes of carrying out this title—

(1) hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths; and

(2) require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of books, records, correspondence, memoranda, papers, and documents.

(b) SUBPOENAS.—

(1) SERVICE.—Subpoenas issued under subsection (a)(2) may be served by any person designated by the Commission.

(2) ENFORCEMENT.—

(A) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subsection (a)(2), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(B) ADDITIONAL ENFORCEMENT.—Sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

(c) CLOSED MEETINGS.—Notwithstanding any other provision of law which would require meetings of the Commission to be open to the public, any portion of a meeting of the Commission may be closed to the public if the President determines that such portion is likely to disclose matters that could endanger national security.

(d) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(e) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any department, agency, or instrumentality of the United States any information related to any inquiry of the Commission conducted under this title. Each such department, agency, or instrumentality shall, to the extent authorized by law, furnish such information directly to the Commission upon request.

(f) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(g) GIFTS.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, accept, use, and dispose of gifts or donations of services or property.

(h) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(i) POWERS OF SUBCOMMITTEES, MEMBERS, AND AGENTS.—Any subcommittee, member, or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

SEC. 3006. STAFF OF THE COMMISSION.

(a) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Chairperson and the Vice Chairperson, acting jointly.

(b) STAFF.—The Chairperson, in consultation with the Vice Chairperson, may appoint additional personnel as may be necessary to

enable the Commission to carry out its functions.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. Any individual appointed under subsection (a) or (b) shall be treated as an employee for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(d) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(e) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 3007. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 3008. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

SEC. 3009. REPORTS OF THE COMMISSION; TERMINATION.

(a) INITIAL REPORT.—Not later than 1 year after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress an initial report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) FINAL REPORT.—Not later than 6 months after the submission of the initial report of the Commission, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the second report.

SEC. 3010. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission to carry out this title $3,000,000, to remain available until expended.

H.R. 4775

OFFERED BY: MR. STRICKLAND

AMENDMENT NO. 10: At the end of the bill (before the short title), insert the following:

TITLE III—ADDITIONAL GENERAL PROVISIONS

SEC. 3001. None of the funds made available in this Act may be used by the Department of Veterans Affairs to require a copayment in excess of $2 for any 30-day or less supply of medication provided to a veteran by the Department.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, SECOND SESSION

Vol. 148 WASHINGTON, TUESDAY, MAY 21, 2002 No. 66

Senate

The Senate met at 9 a.m. and was called to order by the Honorable BENJAMIN NELSON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, You give the day and show the way. You guide what we are to do and say and help us without delay. Whatever challenges we must face, You promise us Your strength and grace. You never give us more than we can take, and guide the decisions we must make. Help us to look for vision from above and rejoice in Your unlimited love. When this day comes to an end, may we praise You for being our Father and our Friend. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BENJAMIN NELSON 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 senior assistant bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 21, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BENJAMIN NELSON, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. NELSON of Nebraska thereupon assumed the duties of the Chair.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Mr. President, the Senate will shortly begin with a period for morning business that will last for 30 minutes. The Senate will then resume consideration of the trade act. There will be 90 minutes of debate in relation to the Rockefeller-Mikulski-Wellstone steel amendment prior to a rollcall vote on a motion to invoke cloture on the amendment at approximately 11 o'clock.

Senators have until 10 a.m. this morning to file second-degree amendments to the steel amendment and until 1 p.m. to file first-degree amendments to the Baucus substitute amendment.

A cloture motion was filed last night on the bill itself, and the vote will take place tomorrow.

The Senate will recess from 12:30 until 2:15 p.m. for the weekly party conferences.

There are numerous amendments now pending on this trade bill. We will do our best to work through those amendments. It will be difficult to do that. As we know, we can do about three votes an hour. It will take a lot of hours to complete all of those amendments. We will do our best to work through that. We hope the managers can accept some of these amendments. That would save a lot time. There are other amendments that Senators wish to offer. The key amendment, I am told, is the Kerry amendment which is the fifth in order of the amendments pending. I hope we can get to that quickly. If we can work out some limited debate on it, that would be beneficial. But unless we have a unanimous consent agreement, it will be very hard to get time even for debate on that.

There is a lot of work to do.

I understand that today the House is trying to get a rule on the supplemental appropriations bill. If they do that, it is possible we could get the supplemental sometime late tomorrow. That being the case, I am confident Senator BYRD and Senator DASCHLE would like to do the supplemental bill prior to our leaving for the Memorial Day recess. There is a lot of work to do with the limited number of days.

EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that morning business be for 30 minutes so that debate on the Mikulski matter could start at about 25 minutes until 10, rather than 9:30.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:35 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the time to be equally divided between the two leaders or their designees.

The Senator from New Jersey.

Mr. CORZINE. Thank you, Mr. President.

SOCIAL SECURITY

Mr. CORZINE. Mr. President, I rise today to talk about an issue that I have spoken about a number of times

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in this Chamber—one that is of great importance to the people of the State of New Jersey, but, even more importantly, to the people of the country; that is, Social Security, and the arguments that will be made about the privatization of Social Security, and those proposals developed by the Bush Social Security Commission.

As I have repeatedly explained when I talked about this issue, those proposals include deep cuts in guaranteed Social Security benefits, and that would force many Americans to extend the period of time before they retire.

Again, as I have repeatedly said, I think this is an issue that needs to be debated in front of the American people before we go to the polls this November. It is not one of those issues that should be decided by discussions between policy wonks and politicians. It needs to be understood by the American people, and they should have the right to express their opinions by those they have chosen to represent them.

Three weeks ago, I had the honor of representing the Democrats on our Saturday morning radio address, and I tried to make the case that benefit cuts proposed by the Bush Commission was a serious mistake in policy direction. Afterwards, the Cato Institute—one of the leading organizations pushing for privatization—issued a long treatise criticizing my statement.

Today, the Cato Institute is going to have another policy forum on privatization, particularly as it impacts minorities, and specifically Hispanics. So I thought it would be appropriate for me to deal with some of the arguments that have been made in response to my radio address. That is what I would like to do this morning.

In that radio address, I pointed out that President Bush's Social Security Commission developed privatization plans that would require drastic cuts in Social Security benefits that could exceed 25 percent for many people working today and more than 45 percent in the longer term.

Cato responded by claiming:

Charges of ''cuts'' are simply false.

In fact, it is the Cato Institute claim that is false. The truth is that the cuts I cited are based on the estimates of the independent, nonpartisan Social Security actuaries and are published in the Bush Commission's own report. I invite my colleagues, and certainly the academics at Cato, to take a look at page 75 in the report where those specific numbers are cited. These cuts apply to all Social Security beneficiaries, including retirees, the disabled, and survivors.

Moreover—this is an important point—the cuts would apply even to those who choose not to contribute to private accounts. Those people who choose to contribute to private accounts would get more serious cuts, but even those who continue to choose to be in Social Security would experience serious cuts as well.

Having argued the Bush Commission is not cutting benefits, the Cato Institute at another point backed off and said only that benefit cuts would not affect ''current and near-retirees.''

That is one of those discussions we will definitely have in the political debate this fall. But even this narrower claim is also false. Cato refers to the Bush Commission's ''Plan 2,'' which explicitly calls for cuts in guaranteed benefits for all beneficiaries who retire beginning in 2009. This may create the impression that those who retire in the next 7 years are protected from benefit cuts. But, frankly, that is just not true.

First, to the extent that individuals contribute to private accounts, these contributions would trigger cuts in guaranteed benefits under the Commission's so-called ''clawback'' provisions. In other words, on the one hand the Bush Commission is offering up the promise of private accounts, with another they are cutting Social Security benefits for every dollar contributed to those accounts. That is what the clawback is all about; that amounts to playing, as far as I am concerned, bait and switch with America's retirees, and particularly the ones who are in near-term progress towards retirement.

I note that the cuts in guaranteed benefits would apply even if the value of a private account collapsed. Markets do go up and down. We have seen the value of the stock market decline as much as 30 or 50 percent in periods of time. Some may believe that the stock market only goes up. I am here to tell you, from my experiences in life, that is just not true. I certainly know that people are empathetic with what Enron employees have experienced. The fact is, markets move around, up and down. If the Bush Commission's proposals are adopted, those unlucky enough to lose money in their private accounts would have fewer Social Security benefits on which to fall back.

Keep in mind the average level of Social Security benefits today, for the average retiree, is less than $10,000—about $9,000 on average. And it is about $7,500 for women, which is an issue we talked about last week. That is before the ''clawback.'' And I promise you, $7,500 or $10,000 is not enough in my home State of New Jersey to have a satisfactory and safe environment in your retirement. It is just inadequate to support even a basic standard of living in most parts of the country.

It is also important to emphasize that the Bush Commission avoids calling directly for deeper and more immediate cuts in guaranteed benefits only—only—by assuming general revenue subsidies of the Social Security trust fund worth up to $6.5 trillion in today's dollars. Yet now that the Bush tax cut has been enacted—and we have had a recession, and some other events have impacted Government—we are again running very serious deficits.

Just yesterday, the Treasury announced we are at $66 billion in deficit this fiscal year. It is highly unlikely, in a period of serious fiscal deficit that we are going to be able to come up with $6.5 trillion to subsidize the general account of Social Security.

Without those subsidies, the Bush Commission would force the Social Security trust fund into a negative cashflow by 2010—not 2017, 2010—and the trust fund would be insolvent in 2025—not the 2041 that is now projected by the actuaries of the Social Security trust fund. At that time, many of today's middle-aged and older Americans will be retired, and many of those people will be dependent on Social Security.

In other words, current and near-term retirees are not protected under the Bush plan, notwithstanding the Cato claims to the contrary. Even the deep cuts proposed by the Bush Commission for all beneficiaries assume general fund subsidies that are unlikely to materialize. In fact, actual cuts are likely to be even greater.

Mr. President, let me turn to another related claim by the Cato Institute.

As I explained in my radio address, plans to privatize Social Security would take trillions of dollars from the Social Security trust fund. But Cato disputes that. They argue that personal accounts should be considered as part of Social Security. Taking the money out, giving it to the individual to manage, they are going to call that a part of the Social Security fund. They would go even further and say that is going to build the assets of the fund because they are going to presume that markets always go up.

It is ironic to hear advocates of privatization argue that private accounts should be considered a part of Social Security, considering that the arguments they make repeatedly emphasize such accounts would be owned and controlled by individuals. There is a failure of logic involved.

Beyond this apparent inconsistency, the more fundamental point is that private accounts would not guarantee the basic benefits that Social Security is designed to provide. It would only provide those benefits they would be able to purchase with the provision of those accounts. So those guaranteed benefits that are funded from the Social Security trust fund today would be challenged because that money is withdrawn. The Bush Commission undeniably would drain the trust fund of trillions of dollars that are needed to pay those guaranteed benefits.

The trust fund already has a $3.7 trillion shortfall, according to the actuaries, over its adjusted life. Taking money out of the trust fund only makes that shortfall worse.

I think it is highly misleading to argue that general fund subsidies will ''build the system's assets.'' It just does not jibe with common sense. These general revenues are not budgeted for and may never materialize. We have to do that each year as we go along. If they do, they can be used to avoid the deep cuts, of course, but there is no guarantee that is going to

happen, and there is no certainty that the level of Social Security benefits will be maintained the same if those revenues are not appropriated.

I will not take the time of my colleagues to respond to each of Cato's claims—I am putting out a written statement today that deals with each of the points they have made in a sort of 15-, 16-page report—which they put out in a 5-minute morning radio address.

When you cut through all the misleading arguments, there are a few simple truths to keep in mind about the privatization of Social Security as proposed by the Bush Commission. It would cut guaranteed benefits by 25 percent for current workers and up to 45 percent for many workers in the future. Those cuts would apply to everyone, even those who choose not to take on the responsibility of private accounts. And the cuts would force many Americans to delay their retirement to make sure they had adequate resources in their retirement years.

For these reasons, I believe the Bush Commission's plans to privatize Social Security would be a mistake for our country. Notwithstanding attacks from folks at the Cato Institute and other privatization advocates, I intend to continue to make this argument over and over so that we can raise this issue and have a real debate about the direction for Social Security before this year's election. We really need to have that.

This is a fundamental shift in American policy. We Democrats, and most Americans, are very secure with the idea that Social Security provides one of those three legs to the retirement of every individual. It is one of those initiatives that has worked. Americans feel very comfortable knowing that there is a baseline to their retirement security.

I hope we can have a real debate demonstrating that changing its nature, therefore, would undermine people's retirement security in the years ahead. So that is why it is important to speak on this issue over and over, to engage this as a debate the American people need to hear.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. 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.

FBI FAILURE

Mr. SPECTER. Mr. President, I have sought recognition to comment about the failure of the FBI to act on the Phoenix memorandum in a timely way—that memorandum had reasonably explicit warnings about a terrorist attack, al-Qaida, and a sneak attack—and especially about the failure of the Federal Bureau of Investigation to call that matter to the attention of the Judiciary Committee as a matter of oversight.

We have since learned that the FBI had information, in 1995 and 1996, which referenced the possibility of a hijacking and hitting the CIA headquarters or some other building in Washington, DC, and apparently that information was not transmitted to the White House. It was not transmitted to the Senate Intelligence Committee either at that time because I chaired the Intelligence Committee in 1995 and 1996.

According to reports, when the President was briefed on August 6 of last year, there were only generalized warnings given, and the CIA, which reportedly gave the briefing, did not have the information about the matters known to the FBI back in 1995 and 1996.

It is my view that the Director of the FBI ought to be called upon by the Senate Judiciary Committee to answer some very fundamental questions. I say the Judiciary Committee because the Judiciary Committee has the primary responsibility for oversight on the FBI.

It was the Judiciary Committee which confirmed Director Mueller, and I spent considerable time with Director-designate Mueller before he was confirmed, meeting with him in a so-called courtesy call, and then questioned him at some length before the Judiciary Committee. At that time we received commitments that the new Director would not make the same mistakes which had been made in the past by the FBI and would, in fact, turn over his own information which was proper for Judiciary Committee oversight.

One of the subjects I discussed with Director-designate Mueller at that time was a key memo in the FBI file going back to December of 1996 when the Department of Justice was pulling its punches because of concern that Attorney General Reno might not be retained for President Clinton's second term. It was my view that this memo should have been turned over on a voluntary basis as a matter of appropriate disclosure.

The Judiciary Committee did not receive that memorandum until a subpoena was issued by a subcommittee that I chaired, and not until April of 2000. While the Intelligence Committees do have the primary responsibility for investigating the intelligence failures of September 11, 2001, the Judiciary Committee has the responsibility on FBI oversight and on the question of reorganization of the FBI. There are major issues that have to be answered as to why the FBI did not tell the CIA about the 1995 and 1996 incidents so that the CIA would have that material available when they briefed the President.

This is reminiscent of a major intelligence failure that goes back to September of 1997, when the Senate Governmental Affairs Committee was investigating campaign finance reform. At a joint hearing with the FBI and CIA, the CIA disclosed what the FBI had in its files, which the FBI had not disclosed, saying they had not realized it was in their files.

So there are some very fundamental questions to be answered, which do not get into any of the confidential memos and any sources and methods; and that is why Director Mueller of the FBI did not turn over the Phoenix memo to the Judiciary Committee on their own before it was sought after, and why the FBI did not tell the CIA this fundamental information so that the CIA would have it when they were briefing the President.

Last Thursday, I wrote to FBI Director Mueller calling on him to answer these questions, and I sent a copy of the letter to Director Tenet of the CIA asking him similar questions. When I saw the reports in the New York Times on Saturday morning about the information from 1995 to 1996 which, I repeat, I had not been told about when I chaired the Intelligence Committee, I called Senator LEAHY and Senator HATCH and urged that we have hearings very promptly to find out these basic questions about communications. It is not even necessary to see the Phoenix memorandum to question why it was not disclosed, to find out why the FBI does not communicate with the CIA.

I then called Director Mueller to ask if he would be willing to come in to testify early this week. He said he would have to take the matter up with someone else and get back to me. In a second telephone conversation on Saturday, he said he was not prepared to testify until there had been negotiations completed between the Judiciary Committee and the Department of Justice about the disclosure or production of certain documents. I replied that it was not a matter of production of documents; these fundamental questions ought to be answered and ought to be answered promptly for the American people, for Congress, and for the Judiciary Committee in our oversight function.

I then reminded Director Mueller that he had a 10-year term. The Congress has given the FBI Director a 10-year term so that he does not have to ask permission from anybody—not the Attorney General, not the President, not anybody—when it comes to a matter where there may be a conflict of opinion between congressional oversight and what the Department of Justice may have in mind. It is up to Director Mueller to make an independent judgment. That is why he has a 10-year term.

I did not tell Director Mueller he was subject to a subpoena. That is a matter only for the committee. I did discuss that possibility with the chairman, Senator LEAHY, and with the ranking member, Senator HATCH. I then called all of my Republican colleagues on the Judiciary Committee to discuss the situation and discuss the possibilities of a

subpoena. However, I did not—I repeat, I did not—talk to Director Mueller about a subpoena. That is a matter for the committee to decide and on which to take the lead. It is not something that I would do. Nor did I ask Director Mueller, or anybody else, for a copy of the notes of the briefing materials that went to President Bush in the purported briefing back on August 6, 2001. No request was made for that.

My view—and it is a very strong one, as you can tell from my tone—is that the FBI has questions to answer, and it is a matter for the Judiciary Committee because we confirmed Robert Mueller. We are the ones who asked him the questions and laid down certain parameters for his expected conduct as Director of the FBI, the most important of which is to tell the Judiciary Committee on his own when there are matters such as the Phoenix memorandum; just as the FBI should have told the Judiciary Committee about the Department of Justice memorandum in December of 1996, which was a smoking gun, with the Department of Justice pulling its punches on the campaign finance investigation because of the concern of Attorney General Reno's retention in the second term.

I make these comments very briefly this morning, and I know the assistant majority leader is waiting to proceed to the business at hand. I think these matters are of the utmost importance; the American people need to know about them. I hope Director Mueller will appear promptly before the Judiciary Committee and not wait until after our lengthy recess to take up the issues that require answers now.

I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, what is the business before the Senate?

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

ANDEAN TRADE PREFERENCE EXPANSION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 3009, which the clerk will report.

The senior assistant bill clerk read as follows:

A bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes.

Pending:

Baucus/Grassley amendment No. 3401, in the nature of a substitute.

Rockefeller amendment No. 3433 (to amendment No. 3401), to provide a 1-year eligibility period for steelworker retirees and eligible beneficiaries affected by a qualified closing of a qualified steel company for assistance with health insurance coverage and interim assistance.

Daschle amendment No. 3434 (to amendment No. 3433), to clarify that steelworker retirees and eligible beneficiaries are not eligible for other trade adjustment assistance unless they would otherwise be eligible for that assistance.

Dorgan amendment No. 3439 (to amendment No. 3401), to permit private financing of agricultural sales to Cuba.

Allen amendment No. 3406 (to amendment No. 3401), to provide mortgage payment assistance for employees who are separated from employment.

Hutchison amendment No. 3441 (to amendment No. 3401), to prohibit a country that has not taken steps to support the United States efforts to combat terrorism from receiving certain trade benefits.

Dorgan amendment No. 3442 (to amendment No. 3401), to require the United States Trade Representative to identify effective trade remedies to address the unfair trade practices of the Canadian Wheat Board.

Reid (for Kerry) amendment No. 3430 (to amendment No. 3401), to ensure that any artificial trade distorting barrier relating to foreign investment is eliminated in any trade agreement entered into under the Bipartisan Trade Promotion Authority Act of 2002.

Reid (for Torricelli/Mikulski) amendment No. 3415 (to amendment No. 3401), to amend the labor provisions to ensure that all trade agreements include meaningful, enforceable provisions on workers' rights.

Reid (for Reed) amendment No. 3443 (to amendment No. 3401), to restore the provisions relating to secondary workers.

Reid (for Nelson of Florida/Graham) amendment No. 3440 (to amendment No. 3401), to limit tariff reduction authority on certain products.

Reid (for Bayh) amendment No. 3445 (to amendment No. 3401), to require the ITC to give notice of section 202 investigations to the Secretary of Labor.

Reid (for Byrd) amendment No. 3447 (to amendment No. 3401), to amend the provisions relating to the Congressional Oversight Group.

Reid (for Byrd) amendment No. 3448 (to amendment No. 3401), to clarify the procedures for procedural disapproval resolutions.

Reid (for Byrd) amendment No. 3449 (to amendment No. 3401), to clarify the procedures for extension disapproval resolutions.

Reid (for Byrd) amendment No. 3450 (to amendment No. 3401), to limit the application of trade authorities procedures to a single agreement resulting from DOHA.

Reid (for Byrd) amendment No. 3451 (to amendment No. 3401), to address disclosures by publicly traded companies of relationships with certain countries or foreign-owned corporations.

Reid (for Byrd) amendment No. 3452 (to amendment No. 3401), to facilitate the opening of energy markets and promote the exportation of clean energy technologies.

Reid (for Byrd) amendment No. 3453 (to amendment No. 3401), to require that certification of compliance with section 307 of the Tariff Act of 1930 be provided with respect to certain goods imported into the United States.

Boxer/Murray amendment No. 3431 (to amendment No. 3401), to require the Secretary of Labor to establish a trade adjustment assistance program for certain service workers.

Boxer amendment No. 3432 (to amendment No. 3401), to ensure that the United States Trade Representative considers the impact of trade agreements on women.

Reid (for Durbin) amendment No. 3456 (to amendment No. 3401), to extend the temporary duty suspensions with respect to certain wool.

Reid (for Durbin) amendment No. 3457 (to amendment No. 3401), to extend the temporary duty suspensions with respect to certain wool.

Reid (for Durbin) amendment No. 3458 (to amendment No. 3401), to establish and implement a steel import notification and monitoring program.

Reid (for Harkin) amendment No. 3459 (to amendment No. 3401), to include the prevention of the worst forms of child labor as one of the principal negotiating objectives of the United States.

Reid (for Corzine) amendment No. 3461 (to amendment No. 3401), to help ensure that trade agreements protect national security, social security, and other significant public services.

Reid (for Corzine) amendment No. 3462 (to amendment No. 3401), to strike the section dealing with border search authority for certain contraband in outbound mail.

Reid (for Hollings) amendment No. 3463 (to amendment No. 3401), to provide for the certification of textile and apparel workers who lose their jobs or who have lost their jobs since the start of 1999 as eligible individuals for purposes of trade adjustment assistance and health insurance benefits, and to amend the Internal Revenue Code of 1986 to prevent corporate expatriation to avoid United States income tax.

Reid (for Hollings) amendment No. 3464 (to amendment No. 3401), to ensure that ISAC Committees are representative of the Producing sectors of the United States Economy.

Reid (for Hollings) amendment No. 3465 (to amendment No. 3401), to provide that the benefits provided under any preferential tariff program, excluding the North American Free Trade Agreement, shall not apply to any product of a country that fails to comply within 30 days with a United States government request for the extradition of an individual for trial in the United States if that individual has been indicted by a Federal grand jury for a crime involving a violation of the Controlled Substances Act.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 90 minutes of debate in relation to amendment No. 3433, to be equally divided. The time will expire at 11 a.m.

The Senator from Nevada is recognized.

AMENDMENT NO. 3470 TO AMENDMENT NO. 3401

Mr. REID. Mr. President, I send an amendment to the desk on behalf of Senator LANDRIEU, and I ask unanimous consent that after it is reported it be laid aside.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Nevada [Mr. REID], for Ms. LANDRIEU, proposes an amendment numbered 3470.

Mr. REID. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide trade adjustment assistance benefits to certain maritime workers)

On page 86, between lines 17 and 18, insert the following new section:

SEC. 113. TRADE ADJUSTMENT ASSISTANCE FOR MARITIME EMPLOYEES.

Not later than 6 months after the date of enactment of the Trade Adjustment Assistance Reform Act of 2002, the Secretary of Labor shall establish a program to provide health care coverage assistance under title VI of that Act, and program benefits under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) to longshoremen, harbor and port pilots, port personnel, stevedores, crane operators, warehouse personnel, and other harbor workers who have become totally or partially separated, or are threatened to become totally or partially separated, as a result of the decline in the importation of steel products into the United States caused by the safeguard measures taken by the United States on March 5, 2002, under chapter 1 of title II of such Act (19 U.S.C. 2251 et seq.).

The ACTING PRESIDENT pro tempore. The amendment will be laid aside.

The Senator from West Virginia is recognized.

AMENDMENT NO. 3433

Mr. ROCKEFELLER. Mr. President, we are now on the retired steelworkers amendment. I urge my colleagues to vote for cloture. We are basically allowing a very small group of steel retirees who, through no fault of their own—we are going to allow them to get the TAA health credit for 1 year only, and for 1 year only once. So it is a highly restricted amendment, more so than TAA benefits generally. No transitional costs, no cash benefits, no retraining, none of that.

If you support trade adjustment assistance for workers who lost jobs because of imports, you must support some temporary assistance—1 year and only once—of just health benefits for steel retirees who lost their coverage because of the same types of imports.

The fact is, the American steel industry has suffered more than any other industry that I can think of. If you check the record, no other industry has suffered and been such a victim of a flood of imports as has the steel industry. It is very well documented. In the Presidentially initiated section 201 initiative, which involved the investigation of the International Trade Commission, and Republican and Democratic Senators are members, recently unanimously declared that the steel industry had been seriously injured by imports. Nobody else has gone through that process. They studied it and found out the steel industry had been clobbered by imports over a long period of years.

Steel has been besieged by unfair trade and subsidy practices. One of the things that so wrenches my gut is that the U.S. Government has done nothing about it. We have done nothing about unfair trade practices, about dumping, countervailing duties, cartels, or predatory pricing. We have just let it continue because somehow the steel industry, I guess, does not count as much as a number of other industries in the minds of various administrations. I am talking not just about this administration, but previous ones also.

For 30 years, it is not just that bad things have been happening, but we have been breaking our own trade laws, as well as international rules. We have been ignoring them.

We passed a law saying there shall be no dumping. We did that in 1974. Administrations constantly ignore that law. So we have unfair foreign trade practices that have led us to this crisis. There was insufficient action against foreign dumping.

Do people know what ''dumping'' means? It means selling a product to another country at less than the cost of producing it in that country. So they are dumping it, so to speak, into the American markets.

There was insufficient action, again, under U.S. law—we were breaking our own laws—and international trade rules against decades of foreign subsidies to steelmakers. We do not subsidize our steelmakers. We never have. Everything they have done, they have done on their own—everything. Other countries subsidize their steelmakers. They underwrite their steel industries.

Our Government has turned a blind eye to the foreign steel cartels. Anybody who has anything to do with steel understands that. Those cartels have served as protectionist barriers to protect foreign steelmakers. Those barriers have protected them from international competition, from fairness, even from quality, and our Government declined to pursue endless reports that foreign steelmakers from different countries were operating in collusion.

What do I mean by that? These other countries that are producing steel decided they were not going to compete with each other; they were going to take all of their steel with this huge global overcapacity because our Government was not enforcing trade laws and they would send it all to America. Hence, our steelworkers were put out of work.

Somehow we, in our innocence and belief that everything will work out, did not view steel as a vital national asset. Every other country does. They have used all kinds of policies, all kinds of unfair policies, all kinds of illegal policies to promote their domestic steelmakers at our expense, and our Government never aggressively pursued any of those illegal practices. That is not to criticize the Government. The point of this amendment is that it has penalized the steelworkers who are now in chapter 7 and retired, out of work, lights out, with no health care.

I can think of no other sector where an American industry that is organized along commercial lines has had to engage in the brutal competition with what is called ''national champion''—foreign steelmakers that are state protected, that are state subsidized and, in many cases, state owned. How does one cope with that? You do not because we will not enforce our own laws.

That is the trade case. The other side is the human case. Senator WELLSTONE said this very well the other day. Why is it we have such trouble when a few select people—we are talking about 125,000 here—are in trouble through no fault of their own, through no protection of their Government, and we have trouble giving them any help?

The Presiding Officer and this Senator voted for a farm bill. It is embarrassing when we look at the help we gave soybeans in this country and then compare it to what this would cost to help 125,000 steelworkers who are retired because their companies went belly up and our Government would not do anything to help them.

We have to think about people, Mr. President. It is not unfair to think about people in the Chamber of the Senate. It is not unfair to think about helping people who are in dire need when we help them for 1 year and only one time with health benefits. That is less than trade adjustment assistance in the underlying amendment. That is probably closer to 2 years. We are only asking for 1 year for 125,000 retired steelworkers.

The human toll is enormous. Somebody explain this to me: How does the Senate sit by while steelworker retirees and their families bear the brunt of our collective Government failure to adequately enforce our laws?

After the administration's refusals to support any comprehensive solution for our steel industry during the ANWR debate—we had a much broader amendment then—we scaled it way back. Senators MIKULSKI, WELLSTONE, SPECTER, DEWINE, VOINOVICH, STABENOW, and others decided we would only work for a temporary solution of 1 year of health care coverage for steel retirees who lost their health benefits when their companies permanently closed. What is wrong with 1 year of benefits? What is wrong with that?

It is a bipartisan amendment. Workers who lose their jobs due to imports have some temporary health care coverage under this bill. Steel retirees who lost their health care coverage because of imports do not have health care coverage, and we are trying to get them some—1 year of TAA health credit and only once. It is not too much to ask for a group of American workers. I hope and pray my colleagues in the Senate will vote to support cloture.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Ms. MIKULSKI. I thank the Chair.

Mr. President, I rise to urge my colleagues to support the Rockefeller-Mikulski-Wellstone amendment and to vote for cloture to provide a safety net for American steelworkers. These steelworkers and retirees have been battered by decades of unfair illegal trade practices.

I thank Senator ROCKEFELLER and his staff for the excellent leadership

they have provided in crafting this amendment. This amendment is simple, straightforward, and affordable. Our amendment would simply provide a 1-year temporary extension of health care benefits to steel retirees who have lost their health insurance because of documented, trade-related bankruptcy of their company and documented predatory practices that caused their companies to go into bankruptcy. Our amendment seeks to help those steelworkers who suffered the most from these predatory trade practices.

We use the term ''unfair'' to the point where nobody pays any attention to it anymore. I want to make clear what happened to them. These practices were predatory. They were predatory practices against American steel in which there were foreign countries engaged in practices of dumping their steel below the cost of production in the American markets.

When Asia had its economic crisis, they dumped. When Russia was trying to get out of its economic crisis, they dumped. Often this dumping was strategic, subsidized, and predatory.

Who were the casualties of this trade? We did not even declare it a trade war. We just wimped, whined, and surrendered while all this foreign steel came in.

Mr. President, I am so proud of our country. We keep winning Nobel Prizes, but we keep losing markets, and one of the markets we have lost is steel.

Our amendment seeks to help those who have been injured because of these predatory and internationally illegal actions against us. Whom are we trying to protect? Simply the retirees, many who were laid off or forced to take early retirement because their companies are now bankrupt and their health care is now at risk.

American steelworkers and their retirees worked hard, played by the rules, served their country in war, served the armed services building our ships and our tanks, and in peace they made steel for our buildings, our bridges, and our cars.

Steel built the United States of America. Steel helped save the United States of America. Should we not honor this by providing a safety net for the retired steelworkers who are victims of international predatory practices?

For nearly 50 years, our Government has watched the steel industry wither. It accelerated particularly in the 1970s and then in the 1990s, not because steel was unproductive, not because steel was overpriced, but because of these documented predatory practices: Dumping cheap, subsidized foreign steel into our markets.

Our opponents say we should not put this amendment on the trade bill; and look for something else; do not tie up trade. I disagree. Illegal trade created the problem, so let's solve it in the trade bill. Unfair competition brought American steel to its knees. These foreign steel companies are subsidized by their government. They dumped excess steel into our markets.

Let me just give an example about our new friends, the Russians. I thank the Russians for cooperating with President Bush in the war against terrorism, but while we are dealing with one predator, they should look at themselves. Russia keeps open 1,000 unprofitable steel plants through their subsidies. That is not 1,000 steelworkers. That is 1,000 steel factories are kept open by their subsidies. What do they do with what they produce? Dump, dump, dump. I think we ought to dump the unfair trade practices.

We have to remember whose steel is in our country and the fact that we need to be steel independent. Maybe we can call one of those Russians the next time our Navy needs steel.

The Presiding Officer might be interested to know that Bethlehem Steel in my own hometown of Baltimore produced the steel to repair the U.S.S. *Cole*. If we needed steel to repair the U.S.S. *Cole*, I am sure the Russians would get right on it and we would pay any price for it, but I really do not want to have to turn to foreign steel to build the weapons to protect America as we reinvigorate our military. Somehow or another this is not right, it is not logical, it is not strategic, and I think we are going to really rue the day we let steel go down.

For some people in this body that is okay. There are those outside who say we do not need American steel, and they do not even worry about the American steelworker. Opponents of our amendment say it is unfair to target a specific group of Americans for assistance. Well, our steelworkers have been targeted, but it is by decades of these illegal trading practices.

This problem has been ignored by Presidents of both parties. However, I thank President Bush for taking the first step to impose temporary limited tariffs on imported steel to give us a breather. Now we need President Bush to take the next step to support us as we try to work our way out of something called legacy costs, the costs of pensions and health care. We wanted a temporary 1-year bridge to do this in the same way that the tariffs are temporary. We are not looking for handouts, give-backs, giveaways. We are looking for the opportunity to work our way out of it, and I think we could do it in a bipartisan way.

I am really disappointed the President is working directly against me. He had to call in some Republicans to try to convince them to vote otherwise. This should not be about those kinds of battles because I think the President took the first step. I think he is getting bad advice, and I am sorry he is opposing us on this amendment. Hopefully, we can change his mind on the long-range issues. But if President Bush had joined us in the fight, as I say, I would be the first to applaud him.

Opponents of our amendment say a specific industry should not be singled out. Well, we do that in this Congress. We single out specific industries and then talk about their value to America. I agree with that. Our Government singles out specific industries all the time when it is in our national interest. We single out industries when it is in our national interest because we need them as part of our economy or as part of our national production. That way, we can talk about the fact that when we help farmers or airlines. The national interest means national responsibility. I absolutely agree with that.

I have been in the Senate when I have heard my colleagues speak eloquently about the need to save the family farm. Why do we talk about saving the family farm? Because it is important to food production in the United States of America and it is part of our core values. It is part of our heartland. Absolutely, we should look out for saving the family farms.

At the same time, how about the steelworker families? We need to be steel independent. We need to find ways to help the steel industry to consolidate, and that means temporary tariffs in dealing with the health care benefits.

Farmers are important. So are steelworkers. Now let's talk about the airlines. Airlines, again, turned to us at a time of national crisis. Gosh knows, they took a terrible hit, and indeed it was a situation where we were concerned that our airline industry would go bankrupt because of the terrorist attacks on the United States of America: We need to look out for our economy. We need to look out for the airlines, the people who work for them, and the people who depend on them. I supported that.

What about steel? Are they not in the same category? Are they not part of our national economy? Are they not part of the fact we have to be independent? Were they not, too, hit by predatory practices? I do not mean to say that the two are parallel, but there has been direct documented injury.

In a few minutes, the Senate will vote on cloture. I am so sorry the Senate has come to this. Opponents of this amendment are afraid to bring it for a vote. Two weeks ago, everybody said we did not have a chance; we did not have a vote; who cared? Well, America cares; my colleagues care; and I really want to thank my colleagues who listened to Senator ROCKEFELLER, Senator WELLSTONE, and myself as we have talked on the floor, as we have talked in the halls, as we have talked in our offices. I thank my bipartisan colleagues such as Senator SPECTER, Senator VOINOVICH, and Senator DEWINE. We thank our colleagues for listening to our arguments.

We wanted to have a discussion, a debate, and do it the Senate way and let's see where the votes came out. But instead of doing it in what I consider the

majority way, we are going to hide behind a complicated procedure called cloture.

For those watching on C-SPAN, cloture means debate is shut off, which essentially means the amendment is shut off, the amendment is ended. In a regular vote, we only need a majority. I think we are going to have that majority because I think the majority of the Senate acknowledges the rationale of our argument both in terms of trade and human cost.

Instead, we are going to hide behind a parliamentary procedure that creates an obstacle of 60 votes in order to overcome it. I am disappointed in that, and I am disappointed there is no one present to argue with us.

Are there no real arguments against us? Are there no real bona fide arguments? I came today with something called a battle book. I was all set to debate, refute, and argue about what is in the best interest of our national economy, in both the short-range interest of our steelworkers and their health care and the long-range needs of America.

But hello, empty Chamber. Where are my colleagues? Is there no one to dispute us? If no one is present to dispute us, then give us a straight up-or-down vote. Maybe we are too far down the line for that, but the fact is we are going to have our vote, and we very likely might win it.

We have been working very hard, and so have those who support steel, the American labor movement, the steel unions, the families and districts such as in Pennsylvania, Minnesota, Indiana, Utah, and Ohio.

We will take our vote, though. I want to think about for whom I am here. One hundred and twenty-five thousand steel retirees have already lost their health care. They worked for many years in our Nation's steel mills. Veterans and widows of veterans, senior citizens who live on as little as $10,000 a year. Americans who thought that promises made should be promises kept. These are Americans who did not run off to Bermuda to avoid paying taxes. When their country needed them, they were there.

The American steelworkers have one of the greatest histories of generosity, of give and take, the American way, than any other corporate organizational entity. The American labor movement had the highest rate of compliance, particularly during the Vietnam war, in service to their country. They did not run away. They fought. When they came back, they did not get a parade. Now they ought to at least get their health care. When their country needed them, they were there, working hard every day, serving their country and their community, believing they would have a secure retirement and health care.

This issue is here to stay. This is a very real issue. It will not go away. There is a need for the steelworkers who have diabetes; the diabetes will not go away. The high blood pressure will not go away. The prostate cancer will not go away. All that will happen is steelworkers will go to emergency rooms, a place already overburdened, placing the responsibility on the emergency rooms.

I ask my colleagues to stand up for working Americans who are on the verge of losing everything they worked for.

I urge Members to vote for cloture for the Rockefeller-Mikulski-Wellstone amendment. Stand up for steel, America, the way the workers stood up for America over the last several generations.

I yield the floor.

Mr. REID. Madam President, I have watched the Senators for several days, and I am convinced how right they are. I ask unanimous consent on amendment No. 3433 to be named a prime sponsor.

The PRESIDING OFFICER (Mrs. MURRAY). Without objection, it is so ordered.

The Senator from Minnesota.

Mr. WELLSTONE. I suggest the absence of a quorum, and I ask unanimous consent the quorum call be charged to the opponents of this amendment. I want some debate out here.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. SPECTER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Madam President, I ask my distinguished colleague from Minnesota to yield 5 minutes.

Mr. WELLSTONE. Madam President, I am pleased to yield.

I say again to the opponents, after the Senator has completed his remarks, I will ask unanimous consent, again, that we have a quorum call and it be charged to the opponents.

We want people out here to be held accountable for their position.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 5 minutes.

Mr. SPECTER. Madam President, I have sought recognition to speak in support of the pending amendment of which I am a cosponsor. In my view, it is a modest request to ask that health benefits be extended to this category of steelworker retirees for a period of 1 year because these steelworkers, men and women, have been victimized by unfair foreign trade—subsidies, dumping, subsidized and dumped steel, which has come into the United States in violation of U.S. trade laws and in violation of international trade laws.

I compliment the President again, as I have on many occasions, for his invocation of tariffs which give the steel companies in America an opportunity to regroup and to reorganize. The tariffs will also give the steel companies an opportunity to compete with steel manufacturers and steelmakers around the world, which are much larger.

We have seen the demise of more than 30 steel companies in the past several years, which have gone into bankruptcy proceedings because they simply cannot compete with steel that is dumped and steel that is subsidized coming into the U.S. markets.

I am pleased to say that two weeks ago yesterday when I visited the Irvin Steel plant in Pittsburgh, they were in full capacity. They had hired some 65 additional steelworkers and they had plans to hire more steelworkers because the tariffs have given them some relief. However, in order for the steel industry to reorganize and reconstitute itself, there is going to have to be something done about these so-called legacy costs for health benefits for retirees. These are obligations of the steel companies which are in bankruptcy reorganization proceedings. The plan is to have one steel company in the United States take over all of these steel companies which are tottering, and to reorganize and regroup, with one steel company emerging as a powerful steel company to compete with enormous steel companies in foreign countries. They cannot take over these companies if they have to take over these legacy costs.

That is why, one way or another, we are going to have to work it out. I believe in the long run it will be cheaper for the Federal Government to undertake these legacy costs; that is, to pay unemployment compensation, trade assistance, the many other benefits, and Medicare which will be paid in any event.

I regret we could not get the cash loan from ANWR proceeds. However, that is yesterday. There is no use crying over that spilled milk.

The steelworkers in America have taken it on the chin. Not long ago, there were 500,000 steelworkers in the United States. Today, there are fewer than 140,000. Pennsylvania, my State, is the cradle of the steel industry. In western and central Pennsylvania, there are many steel companies. In Bethlehem, PA, there is the Bethlehem Steel Company. These retirees are hurting.

When we are considering legislation for trade promotion authority for the President, I think the President is right, he needs trade promotion authority to negotiate trade deals to increase prosperity all around the world. In so many countries, it is so much better to have trade than to give them foreign aid. Trade promotion authority will also help the economy of the United States. It is not without some problems with NAFTA, and some other problems as well, however in the long run, trade promotion authority will be very helpful.

Just as this bill takes up trade adjustment assistance, it is fair and reasonable that this modest approach for

a single year ought to be incorporated in this bill. I think the amendment is very well placed.

I thank my colleague from Minnesota for yielding time. I thank the Chair. I yield the floor.

Mr. WELLSTONE. Madam President, how much time is there on our side?

The PRESIDING OFFICER. Ten minutes.

Mr. WELLSTONE. The majority leader is speaking under leader time; is that correct?

I thank him.

If I may have one second, I certainly want to have a chance to speak and join my colleagues, Senator ROCKEFELLER, Senator MIKULSKI, and Senator SPECTER.

Since I think there is a lot at stake with this amendment, sometimes we forget about what this means. Personally, I am extremely disappointed that the opposition has not come forth. After the majority leader speaks, I will suggest the absence of a quorum and will ask that all time be charged to the opponents because people need to be held accountable for their positions on such an important question which is crucial to environmental quality or lack of quality of life for the people we represent.

I thank the majority leader for being present.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHLE. Madam President, in order to accommodate the time constraints, I will use my leader time to make some remarks with regard to this.

I will begin by complimenting and thanking my colleagues for the extraordinary job they have done. I will say for the record—and I want all to know—that I have never seen a more passionate or a more determined effort on the part of my colleagues on any issue than I have by my colleagues on this one. Senator WELLSTONE, Senator ROCKEFELLER, and Senator MIKULSKI in caucus, in leadership, in private meetings, and in every conceivable forum have made this an issue that we now clearly understand. I am grateful to them for enlightening us, for sensitizing us, and for making this the kind of cause it deserves to be, not only within our caucus but within the Senate and within the Congress itself. Everyone should know that were it not for their passionate defense, we would not be here this morning.

Second, I don't know if there is a more important issue as it relates to the well-being of workers who are vulnerable. We can talk about wages, we can talk about all the other issues involving displacement and the effects of trade, but when you talk about health, you are talking about the well-being of individuals who have no other choice but to seek remedy as these Senators seek it in this amendment.

This is a powerful message. We have people out there who have no access to health care, through no fault of their own, and who have no opportunity to avail themselves of any health option, in large measure because they have fallen victims in many cases to the trade challenges, the trade problems, and the trade issues that are the very basis for the debate we have had on trade throughout the last several weeks. I do not know how you look at those people in the eye and say: Look, I understand you have a problem. I understand you can't go to a doctor. I understand your wife is sick and you can't go to a hospital. I understand you can't go to an emergency room. I understand the humiliation and all of the pain you must suffer and all of the anxiety. But I am not going to support their amendment. Go talk to somebody else, tell them about your problem, because I am not going to deal with it.

If we turn down this amendment, that is the message we are sending to every one of those people who are out of work and who have no health insurance. That is the message: We don't care.

We shouldn't be doing that. That is why this amendment is so critical. We should be saying: Look, we understand. For those of us who embrace trade legislation, it is all the more imperative that we do it.

There are a lot of my colleagues who, for understandable reasons, are saying: Look, I don't want to see trade promotion authority because all it does is displace workers, all it does is cause pain.

There are those of us who say: Well, there is a lot to be said about that, but the overall good of the country depends on trade promotion authority. But if we say this, we also ought to say that when those people are displaced, they are going to get help. When they are displaced, they are going to get the kind of care they need. When they are displaced, they can see a doctor or go to a hospital. Then, by God, we have to find a way to make that happen, or this country doesn't deserve to pass any trade legislation.

Let us deal with the victims as well as the prize winners here. Let us understand that. Let us not look at the big numbers, let us look at the faces of the human beings affected by this. That is what this amendment does.

This is an important vote. I hope everybody pays very careful attention to the consequences of their vote this morning.

Some say this is an easy ''yes'' or ''no'' vote. Maybe that is right. Maybe that is right. But if it is an easy no, I daresay—and I will challenge my colleagues who haven't thought about this—they haven't given it the kind of care and consideration it deserves.

At times, I wish we had a chair right in the middle of the well, right here. I would like to have a steelworker sitting right here as we vote. And I would like to have every Member walk by and say: You know I am going to look you in the eye, and then I am going to vote no.

I think if we forced someone to have a chair down here with a steelworker and his family sitting here, the vote would be 100 to zero. But they are out there somewhere. Nobody has to look at faces, or names, or victims. Let us understand those families are right outside these doors. Those families are glued to their televisions this morning, hoping and praying that we can do something about this. Hoping. Let's give them cause for hope. Let's give them the ability to understand that we hear them, that we care about them, and that we want to make a difference in their lives.

Madam President, America's steelworkers have literally built this nation—from the skyscrapers that define us, to the military that defend us.

But today, those steelworkers who have defined and defended us need our help.

The last few years have been among the worst in history for the American steel industry. In 1997, the Asian financial crisis disrupted global steel trade and diverted much of the world's excess steel capacity to the U.S. market.

That started a decline that has only gotten worse. In just the last 2 years, 31 steel companies have filed for bankruptcy. Since January of 2000, more than 50 steelmaking or related plants have shut down or been idled. And steel prices are now at their lowest levels in 20 years.

This crisis has been devastating for steelworkers, their families, and their communities. Over 43,000 steelworkers have lost their jobs, and another 600,000 retirees and their surviving spouses are in danger of losing their health care benefits because the companies that once employed them are now facing bankruptcy.

This amendment provides 1 year of subsidized health benefits for those retired steelworkers now in danger of losing them.

Last month, many of our Republican colleagues in the Senate said they supported a much more generous assumption of legacy costs as part of an effort to open the Arctic Refuge to drilling.

I said to them, at the time, if you are serious about helping steelworkers, you will have a chance to do it.

This is your chance.

This is a modest, stopgap measure—far more modest than what Republicans claimed last month they would support.

It covers 70 percent of retired steelworkers' health care costs for just 1 year. That is all it does. It does not cost the taxpayers a penny. It does not solve the larger issue of so-called legacy costs. It does not create a new entitlement.

There is a lot this amendment does not do. But what it does do, is show that we understand how much these workers are suffering. We understand that after a lifetime of hard work, they deserve better than uncertainty.

No one can afford to be without health insurance, but that is particularly true for people who have spend a

lifetime in jobs that demand hard, physical labor. For these people, sometimes health insurance means the difference between self-sufficiency and poverty.

I know that the administration has come out against health insurance for steel retirees. I hope the administration will reconsider.

Last year, we agreed we would leave no child behind. This year, let's make sure we leave no worker behind as America moves into the new, globalized economy.

This amendment is cost-effective, it helps people, it is compassionate. I can see no reason to oppose this amendment. I hope my colleagues will join me in supporting it.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Believe me, I so much want to speak and respond. But, again, just listening, first, to my colleague from West Virginia, and then my colleague from Maryland, and then the majority leader, and the way in which this affects people's lives, and how can people vote against helping people, what is the other position?

I want some debate. I want to respond. I don't want us to use all our time and then have opponents come out here and speak and speak and speak, without being held accountable for their comments in debate.

So, again, I suggest the absence of a quorum. I ask unanimous consent that the time be charged to the opposition, which has been unwilling to even speak on this amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Will the Senator let me take a second?

Mr. MURKOWSKI. Sure.

Mr. REID. I appreciate the Senator doing that.

Madam President, I send an amendment to the desk and ask unanimous consent the pending amendment be set aside. This is for Senator JEFFORDS.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. I object, Madam President.

Mr. REID. Object to setting the amendment aside? OK. I understand.

The PRESIDING OFFICER. Objection is heard.

The Senator from Alaska.

Mr. MURKOWSKI. Madam President, I rise in opposition to the amendment offered by my good friend, the junior Senator from West Virginia.

My understanding of the amendment is that it provides a 1-year eligibility period for steelworker retirees and eligible beneficiaries. The problem is it does not offer a way to pay for it.

Some of you may recall we had an extended debate on this floor a few weeks ago on aspects associated with energy development and the energy bill and proceeds from the proposed sale of opening ANWR. In that amendment offered by Senator STEVENS and myself, we proposed to fund the steel legacy issue relative to retirement.

This matter has been discussed in this body. My understanding is that Senator SANTORUM has spoken against the Rockefeller amendment. And I believe Senator SPECTER did as well.

I think we have to go back——

Mr. WELLSTONE. Will the Senator yield for a second, a split second?

Mr. MURKOWSKI. I am going to yield after my entire statement.

Mr. WELLSTONE. Just for the record——

Mr. MURKOWSKI. I am not going to yield.

The PRESIDING OFFICER. The Senator from Alaska has the floor and has declined to yield.

Mr. MURKOWSKI. I thank the Chair. And I thank my colleague. But I do want to continue uninterrupted because my statement is going to be very short.

I think the basis for the opposition is the illusionary effect that it has rather than the practical reality associated with a resolve of this issue.

As I indicated, Senator SANTORUM took the floor to decry the amendment. I recognize that Senator SANTORUM is as strong an advocate of the steel industry as any Member of this body, and his credibility is certainly unchallenged. I have listened to the Senator from Pennsylvania describe this amendment as a ''cruel hoax'' on the workers and on the future for U.S. steelworkers.

I happen to agree with his description of the amendment because it fails to fund the benefits and leads workers and retirees of the steel industry down a blind alley. It is going to authorize something—get their hopes up—but you are not going to fund it.

It is a shame because, as I indicated in my opening remarks, a month ago, the Senate had a chance to pass a comprehensive fix for the so-called steel legacy cost. And that is the issue that threatens the benefits of retired workers and the future, in my opinion, of today's steelworkers.

In that debate we challenged America's steel industry and America's steel unions and America's steel caucus to the reality of coming aboard on a major project that could rejuvenate America's steel industry; and that is associated with the building of approximately 3,000 miles of 52 to 54-inch pipe that would go from my State of Alaska to the Chicago city gate—an order that would be worth approximately $5 billion.

What would that do to stimulate America's steel industry? Well, one can only guess. But that was basically turned down. It was ignored by the steel unions, ignored by members of the steel caucus because evidently the interest is not rejuvenating America's steel industry, but it is addressing the obligation of retired workers and their benefits. I understand that. But I see in the legislation we offered an opportunity for both.

The tragedy is that when this pipeline is going to be built, it will be built with Japanese steel, with Korean steel, with, perhaps, Italian steel. Evidence of that was in the 1970s, when we were constructing the Trans-Alaska 800-mile pipeline. What was the condition of America's steel industry then? It was in decline. That was unfortunate. That entire pipeline was built with Japanese, Korean, and Italian steel. The reason offered was, we didn't make it anymore.

Now there is an opportunity to rejuvenate the industry. These are U.S. jobs. These are union jobs in U.S. steel mills, a major order, $5 billion. Is there any interest? No. The contribution of the proceeds from the sale of ANWR in the billions of dollars was offered in the Stevens amendment, but it was objected to by America's environmental community. It was not a case of whether we could open it safely. It was an issue of politics. It was a charade.

We even reached out to the coal mining beneficiaries by helping them with shortfalls in their health care benefit program, something the present proposal does not do.

The main difference between our fix and the proposal before us is our proposal was comprehensive and, most importantly, it was funded. The amendment offered by Senator STEVENS and myself a month ago would have used a significant portion of the money from the oil and gas leasing in ANWR to help workers and the industry reorganize itself to compete in world markets.

This is an extremely important distinction because the Senator from West Virginia rejected an opportunity to embrace the future. Instead, he would rather put another burden on taxpayers and leave our workers and the industry, in effect, in the dark. When he rejected the amendment, the Senator from West Virginia and his supporters claimed they could not support it because they couldn't get a positive guarantee in writing from the President and the House of Representatives that they would support it.

Now, a month later, we introduce a hollowed out version of the Stevens amendment with no support, no assurance from either the President or the House of Representatives, and no money to pay for it. It doesn't take a mindreader to determine where you would have been better off. It is an outrage to the steelworkers and retirees who are being used, and it is an insult to the American taxpayer who will be asked to place yet another burden on their shoulders.

Make no mistake, this amendment is about politics. It has nothing to do

with the men and women of the steel industry, who are certainly struggling.

My greatest disappointment is not with the authors of the amendment but with the leadership of the steelworkers union. Most of its members helped build this country. They made steel what it was, a significant factor in democracy and the growth of our Nation. They made steel for the tanks and the guns that turned the tide in Europe and the Pacific during World War II. They worked in the arsenal of democracy. Yet today their union leaders are turning their backs on the workers and the retirees in favor of hanging out with environmental extremists who are opposed to the very steel plants and iron mines in which their workers were so proud to work.

They would rather support phantom efforts such as the amendment today than obtain real benefits for workers and retirees and beneficiaries. They know this amendment will not pass because it is just a political statement. Evidently they don't care. It is appalling, but they apparently don't care if the plants close, the workers are idle, and the benefits don't get paid because the companies go under.

A month ago, Senators were given the opportunity to decide whose side they would be on: environmental fundraising groups, rich kids who protest everything about America that the steel industry built, or the workers and retirees themselves, plus the coal miners and beneficiaries. The choice was easy: limited, environmentally responsible development of only 2,000 acres of land in Alaska in return for paying for the benefits for hundreds of thousands of workers and offering the industry a chance to rebuild itself, or party politics, which is merely the equivalent to a press statement or two and showing support for the corporate environmentalists that made the issue a test of their vision for the Democratic Party.

Unfortunately, most of the Members chose party politics and the special interests of corporate environmentalists over the working men and women of this Nation. It is times such as these, when our Nation is at war and our steel industry and our workers are suffering, that Washington has ceased to be a serious place. The workers deserve better than this hoax, this empty gesture. They need a real plan.

Again, as I have indicated, to suggest that what we had to have in order for this to go was support from the President and the House of Representatives, and now we find ourselves with no money to pay for it, I question the necessity of those earlier guarantees. What we have today is no money, no funding, no assurance from the White House. If the authors are serious about solving this problem, I am willing to sit down today and discuss real options that could get a majority of votes in the body and rejuvenate the steel industry and get it going.

If I were in the industry and I were involved in the union and I had the opportunity for a $5 billion domestic order in this country, I would gear up for it. I would open the iron mines. I would expand the steel industry. I would insist that U.S. firms have an opportunity to participate in the largest single order ever outlined in the country. It is going to go to our foreign friends.

I believe the membership of the steelworkers union, the beneficiaries and retirees, are smart enough to figure out when they are being used for political purposes. I hope they will cry out to the leaders in the union and to the Senate and let them know that they do not appreciate having their futures used for political purposes.

Needless to say, I oppose the amendment and ask my colleagues to do the same.

Mr. ROCKEFELLER. Will the Senator yield?

Mr. MURKOWSKI. I am happy to yield.

Mr. ROCKEFELLER. The Senator from Alaska has mentioned politics and that the steel industry evidently decided not to take advantage of this multibillion-dollar offer that he and I talked about a number of times. I made it very clear to the Senator from Alaska during our conversations that whereas we do make pipe in the United States, we only have about 40 million tons of production left. And we don't make pipe of the size that was required for what the Senator was talking about at ANWR. That was the only reason. It was not politics.

The Senator talks about letters from the White House. I don't know if the Senator disagrees, but the Senator talks about letters from the White House. There was a reason for that. That was that the White House was and still is—they have been e-mailing all over the country and getting other people to e-mail because they have opposed this from the very beginning. They have opposed legacy costs. They made it very clear. All of their Cabinet officers made it very clear. The President made it clear. That is the reason we are reduced to simply having 1 year of health benefits because we have no other alternative. I would have, as the Senator from Alaska knows, voted probably for ANWR if Senator STEVENS, who was equally as angry as I was over what transpired, had been allowed to proceed. But it was simply bludgeoned.

I hope that the Senator would agree with that.

Mr. MURKOWSKI. If I may respond to my good friend, the Senator from West Virginia, first, we are both aware of the fact that the President did support opening ANWR. He would have signed an energy bill with ANWR in it. Clearly, the intent of the amendment, had it passed, was that the proceeds would go for the steel legacy fund—a significant portion of it. I know the Senator from West Virginia wanted an ironclad commitment from the White House.

I simply share that had we passed the amendment, we would have identified the funds as flowing to the steel legacy as compared to where we are today, which is we are talking about a 1-year proposal with an authorization only and no identification of funds. It seems to me we were much better off previously, had you accepted the deal. Had it passed, that is where the funds would have gone.

Ms. MIKULSKI. Will the Senator yield?

Mr. MURKOWSKI. Yes.

Ms. MIKULSKI. Madam President, I want to bring to the Senator's attention that this amendment is paid for by offsets that had been cleared and verified by the Budget Committee. So it is paid for. I wanted to have that said for the Senator's clarification. I thank my colleague for his sympathetic comments about steelworkers.

Mr. MURKOWSKI. Madam President, I don't want any more time to run on my side.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Madam President, I yield myself such time as I may consume.

It is not appropriate to include the steel legacy program on the trade adjustment assistance legislation and I urge my colleagues to oppose it.

This is a trade bill and inclusion of this amendment will doom the legislation. This is not just a helping hand for retired steel workers. It is the largest and boldest corporate welfare proposal I have seen in quite a while.

Not only is it corporate welfare but acceptance of this proposal is an invitation to others to come in to government largess in the same way: Promise the workers anything but give your promises to the taxpayers.

This legislation gives a free pass to companies and unions to bargain for benefits as irresponsibly as they would like. They may do this with the knowledge that they will never have to keep their promises. Instead, they can foist their benefit packages on the backs of the hard-working taxpayers. That includes many who have no insurance or retiree health because their employers cannot afford to purchase it.

My additional arguments against inclusion of the steel legacy program are as follows: Neither the costs of nor the implications of including steel legacy costs have been examined in the Senate Finance Committee.

The Senator from West Virginia introduced his bill, S. 2189, on steel legacy costs on April 17, 2002. That is barely a month ago. The GOP members and staff on the Senate Finance Committee have asked repeatedly that hearings be held on this issue but none has been held or contemplated.

This suggests that there are individuals on the Finance Committee who may not want this issue of steel legacy costs seriously examined. A generic hearing was held on March 14, 2002, in the HELP Committee. It was a very

nice hearing but it consisted solely of one panel and steel labor and management and one panel of affected steel workers. There were no opposing views, no academics, no thoughtful examination of the implications of the proposal, no discussion of the fact that other industries with unsustainable benefit promises to retirees are hoping to get in on this deal.

Now the Senator from West Virginia has altered his proposal a little in order to slip it into the Trade Act. He says it is designed to cover just 125,000 workers and just for 1 year. But bear in mind that a 1-year bridge benefit is not the long-term intention of the amendment. Once you grant this benefit it will never sunset.

The ultimate solution for the proponents of this program is to cover all steel workers in a permanent entitlement program. The steel workers, themselves, have suggested that as many as 600,000 retired steelworkers will be picked up by such a permanent program. In addition, current steelworkers, as they retire, would come into the system, making the pool of covered individuals much larger.

How many more individuals does that add to the pool? We don't know. We have some basis for comparison, but on a much smaller scale.

But our experience with the Coal Industry Retiree Health Benefits Act is just one-tenth the size, around 60,000 individuals, of the steel proposal. We have no reliable cost data on this proposal. Though Joint Tax told us that it only costs $179 million over 1 year.

The truth is that experience tells us two things: No. 1, estimates of program costs are always too optimistic. No. 2, mortality estimates are unduly pressimistic.

One estimate is that the full program, covering all steel retirees, would cost around $13 billion. But experience tells us that the estimate is probably too low. The legislation also creates a moral hazard. By allowing the parties to dump legacy costs they couldn't afford, it sends a message to all other industries. It tells them that they should make unsustainable benefit promises and lay them on the taxpayers.

In order to avoid this ''moral hazard'' in the future, this proposal would have to contain incentives to get the parties to change the way they bargain for benefits. We can see how that moral hazard still exists in the coal industry today.

Coal miners are still bargaining for, and the Bituminous Coal Operators Association is still promising, the same expensive benefit package that they dumped on the system 10 years ago.

Shifting their irresponsible collective bargaining costs to other parties did nothing to change the way they bargain for or promise benefits in the coal industry.

The coal workers and companies got away with making someone else pay for their unsustainable promises, so they keep on doing the same thing.

The ''moral hazard'' is happening in steel but on a much larger scale. Steel is 10 times the size of coal. The steel retirees are similar to any group of retirees who lose their health care coverage; they are a sympathetic group. But so are the retirees from countless other industries who lost or did not receive retiree health benefits because their company could not afford them.

The proposal before us creates a new Federal entitlement program for this particular ''sympathetic group'' that would cost billions of dollars.

My staff heard from a lobbyist from a major manufacturer in the transportation industry this week. That lobbyist said to ''get ready'' because they wanted to unload their retiree health costs on the taxpayers, too. This lobbyist suggested that their industry is much larger than the steel industry.

If you vote for this amendment, you will be ushering in an era other special retiree health care programs for all the other industries who have their own lobbyists.

Steel retirees should be considered in the context of deliberations on the uninsured. For several years we have been debating what to do about the uninsured and about prescription drug coverage under Medicare. We may decide that steel retirees fit into our deliberations. Ultimately, we may decide otherwise.

But we at least ought to explicitly consider the implications of the legislation. Bear in mind that there is another irony with the steel legacy costs proposal. Some very large steel companies—LTV and Bethlehem—went bankrupt, in part, because the 1992 energy tax bill mandated them to pay the retiree health care obligations for former coal employees under the Coal Industry Retiree Health Benefits Act.

Over the past 10 years these now bankrupt steel companies have spent hundreds of millions of dollars paying for the irresponsible health care promises of the Bituminous Coal Operators Association and the UMWA. Think about that.

The shifting of retiree health costs is a vicious circle. The amendment expands the TAA health insurance assistance to steelworkers whose companies permanently closed operations while in bankruptcy. Think about who ends up holding the bag. It is the rest of America. It is the taxpayers—from the single-mother waitress with children who does not have health care. It is the white collar workers in Silicon Valley who do not have health care. It is the Midwestern farmer who pays for his family's health care. It is all the other retirees who pay tax on their Social Security benefits. This amendment creates a double standard. There is one standard, guaranteed health care for one class of folks, retired steel workers of a few companies. There is another standard for everyone else. Is that fair? Does that make sense?

This bizarre proposal is compounded further by the double standard it creates for steel industry retirees. That's right. What we have here is a ''rifle shot'' for a couple of companies.

I have been one who has fought rifle shots in the Tax Code. Well, fellow Senators, you have got a rifle shot in front of you.

We do not know all the companies that will benefit from this but certainly LTV Steel which is in chapter 7 liquidation and Bethlehem Steel that is in chapter 11 bankruptcy.

Let me take a minute to review our TAA health insurance compromise and what the implications of the steel retiree health language would mean for the TAA health credit.

The agreement we worked out gives TAA workers an advanceable, refundable tax credit, set at 70 percent, that can be applied to the purchase of selected qualified health insurance in either COBRA or State insurance pools.

The compromise also includes funds for National Emergency Grants, so that States can provide subsidized coverage to workers before State insurance pools are established.

With no company left to provide COBRA benefits, and very few State insurance pools ready early on, steelworkers will wind up being covered through the interim National Emergency Grant program, not the tax credit.

I happen to support this important interim Emergency program. But I strongly believe the addition of new categories of workers is a mistake. It sends a signal to all industries, not just steel, that nearly full Federal support for unmet health insurance promises is available from the Federal Government.

You should also know that the bill introduced by the proponents of this amendment provides that steel retirees will each receive a cash life insurance payment of $5,000. You may be thinking that is not very much life insurance. But multiplied by 600,000 that is $3 billion.

In conclusion, I would be remiss if I didn't reiterate that I believe this is a sympathetic group. But I don't know that it is so sympathetic that we will be able to afford their bad debts, all $13 billion of them. Why? because the transportation lobbyists will be here next thing you know asking that we cover their bad debts.

I urge my colleagues to vote against this proposal.

To vote for this amendment will doom the trade bill. We must examine proposals such as this carefully and deliberately, weighing the implications of our action.

Since most workers and retirees, including early retirees do not have any retiree health many policy questions are raised by this new Federal entitlement program.

The ''sunset'' of the Senator from West Virginia in this provision is simply a temporary bridge to permanent program.

I have many, many more concerns regarding this proposal. I will not go into them here.

Madam President, this is a very serious amendment. It does tremendous damage to the possibility of getting trade promotion authority to the President. I can better say this if I would read from some rough notes that I made in regard to a speech that my friend, Senator BAUCUS, made against the Gregg amendment on wage insurance when it was up last week. These are not direct quotes, but Senator BAUCUS made the best argument on the Gregg amendment that I can make against the amendment by the Senator from West Virginia.

First of all, you have to remember the words ''very balanced compromise,'' three words that Senator BAUCUS used. We have a very balanced compromise before us. We ought to think in these terms: If we want trade promotion authority to go to the President, we don't want to upset that balanced compromise.

A second point he made on the Gregg amendment is: I worked very hard to kill crippling amendments that would kill TPA.

This is one of those crippling amendments that could kill trade promotion authority.

He expressed in another statement his ''disappointment about the amendment before us,'' meaning the Gregg amendment, again upsetting a bipartisan compromise.

Then, lastly: If this amendment passes, there will be no bill.

That was said about the Gregg amendment. We defeated—Senator BAUCUS and I working together—the Gregg amendment on wage insurance. I worked to preserve that compromise, although a majority of my caucus was against it, the same way Senator BAUCUS has worked to kill a lot of amendments that have upset this compromise by being in the minority of his caucus.

What we are talking about is the center of the Senate. If anything is going to get done in the Senate on the controversial issue that we have before us—trade promotion authority, passing the House by a one-vote margin, 215–214—we are going to have to preserve the very balanced compromise that Senator BAUCUS and I have brought to the floor. Then we have the Senator from West Virginia with his amendment.

I think in the same way that Senator BAUCUS believed the Gregg amendment would upset this very carefully crafted compromise on trade promotion authority, the amendment of the Senator from West Virginia does the same thing. So that is the reason I ask for the defeat of this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. Madam President, how much time do the opponents have?

The PRESIDING OFFICER. The Senator from Iowa has 13 minutes.

Mr. WELLSTONE. We have less time. I would be pleased to defer to the opponents if they want to speak.

Mr. GRASSLEY. We are not quite ready to speak. I ask that the Senator use a little bit of his time.

Mr. WELLSTONE. Madam President, let me, first of all, thank my colleagues for being here. I especially thank Senators ROCKEFELLER and MIKULSKI. I also thank Senator DASCHLE for his remarks. They were powerful and they were personal and they were on point.

My colleague from Alaska spoke, and I will echo what my colleague from West Virginia had to say in response. The only other thing I want to say is my colleague from Alaska said the proponents know this amendment will not pass, and it is really not enough. Frankly, we don't know it won't pass, and it will pass if the votes are there. Every steelworker and every worker and every family and every citizen in our country believes this is a matter of elementary justice—that is to say, in the trade adjustment assistance package of this legislation. Let's also provide some help to retired steelworkers who worked hard all their lives, be it in Maryland or the iron workers or the taconite workers on the range in Minnesota. They have worked for companies that have declared bankruptcy, and they thought they had retiree health care benefits. It is very important to them and their spouses.

Health care costs are a huge issue to the elderly population, and now the companies declare bankruptcy, walk away from it, and they are terrified and they don't know what they are going to do. They have worked hard all their lives for an industry that has been absolutely critical to our national defense. You could not find people more patriotic or more hard-working—people who are, frankly, asking for less.

All we are asking for in this amendment is a 1-year bridge so that we can put together legislation for the future that will not only deal with these retirees and help them but also help the steel industry get back on its feet.

This is the extension of trade adjustment assistance, and 70 percent of the COBRA costs would apply to these retirees. It would be a huge help. Now, my colleagues come out here on the floor and speak against it—some do—and they act as if we are presenting something that is egregious, almost sinful, when we are talking about helping people.

This is one of these sort of ''buddy, you are on your own'' philosophies. If you have been working hard all your life for a company, you are working in an industry for 30 years, the Government did nothing to deal with unfair trade practices, now the company declares bankruptcy and you have no help and you are terrified they say, buddy, you are on your own. That is basically what we are hearing.

Some colleagues come out here and say we should have done it on ANWR, although the House Republican leadership would not sign off on it, the White House would not sign off on it, and it didn't look like it was going to happen or like it was a very serious proposal. Now there is this effort to bring people together. Republicans support this. Senators SPECTER and VOINOVICH came out here and spoke as well. Senator DEWINE supports this.

I think this is a matter of elementary decency, elementary justice. We are trying to provide some help to people. That is what this is about. I, frankly, am amazed that we are now going through this. I think my colleague from Maryland said this, but I want everybody to know this is a filibuster. One Senator said they don't have the support. I think we have a majority of support. We are going to have majority support and we should have more than the majority support.

We should not be in this situation where we come to the floor to advocate for people we represent for a minor expenditure of resources, to provide some help to people who worked hard all their lives, as a part of trade adjustment assistance, only for 1 year, an interim measure, and this is being filibustered, being blocked.

I cannot think of any reason to block this except for just absolute ideological opposition that, my God, when it comes to helping people who are really struggling, through no fault of their own, there is not anything the Government can or should do.

How much time is left?

The PRESIDING OFFICER. The Senator has 3 minutes 10 seconds.

Mr. WELLSTONE. I reserve the last 2½ minutes to respond to my friend from Oklahoma.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. Madam President, I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Madam President, I thank my colleague, Senator GRASSLEY, for his leadership and for his desire for us to pass a trade adjustment bill. Unfortunately, we have to pass three bills at once. We should be passing one bill. I have spoken about that issue a couple of times.

This is the legislation we have before us. It is pretty thick and comprehensive legislation. It has three bills in it. I venture to say a lot of my colleagues do not know the substance of the bill. I have been doing a little homework on it, and the more I find out about the amendment that is pending the less I like about it.

For example, I do not think we should combine trade adjustment assistance in the same package as trade promotion authority. Historically, we have never done that, and we do not need to do it now. Some people are trying to take trade promotion authority hostage, which they know the President wants, and say: We will not give it to you unless you pay our ransom, and our ransom is enormous new entitlements, one of which is trade adjustment assistance; that includes not just

training, but also the Federal Government picking up three-fourths of the health care costs, compromised down to 70 percent.

Interestingly enough, if one qualifies for the health benefits under trade adjustment assistance, looking at page 147, where it starts, to page 155, it says if you are going to get the health care tax credits—and they are refundable, so Uncle Sam will write you a check—you cannot have other coverage. You cannot have Medicare, Medicaid or S-CHIP. It is in the bill. Maybe our colleagues did not know that.

What they are trying to do for the steelworkers is to pick up health care costs for their retirees, and, incidentally, they can have Medicare or Medicaid. I do not find that to be fair. This is like saying we are going to give qualifying individuals trade adjustment assistance; we are going to give them health care or help them with their health care expenses, but the steelworkers can have Medicare, too, and everybody else cannot.

Three-fourths of the beneficiaries under this proposal, according to the sponsors, are now Medicare eligible. Everybody else is going to be excluded—they cannot have both—but, incidentally, steelworkers can have both.

I asked the question last week: If we are going to do it for steelworkers, why not do it for textile workers; why not do it for auto workers; why not do it for airline workers? All these industries have lost thousands of jobs. What about communications workers? They have lost thousands of jobs too. Are we not concerned about their health care costs? We are going to single out one industry, one union and say: We are going to give you enormous benefits.

Some people have said the cost of this benefit is $179 million over 10 years. The bill says the benefit period is for 12 months, but they say the total cost is $179 million. What they did not include is another $58 million which is included in the same CBO number that says cost and outlays are actually $237 million. That was omitted in the debate we had last week.

I am looking at the amendment. I have stated a couple of times that I want the Senate to work and I want the Senate to work effectively and efficiently, and it is not doing so. It is not doing so when we take up a bill such as this with three bills in one.

The trade promotion authority section of the bill was passed out of the Finance Committee. The Andean Trade Act was passed out of the Finance Committee. Trade adjustment assistance was passed out of the Finance Committee, but the trade adjustment assistance proposal included in this did not pass out of the Finance Committee. Senator DASCHLE and maybe Senator BAUCUS revised it and included a lot of new items.

Now I am looking at the pending amendment that deals with steel on which we are going to be voting momentarily. Talk about a crummy way to legislate. This is the amendment Senator DASCHLE and others offered. It talks about eligibility for assistance. I am trying to comprehend who is going to be eligible, and the other day I asked questions about who is going to be eligible.

It says on page 2 of this amendment: Referred to the Trade Act of 1974 as amended by S. 2189 as introduced on April 17, 2002. Here is S. 2189 as introduced by several individuals—Senator ROCKEFELLER, I believe, is the principal sponsor—on April 17. This was introduced a month ago. It has never had a hearing, and two or three times in the pending amendment, it refers to S. 2189 as if it is law.

The cost of S. 2189 has never been formally estimated by CBO, but I heard estimates up to $13 billion. Its eligibility is much broader than the pending amendment, but the pending bill continues to refer to S. 2189, as if that is the statute we are going to follow for eligibility. There is a lot of confusing nonsense between these two, neither of which have had a hearing before the Finance Committee in the Senate, and they are enormously expensive. They are brandnew entitlements.

I am troubled by the fact that we would ask taxpayers, many of whom do not have health care but they pay taxes, to be subsidizing retirees who have health care and are in the Medicare system. We already pay for their Medicare. Now we are saying we want to pay for their Medicare supplement. We have never done that.

Picking up an individual's Medigap policy has not been a responsibility of the Federal Government. That is what we are doing under this proposal for three-fourths of the individuals. Many other people who are a lot younger than age 65 will also qualify.

I question the wisdom of whether or not we should be asking all taxpayers to be benefiting one particular union and say: We are going to bail you out; we are going to take care of your retirees' health care costs, but we are not going to do it for textile workers, we are not going to do it for communications workers, we are not going to do it for auto workers.

Wait, maybe we are going to. Maybe this is the camel's nose under the tent and we will do this industry by industry. Whoever has the stronger lobby, whoever puts the money forward, whoever asks Congress, maybe has the most organized proponents: Let's have a bailout and pick up the cost of health care for our retirees; we cannot afford it so, please, taxpayers, you take care of us.

We already have taxpayers picking up Medicare and Medicaid, and now we are telling people: Yes, now we are going to pick up all extraneous benefits. Unions and management, you do not need to worry about what you negotiate because Uncle Sam, if you cannot afford it, if you go bankrupt, we will pick it up for you; just be irresponsible as can be, and we will pick it up for you.

I do not think that makes a lot of sense. This also is detrimental to a lot of companies in the steel industry who are not in this situation, who have been responsible, who are trying to make ends meet, fulfilling their commitments and abiding by their contracts. We are asking them to subsidize their competitors. I fail to see the wisdom in this effort.

I urge my colleagues to vote no on this cloture motion. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. WELLSTONE. Madam President, I will take 1 minute, and there will be 1 minute for Senator MIKULSKI and 1 minute for Senator ROCKEFELLER.

The PRESIDING OFFICER. The Senator has that right.

Mr. WELLSTONE. Madam President, I do not know how to do this in a minute, but I have listened to my colleague from Oklahoma. I think his problem is he just does not like trade adjustment assistance. His problem is he just does not think, when it comes to some of the most pressing issues of people's lives—in this particular case retired steelworkers and taconite workers—there is not anything the Government can and should do. That is his position.

Mr. NICKLES. Will the Senator yield for a moment?

Mr. WELLSTONE. I will be willing to yield on my colleagues' time.

Mr. NICKLES. I will be happy to yield the time. I point out, it is against Senate rules ever to impugn a Senator's motive. I want to make sure the Senator does not violate that rule.

Also, I will be happy to explain my position. Trade adjustment assistance never included health care and I think it is a mistake without having any idea, and I think it is a serious mistake to do so for one industry. The Senator is correct.

Mr. WELLSTONE. I thank my colleague. Actually, I was not talking about personal motives. I said I think my colleague does not like the trade adjustment assistance as part of this legislation because I think that is what he said.

The PRESIDING OFFICER. There are 2 minutes remaining.

Mr. WELLSTONE. Madam President, I think this is the right thing to do, and I hope colleagues will support it.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Madam President, I want to close for our side, if that is all right with my colleagues.

I say to the Senator from Oklahoma he is using the classic, sort of nose-under-the-tent approach. No other industry has ever gone before the ITC in the last 20 years and come out with a unanimous vote proving injury because

of imports as has the steel industry. No other industry has ever been so totally and entirely neglected by the U.S. Federal Government, under Republican and Democratic leadership, allowing cartels and state-owned subsidies to simply crush our steel industry. What we are talking about, and what we are voting on, is whether steel retirees who lost the health coverage they earned because their company shut down permanently due to an import crisis should get the benefit of 1 year of health care, and only get it once. We understand that we pay for the cost, that the pay-go is taken care of. The essence of the vote is before the Senate.

I further say that the Senator from Oklahoma, I am sure, misunderstands one thing: Other industries—I think he refers to the minimills—the minimills support this amendment, and we have a letter from Nucor, the largest, to so say. This is a matter of people, only 125,000. It is paid for in a tax-friendly way.

I urge my colleagues to support the cloture vote.

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

The Senator from Iowa has 4 minutes.

The Senator from Oklahoma.

Mr. NICKLES. I wish to correct the RECORD. I think I stated in the RECORD earlier that the total cost was $179 million, plus the pay. Now I am told by staff that the $58 million is already included in the $179 million, so I wish to correct that. The total cost estimate by CBO is $179 million, not $237 million. I misread.

I ask unanimous consent that this chart be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. NICKLES. Let me reiterate to my friend from Minnesota, I have already supported trade adjustment assistance. Trade adjustment assistance is to provide assistance to people who lose their jobs in training. That is the purpose of the program. The average cost has been about $10,000 a year. About one out of three who are eligible have participated in the program to be retrained to get a job. I support that.

Now our colleagues are saying, in addition to that, we want to offer health care, and health care up to 2 years. If people believe we are going to take a program such as this and say to retired steelworkers, we are going to give this benefit for 1 year, I do not believe it. The bill they referred to, S. 2189, is a permanent program and its cost is estimated to be $13 billion, not a 1-year program, not a couple-hundred-million-dollar program. It is a permanent program. That is their objective, to have the Federal Government pick up retired steelworkers' health care costs. I do not think that is fair to taxpayers. I do not think it is fair to other industries such as textiles, the auto industry, airlines, and others that have also suffered losses.

So I urge my colleagues to vote no.

ESTIMATED REVENUE EFFECTS OF TAA HEALTH COVERAGE PROVISIONS AND MISCELLANEOUS REVENUE OFFSET PROVISIONS

[Fiscal years 2002–2012; in millions of dollars]

Provision	Effective	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2002–07	2002–12
Provide a Refundable Income Tax Credit for 70% of the Cost of the Purchase of Qualified Health Insurance by Persons Who are Certain Steelworker Retirees (includes outlay effect).	ppa 12/31/01	.....	−86	−25	−50	−16	−2	.....	.....	.....	.....	.....	−179	−179
Miscellaneous Revenue Offset Provisions:														
1. Authorize IRS to enter into installment agreements that provide for partial payment	iaeio/a DOE	11	30	14	5	(1)	(1)	(1)	(1)	(1)	(1)	(1)	61	63
2. Deposits to stop the running of interests on potential underpayments	dma DOE	19	76	47	−4	−4	−4	−4	−5	−5	−5	−6	130	104
Total of Miscellaneous Revenue Offset Provisions	.....	30	106	61	1	−4	−4	−4	−5	−5	−5	−6	191	167
Total	.....	30	20	36	−49	−20	−6	−4	−5	−5	−5	−6	12	−12
Increase in Outlays Due to refundable Income Tax Credit for 70% of the Cost of the Purchase of Qualified Health Insurance by Persons Who are Certain Steelworker Retirees.	ppa 12/31/01	.....	26	8	17	6	1	.....	.....	.....	.....	.....	58	58
Total revenue effect (excludes outlay effect of refundable steelworker health insurance credit)	.....	30	46	44	−32	−14	−5	−4	−5	−5	−5	−6	70	46

[1] Gain of less than $500,000.

Legend for "Effective" column: dma=distributions made after; DOE=date of enactment; iaeio/a=installment agreements entered into on or after; ppa=premiums paid after.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

Mr. GRASSLEY. How much time is remaining on this side?

The PRESIDING OFFICER. The Senator from Iowa has 2 minutes 50 seconds.

Mr. GRASSLEY. I yield myself the remainder of that time.

Madam President, for several years we have been debating what to do about the millions of people without health insurance coverage and about prescription drug coverage for seniors under Medicare. We may decide that steel retirees fit into our deliberations on the uninsured. We could otherwise decide as well. But we at least ought to be debating the issues of this legislation and their implication on the uninsured in regard to those bigger issues and not on this legislation.

Bear in mind that there is another irony with the steel legacy cost proposal. Some very large steel companies, LTV and Bethlehem as examples, went bankrupt in part because the 1992 energy tax bill mandated them to pay retiree health care obligations for former coal employees under the Coal Industry Retiree Health Benefit Act. Over the past 10 years, these now-bankrupt steel companies have spent hundreds of millions of dollars paying for the irresponsible health care promises of the Bituminous Coal Operators Association and the United Mine Workers. Think about that.

The shifting of health retiree costs is a vicious circle. This amendment expands the trade adjustment health insurance assistance to steelworkers whose companies permanently closed operations while in bankruptcy. Think about who ends up then paying for it. It is the rest of America. It is the taxpayers, from the single-mother waitress with children who does not have health care for those children and herself; it is the white-collar worker in Silicon Valley who does not have health care; it is the Midwestern farmer who pays for his family's health care out of his own pocket as a self-employed person; it is the other retirees who pay tax on their Social Security benefits.

This amendment then creates a double standard. There is one standard, guaranteed health care for one class of folks, retired steelworkers for a few companies. Then there is another standard for everyone else. Is that fair? Does that make sense?

This bizarre proposal is compounded further by the double standard it creates for steel industry retirees. That is right. What we have is a rifleshot for a couple of companies. I have been one who has fought rifleshots in the Tax Code. Well, my fellow Senators have a rifleshot in front of them, and I hope we can stop it.

The PRESIDING OFFICER (Mr. NELSON of Florida). The time of the Senator has expired.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the pending cloture motion, which the clerk will read.

The assistant 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 Rockefeller amendment No. 3433:

Jay Rockefeller, Paul Wellstone, Barbara Mikulski, Charles Schumer, Edward Kennedy, Joseph Lieberman, Richard J. Durbin, John F. Kerry, Barbara Boxer, Harry Reid, Tom Daschle, Christopher J. Dodd, Thomas R. Carper, Paul Sarbanes, Jon Corzine, Patrick Leahy, Debbie Stabenow.

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 amendment No. 3433 to H.R. 3009, an act to extend the Andean Trade Preference Act to grant additional trade benefits under that act, 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.

Mr. REID. I announce that the Senator from Georgia (Mr. MILLER) is necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Arkansas (Mr. HUTCHINSON), and the Senator from Oklahoma (Mr. INHOFE) are necessarily absent.

The yeas and nays resulted—yeas 56, nays 40, as follows:

[Rollcall Vote No. 117 Leg.]

YEAS—56

Akaka	DeWine	Lieberman
Baucus	Dodd	Lincoln
Bayh	Dorgan	Lugar
Biden	Durbin	Mikulski
Bingaman	Edwards	Murray
Boxer	Feingold	Nelson (FL)
Breaux	Feinstein	Reed
Bunning	Graham	Reid
Byrd	Harkin	Rockefeller
Campbell	Hollings	Sarbanes
Cantwell	Inouye	Schumer
Carnahan	Jeffords	Shelby
Carper	Johnson	Specter
Cleland	Kennedy	Stabenow
Clinton	Kerry	Torricelli
Conrad	Kohl	Voinovich
Corzine	Landrieu	Wellstone
Daschle	Leahy	Wyden
Dayton	Levin	

NAYS—40

Allard	Fitzgerald	Nickles
Allen	Frist	Roberts
Bennett	Gramm	Santorum
Bond	Grassley	Sessions
Brownback	Gregg	Smith (NH)
Burns	Hagel	Smith (OR)
Chafee	Hatch	Snowe
Cochran	Hutchison	Stevens
Collins	Kyl	Thomas
Craig	Lott	Thompson
Crapo	McCain	Thurmond
Domenici	McConnell	Warner
Ensign	Murkowski	
Enzi	Nelson (NE)	

NOT VOTING—4

Helms	Inhofe
Hutchinson	Miller

The PRESIDING OFFICER. On this vote, the yeas are 56; the nays are 40. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The Senator from Nevada.

AMENDMENT NO. 3433 WITHDRAWN

Mr. REID. Mr. President, I withdraw amendment No. 3433.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. REID. Mr. 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. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. GREGG. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue calling the roll.

The legislative clerk continued with the call of the roll.

Mr. BAUCUS. 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. BAUCUS. Mr. President, I call for the regular order.

AMENDMENT NO. 3406

The PRESIDING OFFICER. Amendment No. 3406, offered by the Senator from Virginia, is the pending business.

Mr. BAUCUS. Mr. President, I inquire of my good friend from Virginia if he is willing to enter into a time agreement on this amendment of, say, 10 minutes.

Mr. ALLEN. I will agree to that.

Mr. GRAMM. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Reserving the right to object, Mr. President, I ask——

The PRESIDING OFFICER. Objection has been heard.

Mr. REID. Mr. President, who has the floor now?

The PRESIDING OFFICER. The Senator from Montana has the floor.

Mr. BAUCUS. Mr. President, I move to table the Allen amendment.

Mr. GREGG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there a sufficient second on the motion to table? At the moment, there is not a sufficient second. A motion to table has been made.

The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 2]

Allen	Gramm	Reid
Baucus	Grassley	Roberts
Carnahan	Gregg	Snowe
Dorgan	Nelson (FL)	

The PRESIDING OFFICER (Mrs. CARNAHAN). A quorum is not present.

Mr. REID. Madam President, I move that the Sergeant at Arms be instructed to request the presence of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Iowa (Mr. HARKIN), the Senator from Massachusetts (Mr. KERRY), and the Senator from Rhode Island (Mr. REED) are necessarily absent.

Mr. NICKLES. I announce that the Senator from Tennessee (Mr. THOMPSON), the Senator from North Carolina (Mr. HELMS), the Senator from Arkansas (Mr. HUTCHINSON), and the Senator from Oklahoma (Mr. INHOFE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring the vote?

The result was announced—yeas 58, nays 35, as follows:

[Rollcall Vote No. 118 Leg.]

YEAS—58

Akaka	Domenici	Levin
Baucus	Dorgan	Lieberman
Bayh	Durbin	Lincoln
Biden	Edwards	Mikulski
Bingaman	Feingold	Miller
Boxer	Feinstein	Murray
Brownback	Graham	Nelson (FL)
Byrd	Gramm	Nelson (NE)
Cantwell	Grassley	Reid
Carnahan	Gregg	Rockefeller
Carper	Hagel	Sarbanes
Chafee	Hatch	Schumer
Cleland	Hollings	Snowe
Clinton	Inouye	Stabenow
Cochran	Jeffords	Torricelli
Conrad	Johnson	Voinovich
Corzine	Kennedy	Wellstone
Daschle	Kohl	Wyden
Dayton	Landrieu	
Dodd	Leahy	

NAYS—35

Allard	Ensign	Roberts
Allen	Enzi	Santorum
Bennett	Fitzgerald	Sessions
Bond	Frist	Shelby
Breaux	Hutchison	Smith (NH)
Bunning	Kyl	Smith (OR)
Burns	Lott	Specter
Campbell	Lugar	Stevens
Collins	McCain	Thomas
Craig	McConnell	Thurmond
Crapo	Murkowski	Warner
DeWine	Nickles	

NOT VOTING—7

Harkin	Inhofe	Thompson
Helms	Kerry	
Hutchinson	Reed	

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

Mr. DASCHLE. Madam President, I ask for the yeas and nays on the motion to table the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DASCHLE. Madam President, I ask unanimous consent that if a point of order lies against the Allen amendment, the motion to table be withdrawn, and the Senate vote at 2:15 on the Allen motion to waive the Budget Act with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DASCHLE. I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15.

Thereupon, the Senate at 12:37 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mrs. CLINTON).

ANDEAN TRADE PREFERENCE EXPANSION ACT—Continued

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENT NO. 3406

Mr. LOTT. Parliamentary inquiry, Madam President. What is the pending order of business?

The PRESIDING OFFICER. There is a motion to table the Allen amendment.

Mr. LOTT. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Arkansas (Mr. HUTCHINSON) are necessarily absent.

The yeas and nays resulted—yeas 49, nays 49, as follows:

[Rollcall Vote No. 119 Leg.]

YEAS—49

Allard	Enzi	Murkowski
Baucus	Frist	Nelson (FL)
Bennett	Gramm	Nelson (NE)
Bond	Grassley	Nickles
Breaux	Gregg	Reid
Brownback	Hagel	Roberts
Burns	Hatch	Santorum
Byrd	Hutchison	Smith (NH)
Campbell	Inhofe	Smith (OR)
Chafee	Inouye	Stevens
Cochran	Jeffords	Thomas
Conrad	Kyl	Thompson
Craig	Lincoln	Torricelli
Crapo	Lott	Voinovich
Daschle	Lugar	Wyden
Domenici	McCain	
Ensign	McConnell	

NAYS—49

Akaka	Dorgan	Mikulski
Allen	Durbin	Miller
Bayh	Edwards	Murray
Biden	Feingold	Reed
Bingaman	Feinstein	Rockefeller
Boxer	Fitzgerald	Sarbanes
Bunning	Graham	Schumer
Cantwell	Harkin	Sessions
Carnahan	Hollings	Shelby
Carper	Johnson	Snowe
Cleland	Kennedy	Specter
Clinton	Kerry	Stabenow
Collins	Kohl	Thurmond
Corzine	Landrieu	Warner
Dayton	Leahy	Wellstone
DeWine	Levin	
Dodd	Lieberman	

NOT VOTING—2

Helms	Hutchinson

The VICE PRESIDENT. On this question, the yeas are 49, the nays are 49. The Senate being equally divided, the Vice President votes ''yes,'' and the motion to table is agreed to.

Mr. GRAMM. I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. CLINTON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent there be 30 minutes equally divided in the usual form prior to a vote in relation to the Hutchison amendment No. 3441; that upon disposition of the Hutchison amendment, the Kerry amendment No. 3430, be the pending business, with 60 minutes for debate equally divided and controlled in the usual form prior to a vote in relation to the amendment; that upon disposition of the Kerry amendment, the Senate resume the Dorgan amendment No. 3439, there be 30 minutes of debate controlled by Senator DORGAN, and that at the use or yielding back of that time, the amendment be withdrawn without further intervening objection or debate; that no second-degree amendments be in order to either the Hutchison or Kerry amendments covered under this unanimous consent agreement prior to a vote in relation to the amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. This last vote took a long time; the vote this morning took a long time. The Democrats and the Republicans are now even. We will have 25 minutes, the majority said, before we will cut off the votes. Everyone should be on notice. That means whether we have a hearing with the Defense Department or we are in a car wreck in front of the Labor Department, it doesn't matter, after 25 minutes we will cut off the vote.

Mr. LOTT. Having been in the same position on how long these votes require, I understand and support what the assistant majority leader stated. We need to bring these votes to a conclusion.

I must add, though, in the last vote we did have a Senator who had been involved in a little accident and had to take a little extra time to get here; otherwise, we would not have asked it be held so long. I think it is fair notice that everyone realize we have a lot of work to do. We cannot hold every vote open 20 or more minutes. We will try to cooperate with the democratic leadership in that effort.

Mr. REID. If the Republican leader will yield, the votes are 15 minutes; we will extend them an extra 10 minutes. The votes are still 15 minutes.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 3441

Mrs. HUTCHISON. Madam President, I call up amendment No. 3441 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Texas is recognized.

Mrs. HUTCHISON. I introduce this amendment to the trade package. I strongly support the bill on the floor, including the Andean Trade Preference Act and the Generalized System of Preferences. These programs seek to help the Andean countries of Bolivia, Columbia, Ecuador, and Peru, and other developing nations, by applying preferential treatment for their exports.

We want to reduce and eliminate tariffs on imports from these countries to help them develop stronger economies. These programs benefit both countries. They improve the lives of the citizens of the exporting countries through improved economic conditions. These programs give open access to the U.S. market, the best market in the world.

For example, since the Andean Trade Preference Act went into effect in 1991, the Andean nations have experienced $3.2 billion in new output and $1.7 billion in new exports. This has led to the creation of more than 140,000 legitimate jobs in the region. These programs help the United States by developing better markets for our exports. If we can help developing countries increase economic growth and prosperity, they, then, will demand more imports, which will, of course, provide U.S. manufacturers with more consumers for their products.

Another important benefit of the Andean Trade Preference Act is that by providing for the people of these regions employment opportunities in legitimate businesses, we hope to keep them from needing or wanting or in any way being drawn to narcotics businesses. This contributes greatly to promoting stability in the area and to our efforts to reduce the flow of illegal drugs across our borders.

It is clear that the Andean Trade Preference Act and the Generalized System of Preferences help both sides. Since we are giving a benefit to these countries, however, we do have the right to expect something in return to ensure that we do not help countries that may work against our interests in other ways. For this reason, we have established conditions that a country must meet in order to qualify as a beneficiary.

Conditions we have required in the past include that a beneficiary not be a Communist-controlled country; that it has not nationalized or expropriated property of U.S. citizens; that it enforce the protection of intellectual property of U.S. citizens; certainly we want it to recognize binding arbitration awards in favor of U.S. citizens; we want to make sure they give preferential treatment to the United States if they give it to other developed nations; we want to make sure that any country with which we have these preferences is a signatory to an extradition treaty with the United States; and we want to make sure they recognize workers' rights.

In the bill before the Senate today we add seven more criteria that the President must consider before designating a country a beneficiary, including whether the country has demonstrated a commitment to the WTO and to negotiating a Free Trade Area of the

Americas; that the protection of intellectual property rights is consistent with the Uruguay Round agreement; that the country provides specific workers rights; demonstrates a commitment to eliminating the worst forms of child labor; that the country has met counter-narcotics certification criteria; that the country has taken steps to implement an anti-corruption convention; and that government procurement procedures are transparent and nondiscriminatory.

As I have looked at this list of criteria, I noticed a glaring omission. We are in the middle of a war on terrorism; yet there is no requirement that a country with which we would have fair trade and give preferences would support us in that war. It is clear we are fighting a war for freedom itself. We can't win this war alone. We need the help of our friends and allies around the world, for example, to track down terrorist cells or to cut off funds. More than $100 million in assets of terrorists and their supporters have been frozen around the world. Of that $100 million, the United States has frozen about $30 million. The other $70 million has been cut off by various allies. We must have the cooperation of allies and friends if we are going to defeat the enemy of freedom.

I am introducing an amendment today that establishes a requirement in addition to the seven new requirements that we have included in the bill before the Senate that the country support our efforts in the war on terrorism in order to receive beneficiary status under the Andean Trade Preference Act or Generalized System of Preferences. The kind of help that each country can give will vary and it may depend on the circumstances a particular country faces, the opportunity presented to it. Some will help us militarily, some will cut off funds, while others will share intelligence which can be very helpful, very important. Some may do so publicly, some privately. It is even possible a country may not have an opportunity to provide anything but moral support, but we want that moral support.

We want the country to be on the record helping us in the fight for freedom and making sure that a terrorist network cannot gain a foothold in any country with whom we have trade preferences.

I don't think it would be appropriate to try to specify the kind of help that a country must give. But I believe we must make it clear that we expect the country receiving preferences from the United States with whom we will start trade, we will have commerce, we will send goods in, and we will hopefully export goods from that country to the United States—there will be a lot of commerce. We need to make sure that the people with whom we are trading will respect this war on terrorism and be helpful to our country in rooting out terrorism wherever it may be.

I hope my colleagues will support this effort. I certainly think it is going to be very important for us to have the help of every nation on Earth. Every nation that is freedom loving is also a nation that is at risk, if we don't win this war on terrorism. If these terrorists can defeat the United States of America, they will try to take over the world and wipe out freedom wherever it may be. We are in this together. We must have the full cooperation of every country with whom we are trading.

The bill before us today is going to put America, I hope, in a much better position to have better trade relations with countries around the world. The Andean Trade Preference Act has been in place but has lapsed. These poor countries are certainly good partners. We want to continue to have good trade relations with these countries and help them build democracies and stable governments.

There are 130 free trade agreements in the world. The United States is party to only three. The Andean Trade Preference Act has lapsed. We will hopefully renew it with passage of this legislation. But there are 130 agreements in the world, and the United States is party to only three. That is not a tenable situation.

We need to open our markets. We need to provide more jobs in America by exporting products. We need to help other countries have access to the great market of the United States of America which has the greatest consumer capacity in the world. We need to be open to these countries that need this kind of help to stabilize their own governments. It is in everyone's best interest that we have free and fair trade. It promotes freedom and democracy.

If we are going to have free and fair trade to promote freedom and democracy, we should certainly require that people help us in the war on terrorism. The war on terrorism is the war to protect freedom in the world. It goes hand in hand with free and fair trade, democracy, free enterprise, and open government. But we must also win the war on terrorism and protect freedom for ourselves, our allies, and our trading partners throughout the world.

I urge my colleagues to support this amendment to add the eighth criteria to the seven that the President would use to select countries that would receive the preferences of our country.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? At the moment, there is not a sufficient second.

The Senator from Montana.

Mr. BAUCUS. Mr. President, parliamentary inquiry.

Mrs. HUTCHISON. I asked for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. HUTCHISON. Mr. President, I inform the Senator from Montana that if there is no one on the other side, I am prepared to yield back the time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I think the Senator from Texas has a good idea. Under current law, there is discretion but this would extend benefits. Certainly strong consideration should be given to a country's support or lack of support for our war on terrorism.

I think the Senator has added a very valuable additional criteria to the President's which should be considered. I urge all Senators to support the amendment.

I yield the remainder of our time. We are ready for a vote.

The PRESIDING OFFICER. All time is yielded. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Tennessee (Mr. THOMPSON), the Senator from Arkansas (Mr. HUTCHINSON), and the Senator from New Hampshire (Mr. GREGG) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 120 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	Nickles
Breaux	Graham	Reed
Brownback	Gramm	Reid
Bunning	Grassley	Roberts
Burns	Hagel	Rockefeller
Byrd	Harkin	Santorum
Campbell	Hatch	Sarbanes
Cantwell	Hollings	Schumer
Carnahan	Hutchison	Sessions
Carper	Inhofe	Shelby
Chafee	Inouye	Smith (NH)
Cleland	Jeffords	Smith (OR)
Clinton	Johnson	Snowe
Cochran	Kennedy	Specter
Collins	Kerry	Stabenow
Conrad	Kohl	Stevens
Corzine	Kyl	Thomas
Craig	Landrieu	Thurmond
Crapo	Leahy	Torricelli
Daschle	Levin	Voinovich
Dayton	Lieberman	Warner
DeWine	Lincoln	Wellstone
Dodd	Lott	Wyden

NOT VOTING—4

Gregg	Hutchinson
Helms	Thompson

The amendment (No. 3441) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3430

The PRESIDING OFFICER. Under the previous order, there is 60 minutes on the Kerry amendment No. 3430.

Mr. BAUCUS. Mr. President, the next amendment is the Kerry amendment,

as the Chair announced, with 60 minutes evenly divided. I am just going to take a few minutes until the Senator from Massachusetts is back, so he can speak on his amendment.

Very briefly, this amendment may sound good on the surface, but for very compelling reasons it is not a good idea. It is a very bad idea. I will tell you why. It is true that under current law, one has the argument that foreign investors are at an advantage compared to domestic investors in seeking to protect their rights, say, in a fifth amendment takings question regarding, say, an environmental statute. The Methanex case dealing with MTBEs in California has not yet been resolved, but there is an argument that foreign investors in this case are in a more advantageous position than a U.S. investor with respect to the same kind of proceeding, and that is because of the way investor-state relationship rights are written under chapter 11 of NAFTA.

There are many treaties which govern investor-state relations that are causing some question. One is the one I mentioned. I will not get into great detail as to why the amendment offered by the good Senator from Massachusetts should not be adopted. Suffice it to say that in this underlying bill we have made major changes to ''level the playing field'' between foreign and domestic investors, as well as the rights of those seeking to uphold municipal and State regulations with respect to public health, safety, and the environment. It is totally a level playing field.

To make that point even further, we adopted in the underlying bill a provision suggested by the Senator from Massachusetts, Mr. KERRY, which made it crystal clear the rights of foreign investors in America do not enjoy an advantageous position over the rights of American investors to make sure the playing field is exactly level.

As a matter of comity, I can now let the Senator from Massachusetts go ahead and explain his amendment. I thought I would get started while we were waiting for the Senator to come to the Chamber. He has had some other matters to attend. He is here immediately, and we are glad to have him here to speak to the amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, are we operating under any time constraints?

The PRESIDING OFFICER. There is 60 minutes of debate equally divided.

Mr. KERRY. Mr. President, I yield myself such time as I may use.

I want to acknowledge the hard work the chairman and ranking member and those who are trying to press this issue have made. The issue I am raising does not threaten the capacity of investor-state relationships to be protected.

Let's be very clear about what is happening. As is so often the case on the floor of the Senate, especially when we are limited in time as to how much debate we are going to have, and when we get into these pressure situations, big arguments are thrown out. People raise these red herrings and these notions of sort of a threat to business or to treaties or other things. I respectfully submit that a careful analysis of what we do does not in any way threaten the capacity of the investor-state relationships to be protected under treaties and, specifically, for this trade relationship that somehow we are going to approve on the floor—and I am going to vote for it. I am not trying to disrupt the process. I am here trying to make this process fair and sensible.

The fact is that chapter 11 of NAFTA is designed to provide foreign investors with the means to seek compensation when a government takes action to decrease the value of the investment. We obviously want that; other investors want that. If a government takes an action that decreases the value of the investment, people have a right to recourse. Either the action of the government might be through the direct physical seizure of property or it might be indirect regulatory action of some kind. That process, which we set up in this legislation, is the model for how that will be done. So it is appropriate that we do that here.

But I am not coming to the floor expressing a concern that is mine alone. The U.S. Conference of Mayors supports this amendment. The National Council of State Legislatures supports this amendment. The National Association of Attorneys General supports this amendment, and countless other State and government entities do. The attorney general of the chairman's home State of Montana supports it.

On May 14 he wrote:

> I applaud the Baucus amendment, but remain concerned that the amendment would not be adequate to protect United States sovereign interests and preserve the authority of the U.S. Government at all levels to enact and enforce reasonable measures to protect the public welfare.

A lot of people have grown upset and concerned about the effect of NAFTA's investment settlement dispute process and the effect it has had on the ability of those States to promulgate legitimate health and safety laws. The National Association of Manufacturers—no supporter of this amendment—has acknowledged that investment provisions such as you find in chapter 11 of NAFTA merit improvement. They have even acknowledged it needs improvement.

So the test here is not whether we ought to be doing this, but whether we are improving it. The reason it is so important is the following: When we passed NAFTA, there wasn't one word of debate on the subject of the chapter 11 resolution—not one word. Nobody knew what was going to happen. Nobody knew what the impacts might be. And, steadily, foreign investment in the United States is increasing. That trend will be accelerated as we have a free trade area of the Americas agreement that is being developed. A recent report by the Taxpayers for Common Sense at Tufts University shows that, unless we change the chapter 11 model, claims against the United States will average $32 billion annually. That is just in terms of claims. It doesn't even address the millions of dollars the Federal Government is going to spend defending against these claims.

Let me explain this in sort of graphic terms. I want to add that among the groups supporting the amendment are the National Conference of State Legislatures, Conference of Mayors, National League of Cities, Conference of Chief Justices, Taxpayers for Common Sense, Consumers Union, League of Conservation Voters. All of them support the notion that we have to change this particular amendment.

The letters of the attorneys general of New York, California, and Montana are particularly instructive.

The attorney general of New York wrote:

> The rights granted foreign investors under H.R. 3005 could go far beyond the carefully fashioned taking and due process jurisprudence articulated by the U.S. Supreme Court under the 5th and 14th amendments.
>
> In other words, unless we change this, we are giving to foreign investors the right to have an application of standards that go well beyond the fourth and fifth constitutional amendments, which are applied to businesses here at home.

It has the ability to apply a takings standard, an expropriation standard that, in effect, is subject to a whole looser standard than that required by the Constitution of the United States.

What my colleagues are being asked to vote on is, Do you believe that American businesses ought to be subject to a fair playing field and that foreign investors should not be advantaged over American investors and the standards by which our businesses do business at home?

There are a lot of examples. Let me share quickly the concern of Montana Attorney General Mike McGrath. He wrote:

> I frankly believe an overwhelming majority of American people and Montanans would react with outrage to the idea that an otherwise final and definitive ruling of our domestic courts would be reversed by foreign arbitration panels and could provide the basis for monetary claims against United States taxpayers.

He could not put it better. That is exactly already what is happening. It is happening right now. Let me share with my colleagues a few of the cases in which that is now happening.

First of all, there is the Methanix case, the most notorious of the cases, in which a Canadian corporation is suing for California's ban on MTBE. The details are fairly straightforward.

In 1998, the Governor of California banned the fuel additive MTBE because it has a tendency to leak out of gasoline storage tanks at a much faster rate than other blended gasoline, such as ethanol. We have just been through an ethanol fight on the floor of the

Senate. We decided that we think it is preferable to use ethanol to MTBE. MTBE travels quickly through the ground water, contaminating drinking water, leaving it foul smelling and bad tasting. It is also a known carcinogen and suspected carcinogen in humans.

Methanix, whose subsidiaries produce methanol, which is the M in the MTBE, filed a chapter 11 claim on the grounds that the ban diminishes their expected profits. Methanix claims that this public health law discriminates against the flow of capital and therefore discriminates against the goals of NAFTA.

I am not sure any of us would say that makes a lot of sense, but the arbitration panel has yet to agree, and the case demonstrates exactly why we need to protect legitimate health and welfare laws.

The Methanix case is the most expensive of any pending claim. They are seeking compensation and almost $1 billion in damages. It is not just California that would suffer. All of us as a consequence would suffer because each State is subject to the same kind of problem, and that State, California in particular, would lose money out of education funds, highway funds, or other grants from the Federal Government were that case to succeed.

A less well known case, but perhaps more egregious, is the case against a jury finding by a Mississippi court against the Lowen Group, which is a Canadian-owned funeral parlor chain. Lowen was sued by a Biloxi funeral home for unlawful anticompetitive actions designed to drive up local insurance costs, forcing smaller funeral parlors into selling. A Mississippi State court agreed with the Biloxi funeral home and awarded $500 million in damages.

Lowen appealed to the State supreme court which refused to reduce the bond amount needed to receive a stay. Instead of paying a bond, Lowen settled the case for $175 million. It then proceeded to the NAFTA tribunal to file a claim. Lowen's chapter 11 case is predicated on the argument that the trial court's refusal to vacate the verdict was tantamount to an expropriation, and the case is now pending.

The message of this case and of the Methanix case could not be more clear: Anytime a foreign corporation dislikes the outcome of a U.S. jury trial, it can run to an international arbitration panel and try to get the ruling reversed. That is not what we wanted to have or intended to have happen in NAFTA, but the only way to protect it is to change that law now.

There are other cases. Let me call attention to the Mondev case which has nothing to do with the environment but everything to do with our sovereignty. The doctrine of sovereign immunity is centuries old in this country, and it holds that you cannot sue a government unless such a lawsuit is expressly permitted. But a claim against an action taken by the city of Boston by Mondev International, a Canadian real estate developer, has challenged this concept before a NAFTA tribunal.

The Mondev case is an example of those cases where we ultimately see the sovereignty of the Supreme Court of the United States being subjected to second-guessing and questioning by a secret tribunal of NAFTA, over which we have no control of the standards because the standards have not been set to respect the Constitution of the United States.

I can remember how many times Senator HELMS from North Carolina has come to the Senate Chamber and said we should not sign a treaty that somehow obviates the demands of the Constitution of the United States. It seems to me that is precisely the principle which is at stake here, which is why Senator HELMS, who I know will not be here to vote, supports this amendment as others who believe the Constitution should not be subjected to second-guessing by an international tribunal.

These second-guessing efforts will have a chilling effect in the end on investment. They create expensive litigation. Just the threat of the litigation is, in and of itself, a chilling effect. I believe, based on these claims, chapter 11, as it currently stands, can be used to threaten governments from enacting public health measures.

The Canadian Government has now sought to ban the use of the words ''light,'' ''mild,'' and ''low tar'' from cigarette advertising. Philip Morris recently issued a warning to Canada under NAFTA that Canada must compensate investors when measures expropriate investments in Canada. We are going to go back and forth on this. We are going to have a constant second-guessing and a constant challenging of these standards.

It seems to me we ought to recognize that the Baucus bill, as amended, does not ensure that long-held U.S. case law on expropriation is upheld. The Baucus bill allows cases still to be decided against the United States when regulatory or statutory actions result in a partial taking. Such a case would stand on far more tenuous grounds in U.S. courts based on U.S. law and legal precedents.

My amendment would ensure that foreign companies could use investment dispute mechanisms. We do not say they cannot do it. We honor the concept of NAFTA or any treaty creating a dispute mechanism, but when a Government action causes physical invasion of property or denial of economic use of that process, that should be consistent with U.S. Supreme Court holdings.

In the Concrete Pipe case which was decided by the Supreme Court in 1993, the Court said:

> Our cases have long established that the mere diminution of a value of property, however serious, is insufficient to demonstrate a taking.

We should not subvert that holding of the Supreme Court by refusing to embrace in this legislation a recognition of American sovereignty in court procedure.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 10 minutes.

Mr. GRAMM. Mr. President, we just heard a wonderful dissertation on the trade equivalent of single-entry bookkeeping. Our dear colleague has talked on and on about investment protections in the United States, but he has not said one word about investment protections in other countries for American investors.

I want to take a moment to remind my colleagues of a little history that I think is critically important in understanding this issue.

At the end of World War II, we negotiated a series of treaties known as Friendship, Commerce, and Navigation Treaties. Later, in the 1980s, we began entering into what are known as bilateral investment treaties, and today we have 45 such treaties. In both the FCN treaties and the bilateral investment treaties, we established procedures to protect our investors overseas. These protections, which were modeled on familiar concepts of American law, became the standard for protection of private property and investment around the world. And they made sure that our investors were protected from unfair treatment by foreign nations.

Why does the business community in America adamantly opposed the Kerry amendment? It is not because of concerns about foreign investor protections here in America. It is because they are concerned about protections for Americans overseas. Investment is a reciprocal process. We negotiated 45 bilateral investment treaties in order to protect American investment from being confiscated by actions of other countries.

As for foreign investment in America, our colleague argues that billions of dollars will be lost to foreign investors. But he fails to point out that never, ever, have we lost a case since these 45 treaties have been in effect. Not once since chapter 11 of NAFTA has been in effect have we ever lost a case. Not once has there ever been a judgment against the United States of America for failing to protect private property or investments.

The problem with this amendment is very simple and straightforward. The problem is that we are not talking only about foreign investors in America. We are talking about American investors around the world as well. These investment agreements are reciprocal.

In countries all over the world, if an investor is a large American company,

for the most part that company is protected. The governments of those countries are not likely to mess with the company's investments. Nor are they likely to let their local units of government mess with those investments. But a real problem arises when smaller American businesses want to invest abroad. They may not be granted the protections they need.

If we take away the investor protections we have worked for years to establish, if we carve out certain areas where investor protections will not apply, if we narrow the scope of investor protections, we will be leaving American investors vulnerable to actions by foreign governments. And in turn we will be discouraging our businesses from investing around the world. Keep in mind that United States investment abroad helps create a market for American goods, promote capitalism, promote democracy, and do everything else that we in the United States want to see done around the world. It is critically important that that investment be protected.

Every day these investment treaties protect American investment around the world. Meanwhile, we have never lost a case under these same investment treaties.

Let me explain further to my colleagues what happens if we do not provide investment protections. American businesses in certain countries often end up being forced to deal with government corruption. Congress passed the Foreign Corruption Practices Act to try to stop such corruption. But under this amendment to lower investor protections, hundreds of billions of dollars of American investment abroad would be jeopardized. We are the largest investor in the world, and these protections are critically important to us.

Let me just recap, then. Today, we have 45 bilateral investment treaties in effect, and each one of them contains a procedure whereby if American investors have their property taken, if they are discriminated against, if they cannot send their earnings back to their home country, they have in place procedures under which they can get access to justice.

In 57 years since we have had investment treaties, never, ever has the United States of America lost a case. But every day these same treaties protect American investments in Central and South America, in Africa, in Asia, in the developing world, in the very countries we say we want to see develop capitalist and democratic systems.

If we adopt the Kerry amendment, not only would we be responding to a circumstance that has never existed, since America has never lost a case, but we would be undercutting protections for the hundreds of billions of dollars' worth of American investments abroad. And, because of the massive economic damage that would result, we would lose the support of the business community for the trade promotion authority bill.

What would we gain if we adopted the Kerry amendment? We simply would gain some ''degree of protection'' in cases that seem silly on their face. It is hard for me to imagine that any of the cases mentioned could possibly result in an affirmative judgment, but that is speculation since no judgment has been made. In 57 years we have never had a judgment against the United States of America.

Remember, investment agreements are reciprocal. If the Kerry amendment applied only to investment in America, this would be a largely symbolic but not a very harmful amendment because American protections are solid. But investment protections are reciprocal. Therefore, whatever protections we pledge to apply to foreign investors in America are going to apply to our investors in Mexico, our investors in Africa, our investors in South America, and our investors in developing countries in Asia. Since the Kerry amendment would affect not only foreign investors here but our investors there, we would be stripping away the protections that American investment now have. We would be hurting American companies, and their hundreds of billions of dollars of potential investment, and we would lose the jobs, economic growth, and economic opportunity that has resulted from our status as the world's largest investing nation and the world's largest exporting nation.

The Kerry amendment should not be adopted. There is no basis for adopting it. It does our interests virtually no good in America, but it does massive harm to our interests everywhere else in the world.

I reserve the remainder of my time.

Mr. KERRY. How much time do I have remaining?

The PRESIDING OFFICER (Mr. JOHNSON). Fifteen minutes twenty-four seconds.

The Senator from Montana.

Mr. BAUCUS. I ask unanimous consent that the underlying time agreement be extended an additional 30 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, let me answer my friend from Texas. There is no stronger debater, there is nobody obviously we know who is more capable of making an argument, but this is an argument in which the Senator is flat, dead wrong.

Only five cases are pending today that were brought against the United States in which we are a defendant under chapter 11. No case has yet been decided. When he says we have never lost a case, no case has been decided in which the United States is a defendant. We are currently a defendant in five cases, and there were only six cases until 1998. Since then, there have been another five cases. What the attorneys general of our States and the conference of mayors of our States and those responsible for the taxpayer—I mean, the businesses are sitting there, many of them with offshore interests, many of them not paying any taxes. It is not going to come out of their pocket, but the average American taxpayer is going to feel the bite if we have an expropriation case decided against an American company that comes against, say, the State of California or another State, and that is going to come out of the pockets of our citizens.

Secondly, the Senator from Texas is absolutely incorrect when he suggests this is going to leave our companies defenseless abroad. Let me be very specific. If a foreign government overreaches, the same investor-state mechanism will exist. We do not take away the investor-state relationship. We honor it. We do not take away the investor-state mechanism for resolution of disputes. We leave it in place. All we do is say the standard by which it should apply should not be less than the standard applied by the Constitution of the United States. It is very simple. Our businesses, our States, our taxpayers, should not have another country or another business from another country suing us and claiming that one of our health laws or one of our environmental laws has taken away the profits of that company and then some international arbitration panel, without any American judge who applies the standards of the American courts' case law that has been settled, are going to decide, oh, yes, we think that is a great idea. Let's hit the taxpayers of California to pay us because our investors are losing a lot of money.

No one should doubt this is coming down the road. Chapter 11 has yet to be put to the test. Before it is put to the test, we ought to have the courage to say we are happy to honor the concept of an international standard, but don't undo the case law established by the Supreme Court of the United States. That is all we are saying.

My colleague from Texas tries to say we will undo years of settled procedure for companies doing business abroad. That is just not true. That is not what we are going to do. We are suggesting a U.S. investor abroad can still win a claim, provided the investor can show they are discriminated against on the grounds of national treatment, which is the international standard we have agreed to; a performance requirement is the basis of the offensive State action; the offending legislation as enacted or applied is discriminatory in purpose; and if there is a wrongful expropriation under the standards by the Supreme Court.

I remind my colleague that under the standards of the Supreme Court is Justice Scalia who has argued what that appropriate standard ought to be. Let me be specific. In the 1999 case College Savings Bank vs. Florida Prepaid Postsecondary Education Expense Board,

the Supreme Court ruled the activity of doing business or the activity of making a profit do not constitute forms of property that can be the basis of takings claims.

That is an opinion authored by Justice Scalia. We are suggesting what the Senator from Texas is allowing for is some arbitration panel with a group of people who do not believe in the Supreme Court standard, to suddenly say we will apply a different standard to the takings. That does a disservice to our businesses and a disservice to the American taxpayer.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I have 2 minutes, and I would like to respond very briefly.

First, under the Kerry amendment, if you were an American investor, you could not even file a claim against a developing country that has taken your property unless the U.S. Government agrees to it. And what if the U.S. Government were in some sensitive negotiation with that country? They would want you to simply go away. Whoever heard of having investor protections that are determined on a case by case basis by a government rather than pursuant to an agreement?

Second, it is one thing for an amendment to say that we should borrow part of the evolving takings standard—and we all know that the takings doctrine is evolving—from the Supreme Court. But it is another thing to convert that evolving standard into a new international principle, with the result that if a developing country takes only 99.9 percent of an investor's property, the investor has no claim or protections.

Clearly, governments that are interested in shaking down American investors are not interested in taking the investor away; they are interested in being paid off for the right to do business in their country. A key purpose of the investment treaties we negotiated over the past 57 years was to prevent our investors from being forced to pay off corrupt governments abroad. That is what we have been trying to stop. Through the Cold War, where we did not have these agreements in place, American businesses had no choice but to pay off corrupt local governments, which the Communists then pointed to as capitalism. That caused us problems all over the world. We negotiated these agreements to put an end to those problems and instill the rule of law worldwide.

When we start imposing these limits requiring compensation only for total confiscation, requiring governmental approval in order to claim your protections, and then carving out specific areas where your protections and the rule of law do not apply, it does not take a corrupt government long to figure out that they can impose ''regulations'' or ''special fees'' or ''targeted taxes'' in the unprotected areas.

The net result is to extract money from American businesses. Not only is that profoundly wrong, not only is it corrupt, it discourages investment, it hurts American companies, and it hurts American jobs.

It is one thing to say we do not need these protections for people who invest in America. But it is another to say that we do not need them for Americans who invest overseas. The plain truth is America has never had a judgment against it under our investment treaties in some 57 years. There has never been a judgment against the United States of America for violating investor protections.

We can't adopt the Kerry amendment so that it would apply only to investment in the United States and would not affect protections for our investments around the world. If we could, it would be a useless amendment. And we should not adopt the Kerry amendment and carve out areas where American investors are not protected. If we did, we would be asking for big-time problems with corruption. This is why every business group in America is adamantly opposed to this amendment, and why I urge my colleagues to reject it.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Once again, I say with respect to the Senator from Texas, he is both missing and distorting the point at the same time. I hope my colleagues notice for the first time in history since I have known the Senator from Texas to be in the Senate he is defending the right of lawyers to sue without any kind of screening or any kind of effort to restrict a frivolous suit.

I have never heard the Senator from Texas do that. I am delighted that he is protecting the right of lawyers to sue without any screening. This screening is exactly what was recommended, I might add, in a letter from Chairman BAUCUS to Ambassador Zoellick on March 26. Here is what the letter said:

> It may be prudent to establish screening mechanisms in other sensitive areas such as environmental regulation as a way to ensure that frivolous or inappropriate claims can be dismissed as early as possible. In general, I view this concept as consistent with the objective of the TPA bill to eliminate frivolous claims and deter their filing in the first place.

The amendment I have offered includes a small screen to help weed out the frivolous lawsuits, and it would require the approval of the home government to do that, which only works to our benefit. If someone is going to sue in another country they are going to sue anyway. But in order to sue in our country it seems to me we would like to have, once again, the standard applied as to what is frivolous or not.

I used to practice law. I remember when we did medical malpractice cases we finally set up a screening mechanism. Many States in America have set up a board which reviews cases using members of the profession to make a determination of whether or not it is a legitimate claim so we don't tie up the court system with a whole set of illegitimate claims. That is all this seeks to do. It does not change the standard whatsoever. We are not changing the standard with respect to any capacity of our companies to be protected abroad or otherwise. We are simply applying, frankly, a standard that most of them can understand; that most would have a full expectation of receiving if they were being tried in a court in our country.

I am surprised the Senator from Texas does not want American companies to know that if they are engaged in one of these processes abroad, they are going to have a higher standard applied to them. The standard as developed by the court system of our country, in which most of us believe, we think, is one of the highest standards in the world.

Our businesses are better protected by having the continuity of that standard and the certainty of the way in which our case law has been interpreted.

I reserve the remainder of my time.

Mr. MCCAIN. Mr. President, this amendment jeopardizes foreign investment and seeks to place unnecessary and harmful restrictions on the protections afforded to U.S. investors abroad. The amendment would substitute the carefully crafted language of the managers' amendment for language that would bind the Administration to a set of negotiating mandates.

The stated purpose of the Kerry amendment is to ''ensure that any artificial trade distorting barrier relating to foreign investment is eliminated in any trade agreement entered into under'' trade promotion authority. Unfortunately, the amendment language would do just the opposite.

Foreign investment is critical to international trade and vital to the development of economies around the world. Foreign direct investment provides for the expansion of industries and infrastructure while promoting economic development and the rule of law.

As the world's largest foreign investor, the United States invests an average of $150 billion a year in private capital in foreign nations. This involvement not only benefits the countries receiving such investments, it also results in the creation of more American jobs and new markets for U.S. products abroad.

American companies investing in foreign nations are generally more successful and typically pay employees higher salaries than those that do not. Not surprisingly, these companies are also among America's top exporters, comprising over 75 percent of U.S. exports over the past 25 years. American companies invest abroad to expand market share, establish local relationships, promote visibility, and establish a more efficient means of distribution to foreign consumers—enabling these companies to become more competitive globally.

Because many nations lack legal systems that afford protections similar to those afforded in the United States, the U.S. has entered into investment agreements for over 70 years in order to provide U.S. companies that invest abroad with the same level of protection they enjoy under U.S. laws. Without these investment agreements, the risk of investing in developing nations would simply be too great for most U.S. companies.

This amendment would restrict investment agreements from providing the full investor protections granted to them under U.S. law. In turn, the amendment would weaken the protections granted by the 45 bilateral investment treaties negotiated by the U.S., in addition to the protections under NAFTA and the U.S. Vietnam Trade Agreement.

Should the Kerry amendment pass, foreign investing in the U.S. will retain access to the protections granted to investors by U.S. laws, regardless of the terms of an investment agreement, but U.S. investors abroad will not be afforded these same protections.

Under the amendment, in order for environmental, health, or safety laws to be considered in violation of an investment agreement, an investor must demonstrate that a foreign country enacted such laws solely to discriminate against foreign investors. This high burden of proof that a foreign country intended to discriminate will enable foreign nations to arbitrarily use or establish environmental, health, or safety laws as a veiled means of protectionism. This is precisely the type of action that U.S. investment protections have historically attempted to prevent.

Legitimate concerns have been raised regarding the investor-state dispute settlement procedures contained within NAFTA's chapter 11. Last summer, Ambassador Zoellick met with the NAFTA ministers to discuss these concerns. Progress was made and the ministers agreed to work to improve the tribunals, particularly in the area of transparency.

The managers of this legislation have dedicated themselves to addressing concerns regarding the protections given to investors, and, in particular, investor-state dispute settlement procedures. They should be complimented for establishing a valuable set of investment negotiating objectives which will improve future investment agreements while not tying the hands of our trade negotiators in the process.

Through both the Trade Act of 2002 and the Baucus-Grassley-Wyden amendment which passed the Senate last week, Senators Baucus and Grassley made considerable efforts to address concerns regarding investment agreements while strengthening the negotiating position of the U.S. The Trade Act instructs U.S. negotiators to adhere to a list of well-founded objectives while crafting investment provisions. Among those objectives are instructions to ''establish protections consistent with U.S. legal principles and practice'' and not to afford foreign investors greater rights than those currently enjoyed by U.S. citizens and companies domestically.

To address concerns regarding the lack of oversight of tribunal decisions, the managers appropriately recommend the establishment of an appellate body to review tribunal decisions. In order to prevent potential abuse of process, the Trade Act encourages the creation of a mechanism to eliminate frivolous claims. Further, it addresses concerns regarding transparency, by encouraging that tribunal hearings be open to the public, with a mechanism for accepting amicus curiae briefs.

The thorough principles established by the managers of this bill are unprecedented in breadth and scope. No such principles have ever been written into previous trade promotion authority bills, and I believe this language will result in an improvement of the protections that are afforded to U.S. companies in future agreements and the process by which investor-state disputes are mediated.

The Kerry amendment represents a continuation of the trade-distorting, protective measures we have dealt with recently. Not only is this amendment potentially damaging to U.S. companies, it once again calls into question our nation's dedication to our trade-related commitments.

Existing U.S. investment agreements and the negotiating objectives included in the compromise Trade Act provide more than adequately for the legitimate concerns regarding investor-state dispute settlement procedures. This amendment could seriously damage U.S. interests and I strongly urge my colleagues to oppose it.

Mr. BIDEN. Mr. President, I support Senator KERRY's amendment to strengthen the protections for State and local government to achieve their environmental and other important priorities. The Kerry Amendment adds to the objectives that our negotiators will seek to achieve in future trade discussions. While we cannot mandate specific outcomes in those negotiations, we here in Congress will be able to look at future trade agreements to make sure that they include additional safeguards for the kinds of regulations that some international investors have challenged under NAFTA's Chapter 11.

We all agree that to make trade work, to bring the benefits of expanding markets to American workers and consumers, we must give investors the confidence that the countries they move into will not discriminate against them. They need to know that they will not have plants and equipment expropriated, or rendered worthless through some government regulation or other action.

But such protections can go too far, as many observers of actions taken under NAFTA investor-state provisions have concluded. The Kerry Amendment makes sure that our negotiators will be careful to balance the need for investor protections with the need for state and local governments to protect their citizens as they see fit. That is the kind of balance that will help to restore popular support for the many real benefits of expanded trade, and will help to secure Congressional support for future trade agreements.

Mr. ALLEN. Mr. President, I rise to oppose the amendment that Senator KERRY has offered. The Kerry amendment unfortunately seeks to impose highly detailed negotiating mandates on the President, and would give those mandates the force of law in the United States.

The bipartisan bill that is currently before us provides balanced guidance to U.S. negotiators both to protect U.S. investors abroad and to address the legitimate concerns that have been raised about investment rules.

The purpose of our investment agreements, and the dispute resolution provisions in them, is to level the playing field; to ensure that Americans operating abroad obtain the same benefits and protections provided to Americans and foreign investors operating in the United States.

NAFTA's rules on investment—the so-called chapter 11—are not novel or unusual; they are modeled on longstanding international and U.S. practice. Arbitral dispute-resolution panels were not invented by NAFTA; they have been in use for more than 40 years.

Chapter 11 is only one of over 1,600 bilateral investment treaties worldwide, the vast majority negotiated by the European Union's member-states, Japan, and Canada. These investment agreements ensure that investors are treated fairly when operating abroad.

These treaties contain an arbitral dispute-resolution process similar to that found in chapter 11. The arbitrators selected on these panels frequently are distinguished lawyers, jurists and statesmen including Warren Christopher, Benjamin Civiletti, Attorney General for President Carter, and Abner Mikva former Member of Congress and White House Counsel for President Clinton.

The United States has thus far entered into 43 bilateral investment treaties of this nature. If not for these treaties, U.S. investors operating in these countries could be disadvantaged, especially in comparison to their competitors from the European Union, Japan, and Canada.

Many U.S. companies and major trade associations tell us that these provisions are extremely important to protecting Americans against abuses in other countries. U.S. investors invest $3 trillion abroad and these investments account for more than a quarter of all U.S. exports. In short, foreign investment by U.S. firms keeps us competitive and builds jobs for Americans.

Several domestic constituencies, including environmental groups, have expressed great concern about the potential for use of these provisions to undermine important U.S. laws and regulations especially those protecting health, safety and the environment. The U.S. Government is vigorously defending U.S. environmental laws against any such charges.

The current administration is working with all interested parties in an effort to address these concerns for NAFTA and future investment agreements while continuing to protect American companies against abuse in other countries.

Steps have already been taken. For example, in July, 2001, the United States, Canada, and Mexico, through the NAFTA Trade Commission, issued an interpretation on two matters relating to chapter 11.

Some have concerns regarding the confidentiality of the panels.

It has been agreed that the parties would make publicly available all documents issued by or submitted to a NAFTA arbitration panel.

Others have complained that one type of investment protection called ''general treatment'' provides rights to foreign investors beyond U.S. law.

It was clarified that this provision affords no more than the minimum standard of treatment under customary international law and that provisions of other agreements (WTO) do not form part of the minimum standard, as some claimants were arguing in chapter 11 cases.

The United States, Canada, and Mexico have and will continue to utilize of our right under NAFTA to provide guidance to arbitral panels. Chapter 11 does not provide novel rules on what constitutes an expropriation beyond that covered by traditional investment agreements or by U.S. courts.

The truth of the matter is that overall trade helps the American family. The lower tariffs and higher incomes that followed the signing of the North American Free Trade Agreement (NAFTA) and the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) resulted in benefits of $1,300 to $2,000 a year for the average American family of four.

According to a recent University of Michigan study, a new trade round could deliver an annual benefit of $2,450 for this same family. Trade does not discriminate against the rich or the poor; it seeks to elevate all economic levels.

Contrary to popular belief, trade on balance, provides American workers with more opportunities to obtain higher-paying jobs than are lost due to international competition.

It gives more people the chance to make a better life for themselves and their family.

The U.S. Department of Commerce reports that, on average, jobs tied to exports earn 13 percent to 18 percent more than earned in other jobs.

In other words, trade brings prosperity and opportunity to more workers than are lost.

The effect of the North American Free Trade Agreement are as follows.

U.S. exports to our NAFTA partners increased 104 percent between 1993 and 2000, while U.S. trade with the rest of the world grew only half as fast.

In the 8 years since NAFTA's implementation, U.S. exports to Mexico and Canada have grown to support nearly 3 million American jobs today—one-third more than in 1993.

We trade about $2 billion a day with our NAFTA partners—that's almost $1.4 million a minute.

As U.S. government data indicate, without NAFTA, the United States would have lower-paying jobs and would export less, and Mexico and the United States would have lower environmental standards.

In the Commonwealth of Virginia, export sales of merchandise in 2000 totaled $10.5 billion, up nearly 30 percent from the 1993 export total of $8.1 billion. Virginia businesses recorded export sales of $1,490 for every person in the State.

And, unlike what some of my colleagues may have you believe, trade is also beneficial for the environment.

Studies have shown that countries that open their markets actually spend more money in efforts to preserve and protect the environment as a result of gains through trade. Attempts to impose environmental regulations have often been self-defeating because they have stifled the trade necessary for economic growth, which would enable countries to afford to adopt environmental protection policies. The overall track record of the United States in promoting initiatives to protect the environment provides evidence that environmental freedom and the economic development it engenders are correlated with sound environmental policies.

Fair and free trade agreements must not and will not compromise American sovereignty.

In response to concerns that trade deals may be unconstitutional and could undermine U.S. sovereignty.

It should be stressed that the United States will always determine our own domestic laws.

Even if future trade agreements allowed some disputes to be submitted to an international tribunal for initial determination, no trade agreement could grant an international organization the power to change U.S. laws.

Proper trade agreements foster adherence to the rule of law and protect private property and intellectual property rights.

Free trade forces participating countries to play fair. For example, because of its membership in the World Trade Organization, China will now have to crack down on software piracy, which has been a growing problem for sometime to many U.S. manufacturers.

China has long been the world's largest source of pirated compact disks and software.

In China last year, software firms lost over $1 billion in profits to piracy.

Furthermore, while many criticized China's WTO membership, American industry will benefit because, to comply with agreements of the organization, China now has to lower tariffs and non-tariff barriers.

The bottom line is that the United States needs to negotiate more free trade agreements. Of the more than 130 trade and investment agreements that exist throughout the world, the United States is party to only three: specifically, with Jordan, Israel, and the NAFTA countries of Canada and Mexico.

Free and fair trade and the chapter 11 issues are immensely important to the high-tech sector as well. The U.S. high-tech sector invests more abroad than any other industry. Leading, innovative U.S. companies have benefited from a set of stable and predictable rules governing investment in overseas markets.

Investments in foreign markets by high-tech companies, which support manufacturing and rapidly growing information technology services, are an integral part of a virtuous cycle that keeps this sector growing and strong.

The fact that large and small companies alike can reach customers in other countries with goods and services means that they can continue to provide great opportunities here at home for our engineers, researchers and other highly-paid and highly-skilled workers.

The bipartisan trade package includes a number of needed reforms that have arisen out of cases of foreign investors bringing actions in the U.S. These reforms include provisions for increased transparency, consistency in the rights afforded to foreign and domestic investors in the U.S., and improvements to dispute settlement procedures. And, it includes clarification of the definition of expropriation, although, Mr. President, Senator KERRY's amendment is not one of them.

The Kerry amendment would go far beyond these important and necessary changes and would impose new negotiating mandates in the area of investor protections.

These rigid requirements would tie U.S. negotiators' hands while giving our trading partners greatly increased leverage to make demands on their own.

The bipartisan trade package includes needed changes in the area of investment provisions and these should be passed by the Senate and implemented in trade agreements.

The Kerry amendment, in its attempt to address these concerns, goes too far and will create uncertainty and undermine the investment protections for U.S. companies as they do business in overseas markets.

These are only a few of the many reasons that my colleagues should join me in opposing this amendment and press

forward to pass this trade legislation in order to benefit America.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BAUCUS. Mr. President, we sympathize with the general concern of the Senator from Massachusetts; namely, making sure that foreign investors do not have greater rights in the United States compared to domestic investors in challenging whether an action by a government body, say a State, city or county, is a takings under the Constitution of the United States. We all recognize that.

This is an area that is complex. It requires us to step back a little bit and find a ''level playing field'' between foreign investors and U.S. investors.

The Senator from Texas is absolutely correct. The main reason we are addressing this situation really began years ago when U.S. investors were being discriminated against overseas. It caused quite a few problems in many countries. So over the years, various treaties have been written between the United States and other countries trying to create a balance between foreign and domestic investors in the United States and in other countries. That is the whole goal here.

When NAFTA was written, including chapter 11, there probably was too much emphasis given to protecting U.S. investors' rights overseas rather than the interests of government here at home because that was the biggest concern at that time. Since then, there has been a rising concern that perhaps NAFTA went too far and gave too great a protection to foreign investors versus domestic investors in the United States, which led to concerns raised by the Senator from Massachusetts.

In this bill, we attempted to correct that problem with various provisions. We have lots of provisions in the bill to even the playing field.

We also took a provision suggested by the Senator to make it crystal clear that there is absolutely no favoritism given to domestic versus foreign investors who sued the United States challenging whether certain regulations were takings under the fifth amendment. It makes no difference whether it is foreign or domestic investors; an investor will be treated exactly the same whether he or she were in the other category. We took that language and added to that the amendment in the underlying bill to make that very clear.

But we have to make sure that American investors—while we are protecting ourselves by making sure foreign investors don't have an advantage over U.S. domestic investors in the United States—overseas are treated fairly and are not discriminated against.

There are some very glaring problems with the amendment offered by the Senator from Massachusetts.

First, he tries to define what constitutes a taking under the fifth amendment. His definition, first, is simplistic and, second, it is wrong.

First, it is simplistic, because all of us who have studied these issues know—believe me; I spent quite a bit of time a few years ago on the Environment and Public Works Committee—that the Supreme Court's definition of what constitutes a taking, and, therefore, requires compensation is extremely complicated. It is extremely complex. It depends totally upon the facts and circumstances of the case.

I will not take the Senate's time to quote all of the language of the Supreme Court opinions on takings which makes this point very clear. But that is the case.

The Senator from Massachusetts, however, wants to define in a sentence what ''takings'' is. His definition is wrong. With all due respect to my good friend from Massachusetts, it is also irrelevant because we can't define takings. The Supreme Court says what takings is. The Supreme Court under Marbury v. Madison interprets the Constitution. The Congress doesn't say what the Constitution says. We could say a lot. When it comes to what constitutes a fifth amendment taking, the Supreme Court decides that; we can't make that decision.

Here is how the Senator from Massachusetts defines takings. It is wrong. He says a measure is not a taking if it causes a mere diminution in the value of property. You can't define takings like that. It is wrong. You can't define it here in the statute. The Supreme Court is going to define what a taking is.

With the Senator's language, we are adding a huge incorrect and irrelevant complexity. It just shouldn't happen. It just fouls things up. It is not the right thing to do.

He has in his amendment another provision which is a real problem; namely, that investors—in the United States or any country—who want to bring an action in the other country—say a Canadian investor in the United States is claiming that actions are takings. That Canadian investor has to get permission from his country. Turn that around. Obviously, other countries are going to do the same thing, or turn that around in our case. We Americans would have to get permission from the U.S. Government to bring an action against another country claiming expropriation, an additional hurdle which the Senator from Massachusetts places in the way of a U.S. investor seeking redress overseas.

Now, I ask you. The Senator from Texas made the point: What if the U.S. State Department is in negotiations with, let us say, France over some matter, no matter what it is. Maybe it has to do with the Middle East; who knows what it is. Let us say a major American investor wants redress because he believes the French Government took action which was an expropriation of his property. He would have to get the approval of the U.S. Government. Knowing the State Department as we do, they are going to get very involved, or could get very involved, and impede or prevent that American from exercising his rights.

The Kerry amendment requires the investor to get permission from his host country before he can bring an action before the dispute panel where the investor thinks the action of the other country amounts to expropriation. There is another problem. It is a huge loophole. Essentially, this loophole says a foreign investor in the United States has to first prove that the primary purpose of the regulation was not discriminatory.

No U.S. investor is going to be able to prove that the primary purpose of a foreign regulation was not discriminatory. That creates a huge additional burden for the U.S. investor that a foreign investor in the United States does not have.

Most Americans say: Gee, what is wrong with that? Let us make those foreigners have to prove a much higher and an almost impossible standard compared with the domestic investors. It is going to happen. Do you think other countries are going to just sit back and take that? They are going to do the same thing. They are going to say: Wait a minute. In France, in Canada, or in whatever country, an American investor who wants to come to that country, assuming he can first get permission from his own United States State Department has to show that the primary purpose in France, or in Canada, or in whatever country is to discriminate against Americans. The American investor cannot prove that. It is almost impossible to prove that the primary purpose in that country was to discriminate against Americans. It is almost impossible.

That is why this amendment, while on the surface it talks about all these cases—and there are going to be cases. There are always going to be cases pending for a dispute settlement action. There will always be. But the mechanism which the Senator from Massachusetts prescribes here, when one reads the exact language of his amendment, has all these very deep flaws. To say there are unintended consequences is to say blithely that there will be dramatic consequences as a result in the consequence of this action, if we are so foolish enough to pass this amendment.

I know that is strong language. I have the utmost respect for my good friend from Massachusetts. But that is what this language does. One has to read the language.

As I said from the outset, we have gone overboard to take the earlier language suggested by the good Senator to make sure that the playing field is in fact level. We have done that. That is in the bill. That is in the bill. But to go further and adopt the provisions now offered by the Senator will have very

dire consequences for American investors overseas, and also boomerang against the various municipalities and States.

I hear about a letter stating that the States basically are a little fearful Uncle Sam might do some things that will override their prerogatives. But I don't think the persons who wrote that letter really thought through the full implications of this amendment offered by the Senator from Massachusetts because, if they had, I doubt very seriously many of them would have signed the letter.

I reserve the remainder of my time.

Mr. KERRY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 22 minutes 24 seconds.

Mr. KERRY. Mr. President, I yield myself such time as I may use.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KERRY. Mr. President, I will speak to what the distinguished chairman has just said because, once again, this amendment does not do the things that have just been alleged. Let me be very specific about it.

First of all, the chairman sort of brushes off the serious consequences to U.S. interests by the status quo. I would ask him, and I would ask my colleagues, does anybody here believe that the Governor of California made the decision he made with respect to methanol on a discriminatory basis? There isn't anybody in America who would suggest that he did. Yet that case is being brought now. It exists.

The fact is we do nothing to change the standard by which a business would have the opportunity to resolve its investor-state relationship. In fact, we are not declarative as to the issue of expropriation.

What we do in this amendment is seek to define over 80 years of Supreme Court decisions as to what is not an expropriation. We do not say what it is, which is what the Senator was just arguing. We do not define ''expropriation.'' All we do is point out what it is not. We clarify exactly what the Supreme Court has said in the 1993 Concrete Pipe case, where they said: Our cases have long established—this isn't hard to define; these are the words of the Supreme Court—we have long established that mere diminution in the value of property, however serious, is insufficient to demonstrate a taking.

So the Supreme Court of the United States has established a standard which they say we have long established, which Justice Scalia reaffirmed as recently as 1999 in the College Savings Bank case.

So all we are doing is saying that is not an expropriation. But if you allow this law to stand as it does today, it could be an expropriation by the standard that an arbitration panel decides to apply. So we are subjecting our States and ourselves to the resolution of a dispute by a standard that we know has long been established by the Supreme Court to be otherwise. They might define an expropriation to be exactly what the Supreme Court has said it is not.

All I seek to do in this amendment is to say we embrace the definition of the Supreme Court as to what it is not. We do not try to establish what it is beyond what it is not. So, once again, people are grabbing at things to try to make this seem more perilous than it really is.

Moreover, with respect to the screening, the screening applies to a U.S. company applying to a U.S. screening process. It is in our interest to have knowledge that we are not, in fact, engaging in some wholesale discriminatory process that works contrary to the intent of the treaty and that there is a legitimate claim.

But what happens in another country is up to that country. It is up to that country now. If they want to go ahead and bring suit against us, just like the Canadian corporation has done, suing California for $1 billion because they are trying to protect its citizens from the effects of MTBE—and now they are at risk for $1 billion under this silly law the way it stands. It is silly law, and nobody even debated it when it was put into place originally. It has not even been debated. This is the first time we have debated it on the floor of the Senate.

We are seeing a growing number of lawsuits now where companies are coming in and saying: Hey, we don't like that health law. We don't like the definition of ''cigarettes.'' We are going to come in and tell you you can't use those words; you are diminishing our ability to sell cigarettes in your State. So you are taking away our property. Your citizens owe us money.

This is common sense. Sure, we have a lot of people who like the status quo because they profit from the status quo. But that doesn't mean it is good law. And that doesn't mean it protects the interests of the United States. And that doesn't mean it is based on common sense.

I respectfully suggest that what we are doing is a sensible way of trying to establish the high standards of the court system of the United States. What other people want to do in their countries is their business, but this is the way we should set up the screening in ours.

There isn't anybody here who is going to argue that the international business structure is the cleanest or most devoid of corruption today. The United States is one of the few countries that has the anticorrupt businesses practice. As far as I know, in recent years, the French were allowed to deduct bribes on their income taxes. And there are a whole bunch of folks who run around the country offering money under the table, all kinds of different ways.

This will be the first time I have heard people on the floor of the Senate defending the capacity of these other countries to do clean business.

I think we ought to raise the standard. That is precisely what I am trying to do.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. How much time is remaining on each side?

The PRESIDING OFFICER. The Senator from Massachusetts has 16 minutes. The Senator from Montana has 19 minutes.

Mr. BAUCUS. Mr. President, I yield to my good friend from Nebraska—how many minutes?

Mr. HAGEL. Seven minutes.

Mr. BAUCUS. Mr. President, I yield 7 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Mr. President, I rise today in opposition to the Kerry amendment. Almost every American who has a pension plan has an interest in maintaining strong investment protections, the kind that we now have in the current trade promotion authority bill.

Almost every pension plan carries company portfolios that invest overseas. If those investments lose value due to unfair, arbitrary, or discriminatory action by a foreign government, then the U.S. company deserves compensation. It is what the U.S. courts offer American companies invested in the United States. It is what U.S. courts offer foreign companies invested in the United States.

The current TPA bill ensures that U.S. companies abroad are afforded the same fair and transparent arbitration procedures that are consistent with U.S. law, practice, and principles.

The Kerry amendment puts into jeopardy this protection. U.S. companies that invest overseas make important contributions to the U.S. standard of living that, in many cases, are greater than those of purely domestic firms. These contributions help to increase U.S. productivity and include: research and development, exports, and investments in capital equipment.

Since 1982, these companies have performed well over half of all U.S. research, and not only research but significant development as well.

Since 1977, these companies have shipped over half to three-quarters of all U.S. exports. Their affiliates are important recipients of these exports and accounted for nearly half of these shipments in 1997.

These companies undertake the majority of all U.S. investment in physical capital in the manufacturing sector; as much as 57 percent in that sector. More than 70 percent of the net income earned by overseas affiliates of American companies returns to the United States. It is a significant number.

More than 70 percent of the net income earned by overseas affiliates of American companies returns to the

United States. That means jobs, opportunity, and growth for this country—not overseas, not other markets, but this country. The well-being of these companies is important, obviously, to our economy.

Investing abroad has similar risks that investing in the U.S. has. There is a chance that a local regulation may change the value of your property or your asset. No one wants to have their property expropriated but sometimes the Government determines a public policy need to do so. When that happens, U.S. law and these investment protection provisions in the TPA bill say that the company is entitled to at least compensation.

The purpose of the investment protections is to afford the same protections to U.S. companies in foreign countries that foreign investors get in U.S. courts. Given the developing world's lack of sound judicial systems, there is a need for an investor-state dispute mechanism that is based on U.S. law, practice and legal principles.

The investment provisions in the current TPA bill direct U.S. negotiators to obtain the following, clearly: protections for U.S. companies invested abroad against discrimination in expropriatory actions by foreign governments or for their unfair and inequitable treatment; transparent and open investor-state panels; mechanism to weed out frivolous claims and deter the filing of such claims; procedures for the efficient selection of arbitrators and the expeditious disposition of claims; enhanced public input into the development of government positions; a review mechanism to deal with potential aberrant decisions; protections on expropriation consistent with U.S. legal principles and practice; and protections on fair and equitable treatment consistent with U.S. legal principles and practice.

The TPA bill contains mechanisms that address the legitimate criticisms we have heard over the past year about the investment provisions in the North American Free Trade Agreement chapter 11 investment section. We have heard much about that in the debate this afternoon.

As plainly and clearly as I can say it, there is no need for the Kerry amendment. I urge my colleagues to oppose the Kerry amendment.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Montana.

Mr. BAUCUS. Mr. President, I appreciate the remarks of my friend from Nebraska. I might go further and say, not only is there no need for the Kerry amendment but it would create huge problems for Americans in America and problems for Americans overseas. Whether they are intended or unintended consequences, I am not sure, but those consequences are real.

I must repeat, the underlying bill was changed in the Chamber to include language suggested by the Senator from Massachusetts, Mr. KERRY, that solves all the problems he has now been talking about.

What are they? Essentially if you listened closely to the cases he has been talking about, the concern is that a foreign investor might have superior rights compared to a domestic investor. The language we adopted says clearly that foreign investors have no greater rights than a domestic investor. That is the language in the underlying bill. We are talking about trade promotion authority. We are talking about fast track. We are talking about negotiating objectives. We are talking about what we would like our executive branch trade negotiators to work toward, the guidelines under which we are giving them to work.

One of the guidelines in the current bill is that foreign investors would have no greater rights than domestic investors in investor-state dispute settlements. That is clear. All the problems the Senator from Massachusetts talked about are already taken care of. That is why in many respects the statement by the Senator from Nebraska is true. It is unneeded. The problem is already cured in the bill with the inclusion of the language that foreign investors enjoy no greater rights than domestic investors.

If you look at the actual language of the amendment, not only is it not needed, it creates a whole host of additional problems we just don't need to have. One is when we try to define what expropriation is. We can't redefine the Supreme Court's definition of what expropriation is. That is up to the Supreme Court to define so long as it applies equally to domestic and foreign as the underlying language provides.

Second, he creates an initial hurdle that a domestic investor has to get approval from his host government before he or she could seek redress of rights in the foreign country. For an American investor that means the United States Government and the State Department and, who knows, the Treasury Department can get involved and say, we have problems with the other country. We don't know if we want you to proceed with your case in the other country; we don't want you to do that. That is what is called for by the Senator's language.

In addition, he suggests that a foreign investor cannot bring a claim presumably in the United States unless that foreign investor can prove that the underlying action by the municipality or the State was primarily to discriminate against the foreign investor, an almost impossible burden to meet. Clearly, if we create that almost impossible burden for foreign investors in the United States, other countries can do the same. This means that other countries, under the guise of public health and safety and environmental protection, could discriminate against the United States in a very subtle way and discriminate against U.S. investors as opposed to their own investors, but make it very difficult, if not impossible, for the U.S. investor to prove that the primary purpose of that other country was to discriminate against the United States. That is what this language says.

I am not talking about potential problems. I am talking about the exact language of the bill. I will run through them again. It tries to define—incorrectly—what constitutes a taking under the fifth amendment of the Constitution and, B, it requires that a host investor get permission of the host government and, C, sets the impossible standard that a foreign investor must show that the primary purpose was to discriminate against him in seeking redress in a foreign country.

That is going to boomerang against the United States. The main point, taking care of all the problems suggested by the Senator from Massachusetts, there are no problems left. We handled it. It is in the bill. Second, the additional language that he suggests is just going to cause a whole host of problems that we don't need, to put it mildly.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Montana has 8 minutes, and the Senator from Massachusetts has 16 minutes.

Mr. BAUCUS. Mr. President, I yield 4 minutes to the Senator from Iowa.

Mr. GRASSLEY. Mr. President, I thank Senator BAUCUS for how he has worked in a team with those of us who worked this compromise out to defeat a lot of crippling amendments. I see this as the last crippling amendment. Senator BAUCUS and my colleagues on this side of the aisle have already made strong arguments why the amendment ought to be defeated. I add my thoughts to theirs.

Senator BAUCUS and I took great care to address concerns raised about potential abuse of the investor-state dispute process. At the same time, the bill recognizes that protecting U.S. citizens abroad is also an extremely important objective.

This amendment threatens to undermine the bill's careful balance in two ways.

First, it ignores the delicate political compromises needed to pass this bill. In doing so, it jeopardizes passage of both trade adjustment assistance and trade promotion authority.

Second, the bill undermines the careful substantive balance outlined in the bill. Under the guise of protecting Government's ability to apply health, environmental and safety regulations, it takes away the rights of U.S. citizens to receive a fair and impartial hearing when their property is confiscated overseas.

Let me give you an example. In 1972, the Pakistani Government nationalized ten schools belonging to the Presbyterian Church of America. For the

past 30 years, the Presbyterian Church has been trying to recover their investment. Even after the Pakistani Supreme Court ruled in 1992 that the state could not take their land, Pakistan continued to deny the church its property.

It should not take 30 years for a church to recover its own property, but that is what the current state of play in too many parts of the world. And that is why we need strong investor-state dispute settlement procedures. Let me give another example.

Nearly 30 years ago, Richard Bell, a U.S. citizen living in Costa Rica, had his property expropriated by the Costa Rican Government for a national park. Despite assurances from several Costa Rican administrations that the matter would be resolved, it took until October 2001 before Costa Rica entered into a framework agreement with Mr. Bell to submit the issue to arbitration. And that agreement would never have been reached without hundreds of hours of U.S. government assistance. Mr. Bell declined to use the Costa Rican courts due to extensive delays associated with the judicial system. In hindsight, 10 years in the judicial system does not seem so bad.

Not every country in the world provides quick access to justice like the United States. The amendment would hurt our ability to help these citizens. And I think that is a mistake.

As Stuart Eizenstat, former deputy Secretary of the Treasury during the Clinton administration wrote recently in an editorial:

> By demanding that the Senate both reduce investors' protection against expropriation and force investors to obtain permission to file claims before tribunals, the critics would strip U.S. investors of key protections and potentially to politicize the dispute settlement process.

The ability of U.S. citizens to invest abroad and foreign citizens to invest in the United States is not something to be taken for granted. For the last 25 years, each successive administration has recognized that it is critical to negotiate strong, objective and fair investment protections in our international agreements to continue to promote such investment. These traditional investment protections are largely based on U.S. law and policy and established international law.

The bill carefully balances concerns about the investor-state dispute settlement process without weakening core investment rules that serve America's interests. The degree of support for the final product is demonstrated by a strong bipartisan committee vote of 18 to 3 in favor of the bill.

I urge my colleagues not to upset this careful balance. Again, let me quote from a recent editorial by Stuart Eizenstat:

> The Senate should approve the Baucus-Grassley Fast Track bill without delay and should resist attempts to weaken investment protection rules that embody core values of the United States: respect for private property, nondiscrimination, and the right to appear before an independent and impartial tribunal.

This amendment undermines these core values. I urge my colleagues to reject it.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Massachusetts has 16 minutes.

Mr. KERRY. And the opponents?

The PRESIDING OFFICER. They have 4 minutes.

Mr. KERRY. Mr. President, I yield myself such time as I may use.

Let me respond to the distinguished ranking member. What he read was a Supreme Court case about eminent domain. That is completely separate from what I am seeking to address. It has nothing to do with what my amendment does. He talked about the Supreme Court and the standard with respect to the right of our companies to seek redress if a government takes their property. That stays exactly the way it is today. That is expropriation by eminent domain.

What we are talking about is exclusively regulatory action, when a government takes regulatory action, passes a law to implement environmental standards, or a health standard, and a company then comes in and claims that the particular regulation was purposefully to discriminate against that company, not for the welfare of its citizens.

Now, are the Senators saying we should not require that appropriate standard, that you ought to be able to win a regulatory expropriation when it is discriminatory? That is not a problem; that is a standard. That is an appropriate way to measure whether or not a regulation reaches too far or is appropriate.

Let me be very precise about how this works. Consider the MTBE ban in California. Nine States have now followed California's lead. California—and the Governor or the State—is being sued by a Canadian company claiming their removal of methanol is discriminatory. It is geared as an expropriation that has taken their value. Nine States have now done the same thing. Are they all going to be subjected to suit? Are we going to have every company have the ability to come in and say, we think you are just passing this, whether or not you have hurt our business, so they settle for just $175 million? That is what I talked about—a nuisance settlement of $175 million that comes out of the taxpayers.

Chapter 11, as it currently stands, is being used to threaten governments from enacting public health measures. Here is an example: The Canadian Government has sought to ban the use of the words ''light,'' ''mild,'' and ''low tar'' from cigarette packaging, and Philip Morris recently issued a warning to Canada that, under NAFTA, Canada must compensate foreign investors when measures expropriate investments in Canada. So Philip Morris is warning Canada that their use of the words ''light,'' ''mild,'' and ''low tar''—banning those words—is taking value away from Philip Morris. Should that be subjected to a standard of being discriminatory against Philip Morris, or to a standard of, is that a legitimate health concern of the Canadian Government? It works both ways. It absolutely works both ways.

Now, there are three significant areas where the Baucus bill, as amended, falls short. No. 1, it does not ensure that the long-held U.S. Supreme Court case law on expropriation on what is not expropriation is upheld. I reiterate, we are not defining expropriation. We are simply saying that under the long-held U.S. case law this particular kind of reduction of business is not when an expropriation ought to apply because otherwise a secret—we don't have any right to know what the deliberations are, we don't know what the standards are. It is an arbitration panel of three judges of another country that is going to decide. We think that is an expropriation.

The second thing is that I do not rule out the possibility that an investor could bring an expropriation case. We simply limit the use of an expropriation standard to those cases in which U.S. case law recognizes regulatory taking. Secondly, we provide a protection for legitimate public interest law.

The amended bill does not guarantee that a legitimate domestic law is protected. My amendment provides safe harbor for Federal, State, and local laws and regulations protecting public health and safety and the environment, except when the action taken is primarily discriminatory. That is an appropriate standard to apply, and that is what we ought to vote for.

The current bill allows claims to be decided on a question of whether the free flow of goods or capital is impeded by public health. That is not a standard we should want to adopt in our country.

Thirdly, we uphold the principle of due process. The principle of due process is somewhat close to the international law of what is called fair and equitable treatment. But fair and equitable treatment is completely vague. We don't know what it means. We don't know how that standard has been applied. It can mean many things. One thing we have tried to do over the years in this country is define clearly under the due process clause of the U.S. Constitution what process is, what rights attach to people. If the concept of fair and equitable treatment remains the guiding principle of the investor-state dispute panels, without further clarification, then you have a very real risk that those panels import a different legal standard into their consideration than that which our U.S. companies have a right to expect.

I believe American companies win with the passage of this amendment because, in fact, it has the practical effect of making future investor-state arbitration panels have their rulings based on concrete, well-defined U.S. laws, rather than nebulas, uncertain, unclear, international precedents.

Under my amendment, an American investor can win before an arbitration panel if they show they were discriminated against on the grounds of national treatment or if the offending regulation is enacted or applied in a discriminatory, purposeful fashion.

If a foreign government passes legislation that is discriminatory, of course, an investor will be able to seek compensation. There is nothing in this legislation that diminishes their capacity.

What I sought to do in my amendment originally was to guarantee that no foreign investor would have greater rights than a U.S. investor. The amendment by the chairman simply says they will not have lesser rights. It does not protect their right to guarantee that a foreign investor will not have greater rights. That is what this is about.

I hope my colleagues will help American businesses to be properly and adequately protected and our States to be protected with their laws of public purpose: to protect the environment and protect our health standards.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? If no one yields time, time will be charged equally to both sides.

The Senator from Montana.

Mr. BAUCUS. Mr. President, there are many statements the Senator made with which I take issue because they are inaccurate. One of the most inaccurate is the last statement the Senator made, that there is nothing in the bill to make sure foreign investors are not accorded greater rights than domestic investors. This is the Kerry language which we provided for in the underlying bill—not the Kerry amendment now being offered, but Kerry language he suggested earlier.

Let me read it:

> Insert the following: foreign investors in the United States are not accorded greater rights than United States investors in the United States.

That is what is in the bill. So his statement to the contrary, that there is nothing in the bill that assures foreign investors do not have greater rights than domestic investors, is inaccurate. We already include it in the underlying bill.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, the Senator is correct, that is the language that was used, but it is preamble language. It is in the preamble. It has no teeth. There is no substance to it. What I am trying to do is guarantee in each of these categories that there are teeth, there is substance in the law that, in fact, guarantees you will not have those greater rights because still all of this is subject to the international panel's application of standards; they ultimately will decide.

Unless we establish some standard by which to measure it, that is literally a statement without any enforcement mechanism whatsoever.

I reserve the remainder of my time.

Mr. BAUCUS. Mr. President, how much time remains?

The PRESIDING OFFICER. Six minutes to the Senator from Massachusetts and 2 minutes to the Senator from Montana.

Mr. BAUCUS. Mr. President, I will take 1 minute. This debate is devolving into little details. In my 1 minute, let me say, again, the Senator is inaccurate because we are talking about negotiated objectives in the bill. They all have the same force and effect. That is, the language referred to has the same effect as it would for another part of the bill. We are talking about negotiated objectives given to our negotiators as they try to negotiate other agreements.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas.

Mr. GRAMM. Mr. President, I will take just 1 minute of time. Let me first say there is much about the argument by the Senator from Massachusetts that, first, I do not understand and, second, I do not agree with.

First, let me say I was puzzled by his reference to lawsuits and Republican opposition thereto. If there is any principle I believe in, it is the right of people to protect their property.

Second, it seems to me that the Senator has written an amendment that addresses no legitimate concern because in the 57 years we have had investment treaties giving investors in America the right to go to arbitration to have their investment protected, no one has ever won a suit against the United States of America.

And meanwhile, American investors use these rights every day in every developing country in the world. They make the difference between confiscation and destruction of American investments, and the protection of American investments and the jobs that flow from them.

The Senator argues that nothing in his amendment lessens the rights of American investors. Nothing could be further from the truth. His amendment would require investors to get government permission to protect their basic property rights. Governments would have to sign off in order for investors to obtain protection of their property. Nothing could be more alien to the American system than that notion.

His amendment also deems exempt those State and local laws and ordinances related to a series of issues—such as health, safety, environment, or public morals, whatever that is—unless the laws and ordinances were intended solely to take investor property. That new standard would run counter to our notion of discrimination—which looks at impact not intent—and would be much harder to breach. Finally, the Kerry amendment says that your property is protected only if the taking is complete. That is little consolation to an American investor.

I urge the rejection of the Kerry amendment.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator's time has expired.

All time remaining is that of the Senator from Massachusetts.

Mr. KERRY. Madam President, how much time remains?

The PRESIDING OFFICER. Six minutes.

Mr. KERRY. I will not use all that time.

The Senator from Montana is correct, we are reaching the end. Let me once again answer my friend from Texas and say we have established screening mechanisms with respect to certain kinds of cases all through our country. Lawyers have accepted the notion—we even have rules in the Federal court under rule 11, if I recall it correctly, which seek to deal with the question of frivolous lawsuits.

What we are trying to do is recognize that we want to establish some order in the system. I think most people would agree that the challenge by the Canadian company to the California statute with respect to MTBE is frivolous. No one here would believe that is somehow discriminatory or a taking; nevertheless, we have a lawsuit. California taxpayers are exposed for the potential of $1 billion for what was a legitimate health effort.

If people think that ought to be tying up the arbitration panels of rule 11, go ahead and vote for it, but I do not think it should. There ought to be some kind of mechanism by which you have a signoff on whether there is a legitimacy to the claim. Since it is your own Government making that judgment, particularly with respect to a U.S. business interest, it is really hard to conjure up a scenario within which they are not going to be pretty permissive if there is some legitimacy to a claim.

What we really see here is resistance to the notion that we should raise the standard of international behavior with respect to the potential of what is or is not a cause for action in an expropriation. I submit to my colleagues that the standard here is vague. The standard is now carried out in secret. It is carried out according to standards that our businesses do not know and cannot anticipate.

It is carried out by a standard that is less than the rights afforded our businesses under the U.S. Constitution; less than those rights, according to the due process clause, the fourth and fifth amendments; and less than those rights according to the settled case law of the Supreme Court of the United States for a long period of time, to quote the Supreme Court itself.

I believe we should put in some objectives which state clearly what we would like to have negotiated. All of this is a negotiating objective. I do not deny what the Senator has said. These are goals. But why not be precise about what we want negotiated and the standards that we think ought to apply?

If they find the kind of problems the Senator from Texas is saying, they will not negotiate it the same way. These are all objectives. Let us vote for a standard and an objective in the negotiations so we arrive at the better protection of American businesses with respect to expropriation and we do not submit our States to a series of frivolous lawsuits as they are currently and we do not allow a process of intimidation to take place between company and government as we see in the Phillip Morris-Canada situation with respect to smoking.

That is what this vote is about. Since this is not the meat and potatoes in the end anyway, what we vote is not the final word. What we are voting is an intent and a direction, and I hope my colleagues will vote the intent and direction of raising the standard by which the U.S. businesses are going to be treated in the trade resolution process.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, is all time yielded back?

The PRESIDING OFFICER. All time has expired.

Mr. BAUCUS. Madam President, I move to table the Kerry amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arkansas (Mr. HUTCHINSON), the Senator from New Hampshire (Mr. GREGG), the Senator from North Carolina (Mr. HELMS), and the Senator from New Mexico (Mr. DOMENICI), are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 41, as follows:

[Rollcall Vote No. 121 Leg.]

YEAS—55

Allard	Cochran	Hutchison
Allen	Craig	Inhofe
Baucus	Crapo	Kyl
Bennett	DeWine	Landrieu
Bingaman	Ensign	Lincoln
Bond	Enzi	Lott
Breaux	Feinstein	Lugar
Brownback	Fitzgerald	McCain
Bunning	Frist	McConnell
Burns	Graham	Miller
Campbell	Gramm	Murkowski
Cantwell	Grassley	Nelson (NE)
Carper	Hagel	Nickles
Chafee	Hatch	Roberts
Santorum	Snowe	Thurmond
Sessions	Specter	Voinovich
Shelby	Stevens	Warner
Smith (NH)	Thomas	
Smith (OR)	Thompson	

NAYS—41

Akaka	Dorgan	Lieberman
Bayh	Durbin	Mikulski
Biden	Edwards	Murray
Boxer	Feingold	Nelson (FL)
Byrd	Harkin	Reed
Carnahan	Hollings	Reid
Cleland	Inouye	Rockefeller
Clinton	Jeffords	Sarbanes
Collins	Johnson	Schumer
Conrad	Kennedy	Stabenow
Corzine	Kerry	Torricelli
Daschle	Kohl	Wellstone
Dayton	Leahy	Wyden
Dodd	Levin	

NOT VOTING—4

Domenici	Helms
Gregg	Hutchinson

The motion was agreed to.

Mr. REID. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. REID. Mr. President, on rollcall vote No. 121, Senator BIDEN voted ''aye.'' It was his intention to voted ''no.'' Therefore, I ask unanimous consent that Senator BIDEN be permitted to change his vote since it will not affect the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. REID. Madam President, the Senator from West Virginia, Mr. ROCKEFELLER, wishes to speak in morning business in regard to the American soldier who was killed the day before yesterday in Afghanistan. I ask unanimous consent that the Senator from West Virginia be recognized for up to 10 minutes to speak as if in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(The remarks of Mr. ROCKEFELLER are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I ask unanimous consent that amendment No. 3442 be temporarily set aside. I have spoken to Senator DORGAN, and he is in agreement. The managers of the bill are trying to work something out on this amendment. So I ask that it be set aside.

I also say, for the edification of Members, that immediately Senator DORGAN is going to speak, as there is a unanimous consent agreement pending allowing him to do so, for up to half an hour on the Cuba amendment he offered. Following that, Senator TORRICELLI is going to offer amendment No. 3415, under a half-hour time agreement, evenly divided. Then we are going to go to a Grassley amendment that he is going to offer.

This is about as far as we will be able to get this evening, the majority leader has indicated. So that is where we are. We will have something more definite as soon as Senator DORGAN finishes his statement on Cuba. We will have something written up so people know more definitely what this will be.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from North Dakota.

AMENDMENT NO. 3439 WITHDRAWN

Mr. DORGAN. Madam President, it is my intent not to take the 30 minutes. But I do want to make some comments about an amendment I have offered that is now pending, amendment No. 3439. This amendment deals with language that was in the farm bill that passed the Senate and went to conference dealing with the ability to sell food to Cuba.

As my colleagues know, we have had an embargo with respect to the country of Cuba for some four decades. That embargo included, for most of those four decades, an embargo on the shipment or sale of food to Cuba. That changed a couple years ago because my colleagues and I decided that an embargo ought not include an embargo on food shipments, that using food as a weapon is not the appropriate thing to do.

So we lifted that embargo with respect to food, though it was lifted in a very narrow way. And the Cubans have been able to buy American food, especially following the hurricane in Cuba. They have purchased $75 to $90 million worth of food from this country now. It has to be purchased with cash, and they have to do it through a French bank in order to accomplish the transaction.

In fact, following the vote in September of 2000, where we allowed food to be sold to the Cubans, one of the people who opposed that, a Congressman from Florida, said he was satisfied that the language in the legislation was restrictive, making it difficult for the United States companies to do business in Cuba because they will have to go through third countries for financing. In point of fact, he was saying it is going to make it very difficult for us to sell food to the Cubans.

We agree that it is difficult. As a result of that, we put legislation on the farm bill in the Senate by a very significant vote. That legislation says that Cuba could access private financing in this country for the purchase of food from the United States. No government subsidies at all, just private financing, if they can find private financing. We included that in the farm bill that left the Senate and went to conference and got stripped out of the conference, even though the House of Representatives had a vote. They voted 273 to 143 to endorse the Senate plan for more trade with Cuba.

So the House has spoken on this issue. The Senate has spoken on it. By far, the vast majority of both the House and the Senate said we do not want to use food as a weapon. Let's be

able to sell food to the Cubans, if they want to buy food. If they want to access private financing, they can access private financing, if they can find it somewhere. But let's not make it more difficult for those in the world who need access to that which our farmers grow in such abundance to have access to that food—let's not make that more difficult.

There are some who still are rooted in the 1960s. This 40-year embargo with Cuba has not succeeded through 10 United States Presidents. It just has not succeeded.

I do not stand here suggesting that I have any sympathy for the Castro regime. We need to, as a country, persuade Cuba to move towards democracy, move towards greater human rights. I believe we will best do that by doing just as we do with China and Vietnam—both Communist countries—engaging them with trade and commerce and travel.

I believe we will best do that in Cuba in exactly the same manner. That is why I believe that changing our laws with respect to trade, especially with respect to food, and also with respect to travel, will be the method by which we move Cuba and move the Castro government towards a day when there will be open elections in Cuba, democracy, and a better record on human rights in Cuba.

There are some in this town who do not agree with me. And I respect that. But I tell you, I wonder, for the life of me, how does someone really believe that our selling chicken gizzards, turkey legs, pork lard, wheat, and dried beans to Cuba undermine the interests of the United States? Does anybody really believe that, that the sale of these agricultural products to Cuba undermines the economic interests or the security interests of the United States? No one really believes that any longer.

So I do not believe we ought to use food as a weapon anywhere in the world, under any circumstance. That does not hurt Fidel Castro. He has never missed breakfast or dinner because this country decided it will not sell food to Cuba. But the poor, sick, and hungry people in Cuba, who have missed a lot of meals, they are the ones who hurt from this country's policy of using food as a weapon.

So this amendment is very simple. It lifts, ever so narrowly, that portion of the embargo that deals with food and allows Cuba to purchase food from this country with private financing—not public financing, just private financing.

Why should our farmers be the victims of a foreign policy that doesn't work? Why should our farmers be told that they cannot sell their crops to Cuba using the kinds of private financing that are common to agricultural sales involving other countries? That doesn't make any sense to me.

I know my colleague from New Jersey has a different view on this. Let me, if I might, out of my time, yield to my colleague from New Jersey for 4 minutes.

(Mr. REED assumed the chair.)

Mr. TORRICELLI. Mr. President, I thank my colleague from North Dakota for yielding me this time.

There are profound differences in the Senate over American policy towards Cuba, as there are divisions in the United States. For 40 years, the Cuban people have seen their nation enslaved by an alien ideology. The Cuban people, who by their nature are independent, industrious people, entrepreneurial in spirit, strong of faith and nationalism, have seen their country's independence compromised by foreign alliances, their sense of entrepreneurship compromised by communism, and the free spirit of the Cuban people dampened by state control over almost every facet of life.

Ten years ago, this Congress recognized that America was maintaining a fiction in its policy toward Cuba. We pretended to have an embargo but allowed American corporations to trade with Cuba through Europe. We said we were offended at human rights violations in Cuba, the denial of all basic rights, but we maintained normal economic enterprise through our allies. The Cuban Democracy Act and then the Helms-Burton Act, under the Clinton administration, changed these circumstances. That issue is now before the Congress again, and it is a good debate.

As certainly as Senator DORGAN feels the need for change, I rise in the belief that what is required is not change but more time. It has admittedly been a long time. I cannot say with any satisfaction that the policy has yielded any results. I can only tell you that American policy is justifiable, morally and strategically, and that the burden of change is not with us. The United States Government has no argument with the Cuban people. It is for this reason that American law has exempted food and medicine and cultural exchanges and media visits from the embargo.

For 10 years since the modern embargo was written, the U.S. Government has made concession after concession. To the Castro government we allowed the opening of news bureaus in the hope that Castro would institute some reform, and there was none. The Clinton administration allowed charter flights so tourists could visit in the hope there would be some concession from Castro, and there was none. We believed that if we would loosen up visas for tourists to begin to visit in some small numbers, we would get some reciprocal action by Castro, and there was none—time and time and time again. Indeed, in the licensing of food deliveries and other economic enterprise, every single request that was made of the Treasury Department was granted, concession after concession.

What is it we sought? Some small indication from Havana of change. If Fidel Castro had done anything, a single opposition newspaper, one; an election in a small town, one province; a single political party in opposition—anything—there would be no embargo today.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. TORRICELLI. I ask for 1 more minute.

Mr. DORGAN. I yield an additional minute.

The PRESIDING OFFICER. Without objection, the Senator is recognized.

Mr. TORRICELLI. Under American law, the moment the President of the United States has certified there is a free election in Cuba, by law there is no embargo. I know Senator DORGAN and I will address the Senate on this issue at another day, another time, on another piece of legislation. It is an important debate for the Senate. On this day I did not want Cuban Americans to believe that this Senate is of one mind. I believe in defeating Fidel Castro. I believe the Cuban people can still live to see a free day. I don't intend to yield the fight until we reach that day.

I thank the Senator from North Dakota for yielding the time.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, my colleague and I share the goal of democratic reforms in Cuba and human rights in Cuba. It is just that I believe that the quickest route to changing the Government of Cuba is not through a policy that for 40 years has been a failure but, instead, by developing policies that we have decided work in China, Vietnam, and elsewhere, policies of engagement.

I believe very strongly that having unfettered trade with Cuba and United States citizens traveling in Cuba is the quickest way that exists in order to bring democratic reform and human rights to Cuba.

It is interesting to me that in the early 1970s, it was Richard Nixon who went to China. When he went to China, do you know who was the leader of China? Mao Tse Tung, a repressive Communist leader who virtually obliterated human rights in China. Richard Nixon went to China and began an engagement with China to open and expand trade and travel with China over a period of years.

Now in the Senate we hear people say, when we have these votes, engagement with China is the way to bring China along on human rights and democratic reforms. Engagement with China, a Communist country, is the way for us to accomplish that goal. They say that with Vietnam as well, a Communist country. Engagement with Vietnam, more trade, more travel, more engagement will move us towards greater human rights and greater democratic reforms in China and Vietnam. But they say that logic does not exist with respect to Cuba. Why? For 40 years this policy has existed, and for 40 years it has failed.

Despite the fact we have opened a crevice dealing with the sale of agricultural products to Cuba, the State Department and the administration are not helping us move food to Cuba when Cuba wants to buy it for cash. The head of Alimport, which is the agency that buys food for Cuba, applied for a visa to come to the United States. That visa was revoked. Why? Because they indicated on a previous visit to the United States, the head of Alimport, Mr. Pedro Alvarez, seemed to do things that were undermining our country's interests. What were these things? He said in the United States that he hoped Cuba could buy more food from the United States. That undermines our country's vital interests? I think not.

I always find it interesting the way our country handles these issues, not just this but trade issues generally. We use trade as a way of creating foreign policy to punish and reward. I have spoken before about this. We have this little trade disagreement with Europe. Europe slaps some prohibitions on hormone beef coming from the United States. What is our response to Europe? We slap big penalties on Europe. We take aggressive, tough action against goose liver, truffles, and Roquefort cheese. That is enough to scare the devil out of anybody. We are going to take action against your goose liver.

Going to Cuba, Pedro Alvarez wants to come to this country because he wants to buy—if you don't mind my reading a few of these things—chicken innards, chicken gizzards, chicken entrails, pork trimmings, yes, pork loins, wheat, corn, soybeans, dried beans, eggs. The list is a long list.

Does anybody really think that any part of this as a sale to Cuba is going to undermine the interests of our country? Does anybody really think that? I don't think so.

My colleague from New Jersey always states his case well. I understand his point. Neither he nor I wants to give comfort to a government that doesn't respect human rights.

But this isn't about giving comfort to the government. This is about our responsibility. Our responsibility, in my judgment, is to decide as a country that it is not a moral policy to use food as a weapon. I hope we never again use food as a weapon.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DORGAN. In the final 30 seconds I have remaining, I intend to withdraw my amendment No. 3439, and I will explain why that is the case. Some of those who have cosponsored amendment No. 3439, and who support us on all of these issues when we vote on Cuba issues, have indicated to me they would feel constrained to support a tabling motion only because it would exist on trade promotion authority, and they don't want to jeopardize that legislation in any way. They have indicated they would support this proposition that I offer on future legislation. So it is my intention to offer it on an appropriations bill.

I ask unanimous consent to withdraw amendment No. 3439 at this moment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 3415

Mr. REID. Mr. President, it is my understanding now that the business before the Senate would be No. 3415, the Torricelli-Mikulski amendment.

The PRESIDING OFFICER. That is correct.

Mr. REID. I thank the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. TORRICELLI. Mr. President, for more than a century, American workers have made enormous progress in their working conditions and securing their most basic rights in the sale of their labor. It is the foundation of our very economy that the United States uniquely created circumstances where those who made products had decent enough wages to buy them. Those who were engaged in the production had sufficient leisure time to enjoy the fruits of their own labor. People fought and died for these rights in the labor movement. They were not given easily, not simply established, but fought for by a generation of workers.

Those rights are very much now at issue as the Senate debates the expansion of international trade and fast-track authority for the President in new bilateral agreements.

The question arises on the sanctity of these rights and their ability to be defended in an international context. What does it mean to American workers to have the right of association, the right to organize and bargain collectively, the prohibition of forced or compulsory labor, minimum wage, prohibitions on child labor, maximum hours, or safety conditions?

Regarding the issue before the Senate, if we are to engage in these new international labor agreements, are we creating a situation where Americans can continue to have pride that we afford these things to our own people, to our own workers, while seeking the benefits of lower prices and cheaper goods through cheaper labor? Are we sending American workers into competition with those who enjoy none of these rights?

Is there not some degree of hypocrisy? We want these things for our workers, but we put our workers in a situation of competition with workers in China, Latin America, or Africa who enjoy none of these rights. Indeed, what meaning will it have to claim these things for ourselves if we allow products into America from nations that guarantee none of these rights?

The examples around the globe are as striking as they are compelling. Human Rights Watch recently released a report documenting child labor; obstacles to unionizing on banana plantations in Ecuador, the world's largest exporter of bananas. The report cited children as young as 8 years old working long hours in hazardous conditions, exposed to toxic pesticides, drinking contaminated water, using sharp tools, hauling heavy loads and, in some cases, suffering sexual harassment.

I am told that it is progressive to be arguing on the Senate floor for fast track, for labor agreements with all nations, with no conditions on labor rights. I am told that is progressive.

What is progressive in allowing products into the United States made from child labor, exploited children? What is progressive about not insisting that these basic rights be afforded to those whose products will come into America, those who use the products. Nations who import these goods cannot morally separate themselves from the means of production. If you buy it, if you import it, if you negotiate with the countries that cast a blind eye to the sexual harassment, the exploitation, the long hours, the unsafe conditions, the contamination, the sickness, and the death, you are part of the problem. You are not only condoning it, you are encouraging it by providing a market for it.

So I rise today not only for our own workers who will be forced into competition with these conditions to survive, making the right for minimum wage, to organize, for health benefits, for retirement, for safe conditions meaningless given the competitive circumstances in which we place our own companies; I also rise for their people because in this competition no one succeeds. It is a competition of exploitation. Everybody loses.

The same report documenting abuses in Ecuador found that workers feared dismissal if they even attempted to unionize and are replaced by ''permanent temporary'' workers. So not only are these conditions horrific, there is no chance through collective bargaining, through the exercise of union rights, to redress the grievance. If you told me that conditions in these nations were abhorrent but that through trade workers would organize themselves, they would be guaranteed better rights, conditions, and labor, it would be something worth attempting. The marketplace will not improve these conditions. Forcing American workers to compete with these companies in these circumstances will become a near permanent condition.

There are many industries that are facing these same circumstances. It is not simply agriculture. It is the garment industry, it is the footwear industry, and it is not simply Latin America.

Indeed, China in some cases may be the most egregious, offering low wages, weak labor laws, and suppression or control of all trade activity. In China, this has been particularly true in garments and footwear in which retailers subcontract orders to the absolutely lowest bidders with no inquiry, no control, perhaps not even any interest, in the degree of exploitation.

There is something wrong with this system, and I do not know how it is

corrected. Amendment after amendment is lost on this Senate floor. People rise for footwear, but it can be lost for garments and for agriculture. If it was exploitation of somebody else in another country, it is their problem, not ours. On the contrary.

I want affordable goods for the constituents of my State as much as any Senator. I believe in free, fair, open competition as much as anybody. I believe in the ability of the American worker, American business to compete with anybody, anywhere, anytime on a free and fair basis. But who here believes there is something to be gained by competing with what amounts to slave labor in conditions of death and exploitation? Who believes any American worker in any industry could survive that competition? And, indeed, are we not replete with examples of the fact that they cannot?

I do not know how these circumstances ever change. I know that if America were going to the lowest bidder for businessmen, I know if we were looking around the world for the cheapest possible bankers and financiers, I know if there were no working conditions for lawyers in India, Pakistan, or Latin America and we were importing that labor, it would get someone's attention. But garment workers, footwear workers, agricultural workers, have they no advocates? Is there no concern for the competition in which we put our people in these circumstances? There is concern, but there is a minority.

I have heard enough of this debate. I have watched enough votes. I have seen every Member defeated on every amendment to know mine will be no different. They are hollow words, but they will be read again. We do an injustice to the American workers. We do an injustice to those in developing countries who only want the right to form their own unions, the basic protection of themselves and their families.

The monarchies of Europe in the 18th and 19th centuries faced similar circumstances. Europeans, even in those governments, could have raised their standard of living by getting cheaper products from nations that practiced slavery, and very often they would not; they would not be part of it.

What, I say to my colleagues, is the difference from importing products during that exploitation—from the exploitation of children who are worked at 8 years old for little or no wages; people who are locked in dormitories at night so they cannot leave the factory; people who are paid in script, not money; people who work because they have no choice or die? Different centuries, different words, same results: Human exploitation.

The President wants authority to negotiate with a series of Third World nations to enter into free trade agreements with the United States. If we were here on a different basis, I not only would vote for that authority, I would offer the bill. I would be here arguing for it every day. What separates us is not a desire to open markets or have free trade, it is the simple conditions of doing so.

If I believed George W. Bush would negotiate free trade agreements insisting on the rights of foreign workers to organize, or a minimum wage, or child labor, this would be the right thing to do.

The language before this Senate does not contain any requirements to bring the domestic laws of any nation into the compliance of the ILO conventions, guaranteeing protection against the most egregious violations of workers. It requires nothing, so that is exactly the kind of support I intend to give it: Nothing.

Under my amendment, workers' rights provisions would be assured just as we are protecting intellectual property or investor rights because it is not as if there are not some assurances to some Americans in fast track. If you own a patent, we will defend you. If you have intellectual property, the U.S. Government will respect it. But if you are the heirs of garment workers and agricultural workers, the rights you fought for—protection from being in competition with a child for labor, not to compete with someone who earns under the minimum wage—you will get none of those protections at all.

I regret the Senate has come to this point, and I regret that we could not come to common terms in how to engage in international agreements to open borders. It did not have to be. While I know my amendment may not succeed, I assure the Senate we will visit this subject again. There is just so much we can lose, so many industries that can be lost, so many American workers we put in competition with people in desperate circumstances.

The downward spiral of living circumstances of working families in America, the loss of benefits, wages, industries, communities, is just so much of a burden that can be borne until we insist not simply on opening markets, but opening them on some common basis of respect for human rights and human dignities in international labor.

I thank my colleagues for the opportunity to offer the amendment and to address this subject.

Mr. CORZINE. Mr. President, I rise to lend my support to Senator TORRICELLI's amendment which would require prospective trading partners to ensure that their domestic laws provide adequate labor protections. The amendment calls on countries interested in trading with the United States to conform their labor protection regime to the labor standards of the International Labor Organization's Declaration. The amendment would further require that the worker rights protections including in the underlying legislation be subjected to the same dispute resolution mechanism as other areas.

For far too long American businesses have been operating at a comparative disadvantage. Through years of improvements, the United States today provides its workers with a market basket of protections: the 40-hour workweek, the minimum wage, OSHA standards. But, as the business community has long pointed out, each of those protections comes with a cost as well as a benefit. It costs more to provide workers with a fair wage. It costs more to provide a safe workplace and allow workers to associate freely. It costs more to treat workers with dignity. It is a cost of doing business in a democratic society.

Other countries take advantage of lax worker protections to attract manufacturing companies away from proworker regulatory regimes. Developing countries desperate for economic improvement are in a regulatory race to the bottom, putting downward pressure on international wages and working conditions. Sacrificing decent working conditions and base salaries may give these countries an edge in industry, but it puts their workers at risk.

The Baucus-Grassley bill was correct to put worker rights on the agenda of U.S. trade negotiators, but it did not go far enough. This amendment would guarantee that the worker protections included in the bill can be enforced through the dispute resolution process. If it makes sense to enforce the investment protections included in international agreements, it makes as much sense to enforce labor protections.

We must establish a level playing field for all countries. No country should feel pressured to exploit children or undermine worker safety in an effort to attract development dollars. And no country should be put at a competitive disadvantage for providing its workers with basic protections or with basic dignity.

I urge my colleagues to support Senator TORRICELLI's amendment, which seeks to ensure that the United States puts its national values into practice and considers the rights of workers throughout the world when it frames international trade agreements.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 3415.

The amendment (No. 3415) was rejected.

Mr. GRAMM. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding, pursuant to the previous order, that the Republicans have indicated they want to offer an amendment.

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. BAUCUS. 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 Senator from Montana.

Mr. BAUCUS. Mr. President, we are waiting for Senators GRASSLEY and BROWNBACK with respect to a sense of the Senate regarding granting Russia PNTR benefits. I hope those Senators can come fairly quickly because as soon as they do we can take up that resolution.

In the meantime, I will say a few words about the health provisions included in the pending legislation. I say from the outset that I am extremely pleased about these provisions. They represent, first, a true bipartisan compromise, the result of months of negotiations, and, I might add, lots of concessions on both sides.

After all that effort, I believe we have reached an agreement that will provide real, genuine help to families affected by new trade policies.

Before describing the proposals, I commend Senator GRASSLEY from Iowa. Many people spend a lot of time talking about bipartisanship in this town, but Senator GRASSLEY does more than just talk. He is bipartisan. His efforts on this issue and others were crucial to getting a workable bipartisan compromise. I am happy to have him as my partner on the Finance Committee.

What is the proposal? The proposal provides a 70 percent tax credit for health insurance premiums to workers who participate in trade adjustment assistance, known as the TAA program. This tax credit is advanceable and it is refundable. That means workers displaced by trade will not have to pay the full cost of their health insurance and then wait to be reimbursed when they file their tax returns the next year. They get the help up front, when they need it.

Employees can also use this credit for a number of health insurance options. Those include maintaining their existing health insurance under what is known as COBRA coverage; purchasing insurance through a State high-risk pool or comparable coverage that the State has established; a State employee benefit plan or comparable coverage; they can purchase through a State-operated health plan; or coverage purchased through a private pool.

Some Senators expressed concern about the impact on workers with individual market policies. And they argue it will take a long time to establish a State group coverage option. These are good points. They are valid. We attempted to address them.

Workers covered by individual market policies before losing their jobs will be able to keep those policies and take full advantage of the 70 percent tax credit. In addition, because we believe it will take some time for the Treasury Department to set up the tax credit mechanism and because it will take States some time to establish group purchasing agreements, we have included interim coverage under the National Emergency Grant Program.

In short, it is not everything that Senators on either side of the aisle wanted. There are some provisions and concessions made on both sides of the aisle. We dropped on our side the Medicaid provisions. We yielded on the issue of requiring those eligible for COBRA to purchase only COBRA coverage. Most importantly, we moved from a premium subsidy to a tax credit, something that Republicans and centrists support.

Similarly, the compromise is not everything the other side wanted. There is a tax credit, but not for the purchase of individual coverage. Indeed, the size of the tax credit, 70 percent, represents a sacrifice on both sides. Those on our side started at 75 percent; the other side wanted 60 percent. In the end, we split the difference at 70 percent—not exactly an even split, but a good split.

None of the sacrifices were easy. Each side had to swallow a bit of their pride. While we may have given up a little, displaced workers and their families gained a lot. I am proud we proved our ability to work together and compromise to help Americans in need.

The trade adjustment assistance provisions are very significant. They are a huge improvement over current law. These provisions give health insurance benefits to displaced employees. They give substantial benefits for a couple of years to employees displaced because of trade. They are a main driver of this bill. In addition, we are giving fast track negotiating authority to the President under certain negotiating objectives. But the real substance of the legislation that is about to be passed here that has immediate legislative effect is the trade adjustment assistance provisions. They are significant. That is the legislation that will be enacted as a consequence of the trade bill we are now negotiating. I urge all colleagues to remember that.

When we hear complaints of displaced employees, rest assured there are significant provisions that help those employees that will be displaced because of trade.

The underlying bill develops a greater consensus on trade so more and more Americans are able to gain the benefits of trade—not just the multinational companies, but small business, so all the people that work in America so diligently to try to improve their income and have health insurance for their family and children can live a good life, take vacations and so forth.

In the past, there has not been sufficient consensus on trade, and there still is not sufficient consensus, but the provisions help move us in that direction.

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. BROWNBACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3446 TO AMENDMENT NO. 3401

Mr. BROWNBACK. I call up amendment 3446 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK] proposes an amendment numbered 3446 to amendment No. 3401.

Mr. BROWNBACK. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To extend permanent normal trade relations to the nations of Central Asia and the South Caucasus, and Russia, and for other purposes)

At the appropriate place, insert the following:

SEC. ____. DEMOCRACY AND FREEDOM THROUGH TRADE ACT.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States is now engaged in a war against terrorism, and it is vital that the United States respond to this threat through the use of all available resources.

(2) Open markets between the United States and friendly nations remains a vital component of our Nation's national security for the purposes of forming long, lasting friendships, strategic partnerships, and creating new long-term allies through the exportation of America's democratic ideals, civil liberties, freedoms, ethics, principles, tolerance, openness, ingenuity, and productiveness.

(3) Utilizing trade with other nations is indispensable to United States foreign policy in that trade assists developing nations in achieving these very objectives.

(4) It is in the United States national security interests to increase and improve our ties, economically and otherwise, with Russia, Central Asia, and the South Caucasus.

(5) The development of strong political, economic, and security ties between Russia, Central Asia, the South Caucasus, and the United States will foster stability in this region.

(6) The development of open market economies and open democratic systems in Russia, Central Asia and the South Caucasus will provide positive incentives for American private investment, increased trade, and other forms of commercial interaction with the United States.

(7) Many of the nations in this region have secular Muslim governments that are seeking closer alliance with the United States and that have diplomatic and commercial relations with Israel.

(8) The nations of Russia, Central Asia and the South Caucasus could produce oil and gas in sufficient quantities to reduce the dependence of the United States on energy from the volatile Persian Gulf region.

(9) Normal trade relations between Russia, Central Asia, the South Caucasus, and the United States will help achieve these objectives.

(b) SENSE OF CONGRESS.—(1) Prior to extending normal trade relations with Russia and the nations of Central Asia and the South Caucasus, the President should—

(A) obtain the commitment of those countries to developing a system of governance in accordance with the provisions of the Final Act of the Conference on Security and Cooperation in Europe (also known as the ''Helsinki Final Act'') regarding human rights and humanitarian affairs;

(B) ensure that those countries have endeavored to address issues related to their national and religious minorities and, as a member state of the Organization for Security and Cooperation in Europe (OSCE), committed to adopting special measures for ensuring that persons belonging to national minorities have full equality individually as well as in community with other members of their group;

(C) ensure that those countries have also committed to enacting legislation to provide protection against incitement to violence against persons or groups based on national, racial, ethnic, or religious discrimination, hostility, or hatred, including anti-Semitism; and

(D) ensure that those countries have continued to return communal properties confiscated from national and religious minorities during the Soviet period, facilitating the reemergence of these communities in the national life of each of those countries and establishing the legal framework for completion of this process in the future.

(2) Earlier this year the Governments of the United States and Kazakhstan exchanged letters underscoring the importance of religious freedom and human rights, and the President should seek similar exchanges with all nations from the region.

(c) PERMANENT NORMAL TRADE RELATIONS FOR RUSSIA.—

(1) PRESIDENTIAL DETERMINATION AND EXTENSION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President, after certifying to Congress that all outstanding trade disputes have been resolved with Russia, may—

(A) determine that such title should no longer apply to Russia; and

(B) after making a determination under subparagraph (A) with respect to Russia, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(2) TERMINATION OF APPLICATION OF TITLE IV.—On or after the effective date of the extensions under paragraph (1)(B) of nondiscriminatory treatment to the products of Russia included under paragraph (1)(B), title IV of the Trade Act of 1974 shall cease to apply to that country.

(d) PERMANENT NORMAL TRADE RELATIONS FOR KAZAKHSTAN.—

(1) PRESIDENTIAL DETERMINATION AND EXTENSION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(A) determine that such title should no longer apply to Kazakhstan; and

(B) after making a determination under subparagraph (A) with respect to Kazakhstan, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(2) TERMINATION OF APPLICATION OF TITLE IV.—On or after the effective date of the extension under paragraph (1)(B) of nondiscriminatory treatment to the products of Kazakhstan included under paragraph (1)(B), title IV of the Trade Act of 1974 shall cease to apply to that country.

(e) PERMANENT NORMAL TRADE RELATIONS FOR TAJIKISTAN.—

(1) PRESIDENTIAL DETERMINATION AND EXTENSION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(A) determine that such title should no longer apply to Tajikistan; and

(B) after making a determination under subparagraph (A) with respect to Tajikistan, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(2) TERMINATION OF APPLICATION OF TITLE IV.—On or after the effective date of the extension under paragraph (1)(B) of nondiscriminatory treatment to the products of Tajikistan included under paragraph (1)(B), title IV of the Trade Act of 1974 shall cease to apply to that country.

(f) PERMANENT NORMAL TRADE RELATIONS FOR UZBEKISTAN.—

(1) PRESIDENTIAL DETERMINATION AND EXTENSION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(A) determine that such title should no longer apply to Uzbekistan; and

(B) after making a determination under subparagraph (A) with respect to Uzbekistan, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(2) TERMINATION OF APPLICATION OF TITLE IV.—On or after the effective date of the extension under paragraph (1)(B) of nondiscriminatory treatment to the products of Uzbekistan included under paragraph (1)(B), title IV of the Trade Act of 1974 shall cease to apply to that country.

(g) PERMANENT NORMAL TRADE RELATIONS FOR ARMENIA.—

(1) PRESIDENTIAL DETERMINATION AND EXTENSION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(A) determine that such title should no longer apply to Armenia; and

(B) after making a determination under subparagraph (A) with respect to Armenia, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(2) TERMINATION OF APPLICATION OF TITLE IV.—On or after the effective date of the extensions under paragraph (1)(B) of nondiscriminatory treatment to the products of Armenia included under paragraph (1)(B), title IV of the Trade Act of 1974 shall cease to apply to that country.

(h) PERMANENT NORMAL TRADE RELATIONS FOR AZERBAIJAN.—

(1) PRESIDENTIAL DETERMINATION AND EXTENSION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(A) determine that such title should no longer apply to Azerbaijan; and

(B) after making a determination under paragraph (1) with respect to Azerbaijan, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(2) TERMINATION OF APPLICATION OF TITLE IV.—On or after the effective date of the extensions under paragraph (1)(B) of nondiscriminatory treatment to the products of Azerbaijan included under paragraph (1)(B), title IV of the Trade Act of 1974 shall cease to apply to that country.

(i) PERMANENT NORMAL TRADE RELATIONS FOR TURKMENISTAN.—

(1) PRESIDENTIAL DETERMINATION AND EXTENSION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(A) determine that such title should no longer apply to Turkmenistan; and

(B) after making a determination under subparagraph (A) with respect Turkmenistan, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(2) TERMINATION OF APPLICATION OF TITLE IV.—On or after the effective date of the extensions under paragraph (1)(B) of nondiscriminatory treatment to the products of Turkmenistan included under paragraph (1)(B), title IV of the Trade Act of 1974 shall cease to apply to that country.

Mr. BROWNBACK. Mr. President, I thank my colleagues and I thank the chairman of the Finance Committee and the ranking member for the consideration of this amendment.

This amendment is particularly important in light of what has taken place recently in this country and around the world. The attack on September 11 has been an issue that is front and center of our minds since that date.

I came from a secure briefing where we were talking about what was known prior to that time period. This week, the President of the United States heads to Russia to work with the Russians on several issues. One is reduction of nuclear weaponry.

A two thirds reduction of missiles announced last week was an incredible reduction of nuclear missile material and nuclear missile capacity. There are United States troops in regions of the former Soviet Union that prior to September 11 we probably would not have dreamed of having present, in places such as Uzbekistan, Kazakhstan, and Georgia. the United States has troops there, training or on missions, dealing with the war on terrorism.

We have had a great deal of cooperation from these countries in the war on terrorism. It is an important point. It is an incredible point of safety for our people in the United States, and it is an incredible moment for the United States and the world that are seeing taking place post-cold war when you consider where we are with Russia. Even last week in the NATO meeting, Russia said, OK, we will come closer to joining in with NATO. This is something that 5 years ago could not have even been contemplated. Yet we are seeing that growing closeness taking place between the United States and Russia. We see a growing cooperation on terrorism taking place there and in central Asia. We are seeing the United States troops in this region.

We need to reduce our dependence on Middle East oil. A key part of that is what is taking place in Russia and central Asia.

Our Nation was brutally and callously attacked September 11, 2001. We continue to mobilize with diplomatic and military action abroad, as well as bolstering defenses at home. We are facing a sustained war effort against international terrorism and a sustained readiness at home not seen since World War II. Let there be no doubt those individuals and organizations responsible for terrorism against the

United States will be found and brought to justice and America's shores will be safe again.

As America continues to mobilize military, intelligence, and law enforcement assets to confront our enemy, there is one asset we have yet to mobilize which can be just as valuable as a bomb or a bullet. I believe that is trade. Trade with America can be an effective catalyst for the long-term viability of the institutions of democracy, the economic strength that bolsters them and our friends abroad.

Economic prosperity, civil rights, and liberties are an extension of the democratic society, which, in turn, ameliorate internal strife and dissatisfaction that can lead to extremism, evil, and terror.

By reaching out to our friends and struggling nations, by opening our markets to their products and vice versa, we can deploy the entrepreneurship of America as a weapon to help solidify the foundations of democracy, civil liberty, human right and economic prosperity abroad.

As we continue to debate trade promotion authority, it is also important we take this opportunity and ensure the nations seeking the benefits of increased and improved economic relations with the United States also benefit from certainty in their trading relationship with us; certainty that we will remain committed to their continued development, and certainty that, while the path of democratic and market reforms will not always be smooth, our commitment to their efforts will remain unwavering.

Today I offer an amendment that would make such a clear, strong, and principled statement. My amendment would extend permanent normal trade relations to Russia and the nations of Central Asia and the South Caucasus: Kazakhstan, Tajikistan, Uzbekistan, Turkmenistan, Armenia, and Azerbaijan, which will join Georgia and Kyrgystan in this regard.

Title IV of the Trade Act of 1974, the Jackson-Vanik provision, denies unconditional normal trade relations to certain countries, Russia and the former Soviet Republics in particular, that had non-market economies and that restricted immigration rights. Given the importance of strengthening our economic relationships, and encouraging continued democratic and market reforms, I believe that now is the time to permanently waive Jackson-Vanik for Russia and all of the nations of Central Asia and the South Caucasus.

Unfortunately, not everyone agrees.

Currently, the United States and Russia are engaged in a poultry trade dispute. Earlier this year Russia implemented a comprehensive ban on U.S. poultry imports, apparently in an effort to protect its developing domestic poultry industry. Some are concerned that Russia is contemplating similar actions on other products.

Russia should have strong domestic industries. However, we have learned the hard lesson throughout the first half of the twentieth century that nations cannot build lasting economic strength through protectionism. I am pleased to have signed letters along with many of my colleagues in support of the U.S. poultry industry on this issue. The statement inherent in those letters is that nations cannot make unilateral, anti-trade decisions as if they operate in a vacuum.

Unilateralism, or more specifically bypassing unilateralism in favor of open markets and cooperation, is the very reason that we are debating trade promotion authority today. Theoretically we have come to recognize that open markets, not protectionism, best serves the common good. Even though, in practice, our debate over trade promotion authority demonstrates even an American interest in at least some forms of protectionism, I hope that my colleagues who have also opposed Russia's actions on poultry keep these important principles in mind as we finish our debate on trade promotion authority.

Some are also concerned that Russia, Central Asia, and the South Caucasus are not yet ready to graduate from Jackson-Vanik. Jackson-Vanik was intended to ensure that Soviet Jews could freely emigrate, but has also come to symbolize human rights more generally. The process of graduation from Jackson-Vanik has come to include several steps that nations operating under Jackson-Vanik must take to protect human rights, religious freedom, and equality for ethnic and religious minority groups. Jackson-Vanik graduation also includes the return of communal property confiscated from national and religious minorities during the Soviet period, which is intended to facilitate the reemergence of those communities in the national life of each such country, as well as the establishment of a legal framework for the completion of this process in the future. Finally, graduation has come to require an exchange of letters between nations under Jackson-Vanik and U.S. representatives at the most senior levels, which underscore the importance of human rights and religious freedom.

I have worked closely with organizations such as the National Council on Soviet Jewry, B'nai B'rith, and others, organizations I have the utmost respect for, to help bring this region into the Western community. I believe these important steps towards supporting human rights and religious freedom should be pursued by all nations, and I will continue to work towards that end. Progress has been made in the nations we are discussing here today.

In February of this year, Assistant Secretary of State Beth Jones secured the commitment from Uzbek President Islam Karimov that his government would allow the International Committee of the Red Cross, ICRC, to view the conditions of detainees. This is an important step that will allow the international community to identify potential human rights violations.

In Kazakhstan prison conditions are harsh, however, the Government is taking an active role in efforts to improve prison conditions and the treatment of prisoners, and observers have noted significant improvements in prison conditions.

In Azerbaijan, though the Government largely controls radio and television, the primary source of information for most of the population, the Government took significant steps towards improving the media. These steps include the announcement that five private television stations would be granted long sought-after operating licenses by the frequencies committee.

In Armenia, prison conditions are Spartan and medical treatment is inadequate, however, according to domestic human rights organizations, conditions continue to improve.

I do not rise today in support of permanent normal trade relations with Central Asia and the South Caucasus because they are perfect—far from it. I do so because they continue to demonstrate a commitment to improving human rights and religious freedom, and the extension of permanent normal trade relations will only create an impetus for further reforms through increased economic and political association with the United States. By continuing to grow our relations with these countries, together we are going to improve their human rights and religious freedom conditions.

For years Congress went through the process of debating the merits of extending normal trade relations to the Peoples Republic of China, and just last year the Congress approved China's accession to the World trade Organization. Trade with China has always been conditioned on the premise that increasing trade with China would increase China's contact and acceptance of the values, liberties, and fundamental beliefs that make our nation great. I do not believe anyone in the Senate is prepared to suggest China has a commendable record on human rights. Certainly not this Member, particularly in view of what is taking place even today in their dealing with the North Koreans entering China, to be forced back, sometimes with bounties. If trade can achieve these goals in regard to China, the positive impact of trade on Russia, Central Asia, and the South Caucasus is no less than a foregone conclusion. If a trading relationship with China will improve their human rights record, the same will hold true for Central Asia, the South Caucasus, and Russia as well.

In addition to improvements over human rights and religious freedom, we must also be mindful of the remarkable developments that have taken place in this region of the world since September 11.

This week President Bush travels to Moscow and will sign an historic agreement between our nations to eliminate

two thirds of our nuclear weapons stockpiles. Five years ago that would have been world news for a month. Today it is hardly passing news for a day. Just last week the North Atlantic Treaty Alliance and Russia announced the formation of the NATO-Russia council, a decision-making body to counter terrorism and other security threats to our common interests.

Think, where would we be today if we didn't have the bases and the operations that took place out of Uzbekistan, Kazakhstan, bases to be able to land in Azerbaijan, troops right now working on counterterrorism in Georgia?

Today in Central Asia and the South Caucasus, multiple nations are seeking to embrace democracy, make market reforms, and build a closer relationship with the United States. Our friends in this region have been instrumental in our ability to bring the war effort directly to enemy al-Queda forces in Afghanistan. These nations represent immediate targets for increased economic ties with the U.S., and are representative of the types of nations that must have strong economic ties to the U.S. to help address internal difficulties. Plus, if they are not building ties with the U.S. they will be building them with nations in the region, some much less friendly towards the U.S., some of which have significant internal militant Islamic forces that want to move forward in these countries today. Clearly, we don't want that to take place.

In light of these crucial developments, I continue to believe that now is the right time to send the strong message to Russia, Central Asia, and the South Caucasus that they are on the right path, that we recognize the importance of the steps they have taken, and we are committed to continue working with them to strengthen democracy within their borders and open their markets to the world around them. I continue to feel that extending permanent normal trade relations with these important nations is the right way to make such a statement, and it is in the best interests of the United States that we do so now.

Permanently waiving Jackson-Vanik for these important allies would cost us nothing. Yet we have much to gain from the certainty created in our economic relationship with these nations to permanent normal trade status. Particularly, if we can do this with China, given their human rights record, we can do that in this region. Russia itself owns immense fossil fuel reserves which could reduce our reliance on oil from the volatile Middle East. Kazakhstan, Turkmenistan, Uzbekistan, and Azerbaijan are also valuable sources of oil. Kyrgyzstan has made impressive progress in making market reforms since its days as a Soviet Republic, which can provide fertile ground for American investment. Georgia is making significant progress towards market reforms as well.

It is also the case that several of these Central Asian and south Caucasus nations are suffering from internal strife caused by corruption and extremist Islamic fundamentalists. Kyrgyzstan's and Uzbekistan's Governments are currently targets of the terrorist organization, Islamic Movement of Uzbekistan, which seeks to create Islamic states in the region. Tajikistan is especially vulnerable in this regard as the flow of narcotics and refugees from Afghanistan, its neighbor to the south, have weakened that nation.

These nations are in dire need of American influence. They need access to our markets, as well as investment from American industry. By providing them with permanent normal trade relations, we will send a clear signal that the United States is prepared to engage this region permanently through trade and help bolster the democratic, market-opening reforms that are currently underway.

As strong as I believe that on balance extended permanent normal trade relations to these nations is the right thing to do today, I again recognize the difference of opinion held by some of my colleagues. It seems clear to me that however appropriate such action might be, permanent normal trade status will not be approved by this Senate today. Senator GRASSLEY has filed a second-degree amendment to mine, which expresses the sense of the Senate supporting the President's trip to Russia to meet with President Putin and deepen the friendship between our nations. I certainly thank Senator GRASSLEY for offering this amendment, and I endorse it.

I suggest, however, that some additions might be made to this sense of the Senate, if possible. I think it is fully appropriate, as well as consistent with the provision, that we include language recognizing the considerable efforts the nations of central Asia and the south Caucasus have made in assisting our antiterrorism efforts. I remind my colleagues that we have troops based in some of these nations.

Finally, I also encourage my colleagues to support including language supporting the extension of permanent normal trade relations to our friends at the appropriate time.

I think this is an important and significant geopolitical issue for the United States. This goes beyond trade. It is an important trade issue, but it is important geopolitically for us to do this.

While I recognize the votes are not here today, I hope in the near future the votes will be there for us to extend PNTR to the countries which I have identified. They are on the front lines of our war on terrorism. They will be countries that will fight terrorism internally, and they will increasingly do so in the future. If the United States is not dramatically engaged in this region, you can pay me now or pay me later. They are going to be involved in this fight, and we are going to have more difficulty doing it in the future if we don't engage these nations now. Their populations are hungry for us to say: Yes, the United States wants to help. Work with us. Work with us in a positive way so we can have jobs and some opportunities and not be pulled by a militant Islamic group that says: Look, the West doesn't care for you. The West is opposed to you. The West doesn't like you. They do not believe in you.

We shouldn't be saying that. We should be engaging them as rapidly as we possibly can. Certainly, in the case of the former Soviet Union, we would be welcoming them with open arms as fast as we possibly could. They have already taken action. Do not quibble about that. Instead, let us engage these countries that seek our engagement, and let us do it in a constructive manner so we can help them. We will be helping ourselves as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 3474, AS MODIFIED, TO AMENDMENT NO. 3446

Mr. GRASSLEY. Mr. President, I would like to offer a second-degree amendment to Senator BROWNBACK's amendment. I send a modified amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 3474, as modified, to amendment No. 3446.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING THE UNITED STATES-RUSSIAN FEDERATION SUMMIT MEETING, MAY 2002.

(a) FINDINGS.—The Senate finds that—

(1) President George W. Bush will visit the Russian Federation May 23-25, 2002, to meet with his Russian counterpart, President Vladimir V. Putin;

(2) the President and President Putin, and the United States and Russian governments, continue to cooperate closely in the fight against international terrorism;

(3) the President seeks Russian cooperation in containing the war-making capabilities of Iraq, including that country's ongoing program to develop and deploy weapons of mass destruction;

(4) during his visit, the President expects to sign a treaty to significantly reduce American and Russian stockpiles of nuclear weapons by 2012;

(5) the President and his NATO partners have further institutionalized United States-Russian security cooperation through establishment of the NATO-Russia Permanent Joint Council, which meets for the first time on May 28, 2002, in Rome, Italy;

(6) during his visit, the President will continue to address religious freedom and human rights concerns through open and

candid discussions with President Putin, with leading Russian activists, and with representatives of Russia's revitalized and diverse Jewish community; and

(7) recognizing Russia's progress on religious freedom and a broad range of other mechanisms to address remaining concerns, the President has asked the Congress to terminate application to Russian of title IV of the Trade Act of 1974 (commonly known as the ''Jackson-Vanik Amendment'') and authorize the extension of normal trade relations to the products of Russia.

(b) SENSE OF THE SENATE.—The Senate—

(1) supports the President's efforts to deepen the friendship between the American and Russian peoples;

(2) further supports the policy objectives of the President mentioned in this section with respect to the Russian Federation;

(3) supports terminating the application of title IV of the Trade Act of 1974 to Russia in an appropriate and timely manner; and

(4) looks forward to learning the results of the President's discussions with President Putin and other representatives of the Russian government and Russian society.

Mr. GRASSLEY. Mr. President, before I talk about my approach and my feelings on this whole issue of our relationship with the former Soviet Union countries, I commend Senator BROWNBACK for the very thoughtful approach that he has on these issues, and the attention he has given this foreign policy consideration, as well as foreign trade-connected issues of the former Soviet Union.

I understand his interest in seeing normal trade relations extended to Russia, central Asia, and the south Caucasus.

The Democracy and Freedom Through Trade Act introduced today may be an appropriate vehicle to do just that. I certainly think this issue deserves a hearing. But I am not sure it is appropriate for this bill. Instead, I offer this sense-of-the-Senate amendment on the upcoming U.S.-Russian Federation Summit. It expresses a sense of the Senate in support of our President's efforts to strengthen our relations with Russia. The amendment itself seeks to build upon that relationship by expressing the Senate's support for restoring permanent normal trade relations with Russia.

Given the upcoming meeting between President Bush and Russian President Vladimir Putin, this resolution is a timely opportunity for the Senate to express its support for recent developments between our two countries, and also to express encouragement for these two Presidents when they meet later this week.

Since September 11, a new partnership has grown between the United States and Russia as a result of our close cooperation and common efforts in the fight against international terrorism.

This enhanced relationship recently produced a new strategic framework between Russia and the United States to significantly reduce stockpiles of nuclear weapons by the year 2012.

In addition, the United States and Russia, along with our NATO partners, have further institutionalized the U.S.-Russian security cooperation through the establishment of the NATO-Russia Permanent Joint Council. That Council meets for the first time May 28 of this year in Rome. It is clear that historic progress is being made between the United States and Russia, and that even more forward movement would be beneficial for both countries. I hope that movement continues.

I am not oblivious to the fact that there have been decades of tension between our countries. And I don't think we can be so naive as to think that there are not problems down the road. But it surely is important, particularly when there are opportunities such as the last few months to grow our relationship based upon those opportunities. Since there is this opportunity for benefit to both countries, I believe the time has come for Congress to seriously consider the elimination of Jackson-Vanik requirements with regard to Russia, and, thus, begin debate on the extension of normal trade relations.

President Bush has recently asked Congress to restore permanent normal trade relation status for Russia based on this policy of free and unfettered immigration. However, there are important issues that must be addressed during this discussion that go beyond just the issue of the Helsinki accords as it dealt with the subject of immigration. For example, there are some outstanding trade issues that need to be addressed. Among these are recent problems dealing with the U.S. poultry exports to Russia.

We also need to see greater progress on religious freedom and human rights, and the concerns of many people within Russia and also people outside of Russia who have concerns that Russia have more religious freedom.

I am pleased that President Bush has stated his commitment to work with Russia to help freedom and tolerance become fully protected in Russian law and Russian life.

President Bush has also stated his commitment to work with Russia to advance free immigration, safeguard religious liberty, and enforce legal protections for ethnic and religious minorities. I am surely hopeful that President Bush will further address these concerns openly and candidly in his discussions with President Putin during his upcoming visit.

So I believe the best hope for a positive future between our two countries is to develop an understanding of, and appreciation for, each culture, with both personal and business relationships. The development of commerce, international trade, and the sharing of ideas will further advance economic and political stability for both Americans and Russians.

I have said so many times on the floor of the Senate—particularly when trade issues are before this body, and even sometimes when trade issues are not before this body—that we political leaders and diplomats should not be so smug as to think that the only way we are going to have peaceful relations between us—between the United States and some other country—is if political leaders and diplomats do it.

In fact, I have expressed the view that our efforts are kind of a spit in the ocean compared to the efforts that can be made through commerce. That is why I have stated that this trade promotion authority bill is so important to world peace, to the development of relationships, because as we break down the barriers of trade, as we enhance opportunities for commerce, individual businesspeople in one community doing business in another country, and vice versa, we are going to build relationships that will enhance opportunities for peace much greater than what political leaders can do, not denigrating the efforts of political leaders in the process.

This is particularly true as we look forward to doing away with Jackson-Vanik vis-a-vis Russia, as we look forward to Russia coming into the World Trade Organization, very much as we have looked at improving our relationship with China, with China now being a member of the World Trade Organization.

So what the Senator from Kansas is doing may be a small step by political leaders, but it is an important small step. I just think his doing it on this trade promotion bill is not the ideal place to do it. So that is why I have offered this second-degree amendment.

I encourage my colleagues to support this resolution which, in turn, supports President Bush's policy objectives with respect to the Russian Federation and calls for the termination, in an appropriate and timely manner, of the application of Jackson-Vanik provisions to Russia.

When it comes to the issue of this substitute that is before us, I hope we can get it adopted in a consensus way because this is one opportunity for us to show support for the President. Whether we are Republicans or Democrats, we have to admit that when it comes to enhancing our relationships with Russia, it has to be done through our head of state, through our chief diplomat, our Chief Executive, the President of the United States.

We should do everything we can to support the President at the time of his trip to Europe, to Moscow and St. Petersburg to further refine our relationships with the President of the Russian Federation and, in turn, with the Russian people.

I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DAYTON). Without objection, it is so ordered.

Mr. REID. Mr. President, the majority leader has asked me to announce there will be no more rollcall votes tonight. The managers may have some other business to do. But basically this is the end of rollcall votes for tonight.

Mr. President, I ask unanimous consent—I have cleared this on the other side—the pending amendment be set aside temporarily to offer an amendment. I have cleared this with Senator GRAMM.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3521 TO AMENDMENT NO. 3401

Mr. REID. Mr. President, I send an amendment to the desk. This would be the Democrats' next in order.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. JEFFORDS, proposes an amendment numbered 3521 to amendment No. 3401.

Mr. REID. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To authorize appropriations for certain staff of the United States Customs Service)

At the end of the title relating to Customs Reauthorization, insert the following:

SEC. ___. AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS STAFFING.

There are authorized to be appropriated to the Department of Treasury such sums as may be necessary to provide an increase in the annual rate of basic pay—

(1) for all journeyman Customs inspectors and Canine Enforcement Officers who have completed at least one year's service and are receiving an annual rate of basic pay for positions at GS–9 of the General Schedule under section 5332 of title 5, United States Code, from the annual rate of basic pay payable for positions at GS–9 of the General Schedule under section 5332, to an annual rate of basic pay payable for positions at GS–11 of the General Schedule under such section 5332; and

(2) for the support staff associated with the personnel described in subparagraph (A), at the appropriate GS level of the General Schedule under such section 5332.

The PRESIDING OFFICER. The Senator from Nevada.

CLOTURE MOTION

Mr. REID. Mr. 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 assistant 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 Calendar No. 295, H.R. 3009, the Andean Trade Preference Act.

Max Baucus, Zell Miller, Harry Reid, Tom Carper, Joseph Lieberman, Tom Daschle, Jeff Bingaman, Christopher Bond, Larry E. Craig, Gordon Smith of Oregon, Chuck Grassley, Orrin Hatch, Pete Domenici, Pat Roberts, Chuck Hagel, and Robert F. Bennett.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DEATH OF SGT. GENE VANCE IN AFGHANISTAN

Mr. ROCKEFELLER. Mr. President, we received confirmation yesterday that Sergeant Gene Vance of Morgantown, West Virginia, was killed on Sunday in an exchange of gunfire near the village of Shkin, near Afghanistan's border with Pakistan. Sergeant Vance was a member of the 19th Special Forces Group of the West Virginia National Guard. His unit was patrolling southeastern Afghanistan in an effort to locate and eliminate any pockets of al Qa'eda and Taliban resistance. Sergeant Vance was the first American killed in combat in Afghanistan since March.

On behalf of all the Member of the Senate—I believe I can so speak—I want to express to Sergeant Vance's wife, Lisa, and daughter, Amber, our deepest sympathy at their loss and ours.

I extend those condolences to other members of Sergeant Vance's family who must be going through the kind of grief to which some people have become accustomed, but not many.

He was a member of the West Virginia National Guard. I had the honor to be Governor of West Virginia for 8 years. I know it just so happens that the West Virginia National Guard has top rankings all across the country in all respects—professionally audited, so to speak. There is no stronger embodiment of the patriotism that runs so deep in the mountains of my State of West Virginia.

America's early success in the war in Afghanistan, and in driving the Taliban from power, has created for many Americans the illusion that things have returned to normal. A few more metal detectors, a few more security guards, a longer line to board airplanes, but otherwise life seems to be getting back to the way it was before September 11. That is foolhardy thinking.

Sergeant Vance knew it, and he was doing his duty. The Vice President asserted, I think correctly, that there will be more attacks, that we are foolish if we are not prepared, if we are not mindful of this fact.

But if we Americans are managing to live our daily lives without fear, that may bring us some comfort, but it is entirely due to the courageous efforts being made by men such as Sergeant Vance and women in uniform in Afghanistan and elsewhere. Their efforts are not always the lead stories anymore, but they are taking the time to do the job right—eliminating the terrorists who perpetrated the attacks on this country on September 11.

In an era, as they say, of asymmetric threats, when small groups can develop weapons of mass destruction—and now we are looking at the probability of suicide bombers—and a group of 19 fanatics can carry out with relative ease an attack of unprecedented devastation on American soil, it is clear that our security will not be assured until we eliminate—not defeat but eliminate—the terrorists who are committed to hurting us.

Our forces in Afghanistan continue to perform a vital national task, and we had all darn well better recognize that. The death of Sergeant Vance is a reminder that they continue to put themselves at considerable risk, in unbelievably hostile territory, and often in a hostile society.

I do not know what it is that makes fine Americans feel so deeply the love of their country that they are prepared to risk their life for it. I want to say that I know what it is. But I think it is a mystery that all of us revere, and it is within the soul and the heart of each individual person who goes over to fight and to defend our way of life. In other words, we can never know that entirely. But we can know, and what we must never forget, is that we Americans, who enjoy the freedoms and comforts our society provides, only do so because men such as Sergeant Vance are willing to do what they did: Engage in firefight and lose their life.

So we mourn the death of Sergeant Vance in Afghanistan, and we are reminded yet again that America's strength is built on the individual decisions of hundreds of thousands of people who make those decisions in their own individual ways. Sometimes, of course, they cannot foresee what will happen. They sign up. They go. They cannot foresee what is going to happen. Sometimes what happens brings great sadness to many people.

To Sergeant Vance's wife and daughter, as you grieve, let your sense of loss be joined by the knowledge that Gene Vance died for a just and noble cause. He was prepared to put himself on the line for America, for Americans, and for the society that he wanted you, Lisa, and you, Amber, to be able to live in, in peace.

I thank the Presiding Officer and yield the floor.

REPORT TO THE NATION ON CANCER

Mrs. FEINSTEIN. Mr. President, this past February Senator GORDON SMITH and I introduced the National Cancer Act of 2002 with a bipartisan group of 28 cosponsors. This comprehensive bill, based largely on the recommendations of an advisory committee of cancer experts, is meant to update and reinvigorate the nation's war on cancer; a war President Nixon launched in 1971.

The need for our bill is greater and more urgent than ever before. Last week, the American Cancer Society, the National Cancer Institute, the North American Association of Central Cancer Registries, the Centers for Disease Control and Prevention, and the National Institute on Aging collectively released their joint Annual Report to the Nation on the Status of Cancer, 1973–1999.

The bottom line is that cancer death rates are declining—that's the good news. People are living longer with cancer; we are increasing the ranks of ''cancer survivors.'' In 1997, we had approximately 8.9 million cancer survivors. This number continues to increase. But the incidence of cancer is increasing. That is the bad news. As our population ages, more and more people are being diagnosed with the disease. Researchers suggest that if this pattern continues, by the year 2050 there could be twice as many people being diagnosed with cancer each year as there are now. This year, about 1.3 million people will be diagnosed with cancer. By 2050, this number could reach 2.6 million.

That is why I introduced the National Cancer Act of 2002. It is a new battle plan for conquering cancer. My legislation focuses on finding better treatments and a cure for cancer by investing more funding in cancer research and clinical trials, and ensuring access to early detection and prevention measures. The challenges are plenty. But I believe, now more than ever, that a cure is within our reach.

This report being released today represents the fifth report of its kind, but it is the first report issued that documents a decline in cancer death rates. This is good news. While routine screening has improved the prognosis for cancer patients, and more people are getting screened, cancer still occurs disproportionately among older persons. As baby boomers age, the incidence of cancer will undoubtedly increase among this population. This population presents us with certain challenges and an increased burden on the system. More people will require cancer treatment, supportive and palliative care, home health services, general medical attention, and nursing services.

Finding cures and better treatments for cancers will demand more attention to be placed on the biology of older persons. For example, older persons are less likely to be enrolled in a clinical trial. There is also limited knowledge of drug interactions. Will a person's cancer medication interact with that person's heart medication? These are just a few of the challenges. Finding a cure is within our reach. We must continue to focus funding on this goal. At the same time, there is an increased need for developing new strategies for prevention and early detection, looking in particular at age-specific interventions.

For 8 years I have co-chaired the Senate Cancer Coalition. We have held eight hearings on cancer. With each hearing, I become more and more convinced that with adequate resources we can find a cure. Polls by Research America show that the public wants their tax dollars spent on medical research. In fact, people will pay more in taxes for more medical research.

Cancer affects everyone. Everyone knows someone who has had cancer or will have cancer. I am thoroughly convinced that if we just marshal the resources, we can conquer cancer in the 21st century. The report released today is a clarion call for making the effort.

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 last 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 July 14, 1991 in Eugene, OR. A gay man was attacked outside a bar by two people using offensive language about his sexual orientation. Pamela Joanne Richardson, 28, and Michael James Hughes, 21, were arrested in connection with the incident.

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 and changing current law, we can change hearts and minds as well.

FOREIGN AFFAIRS DAY 2002

Mr. AKAKA. Mr. President, on May 10, 2002, our Nation celebrated Foreign Affairs Day, which honors the dedication and accomplishments of the men and women in the Foreign Service, the Civil Service, and as Foreign Service Nationals. It is also a day to remember those who have died in the line of duty.

We know that international problems can quickly become problems at home. American diplomats and their staff are on the front lines addressing these problems before they reach our shores, and these Federal employees are just as critical to our national security as modern weaponry and soldiers. Just as members of our armed services risk their lives everyday in defense of freedom, civilians in the Federal foreign affairs workforce stand with the military on the front lines of the war on terrorism.

Those in the Civil Service and Foreign Service have protected America's interests overseas and the freedoms we enjoy at home since the earliest years of our Republic. Many have worked in perilous environments. The first to die was a diplomat in 1780, traveling to his duty post.

The attacks on Civil Service and Foreign Service personnel have risen in recent years. This month, 13 new names were added to the American Foreign Service Association Memorial honoring Foreign Service, Civil Service, and Foreign Service National employees who lost their lives in the line of duty or under heroic or inspirational circumstances. Among those heroes is a U.S. embassy employee who was killed with her daughter this year in a terrorist bombing during church services in Pakistan. As of today, a total of 209 men and women have lost their lives serving the United States as employees of the Civil Service and the Foreign Service.

Although not a member of the Foreign Service, a civilian Central Intelligence Agency case officer was among the first Americans to lose his life in Afghanistan in our Nation's fight against terrorism since September 11th.

Foreign Affairs Day reminds us all of the heroic dedication and sacrifices from people in the Foreign Service and Civil Service. They serve their country abroad using their talent and skills to defend freedom at home. Their service contributes enormously to our national security. As their personal safety is sacrificed for our freedom, we should always remember that they are the first line of defense in protecting the light of freedom which shines from America.

CELEBRATION OF EAST TIMOR'S INDEPENDENCE

Mr. REED. Mr. President, I rise to recognize the new nation of East Timor.

I want to congratulate and honor the people of East Timor for their perseverance and triumph of freedom in the face of tremendous odds. However, while we celebrate this victory we also must remember the long and arduous road by which they arrived here and recognize the challenging road which lies ahead. East Timor's road to independence—achieved on May 20, 2002—has been marked by years of suffering. Indonesia invaded East Timor shortly after Portugal withdrew in 1975 and forcefully tried to subdue a resentful people. Many suffered and died during Indonesia's 25-year occupation which ended in 1999.

Indonesia finally agreed 2 years ago to a referendum on independence for the East Timorese people. When the

referendum showed overwhelming support for independence, Indonesian loyalists murdered hundreds and reduced towns to ruins.

An international peacekeeping force halted the mayhem and paved the way for the United Nations to help East Timor back onto its feet. With U.N. assistance, the East Timorese have been rebuilding their nation. They have held their first democratic election, drafted and adopted their country's first constitution, and adopted their national flag and national anthem. On May 20, 2002, the United Nations handed over the reins to the newly established democratic government, and East Timor stands on its feet as the first new, free nation of the millennium.

Although the rebuilding of East Timor has been one of the U.N.'s more successful stories, East Timor is expected to remain reliant on outside help for many years since its poor infrastructure has been destroyed and it is drought-prone. According to a recent report, 41 percent of East Timorese live in poverty and 48 percent are illiterate. East Timor also faces the challenge of repatriating a large refugee population—approximately 55,000 East Timorese refugees continue to live in deplorable conditions in an environment of intimidation in Indonesia.

With this situation in mind, the world community's support for East Timor's future is critical over the next several years. The U.S. should work with the U.N. and its members to make sure the job of preparing East Timor for self-rule is completed. The U.S. and the world should ensure that children receive a quality education, adequate healthcare and shelter, and that other needs for a decent standard of living are met. This is especially crucial in light of the recently released UNDP report that classified East Timor as one of the 20 poorest countries in the world and the poorest in Asia.

It is equally important though, for East Timor to focus on the future. Now that the East Timorese people have their own independent nation they will need peaceful and constructive relations with their neighbor Indonesia and the international family of peaceful nations. I wish their new president, Mr. Xanana Gusmao, well as he continues to advocate a policy of reconciliation with Indonesia. He has said that his country must move on from the past and focus on issues such as education and healthcare.

Mr. Gusmao's vision and the will of the East Timorese people provide great hope and potential for East Timor as it faces these challenges. And as they do, let them know that the U.S. and other free, democratic nations will continue to offer our friendship and steadfast support.

So it is with great pride and honor that I recognize the dogged determination and perseverance of the East Timorese people, congratulate them on the birth of their free and democratic nation—the first new nation of this new millennium, and welcome them into the family of peaceful nations.

WARTIME VIOLATION OF ITALIAN AMERICAN CIVIL LIBERTIES ACT

Mr. TORRICELLI. Mr. President, on October 19, 2000, more than 50 years after the end of World War II, Congress passed the Wartime Violation of Italian American Civil Liberties Act. I am pleased to have been the Senate sponsor of that bill which directed the U.S. Department of Justice to study the treatment of Italian-Americans at the hand of the Federal Government during the War and to deliver a report on its findings to the Congress.

This report has now been completed. The 42-page report, prepared by the Department's Civil Rights Division concludes: ''After the December 7, 1941 attack on Pearl Harbor, citizens and aliens of Italian-American descent were subjected to restrictions, including curfews, searches, confiscations of property, the loss of livelihood, and internment.'' While the report can obviously not undo the injustices suffered by Italian Americans in the past, it is important that mistakes of the past be understood and acknowledged so that they are not repeated. This report will finally shine light on a largely unknown era of this nation's history—the injustices perpetrated by our government against thousands of Americans of Italian descent during the war.

While most Americans are aware of the mass evacuation and internment of Americans of Japanese descent shortly after the bombing of Pearl Harbor on 1941, very few are aware that because the United States was also at war with Mussolini's Italy, approximately 250 Americans of Italian descent were arrested and detained in internment camps throughout the United States. Like Japanese Americans, the internees were not informed of the charges against them or provided legal counsel, and the vast majority were arrested and detained without any evidence that they had done anything wrong. Their only crime was their Italian heritage or their involvement in Italian organizations.

By early 1942, all Italian immigrants, estimated to be approximately 600,000 people, were labeled ''enemy aliens'' and were forced to register at local post offices around the country. They were fingerprinted, photographed and required to carry photo-bearing ''enemy alien registration cards'' at all times. Their travel was restricted to no further than five miles from their home and any ''signaling devices''—cameras, shortwave radios, flashlights—or weapons were considered contraband and had to be turned in to authorities or were confiscated.

Italian Americans living on the West coast were subject to a curfew from 8:00 p.m. to 6:00 a.m. and some were forced to evacuate areas the military deemed sensitive military zones, leaving their homes and jobs behind. Ironically, in areas where Italian Americans were the majority population, these restrictions caused serious employment and food-supply problems at a time when all human and food resources were needed for the war effort.

The injustices suffered by Italian Americans during the war touched all socioeconomic classes. The parents of baseball legend Joe DiMaggio were forbidden to go any further than five miles from their home without a permit. Enrico Fermi, a leading Italian physicist who was instrumental in America's development of the atomic bomb, could not travel freely along the East Coast. The most disturbing irony was that at the time these injustices were being perpetrated, Italian Americans were the largest immigrant group in the United States Armed Forces and were fighting abroad to defend this country.

Twelve years ago, Congress passed the Civil Liberties Act of 1988 and rightfully admitted and apologized for the atrocities committed against American citizens and immigrants of Japanese ancestry during World War II. With the passage of the Wartime Violation of Italian American Civil Liberties Act, the truth has now been told about the mistreatment of Americans of Italian descent during the war. This should not only be important to the Italian-Americans whose rights were violated and unjustly disrupted during the war but to every American who values our Constitutional freedoms. By increasing our Nation's awareness of these tragic events, we ensure that such discrimination will never happen again in this country.

NOTICES OF INTENTION

Mr. HOLLINGS. Mr. President, in accordance with rule V of the standing rules of the Senate, I hereby give notice of my intention to suspend rule 22 paragraph (2) for the purposes of offering amendment No. 3465.

In accordance with rule V of the standing rules of the Senate, I hereby give notice of my intention to suspend rule 22 paragraph (2) for the purposes of offering amendment No. 3463.

ADDITIONAL STATEMENTS

JOSEPH LIMPRECHT, U.S. AMBASSADOR TO THE REPUBLIC OF ALBANIA

• Mr. HAGEL. Mr. President, I rise today to offer my thanks, the thanks of the U.S. Senate, and the thanks of the American people, to a dedicated public servant, Ambassador Joe Limprecht.

Ambassador Limprecht served as America's representative to Albania from 1999 until his death last week. At a challenging time in history, he was on the front lines of U.S. international outreach. He died while serving our Nation.

Joe Limprecht brought a strong Nebraska common sense and perspective to the daunting challenges facing our Ambassador in Albania. Joe was a fifth-generation Nebraskan. His wife, Nancy is also a native-born Nebraskan.

In 1964, Joe graduated from Omaha Westside High School. His wife also attended Westside, where she graduated in 1966. Joe then went on to get his undergraduate degree at the University of Chicago. He received a doctorate in history from Berkeley. During his Foreign Service Career, he also earned a Masters Degree in Public Administration from the Kennedy School at Harvard.

Joe entered the Foreign Service in 1975, but his ties to Nebraska remained strong. He remained a member of the Nebraska Historical Society. I knew his father well. Hollis Limprecht was an institution in Omaha. He worked at the Omaha World Herald for 40 years. For 23 of those years he edited the paper's ''Midlands Magazine.''

Joe took an unusual path up through the ranks of the Foreign Service. From 1985 to 1988, he essentially served as West Berlin's Chief of Police under the Four Powers Agreement. His formal title was the Public Safety Advisor to the U.S. Mission in Berlin. In this role, Joe was involved in law enforcement, intelligence, and national security issues at a level rarely available to members of the Foreign Service.

He followed this posting with another unusual assignment. From 1988 to 1991, Joe was the Counselor for Narcotics Affairs at the U.S. Embassy in Pakistan. This job also required strong problem-solving capabilities and a certain toughness. In recent months, Americans have gained a much greater understanding for the challenges this post had to have presented.

After 1991, Joe's career followed a more traditional route that emphasized his diplomatic and management skills. From 1993 to 1995 he served as Chief of Career Development and Training at the State Department. Prior to becoming Ambassador to Albania, he served as the Deputy Chief of Mission at the U.S. Embassy in Uzbekistan.

Joe Limprecht was the complete foreign service officer. He represented our nation on the front lines, in very difficult international territory. America owes him, and his family, a debt of gratitude for their selfless service.

Joe leaves behind his wife Nancy, and two daughters, Alma Klein and Eleanor Limprecht. But he also leaves behind a record of service that stands as a model to young Americans.

I am proud to say Joe Limprecht was a fellow Nebraskan, a friend, and an outstanding American.●

IN RECOGNITION OF THE RETIREMENT OF WILLIAM S. HARTSOCK

● Mr. LEVIN. Mr. President, I ask that the Senate join me today in commending William S. Hartsock for his 28 years of service on the Farmington City Council. Originally elected to the city council in 1973, Bill has long been known for his diplomacy and commitment to community and his retirement will be celebrated on May 30.

When Bill first ran for City Council in 1971, he had to petition for permission to run because he was under 21, the voting age at the time. Though he lost his first election, he was not deterred and won 2 years later. Since that time, he has devoted countless hours to his community as an elected official, including four terms as Mayor of Farmington.

During his tenure on the City Council, Farmington has faced many of the same challenges which confront small towns and cities across the country. One of the most trying challenges is the emigration of business out of the downtown area to large malls on the fringes of Farmington. Despite this trend, he remains optimistic and has long worked to attract small business to the downtown area and enhance its appearance.

Bill has also invested a tremendous amount of time serving on local and national boards. He has been a board member of the Founders Day Festival, the Botsford Hospital Development Fund, and the Farmington YMCA. He also founded and was past president of the Farmington Area Division for the American Heart Association, and past president of the Farmington Exchange Club, and the Huron River Hunting and Fishing Club.

In these days of power politics, Bill's was concerned solely with what was best for his community. He believed that local government had the greatest impact on peoples everyday lives, and commented ''All local politics are very personal.'' I believe that many of my Senate colleagues would concur with Bill's belief that the most enjoyable part of his job was talking to young people. He loved to travel to local schools and talk to students about government.

Bill has helped guide Farmington for nearly three decades. All of those whom he so faithfully served will miss his integrity and good humor. I know my Senate colleagues will join me in thanking William S. Hartsock for his distinguished career wish him well in the years ahead.●

HONORING THE STUDENTS OF DOBSON HIGH SCHOOL FROM MESA, AZ

● Mr. KYL. Mr. President, earlier this month, more than 1,200 students from across the United States were in Washington, D.C. to compete in the national finals of the ''We the People . . . The Citizen and the Constitution'' program. This program was designed specifically to educate young people about the Constitution and the Bill of Rights, and this year's event was, yet again, testament to its success.

The 3-day national competition is modeled after hearings in the United States Congress. The hearings consist of oral presentations by high school students before a panel of adult judges on constitutional topics. The students' testimony is followed by a period of questioning by the judges who probe their depth of understanding and ability to apply their constitutional knowledge.

I am proud to announce that the class from Dobson High School from Mesa, AZ was selected as the national winner of this year's competition. These young scholars worked diligently to reach the national finals and I commend them on their fine accomplishment. Through their experience, they have gained a deep knowledge and understanding of the fundamental principles and values of our constitutional democracy, and hopefully, they have also helped to encourage other young students around the country to follow in their footsteps.

I would like to take a moment to mention the names of those students who competed for Dobson High: Dean Anderson, Nikki Best, Diana Capozzi, Adam Cronenberg, Adam Ekbom, Ashley Emmons, Tammy Ho, Candice Howden, Chi-Chi Hsieh, Katherine Jennings, Amanda Keim, Brianne Kiley, Jimmy Martinez, Jr., Jordan Pendergrass, Ashley Rogers, Jake Seybert, Hiral Shah, Ashley Wearly, and Jeff Yost. I would also like to acknowledge their teacher, Abby Dupke, the district coordinator, Kathleen Williams, and the state coordinator, Debbie Shayo. Congratulations.

It is inspiring to see these young people advocate the fundamental principles of our government. These are ideas that identify us as a people and bind us together as a nation. It is important for our next generation to understand these values which we hold as standards, especially in our endeavor to preserve the promise of our constitutional democracy.

All of the students who participated in this program worked extremely hard, and they are all to be commended for their research and preparation. I wish all these budding constitutional experts the best of luck in their futures. They represent tomorrow's leaders of our Nation.●

CONGRATULATING THE STUDENTS OF WEST WARWICK SENIOR HIGH SCHOOL

● Mr. REED. Mr. President, I rise in recognition of the students of West Warwick Senior High School for representing the State of Rhode Island in the national competition for the We the People . . . The Citizen and the Constitution program. This year's national competition took place on May 4 to 6, 2002.

The We the People program and the competition is administered by the Center for Civic Education. The competition is modeled after hearings in the U.S. Congress and consists of oral presentations by high school students

before a panel of adult judges on constitutional topics. The students' testimony is followed by a period of questioning by the judges who probe their depth of understanding and ability to apply their constitutional knowledge.

It is inspiring to see these young people advocate the fundamental ideals and principles of our government. These are the ideals that bind us together as a nation. It is important for our next generation to understand these values and principles which we hold as standards in our endeavor to preserve and realize the promise of our constitutional democracy.

On behalf of all Rhode Islanders, I would like to congratulate Najiya Abdul-Hakim, Janice Abueg, Peter Calci III, Kristin Capaldo, Elizabeth Champagne, Tara Cooney, Tara Czop, Paul DiMartino, Thomas Driscoll, Christopher Ellis, Tinisha Goldson, Kenneth Halpern, Sarah Johnson, Alyssa Lavallee, Robert Martin, Michael Muschiano, Lindsay Nagel, Michael Ouellette, Anthony Politelli, Michael Ryan, Kendall Silva, Sarah Smith, Corey St. Sauveur, Kate Studley, Erin Watson, Shane Wilcox, and their teacher Marc Leblanc. I would also like to acknowledge Rhode Island State Coordinator Henry Cote and District Coordinators Carlo Gamba and Michael Trofi for their dedication to this program over the years. These students truly represent the future leaders of our Nation.●

TRIBUTE TO DEPUTY COOPER STEELE

● Mr. BUNNING. Mr. President, I rise today to pay tribute to a true hero; Deputy Cooper Steele of Kenton County, Kentucky. The Northern Kentucky Police Chiefs Association recently recognized Deputy Steele as the 2002 Outstanding Police Officer of the Year for his performance in the line of duty. Today, Court TV in conjunction with the Women's Caucus and several congressional members recognized Deputy Steele and six other heroic individuals around the Nation as a part of Court TV's ''Everyday Heroes'' Initiative. This is certainly a special day for Deputy Steele and the entire Commonwealth of Kentucky.

On November 2, 2001, while on what appeared to be a routine patrol, Deputy Steele observed black smoke coming from an apartment building. Without hesitation or fear, Deputy Steele immediately stopped his patrol car in front of the building and noticed a woman on the third floor desperately screaming for help. Deputy Steele attempted to enter the apartment building but was violently driven back by the thick and suffocating smoke. With complete disregard for his own well-being, Deputy Steele heroically climbed onto a second story balcony and directed the evacuation of the four member family from the third floor balcony by handing them down one-by-one to anther officer and out of harms way. There were many other families still trapped in the burning building, but they refused to attempt a floor-to-floor transfer as the first family had done. Once again demonstrating his selfless and heroic nature, Deputy Steele refused to leave the scene, continuing to place himself in harm's way. He remained with the other tenants advising, encouraging and keeping them calm until the fire department equipment arrived to safely extricate the people from the building.

I am truly honored and humbled to be representing amazing individuals such as Deputy Cooper Steele in the United States Senate. In these trying and turbulent times, men like Deputy Steele should serve as an inspiration to us all. His heroic actions saved lives. His selfless nature shed a ray of light on a seemingly hopeless situation. I ask that my fellow colleagues join me in thanking Deputy Steele for having the instincts and the heart to do what he did. This man is a true hero and deserves our sincerest admiration.●

RECOGNITION OF OLDER AMERICANS MONTH

● Mr. SARBANES. Mr. President, in 1963, President Kennedy began an important tradition of designating a time for our country to honor our older citizens for their many accomplishments and contributions to our Nation. I rise today to continue that tradition and recognize May as ''Older Americans Month.'' Those of us who have worked diligently in the U.S. Senate to ensure that older Americans are able to live in dignity and independence during their later years, welcome this opportunity to pause and reflect on the contributions of those individuals who have played such a major role in shaping our great Nation. We honor them for their hard work and the countless sacrifices they have made throughout their lifetimes, and look forward to their continued contributions to our country's welfare.

Today's older citizens have witnessed more technological advances than any other generation in our Nation's history. Seniors today have lived through times of extreme economic depression and prosperity, times of war and peace, and have seen incredible advancements in the fields of science, medicine, transportation and communications. They have not only adapted to these changes remarkably well, but they have continued to make meaningful contributions to this country.

Recent Census figures reveal that the number of older Americans continues to grow. The population of those 85 and older grew 37 percent during the 1990s, while the Nation's overall population increased only 13 percent. Approximately 35 million people 65 and older were counted in the 2000 Census as well as 50,500 Americans who were 100 or older. Baby boomers, who represented one-third of all Americans in 1994, will enter the 65-years-and-older category over the next 13 to 34 years, substantially increasing this segment of our population.

At the same time the number of older Americans is skyrocketing, they are in much better health and far less likely than their counterparts of previous generations to be impoverished, disabled or living in nursing homes. Older Americans are working and volunteering far beyond the traditional retirement age to give younger generations the benefit of their wisdom. In 2000, those 65 and over comprise 14 percent of the U.S. labor force.

These positive figures show that commitment to programs such as Medicare and Social Security, and investment in biomedical research and treatment are improving the quality of life for older Americans. One of our national goals must be to ensure all older Americans benefit from these improvements. In Congress, we must ensure our legislative priorities reflect the dedication that older Americans have provided to this country. This includes expanding and strengthening those programs that effectively aid older Americans, and addressing those that fall short of assisting this valuable and constantly expanding segment of our society.

By 2020, Medicare will be responsible for covering nearly 20 percent of the population. Though Medicare meets the health care needs of millions of Americans, it was created in a different time before the benefits of prescription medicines had become such an integral part of health care. Three in 5 Medicare beneficiaries lack affordable, prescription drug coverage. Although people 65 and older are 12.5 percent of the population, they fill 34 percent of all prescriptions. Today it is difficult to imagine quality healthcare coverage without including medicines that treat and prevent illnesses.

I have and will continue to fight for Medicare prescription drug coverage for all seniors. As a cosponsor of the Medicare Prescription Drug Coverage Act of 2001, I recognize the predicament of many older Americans as they struggle to live independently on a fixed income and afford costly prescription drugs. The huge advances in biomedical research that have led to the life saving drugs and treatment are of little use if the population that stands to benefit the most cannot afford them. It is imperative that we address the needs of the Americans who have devoted so much of their life experience and achievement to better our society. Like all Americans, they deserve access to comprehensive health care.

One of the strengths that I admire most about older generations is their devotion and concern for younger Americans. As we face the dilemma of funding Social Security and investigate proposals to privatize the program, older Americans have been the most outspoken advocates of ensuring its existence for future generations. Their determination to preserve this

important social insurance program is not weakened by reports that privatization proposals would not alter or reduce their benefits. Instead, they fight on, trying to ensure the benefits of Social Security will be there for others for years to come.

I have always been impressed with the degree to which our elders contribute to American society. Our Nation's older generations are an ever-growing resource that deserve our attention, our gratitude, and our heartfelt respect. As observance of Older Americans Month comes to a close, I look forward to working with my colleagues in the Senate to implement public policies that affirm the contributions of older Americans to our society and ensure that they all live their later years in dignity.●

FALLOUT FROM ENRON: LESSONS AND CONSEQUENCES

● Mr. HOLLINGS. Mr. President, when I was chairman of the Senate Budget Committee I worked closely with Henry Kaufman, who has, in my judgment, the most respected opinion on the economy. We can all benefit from his views, and I encourage my colleagues to read this speech that he gave last month to the Boston Economic Club, entitled ''The Fallout from Enron: Lessons and Consequences.''

I ask that the speech be printed in the RECORD.

The speech follows.

THE FALLOUT FROM ENRON: LESSONS AND CONSEQUENCES—AN ADDRESS BY HENRY KAUFMAN, PRESIDENT, HENRY KAUFMAN & CO., INC. TO THE BOSTON ECONOMIC CLUB, APRIL 3, 2002

Today I would like to talk about an event that has rocked the financial community: the collapse of the Enron Corporation. Much has been said and written about Enron in recent weeks, but it seems to me that too little attention has been paid to either the underlying issues posed by the demise of the Enron Corporation, or to the likely consequences of this failure for financial markets.

Not very long ago, Enron was widely heralded in the business and financial community for its spectacular growth, its innovative achievements, and its future potential. All of that changed suddenly and dramatically late last year. Since then, many pundits have pointed the finger of blame at Arthur Andersen. But it would be wrong to conclude that Enron's failure stemmed chiefly from the accounting shortcomings of its outside auditors. To be sure, Andersen probably was derelict in carrying out its responsibilities. No accounting firm should have the kind of intimate and conflicting relationship that Andersen had with Enron. Auditing and concurrent consulting arrangements with clients just don't mix, for they pose very real conflicts of interest that compromise objectivity and independence.

Even so, I am not convinced that a complete dismantling of Arthur Andersen would serve the larger interests of all stakeholders. To be sure, any senior officers and managers at Andersen found to have compromised sound accounting standards should be fired. But from a social perspective the thousands of Andersen employees who were innocent of high-level misdeeds do not deserve to be displaced.

The issue here is even more complicated. On the one hand, dismantling Andersen would push forward by a giant step the concentration in the accounting business that already is quite high. On the other hand, no business organization should be considered to be too-big-to-fail. Otherwise, competition, which should be the market equalizer, will be distorted. In addition to these considerations is the fact that focusing on Andersen simply deflects the spotlight away from the misdeeds of Enron itself. It offers Enron's officials and all the others involved in the Enron relationship, from the private sector to people in government, a convenient scapegoat, and increases the likelihood that we will fail to learn important lessons form the energy trader's debacle. That would be very unfortunate.

The failure of Enron is a drama with many dimensions. It encapsulates a remarkable number of the kind of misbehaviors, shortcomings, and excesses that have plagued business and financial life in the last few decades. Even if we look back over financial crises in the half-century since World War II, it is difficult to find one with as many salient elements as the Enron failure.

Consider, for example, the volatile decade of the 1970s. The calamities began in 1970, with the staggering collapse of the Penn Central Railroad. The Pennsy was derailed by its excessive short-term borrowing, mainly in the form of commercial paper, supported by weak earnings. Later on, the Hunt brothers succeeded in cornering the silver market, but financed their manipulations with heavy short-term borrowings. Many of their lenders used silver as collateral, which led to a massive sell-off in the silver market when the hunts exhausted their borrowing capacity. Then there were the oil crises of the 1970s, which set off a crippling around of defaults among key Latin American nations that had borrowed heavily from large money market banks. Because these banks had failed to exercise prudent credit judgment, the financial pressure of the oil shocks plunged debtors and creditors alike into serious trouble.

The 1980s had its share of financial excesses. The decade's economic boom had been fed in large measure by the liberal lending policies of banks—especially savings and loan associations—and by the massive leveraging of many corporations through junk bond financing. These financial splurges later made it initially difficult to jumpstart the economic recovery in the early 1990s.

As for the 1990s: the serious financial strains in Mexico and in several Asian countries, as well as the recent debt default of Argentina—all remain fresh in our memories. Then, as the decade drew to a close, the financial world was rocked by a financial debacle that threatened the very viability of key money market institutions. I am referring here, of course, to the dramatic fall of Long Term Capital Management in late 1998. Enron's collapse, however, did not pose a *systemic* risk to the financial system the way LTCM's failure did, although some of Enron's senior managers and creditors have suggested as much during their negotiations with government officials. To their credit, regulators and central bankers did not step in to rescue the faltering energy giant from its own misdeeds.

Which brings us back to the lessons to be derived from the Enron case. It seems to me that Enron—by bringing together a range of issues and problems that have plagued the U.S. financial system for decades—raises a host of questions that we simply must address:

How effectively do boards of directors discharge their responsibilities?

What are the inadequacies of senior managers?

Are lenders conducting effective due diligence?

Are sell-side analysts objective in their analysis, or are they compromised?

Should employees be permitted to invest a high portion of their pensions in the equity of the corporations that employ them?

Is official oversight adequate?

Can elected officials be objective in dealing with financial excesses given that they may be conflicted by contributions?

Should the public accounting firm serve a client a both an auditor and a consultant?

These vexing questions lie at the heart of the Enron debacle. To a large extent, they point to a fundamental problem that has been festering for some time, namely, the separation of corporate ownership and control. This problem has become more acute in recent decades because of structural changes in finance and investments. But this issue hardly is new. In fact, it is a symptom of advanced industrial capitalism, in which firms become too large to be owned and managed by individuals or even wealthy families.

One of the most penetrating critiques of the concentration of corporate control appeared back in 1932, when Adolf Berle, a law professor and reformer, and economist Gardiner Means published their landmark book, The Modern Corporation and Private Property. As Berle and Means noted vividly:

''It has often been said that the owner of a horse is responsible. If the horse lives he must feed it. If the horse dies he must bury it. No such responsibility attaches to a share of stock. The owner is practically powerless through his own efforts to affect the underlying property. The spiritual values that formerly went with ownership have been separated from it. . . . [T]he responsibility and the substance which have been an integral part of ownership in the past are being transferred to a separate group in whose hands lies control.''

In the financial markets of the last few decades, this problem has become more acute with the rise of hostile takovers, leveraged buyouts, golden parachutes, green mail, and many other financial innovations that are associated with corporate control. Many corporate raiders have become instant celebrities.

At the same time, there have been some significant changes in the role that senior managers play within the corporation. In recent years, many are given incentives that encourage them to strive to achieve near-term objectives through a variety of compensation schemes. Rarely is management actually penalized for failing to achieve their objectives. Their cash bonuses may be reduced, but they still are entitled to stock options. If the price of the company's stock is down, many firms in the past lowered the exercise price of the outstanding options. More recently, many corporations simply issue more options at the lower prevailing price level. The gatekeepers for many of the compensation awards are outside consultants who rarely exercise strong control over the compensation process. Very often they merely codify what others are doing in the industry.

For their part, equity investors rarely are involved in the affairs of a corporation. Indeed, portfolio practices today have a short-term fuse. Portfolio performance is measured over very short-term horizons—monthly, quarterly, or at most yearly. Underperformance is penalized very quickly. Today, day trades and portfolio shifts based on the price momentum of the stock are commonplace. Institutional investors now

hold a majority of outstanding stocks, but they rarely want to be involved in their portfolio companies. Instead, a novel but powerful alliance often exists between the highest bidder in a corporate takeover and many of its institutional shareholders. Thus, stockholders are largely temporarily holders of a certificate that legally is called ''equity.''

This is clearly demonstrated by the huge increase in the turnover of the stocks listed on the New York Stock Exchange. As shown in the accompanying Figure 1, the turnover of these stocks has escalated sharply over the last forty years—from an average of 20% from 1960 to 1980, to 75% times in the 1990s, with last year's average reaching 94%. Only a few large investors, such as Warren Buffett, truly are involved as stockholders. In today's financial marketplace, they are a rare breed.

Because corporate control typically rests in the hands of senior managers, they and directors assume responsibilities that are difficult to fill in the current structure of the marketplace. Let me try to explain what I mean here by referring to the management of large financial institutions, where I spent a good part of my career. And much of what I have to say in this regard is applicable to the problems of Enron.

I first realized the enormity of the challenge of managing large financial institutions when I joined Salomon's board following our merger with Phibro in 1981. The outside members of the board brought diverse business backgrounds to the table. With the exception of Maurice ''Hank'' Greenberg, none had strong first-hand experience in a major financial institution. How, then, could they possibly understand, among other things: the magnitude of risk taking at Salomon, the dynamics of the matched book of securities lending, the true extent to which the firm was leveraging its capital, the credit risk in a large heterogeneous book of assets, the effectiveness of operating management in enforcing trading disciplines, or the amount of capital that was allocated to the various activities of the firm and the rates of return on this capital on a risk-adjusted basis? Compounding the problem, the formal reports prepared for the board were neither comprehensive enough nor detailed enough to educate the outside directors about the diversity and complexity of our operations.

Today, this problem is magnified as firms extend their global reach and their portfolio of activities. In recent years, quite a few major U.S. financial institutions have become truly international in scope. They underwrite, trade currencies, stocks, and bonds, and manage the portfolios and securities of industrial corporations and emerging nations. Some of the largest institutions contain in their holding company structures not only banks but also mutual funds, insurance companies, securities firms, finance companies, and real estate affiliates.

The outside directors on the boards of such firms are at a major disadvantage when trying to assess the institution's performance. They must rely heavily on the veracity and competency of senior managers, who in turn are responsible for overseeing a dazzling array of intricate risks undertaken by specialized, lower-level personnel working throughout the firm's wide-flung units. Indeed the senior managers of large institutions are beholden to the veracity of middle managers, who themselves are highly motivated to take risks through a variety of profit compensation formulas. It is easy for gaps in management control to open up between these two groups.

Unfortunately, the accounting profession has been of little help to outside board members. Few audit reports truly reflect a firm's range of risk taking. Reports on assets and liabilities would be far more meaningful if they were shown in gross terms instead of net figures. The off-balance-sheet activities most often cited in footnotes should be integrated into reports to reveal the total flow of activities and liabilities. Unfortunately, when the FASB proposes conservative accounting rules, operating managers generally oppose them. This is because such rules tend to reduce stated profits and encourage conservative lending and investing policies, thus infringing on the stated profits. But managers should recognize that such rules, over the long run, will strengthen their institution's credit quality.

What often is missing for new directors is an intensive orientation program. Large financial institutions are very complex. As I noted earlier, they engage in a wide range of activities—traditional banking, underwriting and trading of securities, insurance, risk arbitrage, financial derivatives from the simple to the complex, and domestic and foreign transactions. The new directors should be given a detailed analysis of the institution's accounting procedures. They should be educated about exactly the kind of activities that Enron directors failed to appreciate: (1) transactions with affiliated companies, (2) transfer of assets/debts to special-purpose entities in order to achieve ''off balance sheet'' treatment; (3) related-party and insider transactions; (4) aggressive use of restructuring changes and acquisition reserves; and (5) aggressive derivative trading and use of exotic derivatives; and (6) aggressive revenue recognition policies.

Directors of financial institutions also should be familiarized with their institution's quantitative risk analysis techniques. Indeed, the risk analysis group should be independent of the trading and underwriting department. It should be well compensated and have reporting responsibilities to the chief executive, to the chief operating officer, and to the board of directors itself. As part of the orientation process, new directors should be required to meet with members of the official supervisory agencies such as the Federal Reserve, the Comptroller of the Currency, and the Securities and Exchange Commission, all whom should explain what these agencies require from the institution. Legal counsel should also meet with new directors to explain their responsibilities and liabilities from a legal perspective.

But this kind of orientation process alone is not enough to achieve effective board oversight. Board meetings should be allotted more time. Directors should be given more detailed information than highly sanitized and summarized financial information. Board expertise in accounting, quantitative risk analysis, and information technology will become more and more essential in our complex world of finance.

To be sure, the primary task of boards is to define strategy and set policy, to represent the interests of the shareholders and creditors, not to operate the institution. But unless boards devote enough time to handle their responsibilities, the financial industry will suffer even more upheavals, forcing government to step in to clean up messes—and, increasingly, to regulate and control.

I want to turn now to the question, ''Can sell-side research be objective?'' As many of you here know, when I was at Salomon I managed for many years a large research group that grew to more than 450 professionals by the time I left in 1988. In formulating my own forecasts over those many years, I was never urged to modify my views to confirm with the immediate underwriting or trading activities of the firm, and I know of no researcher in my department who was coerced to change his analytical conclusion.

To be sure, there were occasional complaints from trading and underwriting desks because of one or another view I expressed publicly (usually in written form); but as head of research, I was in a unique position to fend off any criticism. I was a senior partner and a member of the firm's Executive Committee, where no member ever asked that research accommodate the underwriting or trading activity.

In recent decades, however, the objectivity of sell-side research has been compromised more and more. One obvious result is that it is hard to find negative reports these days. Few, for instance, warned of the speculative bubble in the high tech industry. Many analysts wrote glowingly about companies with no earnings, high cash burn rates, and shares selling at high prices relative to sales volume and distant profit prospects. In place of rigorous analyses of firms and industries, one usually saw reports that parroted the views of corporate management and that of historical evaluation norms.

And the scope of the problem is vast. Public attention is most focused on the role that sell-side analysts play in attracting new issues of securities. But very few, if any, seem concerned about the potential for the sell-side institution to front-run trading positions on the basis of soon-to-be-released research reports. The fact is, traders typically have many opportunities in their conversations with equity analysts to ferret out a change in the analyst's view or to learn of the timing of upcoming press releases.

I believe that these problems facing the sell-side analyst can at best be mitigated. To begin with, my experience strongly suggests that the head of research should be a member of senior management. This would establish his authority to deal with research issues at the highest level. Of course, I agree with the suggestion that the relationship of the sell-side institution with the company being analyzed should be stated in the report in bold letters. But it would also be helpful if the analyst stated the performance of the company and the price movement of the stock since the last report, and drew explicit conclusions.

The logical solution to this conflict is for sell-side institutions to provide no research reports to clients. Research would serve only an in-house function by providing analyses that would help the institution assess the merits of the securities it is underwriting and trading. Institutional investors and independent research firms would then fill the gap. This method presumably would lower the cost of research at sell-side firms, which in turn would lower trading and underwriting costs and offset a healthy portion of the increased research costs on the buy side.

Let me also comment briefly on another matter raised by the Enron debacle. Should employees be required to limit their employee retirement investments in the stock of their company? Considering the losses suffered by the Enron employees, the tendency is to respond positively. There is, however, no simple quantitative rule that will be an equitable solution for all employees. They possess vast differences in ages, compensations, personal responsibilities, health, and person net worth. What government regulation can do justice to all of these factors? The alternative solution is for the employer to provide investment counseling where these characteristics are reviewed and discussed before the employee decides on the size of the investment to be made in the shares of the corporation.

While many of the consequences of the Enron's demise already are manifest in the market, it seems to me that the most important one is really unpredictable. This is

whether more ''Enrons'' will surface in the near future. If they do, market participants will pull away from equity markets and high yield bonds, because new doubts will be raised about the quality of earnings and the accuracy of other reported financial information.

But already we can see other repercussions from Enron's fall quite clearly. In the securities industry, merger activity has slowed and—by the standards of recent years—will remain at a low volume for the foreseeable future. No conglomerate that is on the brink of going below a credit rating of ''below investment trade'' will be able to gain ready access to funds for sometime to come. And while initial public offerings of stock are trickling into the market again, I think we have seen the end of the kind of huge speculative offerings that have been fairly common in recent years. Meanwhile, financial institutions, with lower near-term profit margins, will be encouraged to shed more overhead. Research analysts will be particularly vulnerable if institutions cannot use them to help market new issues and trading positions.

For business corporations, financing costs are rising. This began last year when corporations issued a huge volume of bonds and reduced short-term debt, mainly outstanding commercial paper. In doing so, they paid off lower-cost debt and increased higher-cost debt. The financial problems of Enron and of a handful of other companies late last year has inspired commercial paper investors to become more discerning, thereby forcing corporate issuers to activate bank lines or new bond issuance to pay off maturing paper. The paper market is now virtually closed to all issuers below the top credit rating.

The liquidation of outstanding commercial paper held by nonfinancial corporations has taken place on an unprecedented scale (see Figure 2). Since 2000, it has declined by $175 billion, or a remarkable 49%. This trend has reduced commercial paper to levels that were outstanding in 1997. Moreover, this $175 billion shift in borrowing probably has boosted corporate financing costs by anywhere from $6 billion to $8 billion. Financing costs probably also will rise, as banks raise their fees for back-up lines of credit, although these lines have an uncertain value. On the one hand, they do provide liquidity for the corporate issuer of paper when investors want their money. On the other hand, the runoff of paper tends to accelerate when market participants become aware of the utilization of the bank line.

While creditors generally will increase their alertness to corporate credit quality as a result of Enron, credit rating agencies surely will intensify the scope of their work and the speed of their responsiveness to changing corporate credit conditions. Already, we hear of the likely issuance of corporate liquidity ratings by the ratings agencies. This closer scrutiny will occur on top of another year in which more corporate credit ratings will be lowered rather than raised.

Yet another likely outcome from the Enron Episode is improved accounting standards. This will lower reported corporate profits in the short term, but the more conservative profit data will enhance investor confidence in the long run. Let us also hope that there may be an effort to put some of the off-balance-sheet financing onto the balance sheet. If so, the corporate debt data that I spoke about earlier will look worse—but again, the long-term effect for investors will be positive.

Incidentally, two other costs not related to financing costs are likely to rise as a consequence of Enron's travails. These are audit fees and the cost of liability insurance for directors and officers.

Of course, all of these costs could be more than offset through a sharp increase in corporate profits. I suspect that this is unlikely. Business does not have pricing power. Excess capacity is high here and around the world. Unfortunately, Enron unraveled at a time when the general financial condition of nonfinancial corporations was probably the worst—for the end of a recession and the start of a new economic recovery—for the entire post-World War II period. From 1995 to 2001, the equity position (retained earnings plus new issuance or minus retirement of stock) of non-financial corporations has contracted by $423 billion, while net debt has increased by $2.3 trillion in the same period. Indeed, this exceeded the debt-leveraging binge in the 1984–90 period when net equity contracted by $457 billion and debt rose by $1.3 trillion. Due to time constraint, the chart can't be printed in the RECORD. (See table.)

The combination of the cyclically weak financial position of corporations, moderate profit recovery, and closer scrutiny of corporate activity by management, auditors, creditors, rating agencies, and officially supervisory agencies will—in the near term—inhibit corporate activity, especially capital expenditures. Thus, once the current inventory restocking ends a few months from now, the economic recovery will moderate significantly.

In short, there are likely to be some difficult adjustments in the near-term horizon, several of them a direct result of Enron's wayward ways. But all would be a modest price to pay for a return to more reasonable and responsible conduct in business and financial markets.

FIGURE 3.—NET CHANGE IN EQUITY BOOK VALUE AND IN DEBT U.S. NONFARM NONFINANCIAL CORPORATE BUSINESS, 1982–2001

[In billions of dollars]

	1982–83	1984–90	1991–94	1995–99	2000	2001
Pre-Tax Profits	$291.4	$1,446.1	$1,163.5	$2,303.8	$502.2	$379.3
Less:						
Taxes	105.6	606.7	409.0	768.4	186.0	141.8
Dividends	116.9	589.3	565.0	1,074.8	267.3	302.7
Plus:						
IVA	(19.1)	(66.3)	(14.5)	8.8	(12.4)	4.4
Net New Equity	21.9	(640.7)	21.7	(652.7)	(159.7)	(55.7)
Net Change In Equity	71.7	456.9	196.7	(183.3)	(123.2)	(116.5)
Net Increase In Debt	186.1	1,274.1	129.9	1,547.6	429.1	267.9

Source: Federal Reserve Board, Flow of Funds.•

IN RECOGNITION OF THE VALOR, DEDICATION, AND PATRIOTISM OF THE KERR FAMILY VETERANS

• Mr. LEVIN. Mr. President, this weekend communities will gather to pay tribute to the men and women who lost their lives while in service to our Nation. Throughout America, parades will be held on Memorial Day which will honor the soldiers, sailors, airmen and Marines who have served to protect our Nation and preserve our freedoms. The City of Royal Oak, in my home State of Michigan will be hosting its annual Memorial Day parade on Monday, May 27, 2002, and this year four brothers from the Kerr family, who are all Vietnam veterans will serve as the Grand Marshals of this parade. These four brothers all voluntarily joined the U.S. military, and went to Vietnam to bravely serve in our nation's armed services. These brothers have proudly carried the ''Warrior'' American flag in the Royal Oak parade in past years to honor their tribe, the Chippewa Tribe of Sault Sainte Marie, and to honor all of the American heroes who fought so fearlessly and valiantly in past conflicts to preserve our liberty and democratic values.

John Kerr, U.S. Marine Corps, Tom Kerr, U.S. Air Force, and Harvey Kerr, U.S. Navy, served in Vietnam simultaneously. Upon their safe return, a fourth brother, Michael Kerr, U.S. Army, voluntarily served in Vietnam and returned safely. These brothers reportedly owe their courage to their beloved mother, Rena Kerr, whose strength and conviction moved her to persevere beyond her personal challenges as a young widow and mother of nine children, to serve the needs of her fellow Americans. She was a devoted civil rights activist and committed herself to helping others. She taught her seven sons and two daughters to highly value their priceless freedoms and the proud Chippewa heritage of their late father, Ted Kerr. With so great a legacy, four Kerr sons were impressed to respond courageously and patriotically to the wartime call, and chose to stand and valiantly serve their country in the Vietnam War. Tom Kerr, who bravely flew a State Flag of Michigan in a F–4 on a combat mission over North Vietnam, was honored to present that flag after his return to Governor William Milliken in 1968.

The Kerr brothers have made it a tradition to annually salute America's fallen heroes of past conflicts and wars on the national day of observance. They proudly carry the flag to honor those who gave the ultimate sacrifice in service to our country, and to join with their many families and friends to honor their memory. The Kerr brothers

march as an expression of reverence for those who fought along side them in Vietnam, but did not return. And the Kerr brothers have called our attention to the importance of cherishing our great freedom that has come through the ''blood of heroes.''

The Kerr brothers can be proud of their dedication to their country, and their great commitment to honor the values of their family and the principles of democracy and freedom. We as a nation have benefitted from the sacrifices, extraordinary contributions and example of these four brothers who bravely went off to war after having lost their father. I know that my Senate colleagues join me and the Royal Oak Parade Council in paying tribute to the Kerr brothers for their service in our nation's armed forces and their great bravery and valor as Vietnam veterans.●

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 Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 3:01 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that it has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3253. An act to amend title 38, United States Code, to provide for the establishment within the Department of Veterans Affairs of improved emergency medical preparedness, research, and education programs to combat terrorism, and for other purposes.

H.R. 4608. An act to name the Department of Veterans Affairs Medical and Regional Office Center in Wichita, Kansas, as the ''Robert J. Dole Department of Veterans Affairs Medical and Regional Center.''

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 165. Concurrent resolution expressing the sense of the Congress that continual research and education into the cause and cure of fibroid tumors be addressed.

H. Con. Res. 309. Concurrent resolution recognizing the importance of good cervical health and of detecting cervical cancer during its earliest stages.

H. Con. Res. 314. Concurrent resolution recognizing the members of AMVETS for their service to the Nation and supporting the goal of AMVETS National Charter Day.

The message further announced that pursuant to 22 U.S.C. 276h, notwithstanding the provisions of that section regarding the Chairmanship, and clause 10 of rule I, the Speaker appoints the following Members of the House of Representatives to the Mexico-United States Interparliamentary Group: Mr. KOLBE of Arizona, Chairman, Mr. DREIER of California, Mr. STENHOLM of Texas, Mr. BARTON of Texas, Mr. DOOLEY of California, Mr. PASTOR of Arizona, Mr. FILNER of California, Ms. ROYBAL-ALLARD of California, Mr. CANNON of Utah, Mr. REYES of Texas, Mr. TANCREDO of Colorado, and Mr. UDALL of New Mexico.

The message also announced that pursuant to 22 U.S.C. 276d and clause 10 of rule I, the Speaker appoints the following Members of the House of Representatives to the Canada-United States Interparliamentary Group: Mr. HOUGHTON of New York, Chairman, Mr. GILMAN of New York, Mr. LAFALCE of New York, Mr. SHAW of Florida, Mr. LIPINSKI of Illinois, Ms. SLAUGHTER of New York, Mr. STEARNS of Florida, Mr. MANZULLO of Illinois, Mr. DAN MILLER of Florida, Mr. SOUDER of Indiana, and Mr. ENGLISH of Pennsylvania.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3253. An act to amend title 38, United States Code, to provide for the establishment within the Department of Veterans Affairs of improved emergency medical preparedness, research, and education programs to combat terrorism, and for other purposes; to the Committee on Veterans' Affairs.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 165. Concurrent resolution expressing the sense of the Congress that continual research and education into the cause and cure for fibroid tumors be addressed; to the Committee on Health, Education, Labor, and Pensions.

H. Con. Res. 309. Concurrent resolution recognizing the importance of good cervical health and of detecting cervical cancer during its earliest stages; to the Committee on Health, Education, Labor, and Pensions.

H. Con. Res. 314. Concurrent resolution recognizing the members of AMVETS for their service to the Nation and supporting the goal of AMVETS National Charter Day; to the Committee on the Judiciary.

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–7164. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the law, a report relative to a Determination and Certification under Section 40A of the Arms Export Control Act; to the Committee on Foreign Relations.

EC–7165. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the list of General Accounting Office reports for January 2002; to the Committee on Governmental Affairs.

EC–7166. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting , the OMB Cost Estimate for Pay-As-You-Go Calculations for report numbers 575 and 576; to the Committee on the Budget.

EC–7167. A communication from the Vice Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to the Republic of Korea; to the Committee on Banking, Housing, and Urban Affairs.

EC–7168. A communication from the Secretary of Veterans' Affairs, transmitting, a draft of proposed legislation entitled ''Veterans' Employment, Business Opportunity, and Training Act of 2002; to the Committee on Veterans' Affairs.

EC–7169. A communication from the Assistant Secretary of Indian Affairs, Department of the Interior, transmitting, pursuant to law, a report relative to the Hoopa-Yurok Settlement Act; to the Committee on Indian Affairs.

EC–7170. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Changes in Accounting Periods'' ((RIN1545–AX15)(TD8996)) received on May 16, 2002; to the Committee on Finance.

EC–7171. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule ''Ridge and Marjory Harlan v. Commissioner'' received on May 17, 2002; to the Committee on Finance.

EC–7172. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Extension of the Remedial Amendment Period'' (Rev. Proc. 2001–55) received on May 17, 2002; to the Committee on Finance.

EC–7173. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Valuation of Option for Golden Parachute Payment'' (Rev. Proc. 2002–13) received on May 17, 2002; to the Committee on Finance.

EC–7174. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled ''Revision of Reporting Forms Implementing FEC Rule Transmitted on March 15, 2002'' received on May 9, 2002; to the Committee on Rules and Administration.

EC–7175. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, twenty-three recommendations for legislative action; to the Committee on Rules and Administration.

EC–7176. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Nicotine; Tolerance Revocations'' (FRL6836–7) received on May 16, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7177. A communication from the Chief, Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''National Forest System Land and Resource Management Planning; Extension of Compliance Deadline; Interim Final Rule'' (RIN0596–AB87) received on May 17, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7178. A communication from the Congressional Review Coordinator , Animal and Plant Health Inspection Service, Department

of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Pink Bollworm Regulated Areas; Removal of Oklahoma'' (Doc. No . 02–031–1) received on May 17, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7179. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Post-1996 Rate of Progress Plans'' (FRL7171–7) received on May 16, 2002 ; to the Committee on Environment and Public Works.

EC–7180. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Land Disposal Restrictions: Grating of Two Site-Specific Treatment Variances to U.S . Ecology Idaho, Incorporated in Grandview, Idaho and CWM Chemical Services, LLC in Model City, New York'' (FRL7214–4) received on May 16, 2002; to the Committee on Environment and Public Works.

EC–7181. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards to Hazardous Air Pollutants: Surface Coating of Metal Coil'' (FRL7214–6) received on May 16, 2002; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Governmental Affairs:

Report to accompany S. 1271, a bill to amend chapter 35 of title 44, United States Code, for the purpose of facilitating compliance by small business concerns with certain Federal paperwork requirements, to establish a task force to examine information collection and dissemination, and for other purposes. (Rept. No. 107–153).

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1742: A bill to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. SARBANES for the Committee on Banking, Housing, and Urban Affairs.

*Anthony Lowe, of Washington, to be Federal Insurance Administrator, Federal Emergency Management Agency.

*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.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BIDEN (for himself and Mr. SPECTER):

S. 2534. A bill to reduce crime and prevent terrorism at America's seaports; to the Committee on Finance.

By Mrs. BOXER:

S. 2535. A bill to designate certain public lands as wilderness and certain rivers as wild and scenic rivers in the State of California, to designate Salmon Restoration Areas, to establish the Sacramento River National Conservation Area and Ancient Bristlecone Pine Forest, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. STABENOW (for herself, Mr. DURBIN, Mr. LEAHY, Mr. JEFFORDS, Mrs. BOXER, Mr. LEVIN, Mr. DORGAN, Mr. SCHUMER, and Mr. JOHNSON):

S. 2536. A bill to amend title XIX of the Social Security Act to clarify that section 1927 of that Act does not prohibit a State from entering into drug rebate agreements in order to make outpatient prescription drugs accessible and affordable for residents of the State who are not otherwise eligible for medical assistance under the medicaid program; to the Committee on Finance.

By Mr. DORGAN (for himself and Mr. ENSIGN):

S. 2537. A bill to facilitate the creation of a new, second-level Internet domain within the United States country code domain that will be a haven for material that promotes positive experiences for children and families using the Internet, provides a safe online environment for children, and helps to prevent children from being exposed to harmful material on the Internet, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SMITH of Oregon (for himself and Mr. WYDEN):

S. Res. 273. A resolution recognizing the centennial of the establishment of Crater Lake National Park; considered and agreed to.

By Mr. KENNEDY:

S. Con. Res. 115. A concurrent resolution expressing the sense of the Congress that all workers deserve fair treatment and safe working conditions, and honoring Dolores Huerta for her commitment to the improvement of working conditions for children, women, and farm worker families; considered and agreed to.

ADDITIONAL COSPONSORS

S. 281

At the request of Mr. HAGEL, the name of the Senator from South Dakota (Mr. JOHNSON) 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. 701

At the request of Mr. BAUCUS, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 701, a bill to amend the Internal Revenue Code of 1986 to provide special rules for the charitable deduction for conservation contributions of land by eligible farmers and ranchers, and for other purposes.

S. 782

At the request of Mr. ALLARD, his name was added as a cosponsor of S. 782, a bill to amend title III of the Americans with Disabilities Act of 1990 to require, as a precondition to commencing a civil action with respect to a place of public accommodation or a commercial facility, that an opportunity be provided to correct alleged violations, and for other purposes.

S. 871

At the request of Mr. CLELAND, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 871, a bill to amend chapter 83 of title 5, United States Code, to provide for the computation of annuities for air traffic controllers in a similar manner as the computation of annuities for law enforcement officers and firefighters.

S. 1140

At the request of Mr. HATCH, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1140, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1152

At the request of Mr. DURBIN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1152, a bill to ensure that the business of the Federal Government is conducted in the public interest and in a manner that provides for public accountability, efficient delivery of services, reasonable cost savings, and prevention of unwarranted Government expenses, and for other purposes.

S. 1278

At the request of Mrs. LINCOLN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1278, a bill to amend the Internal Revenue Code of 1986 to allow a United States independent film and television production wage credit.

S. 1282

At the request of Mr. HATCH, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1282, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income of individual taxpayers discharges of indebtedness attributable to certain forgiven residential mortgage obligations.

S. 1329

At the request of Mr. JEFFORDS, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 1329, a bill to amend the Internal Revenue Code of 1986 to provide a tax incentive for land sales for conservation purposes.

S. 1339

At the request of Mr. CAMPBELL, the names of the Senator from Florida (Mr. NELSON), the Senator from Oklahoma (Mr. INHOFE) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 1339, a bill to amend

the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. 1339, supra.

S. 1742

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 1742, a bill to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes.

S. 1777

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1777, a bill to authorize assistance for individuals with disabilities in foreign countries, including victims of landmines and other victims of civil strife and warfare, and for other purposes.

S. 1839

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1839, a bill to amend the Bank Holding Company Act of 1956, and the Revised Statures of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 1859

At the request of Mr. SCHUMER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1859, a bill to extend the deadline for granting posthumous citizenship to individuals who die while on active-duty service in the Armed Forces.

S. 1867

At the request of Mr. LIEBERMAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1867, a bill to establish the National Commission on Terrorist Attacks Upon the United States, and for other purposes.

S. 1924

At the request of Mr. SANTORUM, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. 1924, a bill to promote charitable giving, and for other purposes.

S. 1957

At the request of Mr. WARNER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1957, a bill to amend the Internal Revenue Code of 1986 to provide for additional designations of renewal communities.

S. 1991

At the request of Mr. HOLLINGS, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1991, to establish a national rail passenger transportation system, reauthorize Amtrak, improve security and service on Amtrak, and for other purposes.

S. 2017

At the request of Mr. CAMPBELL, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2017, a bill to amend the Indian Financing Act of 1974 to improve the effectiveness of the Indian loan guarantee and insurance program.

S. 2085

At the request of Ms. COLLINS, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2085, a bill to amend title XVIII of the Social Security Act to clarify the definition of homebound with respect to home health services under the medicare program.

S. 2116

At the request of Mr. KERRY, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 2116, a bill to reform the program of block grants to States for temporary assistance for needy families to help States address the importance of adequate, affordable housing in promoting family progress towards self-sufficiency, and for other purposes.

S. 2215

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

S. 2249

At the request of Mrs. CLINTON, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2249, a bill to amend the Public Health Service Act to establish a grant program regarding eating disorders, and for other purposes.

S. 2317

At the request of Mr. DURBIN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2317, a bill to provide for fire safety standards for cigarettes, and for other purposes.

S. 2428

At the request of Mr. KERRY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2428, a bill to amend the National Sea Grant College Program Act.

S. 2430

At the request of Mr. NICKLES, the names of the Senator from Kansas (Mr. ROBERTS) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 2430, a bill to provide for parity in regulatory treatment of broadband services providers and of broadband access services providers, and for other purposes.

S. 2444

At the request of Mr. KENNEDY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2444, a bill to amend the Immigration and Nationality Act to improve the administration and enforcement of the immigration laws, to enhance the security of the United States, and to establish the Office of Children's Services within the Department of Justice, and for other purposes.

S. 2484

At the request of Mr. BAUCUS, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2484, a bill to amend part A of title IV of the Social Security Act to reauthorize and improve the operation of temporary assistance to needy families programs operated by Indian tribes, and for other purposes.

S. 2489

At the request of Mrs. CLINTON, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2489, a bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes.

S. 2492

At the request of Mr. CLELAND, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2492, a bill to amend title 5, United States Code, to require that agencies, in promulgating rules, take into consideration the impact of such rules on the privacy of individuals, and for other purposes.

S. 2505

At the request of Mr. KENNEDY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2505, a bill to promote the national security of the United States through international educational and cultural exchange programs between the United States and the Islamic world, and for other purposes.

S. 2525

At the request of Mr. KERRY, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2525, a bill to amend the Foreign Assistance Act of 1961 to increase assistance for foreign countries seriously affected by HIV/AIDS, tuberculosis, and malaria, and for other purposes.

S. CON. RES. 77

At the request of Mr. MCCONNELL, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. Con. Res. 77, a concurrent resolution expressing the sense of the Congress that a postage stamp should be issued to honor coal miners.

S. CON. RES. 107

At the request of Mr. CRAIG, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. Con. Res. 107, a concurrent resolution expressing the sense of Congress that Federal land management agencies should fully support the Western Governors Association ''Collaborative 10-year Strategy for Reducing Wildland Fire Risks to Communities and the Environment,'' as signed August 2001, to

reduce the overabundance of forest fuels that place national resources at high risk of catastrophic wildfire, and prepare a National prescribed Fire Strategy that minimizes risks of escape.

AMENDMENT NO. 3430

At the request of Mr. KERRY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of amendment No. 3430 proposed to H.R. 3009, a bill to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes.

AMENDMENT NO. 3431

At the request of Mrs. BOXER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of amendment No. 3431 proposed to H.R. 3009, a bill to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes.

AMENDMENT NO. 3433

At the request of Mr. REID, his name was added as a cosponsor of amendment No. 3433 proposed to H.R. 3009, a bill to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIDEN (for himself and Mr. SPECTER):

S. 2534. A bill to reduce crime and prevent terrorism at America's seaports; to the Committee on Finance.

Mr. BIDEN. Mr. President, I rise today to introduce the ''Reducing Crime and Terrorism at America's Seaports Act.'' This important legislation will update Federal law to address critical security issues at seaports in the United States and, in concert with recent efforts by my good friend Senator HOLLINGS and others, will help keep America safe and secure.

Last October, I chaired a hearing of the Senate Judiciary Subcommittee on Crime and Drugs on ''Defending America's Transportation Infrastructure.'' At the hearing, we heard testimony from experts that confirmed what many of us have known and preached for years: this Nation's transportation infrastructure, our railways, our highways, our seaports, is especially vulnerable to terrorist threats and other nefarious activity. Our trains, trucks and sea vessels, and the systems that carry them, are ripe targets and, if compromised, could jeopardize American lives and devastate the American economy.

The U.S. Government has known of this tremendous vulnerability but, until the tragic events of September 11, assessed the risk of an actual attack, at least with respect to seaports, as relatively low. Well, we all know how mistaken that assessment is now. While no one can predict with certainty where the next attack might be, most clear thinkers agree that there will be another attempt. The real question before us is will we cower in a web of fear and bureaucratic inaction, or will we focus on creative problem-solving, building partnerships, and collaboratively fighting the well-funded and well-organized network of criminals that seek to topple us. The choice, my friends, is clear.

In the aftermath of September 11, Congress moved expeditiously to bridge the gaps in homeland security, passing landmark anti-terrorism legislation, strengthening security at airports, and providing additional funding for emergency law enforcement and domestic preparedness. Despite our early efforts, however, there is much that remains to be done. We have tackled the obvious and the easy. We must now move as swiftly to resolve the more difficult, but no less pressing, problems. And, as gateways to our largest cities and industries, the protection of U.S. seaports must be at the top of our priority list.

Failing to protect our Nation's ports will jeopardize American lives, as well as property. It threatens to undermine national security, especially where terrorists and other criminals illegally traffic weapons, munitions and critical technology. And it will significantly disrupt the free and steady flow of commerce.

Let me say a word about the threat to commerce. Ports connect American consumers with global products, and U.S. farmers and manufacturers with overseas markets. The U.S. marine transportation system moves more than 2 billion tons of domestic and international freight and imports 3.3 billion tons of oil. By some estimates, the port industry generates more than 13 million jobs and $494 billion in personal income; it contributes nearly $743 billion to the Nation's gross domestic product, and $200 billion in Federal, State and local taxes. These extraordinary numbers underscore the critical role that seaports play in fueling economic growth. More importantly, they make the point, more forcefully than any number of speeches or platitudes, that port security will be a key element to building and sustaining a stable national economy.

With that in mind, I introduce legislation today that would substantially improve the inadequate protections currently contained in the Federal code: first, the effectiveness of Federal, State and local efforts to secure ports is compromised in part by criminals' ability to evade detection by underreporting and misreporting the content of cargo, with little more than a slap on the wrist, if that. The existing statutes simply do not provide adequate sanctions to deter criminal or civil violations. As a consequence, vessel manifest information is often wrong or incomplete, and our ability to assess risks, make decisions about which containers to inspect more closely, or simply control the movement of cargo is made virtually impossible. This bill would substantially increase the penalties for non-compliance with these reporting requirements.

Second, we know that cargo is especially vulnerable to theft once it arrives at shore and is transported between facilities within a seaport. To deter such larceny, this bill would significantly increase penalties for theft of goods from Customs' custody.

Third, there currently exists no standard system for safeguarding cargo; no requirement that all containers be sealed; and no consistent guidance or protocol to direct action in the event that a container's seal is compromised. This legislation would require the U.S. Customs Service to develop a uniform system of securing or sealing at loading all containers originating in or destined for the U.S.

Fourth, my friends at the Customs Service tell me that their ability to conduct ''sting'' operations to detect illicit arms trafficking is significantly curtailed by onerous pre-certification requirements. This bill would give Customs agents the flexibility they need to conduct these investigations where American lives and property are threatened.

Fifth, the bill would impose strict criminal penalties for the use of a dangerous weapon or explosive with the intent to cause death or serious bodily injury at a seaport. Notably, such a provision already exists with respect to international airports and other mass transportation systems. If my bill is enacted, we would take the commonsense step of extending that same coverage to seaports.

Finally, while by all accounts the amount of crime at U.S. seaports is great, there exists no national data collection and reporting systems that capture the magnitude of serious crime at seaports. Indeed, the Interagency Commission on Crime and Security in U.S. Seaports concluded that it was unable to determine the full extent of serious crime at the nation's 361 seaports, primarily because there is no consolidated database. This legislation would help correct this dearth of reliable information by authorizing pilot programs at several seaports that would enable victims to report cargo theft and direct the Attorney General to create a database of these crimes, which would be available to appropriate Federal, State and local agencies.

Let me be clear: my legislation is not a cure-all. Comprehensive and effective port security will require an interagency, intergovernmental strategy that works to prevent and deter criminal and terrorist activity, and, where those efforts fail, detect any wrongdoing before harm or destruction results. The Federal Government, with my support and oftentimes at my insistence, has established formal strategies and protocols to address drug trafficking, domestic and international crime, and airport security. But seaport security remains largely

unaddressed. If we are to win this new war and truly secure the homeland, not just in word, but also in deed, we must focus the attention of both the public and private sectors on safeguarding America's seaports. We must do it now, and we must do it without sacrificing the country's economic health.

My friends, September 11 was our clarion call. How we respond to that call to action will be the real challenge of leadership, and citizenship, in the 21st century.

By Mrs. BOXER:

S. 2535. A bill to designate certain public lands as wilderness and certain rivers as wild and scenic rivers in the State of California, to designate Salmon Restoration Areas, to establish the Sacramento River National Conservation Area and Ancient Bristlecone Pine Forest, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, history books written about California always comment on the natural beauty of the State because our natural treasures have always been one of the things that makes California unique. But that beauty must not be taken for granted. That is why I am introducing the California Wild Heritage Act of 2002, the first statewide wilderness bill for California since 1984.

This legislation will protect more than 2.5 million acres of public lands in 81 different areas, as well as the free-flowing portions of 22 rivers. Every acre of wild land is treasure. But the areas protected in this bill are some of California's most precious, including: the old growth redwood forest near the Trinity Alps in Trinity and Humboldt Counties; 35 miles of pristine coastline in the King Range in Humboldt and Mendocino Counties; the Nation's sixth highest waterfall, Feather Falls, in Butte County; the ancient Bristlecone Pines in the White Mountains in Inyo and Mono Counties; and the oak woodlands in the San Diego River area.

The bill protects these treasures by designating these public lands as ''wilderness'' and by naming 22 rivers, including the Clavey in Tuolumne County, as ''wild and scenic'' rivers. These destinations mean no new logging, no new dams, no new construction, no new mining, no new drilling, and no motorized vehicles. Protection of the areas in this bill is necessary to ensure that these previous places will be there for future generations. Because much of our State's drinking water supply is made up of watersheds in our national forest, this bill also helps ensure California has safe, reliable supply of clean drinking water. This bill would also mean that the hundreds of plant and animal species that make their homes in these areas will continue to have a safe haven. Endangered and threatened species whose habitats will be protected by this bill include: the bald eagle; Sierra Nevada Red Fox, and Spring Run Chinook Salmon among others.

In short, this bill preserves, prevents, and it protects. It preserves our most important lands, it prevents pollution, and it protects our most endangered wildlife. That is why so many supporters are throwing their weight behind this bill. Thousands of diverse organizations, businesses, and others see the importance of this legislation and have given it their support. Additionally, hundreds of local elected officials have voiced support for the protection of their local areas. Unfortunately, despite the tremendous support of this bill, it is not without opponents. They will say this bill is too large and goes too far. Yet this bill is similar in size to other statewide wilderness bills that have already passed Congress. The 1984 California Wilderness Act protected approximately 2 million acres and 83 miles of the Tuolume River. The most recent Wilderness bill, the California Desert Protection Act, protected approximately 6 million acres. And this must be taken in context. Only 13 percent of California is currently protected as wilderness. This bill would raise that amount to 15 percent.

The question is, how much wilderness is enough? For every Californian, there is currently less than half an acre of wilderness set aside. I think this is too little. During the last 20 years, 675,000 acres of unprotected wilderness, approximately the size of Yosemite National Park, lost their wilderness character due to activities such as logging and mining. As our population increases, and California becomes home to almost 50 million people by the middle of the century, these development pressures are going to skyrocket. If we fail to act now, there simply will not be any wild lands or wild rivers left to protect.

We must reverse this. Many of the areas in this bill would have been protected by the Clinton administration's Roadless Rule, but this rule has been gutted by the Bush Administration, leaving these lands with no guarantee of protection. That just makes the need for this bill even greater. The other big question that has been raised is whether this bill will limit public access to these areas. I do not believe this will be the case. While wilderness designation means the wilderness areas are closed to mountain bikers, they remain open to a myriad of recreational activities, including: horseback riding, fishing, hiking, backpacking, rock climbing, cross country skiing, and canoeing. Mountain bikers and motorized vehicles have 100,000 miles of road and trails in California that are not touched in my bill. Furthermore, numerous economic studies suggest wilderness areas are a big draw that attract outdoor recreation visitors, and tourism dollars, to areas that have received this special designation.

Those of us who live in California have a very special responsibility to protect our natural heritage. Past generations have done it. They have left us with the wonderful and amazing gifts of Yosemite, Big Sur and Joshua Tree. These are places that Californians cannot imagine living without. Now it is our turn to protect this legacy for future generations, for our children's children, and their children. This bill is the place to start and the time to start is now.

By Ms. STABENOW (for herself, Mr. DURBIN, Mr. LEAHY, Mr. JEFFORDS, Mrs. BOXER, Mr. LEVIN, Mr. DORGAN, Mr. SCHUMER, and Mr. JOHNSON):

S. 2536. A bill to amend title XIX of the Social Security Act to clarify that section 1927 of that Act does not prohibit a State from entering into drug rebate agreements in order to make outpatient prescription drugs accessible and affordable for residents of the State who are not otherwise eligible for medical assistance under the medicaid program; to the Committee on Finance.

Ms. STABENOW. I am pleased to rise today to introduce the Rx Flexibilty for States Act along with Senators DURBIN, LEAHY, JEFFORDS, BOXER, LEVIN, DORGAN, SCHUMER and JOHNSON.

This legislation would give States the flexibility to set up programs to pass along Medicaid rebates and discounts to their citizens who do not have prescription drug coverage and who are not currently eligible for Medicaid.

One of the biggest challenges facing businesses, senior citizens, families and State governments is the rising cost of prescription drug prices. From 2000–2001, prescription drug prices rose 17 percent. This is causing health expenditures and health insurance premiums to go up rapidly.

In an attempt to respond to these skyrocketing prices, 30 States have enacted laws providing some type of prescription drug coverage to those without insurance, according to the National Governors' Association, NGA.

However, the drug makers' trade association, PhRMA, has mounted legal challenges against several States because it opposes State efforts to lower prescription drug prices and increase coverage for those without it. Specifically, they have filed lawsuits against Maine and Vermont because the drug lobby does not want to extend Medicaid rebates and discounts to non-Medicaid recipients.

While Maine's two programs have been upheld in Court, Vermont's has not and both States are embroiled in lengthy appeals processes. These legal challenges are very costly and may have deterred other States from establishing similar demonstration projects.

In the absence of a Federal Medicare prescription drug benefit and soaring price of prescription drugs, States should have the unfettered ability to pass on Medicaid rebate to their residents! We need this legislation now, because even if Congress passes a Medicare prescription drug program, it will be several years before it is fully phased in.

The Rx Flexibility for States Act would seek to remove the legal hurdles that are preventing States from providing lower priced prescription drugs to all their citizens.

Specifically, States would be able to extend Medicaid rebates and discounts for prescription drugs to non-Medicaid eligible persons.

State governments are closer to the people and deserve the flexibility to set up their own programs to lower the costs of prescription drugs for their citizens.

This bill will give them that flexibility. I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2536

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 ''Rx Flexibility for States Act''.

SEC. 2. CLARIFICATION OF STATE AUTHORITY RELATING TO MEDICAID DRUG REBATE AGREEMENTS.

Section 1927 of the Social Security Act (42 U.S.C. 1396r–8) is amended by adding at the end the following:

''(l) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State from—

''(1) directly entering into rebate agreements that are similar to a rebate agreement described in subsection (b) with a manufacturer for purposes of ensuring the affordability of outpatient prescription drugs in order to provide access to such drugs by residents of a State who are not otherwise eligible for medical assistance under this title; or

''(2) making prior authorization (that satisfies the requirements of subsection (d) and that does not violate any requirements of this title that are designed to ensure access to medically necessary prescribed drugs for individuals enrolled in the State program under this title) a condition of not participating in such a similar rebate agreement.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 273—RECOGNIZING THE CENTENNIAL OF THE ESTABLISHMENT OF CRATER LAKE NATIONAL PARK

Mr. SMITH of Oregon (for himself and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 273

Whereas Crater Lake, at 1,943 feet deep, is the deepest lake in the United States;

Whereas Crater Lake is a significant natural feature, the creation of which, through the eruption of Mount Mazama 7,700 years ago, dramatically affected the landscape of an area that extends from southern Oregon into Canada;

Whereas legends of the formation of Crater Lake have been passed down through generations of the Klamath Tribe, Umpqua Tribe, and other Indian tribes;

Whereas on June 12, 1853, while in search of the legendary Lost Cabin gold mine, John Wesley Hillman, Henry Klippel, and Isaac Skeeters discovered Crater Lake;

Whereas William Gladstone Steele dedicated 17 years to developing strong local support for the conservation of Crater Lake, of which Steele said, ''All ingenuity of nature seems to have been exerted to the fullest capacity to build a grand awe-inspiring temple the likes of which the world has never seen before'';

Whereas on May 22, 1902, President Theodore Roosevelt signed into law a bill establishing Crater Lake as the Nation's sixth national park, mandating that Crater Lake National Park be ''dedicated and set apart forever as a public park or pleasure ground for the benefit of the people of the United States'' (32 Stat. 202);

Whereas Crater Lake National Park is a monument to the beauty of nature and the importance of providing public access to the natural treasures of the United States; and

Whereas May 22, 2002, marks the 100th anniversary of the designation of Crater Lake as a national park: Now, therefore, be it

Resolved, That the Senate recognizes May 22, 2002, as the centennial of the establishment of Crater Lake National Park.

SENATE CONCURRENT RESOLUTION 115—EXPRESSING THE SENSE OF THE CONGRESS THAT ALL WORKERS DESERVE FAIR TREATMENT AND SAFE WORKING CONDITIONS, AND HONORING DOLORES HUERTA FOR HER COMMITMENT TO THE IMPROVEMENT OF WORKING CONDITIONS FOR CHILDREN, WOMEN, AND FARM WORKER FAMILIES

Mr. KENNEDY submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 115

Whereas Dolores Huerta is a preeminent civil rights leader who has been fighting for the rights of the underserved for more than 40 years;

Whereas Dolores Huerta was born on April 10, 1930, in Dawson, New Mexico;

Whereas Dolores Huerta was raised, along with her 2 brothers and 2 sisters, in the San Joaquin Valley town of Stockton, California, where she was witness to her mother's care and generosity for local, poverty-stricken farm worker families;

Whereas after earning a teaching credential from Stockton College, Dolores Huerta was motivated to become a public servant and community leader upon seeing her students suffer from hunger and poverty;

Whereas Dolores Huerta defied cultural and gender stereotypes by becoming a powerful and distinguished champion for farm worker families;

Whereas in addition to her unyielding support for farm workers' rights, Dolores Huerta has been a stalwart advocate for the protection of women and children;

Whereas notwithstanding her intensity of spirit and her willingness to brave challenges, Dolores Huerta has always espoused peaceful, nonviolent tactics to promote her ideals and achieve her goals;

Whereas Dolores Huerta established her career as a social activist in 1955 when she founded the Stockton chapter of the Community Service Organization, a Latino association based in California, and became involved in the association's civic and educational programs;

Whereas in 1962, together with Cesar Chavez, Dolores Huerta founded the National Farm Workers Association, a precursor to the United Farm Workers Organizing Committee, which was formed in 1967;

Whereas Dolores Huerta is the proud mother of 11 children and has 14 grandchildren; and

Whereas Dolores Huerta was inducted into the Women's Hall of Fame in 1993 for her relentless dedication to farm worker issues: Now, therefore, be it

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

(1) it is the sense of the Congress that all workers deserve fair treatment and safe working conditions; and

(2) the Congress honors Dolores Huerta for her commitment to the improvement of working conditions for children, women, and farm worker families.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3467. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table.

SA 3468. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3469. Mr. WELLSTONE (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3470. Mr. REID (for Ms. LANDRIEU) proposed an amendment to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra.

SA 3471. Mr. BAYH (for himself, Mr. DURBIN, Mr. DAYTON, and Ms. MIKULSKI) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3472. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3473. Mrs. LINCOLN (for herself and Mr. BUNNING) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3474. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 3446 proposed by Mr. BROWNBACK to the amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra.

SA 3475. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3476. Mr. KYL (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3477. Mr. CONRAD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3478. Mr. CONRAD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3479. Mr. CONRAD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3480. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3481. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, supra; which was ordered to lie on the table.

SA 3482. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, supra; which was ordered to lie on the table.

SA 3483. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3484. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3485. Mr. BREAUX submitted an amendment intended to be proposed by him to the bill H.R. 3009, supra; which was ordered to lie on the table.

SA 3486. Mr. BREAUX submitted an amendment intended to be proposed by him to the bill H.R. 3009, supra; which was ordered to lie on the table.

SA 3487. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 3009, supra; which was ordered to lie on the table.

SA 3488. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3489. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3490. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3491. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3492. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3493. Mr. EDWARDS submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3494. Mr. EDWARDS submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3495. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 3009, supra; which was ordered to lie on the table.

SA 3496. Mr. EDWARDS (for Mr. HELMS) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3497. Mr. EDWARDS (for Mr. HELMS) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3498. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3499. Mr. HATCH (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3500. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3501. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3502. Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3503. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3504. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3505. Mr. DURBIN (for himself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R . 3009) supra; which was ordered to lie on the table.

SA 3506. Mr. CORZINE submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3507. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3508. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3509. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3510. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 3009, supra; which was ordered to lie on the table.

SA 3511. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 3009, supra; which was ordered to lie on the table.

SA 3512. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 3009, supra; which was ordered to lie on the table.

SA 3513. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3514. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3515. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3516. Mr. REED (for himself, Mr. BINGAMAN, Mr. CORZINE, and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3517. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3518. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3519. Mr. FEINGOLD (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 3009, supra; which was ordered to lie on the table.

SA 3520. Mr. FEINGOLD (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 3009, supra; which was ordered to lie on the table.

SA 3521. Mr. REID (for Mr. JEFFORDS) proposed an amendment to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra.

SA 3522. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, supra; which was ordered to lie on the table.

SA 3523. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, supra; which was ordered to lie on the table.

SA 3524. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, supra; which was ordered to lie on the table.

SA 3525. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, supra; which was ordered to lie on the table.

SA 3526. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, supra; which was ordered to lie on the table.

SA 3527. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, supra; which was ordered to lie on the table.

SA 3528. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, supra; which was ordered to lie on the table.

SA 3529. Mr. HOLLINGS submitted an amendment intended to be proposed by him

to the bill H.R. 3009, supra; which was ordered to lie on the table.

SA 3530. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3467. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 246, between lines 15 and 16, insert the following new paragraph:

(12) HUMAN RIGHTS AND DEMOCRACY.—The principal negotiating objective regarding human rights and democracy is to obtain provisions in trade agreements that require parties to those agreements to strive to protect intentionally recognized civil, political, and human rights.

SA 3468. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 224, strike line 1, and all that follows through page 345, line 19.

SA 3469. Mr. WELLSTONE (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Title XLII is amended by adding at the end the following new section:

SEC. 4203. PROHIBITION ON USE OF TANF FUNDS FOR CONTRACTING WITH ENTITIES THAT EMPLOY WORKERS LOCATED OUTSIDE OF THE UNITED STATES TO CARRY OUT THE CONTRACT.

(a) IN GENERAL.—Section 408(a) of the Social Security Act (42 U.S.C. 608(a)) is amended by adding at the end the following:

''(12) CONTRACTING WITH ENTITIES THAT EMPLOY WORKERS LOCATED OUTSIDE OF THE UNITED STATES.—

''(A) IN GENERAL.—Subject to subparagraph (B), a State to which a grant is made under section 403 shall not use any part of the grant to enter into a contract with an entity that employs workers who are located outside of the United States to carry out the activities required under the contract.

''(B) WAIVER.—The Secretary may waive the application of subparagraph (A) with respect to a State upon certification from the State that the State has taken good faith steps to enter into a contract with an entity that employs United States workers to carry out the activities required under the contract.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the date of enactment of this Act and applies to contracts entered into or renewed by a State on or after that date.

SA 3470. Mr. REID (for Ms. LANDRIEU) proposed an amendment to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 86, between lines 17 and 18, insert the following new section:

SEC. 113. TRADE ADJUSTMENT ASSISTANCE FOR MARITIME EMPLOYEES.

Not later than 6 months after the date of enactment of the Trade Adjustment Assistance Reform Act of 2002, the Secretary of Labor shall establish a program to provide health care coverage assistance under title VI of that Act, and program benefits under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) to longshoremen, harbor and port pilots, port personnel, stevedores, crane operators, warehouse personnel, and other harbor workers who have become totally or partially separated, or are threatened to become totally or partially separated, as a result of the decline in the importation of steel products into the United States caused by the safeguard measures taken by the United States on March 5, 2002, under chapter 1 of title II of such Act (19 U.S.C. 2251 et seq.).

SA 3471. Mr. BAYH (for himself, Mr. DURBIN, Mr. DAYTON, and Ms. MIKULSKI) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, add the following:

SEC. 303. COMMUNITY WORKFORCE PARTNERSHIPS.

(a) SHORT TITLE.—This section may be cited as the ''Community Workforce Development and Modernization Partnership Act''.

(b) GENERAL AUTHORITY.—Title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.) (as amended by sections 401 and 501) is further amended by inserting after chapter 7 the following:

''CHAPTER 8—COMMUNITY WORKFORCE PARTNERSHIPS

''SEC. 299K. AUTHORIZATION.

''(a) IN GENERAL.—From amounts made available to carry out this chapter, the Secretary of Labor (referred to in this chapter as the 'Secretary'), in consultation with the Secretary of Commerce and the Secretary of Education, shall award grants on a competitive basis to eligible entities described in subsection (b) to assist each entity to—

''(1) help workers improve those job skills that are necessary for employment by businesses in the industry with respect to which the entity was established;

''(2) help dislocated workers find employment; and

''(3) upgrade the operating and competitive capacities of businesses that are members of the entity.

''(b) ELIGIBLE ENTITIES.—An eligible entity described in this subsection is a consortium (either established prior to the date of enactment of the Community Workforce Development and Modernization Partnership Act or established specifically to carry out programs under this chapter) that—

''(1) shall include—

''(A) 2 or more businesses (or nonprofit organizations representing businesses) that are facing similar workforce development or business modernization challenges;

''(B) labor organizations, if the businesses described in subparagraph (A) employ workers who are covered by collective bargaining agreements; and

''(C) 1 or more businesses (or nonprofit organizations that represent businesses) with resources or expertise that can be brought to bear on the workforce development and business modernization challenges referred to in subparagraph (A); and

''(2) may include—

''(A) State governments and units of local government;

''(B) educational institutions;

''(C) labor organizations; or

''(D) nonprofit organizations.

''(c) COMMON GEOGRAPHIC REGION.—To the maximum extent practicable, the organizations that are members of an eligible entity described in subsection (b) shall be located within a single geographic region of the United States.

''(d) PRIORITY CONSIDERATION.—In awarding grants under subsection (a), the Secretary shall give priority consideration to—

''(1) eligible entities that serve dislocated workers or workers who are threatened with becoming totally or partially separated from employment;

''(2) eligible entities that include businesses with fewer than 250 employees; or

''(3) eligible entities from a geographic region in the United States that has been adversely impacted by the movement of manufacturing operations or businesses to other regions or countries, due to corporate restructuring, technological advances, Federal law, international trade, or another factor, as determined by the Secretary.

''(e) APPLICATION.—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''SEC. 299L. PARTNERSHIP ACTIVITIES.

''(a) USE OF GRANT AMOUNTS.—Each eligible entity that receives a grant under section 299K shall use the amount made available through the grant to carry out a program that provides—

''(1) workforce development activities to improve the job skills of individuals who have, are seeking, or have been dislocated from, employment with a business that is a member of that eligible entity, or with a business that is in the industry of a business that is a member of that eligible entity;

''(2) business modernization activities; or

''(3) activities that are—

''(A) workforce investment activities (including such activities carried out through one-stop delivery systems) carried out under subtitle B of title I of the Workforce Investment Act of 1998 (42 U.S.C. 2811 et seq.); or

''(B) activities described in section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k).

''(b) ACTIVITIES INCLUDED.—

''(1) WORKFORCE DEVELOPMENT ACTIVITIES.—The workforce development activities referred to in subsection (a)(1) may include activities that—

''(A) develop skill standards and provide training, including—

''(i) assessing the training and job skill needs of the industry involved;

''(ii) developing a sequence of skill standards that are benchmarked to advanced industry practices;

''(iii) developing curricula and training methods;

''(iv) purchasing, leasing, or receiving donations of training equipment;

''(v) identifying and developing the skills of training providers;

''(vi) developing apprenticeship programs; and

''(vii) developing training programs for dislocated workers;

''(B) assist workers in finding new employment; or

''(C) provide supportive services to workers who—

''(i) are participating in a program carried out by the entity under this chapter; and

''(ii) are unable to obtain the supportive services through another program providing the services.

''(2) BUSINESS MODERNIZATION ACTIVITIES.—The business modernization activities referred to in subsection (a)(2) may include activities that upgrade technical or organizational capabilities in conjunction with improving the job skills of workers in a business that is a member of that entity.

''SEC. 299M. SEED GRANTS AND OUTREACH ACTIVITIES.

''(a) SEED GRANTS.—The Secretary may provide technical assistance and award financial assistance (not to exceed $150,000 per award) on such terms and conditions as the Secretary determines to be appropriate—

''(1) to businesses, nonprofit organizations representing businesses, and labor organizations, for the purpose of establishing an eligible entity; and

''(2) to entities described in paragraph (1) and established eligible entities, for the purpose of preparing such application materials as may be required under section 299K(e).

''(b) OUTREACH AND PROMOTIONAL ACTIVITIES.—The Secretary may undertake such outreach and promotional activities as the Secretary determines will best carry out the objectives of this chapter.

''(c) LIMITATIONS ON EXPENDITURES.—The Secretary may not use more than 10 percent of the amount authorized to be appropriated under section 299P to carry out this section.

''SEC. 299N. LIMITATIONS ON FUNDING.

''(a) REQUIREMENT OF MATCHING FUNDS.—The Secretary may not award a grant under this chapter to an eligible entity unless such entity agrees that the entity will make available non-Federal contributions toward the costs of carrying out activities funded by that grant in an amount that is not less than $2 for each $1 of Federal funds made available through the grant.

''(b) IN-KIND CONTRIBUTIONS.—The Secretary—

''(1) shall, in awarding grants under this chapter, give priority consideration to those entities whose members offer in-kind contributions; and

''(2) may not consider any in-kind contribution in lieu of or as any part of the contributions required under subsection (a).

''(c) SENIOR MANAGEMENT TRAINING AND DEVELOPMENT.—An eligible entity may not use any amount made available through a grant awarded under this chapter for training and development activities for senior management, unless that entity certifies to the Secretary that expenditures for the activities are—

''(1) an integral part of a comprehensive modernization plan; or

''(2) dedicated to team building or employee involvement programs.

''(d) PERFORMANCE MEASURES.—Each eligible entity shall, in carrying out the activities referred to in section 299L, provide for development of, and tracking of performance according to, performance outcome measures.

''(e) ADMINISTRATIVE COSTS.—Each eligible entity may use not more than 20 percent of the amount made available to that entity through a grant awarded under this chapter to pay for administrative costs.

''(f) MAXIMUM AMOUNT OF GRANT.—No eligible entity may receive—

''(1) a grant under this chapter in an amount of more than $1,000,000 for any fiscal year; or

''(2) grants under this chapter in any amount for more than 3 fiscal years.

''(g) SUPPORT FOR EXISTING OPERATIONS.—

''(1) IN GENERAL.—In making grants under this chapter, the Secretary may use a portion equal to not more than 50 percent of the funds appropriated to carry out this chapter for a fiscal year, to support the existing training and modernization operations of existing eligible entities.

''(2) ENTITIES.—The Secretary may award a grant to an existing eligible entity for existing training and modernization operations only if the entity—

''(A) currently offers (as of the date of the award of the grant) a combination of training, modernization, and business assistance services;

''(B) targets industries with jobs that traditionally have low wages;

''(C) targets industries that are faced with chronic job loss; and

''(D) has demonstrated success in accomplishing the objectives of activities described in section 299L.

''(3) APPLICATION.—Paragraph (1) shall not apply to support for the expansion of training and modernization operations of existing eligible entities.

''(4) DEFINITIONS.—In this subsection:

''(A) EXISTING TRAINING AND MODERNIZATION ACTIVITY.—The term 'existing training and modernization activity' means a training and modernization activity carried out prior to the date of enactment of the Community Workforce Development and Modernization Partnership Act.

''(B) EXISTING ELIGIBLE ENTITY.—The term 'existing eligible entity' means an eligible entity that was established prior to the date of enactment of the Community Workforce Development and Modernization Partnership Act.

''SEC. 299O. EVALUATION.

''Not later than 3 years after the date of enactment of the Community Workforce Development and Modernization Partnership Act, the Secretary shall prepare and submit to Congress a report on the effectiveness of the activities carried out under this chapter.

''SEC. 299P. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this chapter—

''(1) $10,000,000 for fiscal year 2003;

''(2) $15,000,000 for fiscal year 2004;

''(3) $20,000,000 for fiscal year 2005;

''(4) $25,000,000 for fiscal year 2006; and

''(5) $30,000,000 for fiscal year 2007.''.

(c) TABLE OF CONTENTS.—The table of contents for the Trade Act of 1974 (19 U.S.C. 2101 et seq.) (as amended in section 701(a)) is further amended by inserting after the items relating to chapter 7 of title II the following:

''CHAPTER 8—COMMUNITY WORKFORCE PARTNERSHIPS

''Sec. 299K. Authorization.
''Sec. 299L. Partnership activities.
''Sec. 299M. Seed grants and outreach activities.
''Sec. 299N. Limitations on funding.
''Sec. 299O. Evaluation.
''Sec. 299P. Authorization of appropriations.''.

SA 3472. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Section 4102 is amended by striking the matter preceding paragraph (1) and inserting the following:

(a) ELIGIBILITY FOR GENERALIZED SYSTEM OF PREFERENCES.—Section 502(b)(2)(F) of the Trade Act of 1974 (19 U.S.C. 2462(b)92)(F)) is amended by striking the period at the end and inserting ''or such country has not taken steps to support the efforts of the United States to combat terrorism.''.

(b) DEFINITIOIN OF INTERNATIONALLY RECOGNIZED WORKER RIGHTS.—Section 507(4) of the Trade Act of 1974 (19 U.S.C. 2467(4)) is amended—

SA 3473. Mrs. LINCOLN (for herself and Mr. BUNNING) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table, as follows:

At the appropriate place, insert the following:

SEC. ___. EXCLUSION OF INCOME DERIVED FROM CERTAIN WAGERS ON HORSE RACES FROM GROSS INCOME OF NONRESIDENT ALIEN INDIVIDUALS.

(a) IN GENERAL.—Section 872(b) of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively, and inserting after paragraph (4) the following new paragraph:

''(5) INCOME DERIVED FROM WAGERING TRANSACTIONS IN CERTAIN PARIMUTUEL POOLS.—Gross income derived by a nonresident alien individual from a legal wagering transaction initiated outside the United States in a parimutuel pool with respect to a live horse race in the United States.''.

(b) CONFORMING AMENDMENT.—Section 883(a)(4) of such Code is amended by striking ''(5), (6), and (7)'' and inserting ''(6), (7), and (8)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to proceeds from wagering transactions after September 30, 2002.

SA 3474. Mr. CRASSLEY submitted an amendment intended to be proposed to amendment SA 3446 proposed by Mr. BROWNBACK to the amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING THE UNITED STATES-RUSSIAN FEDERATION SUMMIT MEETING, MAY 2002.

(a) FINDINGS.—The Senate finds that—

(1) President George W. Bush will visit the Russian Federation May 23-25, 2002, to meet with his Russian counterpart, President Vladimir V. Putin;

(2) the President and President Putin, and the United States and Russian governments, continue to cooperate closely in the fight against international terrorism;

(3) the President seeks Russian cooperation in containing the war-making capabilities of Iraq, including that country's ongoing program to develop and deploy weapons of mass destruction;

(4) during his visit, the President expects to sign a treaty to significantly reduce American and Russian stockpiles of nuclear weapons by 2012;

(5) the President and his NATO partners have further institutionalized United States-Russian security cooperation through establishment of the NATO-Russia Permanent Joint Council, which meets for the first time on May 28, 2002, in Rome, Italy;

(6) during his visit, the President will continue to address religious freedom and human rights concerns through open and candid discussions with President Putin, with leading Russian activists, and with representatives of Russia's revitalized and diverse Jewish community; and

(7) recognizing Russia's progress on religious freedom and a broad range of other mechanisms to address remaining concerns, the President has asked the Congress to terminate application to Russian of title IV of the Trade Act of 1974 (commonly known as the ''Jackson-Vanik Amendment'') and authorize the extension of normal trade relations to the products of Russia.

(b) SENSE OF THE SENATE.—The Senate—

(1) supports the President's efforts to deepen the friendship between the American and Russian peoples;

(2) further supports the policy objectives of the President mentioned in this section with respect to the Russian Federation;

(3) supports terminating the application of title IV of the Trade Act of 1974 to Russia in an appropriate and timely manner; and

(4) looks forward to learning the results of the President's discussions with President Putin and other representatives of the Russian government and Russian society.

SA 3475. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Division B, add the following:

SEC. ____. MODIFICATION TO CELLAR TREATMENT OF NATURAL WINE.

(a) IN GENERAL.—Subsection (a) of section 5382 of the Internal Revenue Code of 1986 (relating to cellar treatment of natural wine) is amended to read as follows:

''(a) PROPER CELLAR TREATMENT.—

''(1) IN GENERAL.—Proper cellar treatment of natural wine constitutes—

''(A) subject to paragraph (2), those practices and procedures in the United States, whether historical or newly developed, of using various methods and materials to stabilize the wine, or the fruit juice from which it is made, so as to produce a finished product acceptable in good commercial practice, and

''(B) subject to paragraph (3), in the case of imported wine, those practices and procedures acceptable to the United States under an international agreement or treaty with respect to wines produced subject to that international agreement or treaty.

''(2) RECOGNITION OF CONTINUING TREATMENT.—For purposes of paragraph (1)(A), where a particular treatment has been used in customary commercial practice in the United States, it shall continue to be recognized as a proper cellar treatment in the absence of regulations prescribed by the Secretary finding such treatment not to be proper cellar treatment within the meaning of this subsection.

''(3) CERTIFICATION OF PRACTICES AND PROCEDURES FOR IMPORTED WINE.—

''(A) IN GENERAL.—In the case of imported wine which is not subject to an international agreement or treaty under paragraph (1)(B), the Secretary shall accept the practices and procedures used to produce such wine, if, at the time of importation—

''(i) the importer provides the Secretary with a certification from the government of the producing country, accompanied by an affirmed laboratory analysis, that the practices and procedures used to produce the wine constitute proper cellar treatment under paragraph (1), or

''(ii) in the case of an importer that owns or controls or that has an affiliate that owns or controls a winery operating under a basic permit issued by the Secretary, the importer certifies that the practices and procedures used to produce the wine constitute proper cellar treatment under paragraph (1).

''(B) AFFILIATE DEFINED.—For purposes of this paragraph, the term 'affiliate' has the meaning given such term by section 117(a)(4) of the Federal Alcohol Administration Act (27 U.S.C. 211(a)(4)) and includes a winery's parent or subsidiary or any other entity in which the winery's parent or subsidiary has an ownership interest.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 2004.

SA 3476. Mr. KYL (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. CERTAIN STEAM OR OTHER VAPOR GENERATING BOILERS USED IN NUCLEAR FACILITIES.

(a) IN GENERAL.—Subheading 9902.84.02 of the Harmonized Tariff Schedule of the United States is amended—

(1) by striking ''4.9%'' and inserting ''Free''; and

(2) by striking ''12/31/2003'' and inserting ''12/31/2006''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to goods entered, or withdrawn from warehouse for consumption, on or after January 2, 2002.

(2) RETROACTIVE APPLICATION.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (4), the entry of any article—

(A) that was made on or after January 1, 2002, and

(B) to which duty-free treatment would have applied if the amendment made by this section had been in effect on the date of such entry,

shall be liquidated or reliquidated as if such duty-free treatment applied, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(3) ENTRY.—As used in this subsection, the term ''entry'' includes a withdrawal from warehouse for consumption.

(4) REQUESTS.—Liquidation or reliquidation may be made under paragraph (2) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

SA 3477. Mr. CONRAD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 305, strike lines 1–13 and insert the following:

(5) IMPORT SENSITIVE AGRICULTURAL PRODUCT.—The term ''import sensitive agricultural product'' means an agricultural product—

(A) with respect to which, as a result of the Uruguay Round Agreements the rate of duty was the subject of tariff reductions by the United States and, pursuant to such Agreements, was reduced on January 1, 1995, to a rate that was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1994; or

(B) which was subject to a tariff-rate quota on the date of enactment of this Act.

SA 3478. Mr. CONRAD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 278, between lines 6 and 7, insert the following:

(4) CURRENCY STABILITY.—Not later than 60 calendar days after the date on which the President transmits the notification described in paragraph (3)(A), if the President intends to enter into an agreement or change an existing agreement, the President shall provide written assurance to Congress that the President has sufficient information regarding the macro-economic position of the other party to the agreement to determine that the currency of the other party is stable and that the President does not expect a significant reduction in the value of the currency of the other party that could significantly offset the value of any tariff or non-tariff concessions achieved by the United States in the proposed agreement.

SA 3479. Mr. CONRAD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 2103(b), insert the following:

(4) DISAPPROVAL OF NEGOTIATIONS.—Except with respect to the agreements set forth in section 2106(a), the trade authorities procedures shall not apply to any implementing bill that contains a provision approving of any trade agreement which is entered into under this subsection if the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives disapproves of the negotiation of such agreement before the close of the 60-day period which begins on the date notice is provided under section 2104(a)(1) with respect to the negotiation of such agreement.

SA 3480. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr.

BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XXXII, insert the following new section:

SEC. 3204. TUNA PRODUCTS.

(a) STUDY AND REPORT.—

(1) REQUIREMENT.—Within 90 days of the date of enactment of this Act, the ITC shall study the issues set forth in paragraph (2), and submit a report to the President setting forth the results of the study.

(2) ISSUE TO BE STUDIED.—The issues to be studied pursuant to paragraph (1) are—

(A) the probable economic effect of providing preferential trade treatment for Philippine tuna on the United States tuna industry; and

(B) the probable impact of providing preferential trade treatment for Philippine tuna on the success of achieving the objectives of the Andean Trade Preference Act.

(b) PREFERENTIAL TRADE TREATMENT FOR PHILIPPINE TUNA.—After receiving the report described in subsection (a), the President is authorized to proclaim preferential trade treatment for Philippine tuna, if the President determines that providing such treatment—

(1) will not cause serious injury to the United States tuna industry;

(2) will not significantly impair the ability of the United States to achieve the objectives of the Andean Trade Preference Act; and

(3) is in the national interest.

(c) MODIFIED TRADE BENEFIT.—If the President does not proclaim preferential trade treatment for Philippine tuna as described in subsection (b), the President shall seek further advice from the ITC to determine if a modified trade benefit for tuna products may be extended to the Philippines. The President is authorized to proclaim such a modified trade benefit if the President determines that providing such a modified trade benefit would satisfy the criteria described in paragraphs (1), (2), and (3) of subsection (b).

(d) EXPIRATION.—Preferential trade treatment proclaimed under subsection (b) or a modified trade benefit proclaimed under subsection (c) shall expire at the end of the transition period.

(e) GATT WAIVER.—If the President proclaims preferential trade treatment under subsection (b) or a modified trade benefit under subsection (c), the President shall request, at the earliest possible opportunity, a waiver from the World Trade Organization of the United States obligations under paragraph 1 of Article I of the GATT 1994 with respect to such preferential trade treatment or modified trade benefit.

(f) DEFINITIONS.—In this section:

(1) GATT 1994.—The term ''GATT 1994'' has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

(2) HTS.—The term ''HTS'' means the Harmonized Tariff Schedule of the United States.

(3) ITC.—The term ''ITC'' means the International Trade Commission.

(4) MODIFIED TRADE BENEFIT FOR TUNA PRODUCTS.—The term ''modified trade benefit for tuna products'' means any trade preference provided to tuna that is harvested by a Philippine vessel, and prepared or preserved in any manner, in airtight containers in the Philippines, other than the preferential trade treatment for Philippine tuna described in paragraph (6).

(5) PHILIPPINE VESSEL.—The term ''Philippine vessel'' means a vessel—

(A) which is registered or recorded in the Philippines;

(B) which sails under the flag of the Philippines;

(C) which is at least 75 percent owned by nationals of the Philippines or by a company having its principal place of business in the Philippines, of which the manager or managers, chairman of the board of directors or of the supervisory board, and the majority of the members of such boards are nationals of the Philippines and of which, in the case of a company, at least 50 percent of the capital is owned by the Philippines or by public bodies or nationals of the Philippines;

(D) of which the master and officers are nationals of the Philippines; and

(E) of which at least 75 percent of the crew are nationals of the Philippines.

(6) PREFERENTIAL TRADE TREATMENT FOR PHILIPPINE TUNA.—The term ''preferential trade treatment for Philippine tuna'' means duty-free treatment for tuna that is harvested by Philippine vessels, and is prepared or preserved in any manner, in airtight containers in the Philippines for a quantity of such tuna in any calendar year that does not exceed 20 percent of the domestic United States tuna pack in the preceding calendar year.

(7) TRANSITION PERIOD.—The term ''transition period'' has the meaning given that term in section 204(b)(5)(D) of the Andean Trade Preference Act, as amended by section 3102.

(8) TUNA PACK.—The term ''tuna pack'' means tuna pack as defined by the National Marine Fisheries Service of the United States Department of Commerce for purposes of subheading 1604.14.20 of the HTS as in effect on the date of enactment of the Andean Trade Preference Expansion Act.

(9) UNITED STATES TUNA INDUSTRY.—The term ''United States tuna industry'' means the industry in the United States, including American Samoa, that prepares or preserves tuna, in any manner, in airtight containers.

SA 3481. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . TRADE ADJUSTMENT ASSISTANCE AND HEALTH BENEFITS FOR TEXTILE AND APPAREL WORKERS.

(a) IN GENERAL.—An individual employed in the textile or apparel industry before the date of enactment of this Act who, after December 31, 1993—

(1) lost, or loses, his or her job (other than by termination for cause); and

(2) has not been re-employed in that industry, is deemed to be eligible for adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(b) NEW BENEFITS.—If this Act, by amendment or otherwise, makes additional or different trade adjustment assistance or health benefits available to groups of workers with respect to whom the Secretary makes a certification under section 222 of the Trade Act of 1974 (19 U.S.C. 2272) after the date of enactment of this Act, then any individual described in subsection (a) is deemed to be eligible for such additional or different trade adjustment assistance or health benefits without regard to any eligibility requirements that may be imposed by law under this or any other Act.

(c) ADDITIONAL OR DIFFERENT BENEFITS DEFINED.—In this section, the term ''additional or different trade adjustment assistance or health benefits'' means—

(1) adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) that was not available under that subchapter on the day before the date of enactment of this Act but that becomes available under that subchapter thereafter; and

(2) health care benefits for which groups of workers with respect to whom the Secretary makes a certification under section 222 of the Trade Act of 1974 (19 U.S.C. 2272) after the date of enactment of this Act are eligible under this Act or any amendment made by this Act.

SA 3482. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table, as follows:

In lieu of the matter proposed insert the following;

SEC. . TRADE ADJUSTMENT ASSISTANCE AND HEALTH BENEFITS FOR TEXTILE AND APPAREL WORKERS.

(a) IN GENERAL.—An individual employed in the textile or apparel industry before the date of enactment of this Act who, after December 31, 1993—

(1) lost, or loses, his or her job (other than by termination for cause); and

(2) has not been re-employed in that industry, is deemed to be eligible for adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(b) NEW BENEFITS.—If this Act, by amendment or otherwise, makes additional or different trade adjustment assistance or health benefits available to groups of workers with respect to whom the Secretary makes a certification under section 222 of the Trade Act of 1974 (19 U.S.C. 2272) after the date of enactment of this Act, then any individual described in subsection (a) is deemed to be eligible for such additional or different trade adjustment assistance or health benefits without regard to any eligibility requirements that may be imposed by law under this or any other Act.

(c) ADDITIONAL OR DIFFERENT BENEFITS DEFINED.—In this section, the term ''additional or different trade adjustment assistance or health benefits'' means—

(1) adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) that was not available under that subchapter on the day before the date of enactment of this Act but that becomes available under that subchapter thereafter; and

(2) health care benefits for which groups of workers with respect to whom the Secretary makes a certification under section 222 of the Trade Act of 1974 (19 U.S.C. 2272) after the date of enactment of this Act are eligible under this Act or any amendment made by this Act.

SA 3483. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . EXTRADITION REQUIREMENT.

(a) IN GENERAL.—The benefits provided under any preferential tariff program authorized by this Statute shall not apply to any product of a country that fails to comply within 30 days with a United States government request for the extradition of an individual for trial in the United States if that individual has been indicted by a Federal grand jury for a crime involving a violation of the Controlled Substances Act (21 U.S.C. 101 et seq.).

SA 3484. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed insert the following:

SEC. . EXTRADITION REQUIREMENT.

(a) IN GENERAL.—The benefits provided under any preferential tariff program authorized by this statute shall not apply to any product of a country that fails to comply within 30 days with a United States government request for the extradition of an individual for trial in the United States if that individual has been indicted by a Federal grand jury for a crime involving a violation of the Controlled Substances Act (21 U.S.C. 101 et seq.)

SA 3485. Mr. BREAUX submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Title XI is amended by adding at the end of chapter 3 of subtitle A, the following new section:

SEC. 1137. VESSEL REPAIR DUTIES.

Section 466(h) of the Tariff Act of 1930 (19 U.S.C. 1466(h)) is amended—

(1) in paragraph (1), by striking the comma at the end, and inserting a semicolon;

(2) in paragraph (2), by striking the comma at the end and ''or'' and inserting a semicolon;

(3) in paragraph (3), by striking the period at the end, and inserting a semicolon and ''or''; and

(4) by adding at the end the following new paragraph:

(4) the cost of repairs to a vessel documented under the laws of the United States and engaged in the foreign or coasting trade, made by members of the regular crew of such vessel while the vessel is on the high seas.

SA 3486. Mr. BREAUX submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 3203.

SA 3487. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

''SEC. . EXTRANEOUS MATTER IN IMPLEMENTING BILLS.

''(a) IN GENERAL.—Notwithstanding any other provision of law, upon a point of order being made by any Senator against material extraneous to trade (as defined in subsection (b)) which is contained in any provision of an implementing bill, and the point of order is sustained by the Presiding Officer, any part of said provision that contains material extraneous to trade shall be deemed stricken from the bill and may not be offered as an amendment from the floor.

''(b) EXTRANEOUS PROVISIONS.—A provision of an implementing bill shall be considered extraneous if it—

''(1) is not directly related to a trade negotiating objective specified in section 2102 of this Act; or

''(2) produces effects related to a trade negotiating objective that are merely incidental to the effects of the provision that are not related to a trade negotiating objective.

''(c) LISTING OF POSSIBLY EXTRANEOUS MATERIALS.—Upon the reporting or discharge of an implementing bill or upon the receipt by the Senate of a message conveying an implementing bill from the House of Representatives, the Committee on Finance of the Senate shall submit for the record a list of material considered to be extraneous under subsection (b) to trade negotiating objectives. The inclusion or exclusion of a provision shall not constitute a determination of extraneousness by the Presiding Officer of the Senate.

''(d) CONFERENCE REPORTS AND AMENDMENTS BETWEEN HOUSES.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to an implementing bill, upon—

''(1) a point of order being made by any Senator against extraneous material meeting the definition of subsection (b), and

''(2) such point of order being sustained, such material contained in such conference report or amendment shall be deemed stricken, and the Senate shall proceed, without intervening action or motion, to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable for 2 hours. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

''(e) GENERAL POINT OF ORDER.—Notwitstanding any other law or rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of an implementing bill or conference report violate this section. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some of the provisions against which the Senator raised the point of order, then only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this section. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

''(f) WAIVER.—Any provision of this section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

''(g) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the implementing bill. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.''

SA 3488. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

After section 2103(b), insert the following:

(5) LIMITATIONS ON TRADE AUTHORITIES PROCEDURES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the provisions of section 151 of the Trade Act of 1974 shall not apply to any provision in an implementing bill that increases revenue.

(B) POINT OF ORDER IN SENATE.—

(i) IN GENERAL.—When the Senate is considering an implementing bill, upon a point of order being made by any Senator against any part of the implementing bill that contains material in violation of subparagraph (A), and the point of order is sustained by the Presiding Officer, the part of the implementing bill against which the point of order is sustained shall be stricken from the bill.

(ii) WAIVERS AND APPEALS.—

(I) WAIVERS.—Before the Presiding Officer rules on a point of order described in clause (i), any Senator may move to waive the point of order and the motion to waive shall not be subject to amendment. A point of order described in clause (i) is waived only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(II) APPEALS.—After the Presiding Officer rules on a point of order under this subparagraph, any Senator may appeal the ruling of the Presiding Officer on the point of order as it applies to some or all of the provisions on which the Presiding Officer ruled. A ruling of the Presiding Officer on a point of order described in clause (i) is sustained unless three-fifths of the Members, duly chosen and sworn, vote not to sustain the ruling.

(III) DEBATE.—Debate on a motion to waive under subclause (I) or on an appeal of the ruling of the Presiding Officer under subclause (II) shall be limited to 1 hour. The time shall be equally divided between, and controlled by, the majority leader and the minority leader, or their designees.

SA 3489. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

''ANALYSES OF THE EFFECTS OF TRADE LEGISLATION OF AMERICAN JOBS

''Section 308 of the Congressional Budget Act of 1974 (2 U.S.C. §639) is amended by inserting at the end thereof the following new subsection:

''(d) ANALYSES OF THE EFFECTS OF TRADE LEGISLATION ON AMERICAN JOBS.—

11''(1) Whenever a committee of either House reports to its House a bill or resolution, or committee amendment thereto, providing for the implementation of a trade agreement, the report accompanying that bill or resolution shall contain a statement, or the committee shall make available such a statement in the case of an approved committee amendment which is not reported to its House, prepared after consultation with the Director of the Congressional Budget Office—

''(A) analyzing the effect of such agreement on employment in the United States, in affected regions of the United States, and in affected industries of the United States; and

''(B) containing a projection by the Congressional Budget Office of how such measure will affect the levels of such employment for such fiscal year (Or fiscal years) and each of the four ensuing fiscal years, if timely submitted before such report is filed.

''(2) Whenever a conference report is filed in either House and such conference report or any amendment reported in disagreement or any amendment contained in the joint statement of managers to be proposed by the conferees in the case of technical disagreement on such bill or resolution provides for the implementation of a trade agreement, the statement of managers accompanying such conference report shall contain the information described in paragraph (1), if available on a timely basis. If such information is not available when the conference report is filed, the committee shall make such information available to Members as soon as practicable prior to the consideration of such conference report.

''(3) The Director of the Congressional Budget Office shall prepare estimates required under this subsection in the same fashion as the Director prepares budgetary cost estimates for legislation under this Act, and the Director may combine the analyses under this subsection with the budgetary cost estimates that the Director prepares under this Act.''

SA 3490. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits that Act, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 2103(b)(3)(A), and insert the following:

''(A) APPLICATION OF EXPEDITED PROCEDURES.—

''(i) IN GENERAL.—Except as provided in clause (ii), the provisions of section 151 of the Trade Act of 1974 (in this title referred to as 'trade authorities procedures') apply to a bill of either House of Congress which contains provisions described in subparagraph (B) to the same extent as such section 151 applies to implementing bills under that section. A bill to which this paragraph applies shall hereafter in this title be referred to as an 'implementing bill'.

''(ii) VOTE TO INVOKE TRADE AUTHORITIES PROCEDURES.—Notwithstanding any other provision of law, upon the adoption of a motion to proceed to an implementing bill, the Senate shall immediately consider the question of whether to invoke trade authorities procedures. Debate in the Senate on the question of whether to invoke trade authorities procedures shall be limited to not more than 2 hours, which shall include any debate on any debatable motion or appeal in relation to the question of whether to invoke trade authorities procedures. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees, except that in the event that the minority leader favors invoking trade authorities procedures, the time in opposition thereto shall be controlled by the first Senator recognized by the Presiding Officer (in accordance with rule XIX of the Standing Rules of the Senate) who opposes invoking trade authorities procedures. No amendment to the question of whether to invoke trade authorities procedures shall be in order. Debate on any debatable motion or appeal shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the majority leader or the majority leader's designee. The Senators who control time on the question of whether to invoke trade authorities procedures may, from the time under their control on the question, allot additional time to any Senator during the consideration of any debatable motion or appeal. A motion to further limit debate is not in order. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order. Upon the expiration or yielding back of time on the question of whether to invoke trade authorities procedures, the Senate shall proceed, without any intervening action, to vote on the question. An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to invoke trade authorities procedures. If the Senate votes to invoke trade authorities procedures, trade authorities procedures shall apply to the bill as provided in clause (i). If the Senate fails to invoke trade authorities procedures, then the bill shall be fully debatable in accordance with the Standing Rules of the Senate.

SA 3491. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 2103(b)(3)(A), and insert the following:

''(A) APPLICATION OF EXPEDITED PROCEDURES.—

''(i) IN GENERAL.—Except as provided in clause (ii), the provisions of section 151 of the Trade Act of 1974 (in this title referred to as 'trade authorities procedures') apply to a bill of either House of Congress which contains provisions described in subparagraph (B) to the same extent as such actions 151 applies to implementing bills under that section. A bill to which this paragraph applies shall hereafter in this title be referred to as an 'implementing bill'.

''(ii) CERTIFICATION THAT TRADING PARTNERS ARE DEMOCRACIES.—Notwithstanding any other provision of law, before trade authorities procedures may apply to a bill under clause (i), the President must certify that all parties to the trade agreement that is the subject of the implementing bill are democracies.

SA 3492. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1143.

SA 3493. Mr. EDWARDS submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 231(a) of the Trade Act of 1974, as amended by section 111, insert the following:

''(5) ADDITIONAL RULE FOR TEXTILE AND APPAREL WORKERS.—

''(A) PRESUMPTIVE CERTIFICATION.—A group of workers at a textile or apparel firm shall be presumptively certified by the Secretary as adversely affected and eligible for trade adjustment assistance benefits under this chapter and benefits under title VI of the Trade Adjustment Assistance Reform Act of 2002 during the period described in subsection (c)(1) if—

''(i) a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

''(ii)(I) the sales or production of the workers' firm has decreased; or

''(II) the workers' plant or facility has closed or relocated; and

''(iii) the occurrence described in clause (ii) contributed importantly to the workers' separation or threat of separation.

''(B) PERMANENT CERTIFICATION.—The presumptive certification under subparagraph (A) shall become permanent 40 days after the submission of a petition under subsection (b) unless the Secretary determines within such period, after giving the group of workers notice and an opportunity to be heard, that the workers do not satisfy the criteria for certification in paragraph (1), (2), or (3) of subsection (a).

SA 3494. Mr. EDWARDS submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IX of division A add the following:

SEC. ____. DESIGNATION OF AND TAX INCENTIVES FOR ECONOMIC REVITALIZATION ZONES.

(a) IN GENERAL.—Chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subchapter:

''Subchapter Z—Economic Revitalization Zones

''Sec. 1400M. Designation of economic revitalization zones.

''Sec. 1400N. Incentives for economic revitalization zones.

''SEC. 1400M. DESIGNATION OF ECONOMIC REVITALIZATION ZONES.

''(a) DESIGNATION.—

''(1) DEFINITIONS.—For purposes of this title, the term 'economic revitalization zone' means any area—

''(A) which is nominated by 1 or more local governments and the State or States in which it is located for designation as an economic revitalization zone (hereafter in this section referred to as a 'nominated area'), and

''(B) which the Secretary of Labor designates as an economic revitalization zone.

''(2) NUMBER OF DESIGNATIONS.—Not more than 40 nominated areas may be designated as economic revitalization zones.

''(3) AREAS DESIGNATED BASED ON DEGREE OF UNEMPLOYMENT, ETC.—The nominated areas designated as economic revitalization zones under this subsection shall be those nominated areas with the highest average ranking with respect to the criteria described in subparagraphs (A) and (B) of subsection (c)(3). For purposes of the preceding sentence, an area shall be ranked within each such criterion on the basis of the amount by which the area exceeds such criterion, with the area which exceeds such criterion by the greatest amount given the highest ranking.

''(4) LIMITATION ON DESIGNATIONS.—

''(A) PUBLICATION OF REGULATIONS.—The Secretary of Labor shall prescribe by regulation no later than 4 months after the date of the enactment of this section—

''(i) the procedures for nominating an area under paragraph (1)(A), and

''(ii) the parameters relating to the size characteristics of an economic revitalization zone.

''(B) TIME LIMITATIONS.—The Secretary of Labor may designate nominated areas as economic revitalization zones only during the period beginning on the first day of the first month following the month in which the regulations described in subparagraph (A) are prescribed and ending on December 31, 2002.

''(C) PROCEDURAL RULES.—The Secretary of Labor shall not make any designation of a nominated area as an economic revitalization zone under paragraph (2) unless—

''(i) the local governments and the States in which the nominated area is located have the authority to nominate such area for designation as an economic revitalization zone,

''(ii) a nomination regarding such area is submitted in such a manner and in such form, and contains such information, as the Secretary of Labor shall by regulation prescribe, and

''(iii) the Secretary of Labor determines that any information furnished is reasonably accurate.

''(b) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

''(1) IN GENERAL.—Any designation of an area as an economic revitalization zone shall remain in effect during the period beginning on January 1, 2003, and ending on the earliest of—

''(A) December 31, 2012,

''(B) the termination date designated by the State and local governments in their nomination, or

''(C) the date the Secretary of Labor revokes such designation.

''(2) REVOCATION OF DESIGNATION.—The Secretary of Labor may revoke the designation under this section of an area if such Secretary determines that the local government or the State in which the area is located has modified the boundaries of the area.

''(c) AREA AND ELIGIBILITY REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary of Labor may designate a nominated area as an economic revitalization zone under subsection (a) only if the area meets the requirements of paragraphs (2) and (3) of this subsection.

''(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

''(A) the area is within the jurisdiction of one or more local governments in one or more trade-affected States, and

''(B) the boundary of the area is continuous.

''(3) ELIGIBILITY REQUIREMENTS.—A nominated area meets the requirements of this paragraph if the States and the local governments in which it is located certify in writing (and the Secretary of Labor, after such review of supporting data as the Secretary deems appropriate, accepts such certification) that—

''(A) the unemployment rate in the area during 2001 was at least 150 percent of the national unemployment rate during 2001,

''(B) of the total employment in the area during 1993—

''(i) more than 10 percent consisted of employment in a trade-affected industry located in such area, or

''(ii) more than 15 percent consisted of employment in all of the trade-affected industries located in such area, and

''(C) employment in a trade-affected industry located in such area decreased by more than 20 percent during the period from 1993 through 2001.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this subchapter—

''(1) TRADE-AFFECTED STATE.—The term 'trade-affected State' means any State in which the total number of workers located in such State who were certified through the trade adjustment assistance and the NAFTA transitional adjustment assistance programs under chapter 2 of title II of the Trade Act of 1974 during the period from 1994 through 2001 was not less than an amount equal to 2.5 percent of the State's total labor force in 1994.

''(2) TRADE-AFFECTED INDUSTRY.—The term 'trade-affected industry' means any 2-digit Standard Industrial Code industry—

''(A) which had a total labor force of at least 500,000 during 1994, as determined by the Bureau of Labor Statistics, and

''(B) in which the total number of workers who were certified through the trade adjustment assistance and the NAFTA transitional adjustment assistance programs under chapter 2 of title II of the Trade Act of 1974 during the period from 1994 through 2001 was not less than an amount equal to 10 percent of such industry's total labor force in 1994.

''(3) LOCAL GOVERNMENT.—The term 'local government' means—

''(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

''(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Labor.

''(4) GOVERNMENTS.—If more than one government seeks to nominate an area as an economic revitalization zone, any reference to, or requirement of, this section shall apply to all such governments.

''SEC. 1400N. INCENTIVES FOR ECONOMIC REVITALIZATION ZONES.

''(a) IN GENERAL.—An economic revitalization zone shall be treated for the period of its designation as an empowerment zone for purposes of applying—

''(1) section 1394 (relating to tax-exempt enterprise zone facility bonds),

''(2) section 1396 (relating to empowerment zone employment credit),

''(3) section 1397A (relating to increase in expensing under section 179), and

''(4) section 1397B (relating to nonrecognition of gain on rollover of empowerment zone investments).

''(b) NEW MARKETS TAX CREDIT.—An economic revitalization zone shall be treated for the period of its designation as a low-income community for purposes of applying section 45D (relating to new markets tax credit).''.

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Subchapter Z. Economic Revitalization Zones.''.

SEC. ___. ENHANCED DEDUCTION FOR CORPORATE DONATIONS OF COMPUTER TECHNOLOGY TO COMMUNITY TECHNOLOGY CENTERS.

(a) EXPANSION OF COMPUTER TECHNOLOGY DONATIONS TO COMMUNITY TECHNOLOGY CENTERS.—Section 170(e)(6)(B)(i)(II) of the Internal Revenue Code of 1986 (relating to qualified computer contribution) is amended by striking ''or'' at the end of subclause (II), by adding ''or'' at the end of subclause (III), and by inserting after subclause (III) the following:

''(IV) a nonprofit or governmental community technology center located in an economic revitalization zone (as defined in section 1400M(a)(1)), including any center within which an after-school or employment training program is operated,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 2002.

SA 3495. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . DEBT LIMIT INCREASE.

Subsection (b) of Section 3101 of title 31, United States Code, is amended by striking ''$5,950,000,000,000'' and inserting ''$6,128,000,000,000''.

SA 3496. Mr. EDWARDS (for Mr. HELMS) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 203, after line 25, insert the following new section:

SEC. 1137. TRANSSHIPMENTS.

(a) IN GENERAL.—The Commissioner of Customs shall report on a quarterly basis to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding all instances of transshipments of textiles and apparel articles occurring in the 3-month period preceding the report. The report shall detail with respect to each instance of transshipment—

(1) the amount of textiles and apparel articles involved;

(2) the names of the exporter and importer of the articles;

(3) each country through whose territory the transshipment has occurred; and

(4) any action taken with respect to the transshipment.

(b) PENALTIES.—

(1) IN GENERAL.—In addition to any other penalty, if the President determines, based on sufficient evidence, that an exporter has engaged in transshipment as defined in paragraph (3), the President shall permanently suspend export privileges for such exporter,

any successor of such exporter, any other entity owned or operated by the principal of the exporter, and any entity employing a factory manager who was a manager of a production facility or exporter found to have engaged in the transshipment.

(2) QUOTA CHARGE-BACKS.—To the extent consistent with United States international obligations, in addition to any other penalty, the country of origin of the transshipment pursuant to paragraph (1) shall have its quota for the category of the transshipment textiles or apparel charged in an amount equal to three times the amount of the goods involved in the transshipment.

(3) TRANSSHIPMENT DESCRIBED.—Transshipment has occurred when preferential treatment for a textile or apparel article under any provision of law has been claimed on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of this paragraph, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for such preferential treatment.

SA 3497. Mr. EDWARDS (for Mr. HELMS) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following new section:

SEC. 4203. MARKING OF IMPORTED FURNITURE PRODUCTS.

Notwithstanding any other provision of law, not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury shall require all furniture products imported into the United States to be clearly marked with respect to the country of origin consistent with the provisions of section 304(a) of the Tariff Act of 1930 (19 U.S.C. 1304(a)).

SA 3498. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows;

On page 31 after line 12 add the following:

(vi) The extent to which the country reaches an agreement with the United States to require the extradition of an individual for trial in the United States if that individual has been indicted by a Federal grand jury for a crime involving a violation of the Controlled Substances Act (21 U.S.C. 101 et seq.).

SA 3499. Mr. HATCH (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows;

At the end of the matter proposed, insert the following:

TITLE XLIII—INTELLECTUAL PROPERTY RIGHTS PROTECTION

SEC. 4301. USTR DETERMINATIONS IN TRIPS AGREEMENT INVESTIGATIONS.

(a) IN GENERAL.—Section 304(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2414(a)(2)(A)) is amended by inserting after ''agreement,'' the following: ''except an investigation initiated pursuant to section 302(b)(2)(A) involving rights under the Agreement on Trade-Related Aspects of Intellectual Property Rights (defined in section 101(d)(15) of the Uruguay Round Agreements Act) or the GATT 1994 (referred to in section 101(d)(1) of such Act) relating to products subject to intellectual property protection,''.

(b) TIMEFRAME FOR TRIPS AGREEMENT DETERMINATIONS.—Section 304(a)(3)(A) of the Trade Act of 1974 is amended to read as follows:

''(A) If an investigation is initiated under this chapter by reason of section 302(b)(2) and—

''(i) the Trade Representative considers that rights under the Agreement on Trade-Related Aspects of Intellectual Property Rights or the GATT 1994 relating to products subject to intellectual property protection are involved, the Trade Representative shall make the determination required under paragraph (1) not later than 30 days after the date on which the dispute settlement procedure is concluded; or

''(ii) the Trade Representative does not consider that a trade agreement, including the Agreement on Trade-Related Aspects of Intellectual Property Rights), is involved or does not make a determination described in subparagraph (B) with respect to such investigation, the Trade Representative shall make the determinations required under paragraph (1) with respect to such investigation by no later than the date that is 6 months after the date on which such investigation is initiated.''.

(c) CONFORMING AMENDMENT.—Section 305(a)(2)(B) of the Trade Act of 1974 is amended by striking ''section 304(a)(3)(A)'' and inserting ''section 304(a)(3)(A)(ii)''.

SEC. 4302. PETITIONS FOR REVIEW UNDER ATPA AND CBERA.

(a) ATPA.—Section 203 of the Andean Trade Preference Act (19 U.S.C. 3202) is amended by adding at the end the following new subsection:

''(g) PETITIONS FOR REVIEW.—The President shall promulgate regulations regarding the filing, review, and timely disposition of petitions from any interested party requesting that action be taken with regard to the status of a country as a beneficiary country under this Act.''.

(b) CBI.—Section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702) is amended by adding at the end the following new subsection:

''(g) PETITIONS FOR REVIEW.—The President shall promulgate regulations regarding the filing, review, and timely disposition of petitions from any interested party requesting that action be taken with regard to the status of a country as a beneficiary country under this Act.''.

SEC. 4303. WITHDRAWAL AND SUSPENSION OF TREATMENT UNDER ATPA.

Section 203(e)(1) of the Andean Trade Preference Act (19 U.S.C. 3202(e)(1)) is amended by striking ''should be barred'' and all that follows through the end period and inserting: ''no longer satisfies one or more of the conditions for designation as a beneficiary country under subsection (c) or such country insufficiently fulfills one or more of the factors set forth in subsection (d).''.

SEC. 4304. WITHDRAWAL AND SUSPENSION OF TREATMENT UNDER CBERA.

Section 212(e)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(e)(1)) is amended by striking ''would be barred'' and all that follows through the end period and inserting: ''no longer satisfies one or more of the conditions for designation as a beneficiary country under subsection (b) or such country insufficiently fulfills one or more of the factors set forth in subsection (c).''.

SEC. 4305. COUNTRIES ELIGIBLE UNDER ATPA AND CBERA.

(a) ATPA.—Section 203(c) of the Andean Trade Preference Act (19 U.S.C. 3202(c)) is amended—

(1) by striking ''and'' at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting ''; and'';

(3) by inserting after paragraph (7), the following new paragraph:

''(8) if any act, policy, or practice of such country violates, or is inconsistent with, the provisions of, or otherwise denies benefits to the United States under, any bilateral trade agreement.''; and

(4) in the flush paragraph at the end, by striking ''and (7)'' and inserting ''(7), and (8)''.

(b) CBERA.—Section 212(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)) is amended—

(1) by striking ''and'' at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting ''; and'';

(3) by inserting after paragraph (7), the following new paragraph:

''(8) if any act, policy, or practice of such country violates, or is inconsistent with, the provisions of, or otherwise denies benefits to the United States under, any bilateral trade agreement.''; and

(4) in the flush paragraph at the end, by striking ''and (7)'' and inserting ''(7), and (8)''.

SEC. 4306. ADEQUATE AND EFFECTIVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS UNDER GSP.

Section 502(c) of the Trade Act of 1974 (19 U.S.C. 2462(c)) is amended by striking the semicolon at the end of paragraph (5) and adding the following: ''notwithstanding the fact that the foreign country may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act;''.

SEC. 4307. ADEQUATE AND EFFECTIVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS UNDER CBI.

(a) IN GENERAL.—Section 212(c) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(c)) is amended by striking the semicolon at the end of paragraph (9) and adding the following: ''notwithstanding the fact that the foreign country may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act;''.

(b) CBTPA BENEFICIARY COUNTRY.—Section 213(b)(5)(B)(ii) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)(5)(B)(ii)) is amended to read as follows:

''(ii) The extent to which the country provides adequate and effective protection of intellectual property rights notwithstanding the fact that the foreign country may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act;''.

SEC. 4308. ADEQUATE AND EFFECTIVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS UNDER THE ATPA.

Section 203(d) of the Andean Trade Preference Act (19 U.S.C. 3202(d)) is amended by striking the semicolon at the end of paragraph (9) and adding the following: ''notwithstanding the fact that the foreign country may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act;''.

SA 3500. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 267, strike lines 11 through 14, and insert the following:

''or discharged from the Committee on Finance;

''(ii) the House of Representatives to consider any extension disapproval resolution not reported by or discharged from the Committee on''.

SA 3501. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following new section:

''SEC. . WILD FISH AND SHELLFISH.

''Section 2106 of the Organic Foods Production act of 1990 (7 U.S.C. 6505) is amended by adding the following new subsection (c) and renumbering accordingly:

''(c) Notwithstanding section 6506(a)(1)(A)), domestically produced wild fish and shellfish products may be labeled as organic if the secretary finds that they meet standards for wholesomeness that are equivalent to standards adopted for fish and shellfish produced from certified organic farms. In the event that standards do not exist for fish or shellfish produced from certified organic farms, the Secretary shall establish appropriate standards to allow labeling of wild fish and shellfish as organic. In establishing such standards for wild fish and shellfish, the Secretary shall consult with wild fish and shellfish producers, processors and sellers, as well as other interested members of the public.'''

SA 3502. Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 310, strike lines 1 through 5, and insert the following:

''(B) footwear provided for in any of subheadings 6401.10.00, 6401.91.00, 6401.92.90, 6401.99.30, 6401.99.60, 6401.99.90, 6402.30.50, 6402.30.70, 6402.30.80, 6402.91.50, 6402.91.80, 6402.91.90, 6402.99.20, 6402.99.90, 6404.11.90, or 6404.19.20 of the Harmonized Tariff Schedule of the United States that was not designated at the time of the effective date of this title as eligible articles for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

On page 328, strike lines 1 though 13, and insert the following:

''(II) ARTICLES DESCRIBED.—An article described in this subclause means an article described in subheading 6401.10.00, 6401.91.00, 6401.92.90, 6401.99.30, 6401.99.60, 6401.99.90, 6402.30.50, 6402.30.70, 6402.30.80, 6402.91.50, 6402.91.80, 6402.91.90, 6402.99.20, 6402.99.90, 6404.11.90, or 6404.19.20 of the HTS.

At the end of title XXXI, insert the following:

SEC. 3104. CBI.

Section 213(b)(1)(B) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)(1)(B)) is amended to read as follows:

''(B) Footwear provided for in any of subheadings 6401.10.00, 6401.91.00, 6401.92.90, 6401.99.30, 6401.99.60, 6401.99.90, 6402.30.50, 6402.30.70, 6402.30.80, 6402.91.50, 6402.91.80, 6402.91.90, 6402.99.20, 6402.99.90, 6404.11.90, or 6404.19.20 of the Harmonized Tariff Schedule of the United States that was not designated at the time of the effective date of this title as eligible articles for the purpose of the generalized system preferences under title V of the Trade Act of 1974.''.

SA 3503. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 288, strike lines 7 through 12, and insert the following:

''approval resolution not reported by or discharged from the Committee on Ways and Means and, in addition, by the Committee on Rules.

''(iv) It is not in order for the Senate to consider any procedural disapproval resolution not reported by or discharged from the Committee on Finance.''.

SA 3504. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which as ordered to lie on the table; as follows:

On page 267, line 11, insert ''or discharged from'' before ''the''.

On page 267, line 14, insert ''or discharged from'' before ''the''.

On page 288, line 7 insert ''or discharged from'' before ''the''.

On page 288, line 12, insert ''or discharged from'' before ''the''.

SA 3506. Mr. DURBIN (for himself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act; to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

After section 3201, insert the following:

SEC. 3204. DUTY SUSPENSION ON WOOL.

(a) EXTENSION OF TEMPORARY DUTY REDUCTIONS.—

(1) HEADING 9902.51.11.— Heading 9902.51.11 of the Harmonized Tariff Schedule of the United States is amended by striking ''2003'' and inserting ''2005''.

(2) HEADING 9902.51.12.— Heading 9902.51.12 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking ''2003'' and inserting ''2005''; and

(B) by striking ''6%'' and inserting ''Free''.

(3) HEADING 9902.51.13.—Heading 9902.51.13 of the Harmonized Tariff Schedule of the United States is amended by striking ''2003'' and inserting ''2005''.

(4) HEADING 9902.51.14.—Heading 9902.51.14 of the Harmonized Tariff Schedule of the United States is amended by striking ''2003'' and inserting ''2005''.

(b) LIMITATION ON QUANTITY OF IMPORTS.—

(1) NOTE 15.—U.S. Note 15 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking ''from January 1 to December 31 of each year, inclusive''; and

(B) by striking '', or such other'' and inserting the following: ''in calendar year 2001, 3,500,000 square meter equivalents in calendar year 2002, and 4,500,000 square meter equivalents in calendar year 2003 and each calendar year thereafter, or such greater''.

(2) NOTE 16.—U.S. Note 16 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking ''from January 1 to December 31 of each year, inclusive''; and

(B) by striking '', or such other'' and inserting the following: ''in calendar year 2001, 2,500,000 square meter equivalents in calendar year 2002, and 3,500,000 square meter equivalents in calendar year 2003 and each calendar year thereafter, or such greater''.

(c) EXTENSION OF DUTY REFUNDS AND WOOL RESEARCH TRUST FUND.—

(1) IN GENERAL.—The United States Customs Service shall pay each manufacturer that receives a payment under section 505 of the Trade and Development Act of 2000 (Public Law 106–200) for calendar year 2002, and that provides an affidavit that it remains a manufacturer in the United States as of January 1 of the year of the payment, 2 additional payments, each payment equal to the payment received for calendar year 2002 as follows:

(A) The first payment to be made after January 1, 2004, but on or before April 15, 2004.

(B) The second payment to be made after January 1, 2005, but on or before April 15, 2005.

(2) CONFORMING AMENDMENT.—Section 506(f) of the Trade and Development Act of 2000 (Public Law 106–200) is amended by striking ''2004'' and inserting ''2006''.

(3) AUTHORIZATION.—There is authorized to be appropriated and is appropriated out of amounts in the general fund of the Treasury not otherwise appropriated such sums as are necessary to carry out the provisions of this subsection.

(d) EFFECTIVE DATE.—The amendment made by subsection (a)(2)(B) applies to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2002.

SA 3506. Mr. CORZINE submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Strike Section 1143, and insert in lieu thereof, the following:

"SEC. 1143. BORDER SEARCH AUTHORITY FOR CERTAIN CONTRABAND IN OUTBOUND MAIL."

The Tariff Act of 1930 is amended by inserting after section 582 the following:

"SEC. 583. EXAMINATION OF OUTBOUND MAIL.

''(a) EXAMINATION.—

''(1) IN GENERAL.—For purposes of ensuring compliance with the Customs laws of the United States and other laws enforced by the Customs Service, including the provisions of law described in paragraph (2), a Customs officer may, subject to the provisions of this section, require the United States Postal Service to hold, and not continue to transport, mail of domestic origin transmitted for export by the United States Postal Service and foreign mail transiting the United States that is being imported or exported by the United States Postal Service for up to 15 days for the purpose of allowing the Customs Service to seek a warrant to search such mail.

''(2) PROVISIONS OF LAW DESCRIBED.—The provisions of law described in this paragraph are the following:

''(A) Section 5316 of title 31, United States Code (relating to reports on exporting and importing monetary instruments).

''(B) Sections 1461, 1463, 1465, and 1466 and chapter 110 of title 18, United States Code (relating to obscenity and child pornography).

''(C) Section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 953; relating to exportation of controlled substances).

''(D) The Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.).

''(E) Section 38 of the Arms Export Control Act (22 U.S.C. 2778).

''(F) The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

''(b) SEARCH OF MAIL NOT SEALED AGAINST INSPECTION AND OTHER MAIL.—Mail not sealed against inspection under the postal laws and regulations of the United States, mail which bears a customs declaration, and mail with respect to which the sender or addressee has consented in writing to search, may be searched by a Customs officer.

(c) SEARCH OF MAIL SEALED AGAINST INSPECTION.—(1) A Customs officer may require that the United States Postal Service hold, and not continue to transport, mail sealed against inspection under the postal laws and regulations of the United States, subject to paragraph (2), upon reasonable cause to suspect that such mail contains one or more of the following:

''(A) Monetary instruments, as defined in section 1956 of title 18, United States Code.

''(B) A weapon of mass destruction, as defined in section 2332a(b) of title 18, United States Code.

''(C) A drug or other substance listed in schedule I, II, III, or IV in section 202 of the Controlled Substances Act (21 U.S.C. 812).

''(D) National defense and related information transmitted in violation of any of sections 793 through 798 of title 18, United States Code.

''(E) Merchandise mailed in violation of section 1715 or 1716 of title 18, United States Code.

''(F) Merchandise mailed in violation of any provision of chapter 71 (relating to obscenity) or chapter 110 (relating to sexual exploitation and other abuse of children) of title 18, United States Code.

''(G) Merchandise mailed in violation of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.).

''(H) Merchandise mailed in violation of section 38 of the Arms Export Control Act (22 U.S.C. 2778).''

''(I) Merchandise mailed in violation of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

''(J) Merchandise mailed in violation of the Trading with the Enemy Act (50 U.S.C. App. 1 et seq.).

''(K) Merchandise subject to any other laws enforced by the Customs Service.''

SA 3507. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 250, line 24, after the comma, insert ''environmental, employment opportunity,''.

SA. 3508. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 250, line 24, after the comma, insert ''environmental, employment opportunity, gender equity,''.

SA. 3509. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert ''environmental, employment opportunity,''

SA. 3510. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert ''environmental, employment opportunity, gender equity,''.

SA. 3511. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . DEFINITION OF SHIFT IN PRODUCTION.

In this Act, the term ''shift in production'' means the transfer of a firm or subdivision of a firm to a foreign country, or the transfer of the means of importing articles (including agricultural products) to foreign owned and operated motor carriers.

SA. 3512. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . DEFINITION OF SHIFT IN PRODUCTION.

(a) IN GENERAL.—In this Act, the term ''shift in production'' means the transfer of a firm or subdivision of a farm to a foreign country, or the transfer of the means of importing articles (including agricultural products) to foreign owned and operated motor carriers.

(b) EFFECTIVE DATE.—This section shall be effective one day after the enactment of this Act.

SA. 3513. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, insert the following new section:

SEC. 113. INFORMATION TECHNOLOGY TRAINING.

Section 240 of the Trade Act of 1974, as amended by section 111, is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A), by inserting '', including a program that trains an adversely affected worker for employment in a new career field'' after ''customized training'';

(B) in subparagraph (D), by striking ''and'' at the end;

(C) by redesignating subparagraph (E) as subparagraph (F);

(D) after subparagraph (D), by inserting the following new subparagraph:

''(E) information technology training.''; and

(E) in the flush language following subparagraph (F), as redesignated, by striking ''(E)'' and inserting ''(F)'';

(2) in subsection (b), by adding at the end the following new paragraph:

''(3) MULTIPLE TRAINING PROGRAMS.—The Secretary may pay the costs of multiple training programs for an adversely affected worker covered by a certification issued under section 231, provided that those training programs are not duplicative.''; and

(3) in subsection (f), by striking paragraph (3), and inserting the following new paragraph:

''(3) DEFINITIONS.—For purposes of this section:

''(A) SUITABLE EMPLOYMENT.—The term 'suitable employment' means, with respect to a worker, work of a substantially equal or higher skill level than the worker's past adversely affected employment, and wages for such work at not less than 80 percent of the worker's average weekly wage.

''(B) INFORMATION TECHNOLOGY TRAINING.—The term 'information technology training' means a training program that is designed to result in the awarding of an industry-accepted information technology certification that is provided by—

''(i) any information technology trade association or corporation to the employees of such association or corporation;

''(ii) the employer of an adversely affected worker;

''(iii) a State;

''(iv) a school district, university system, or an institution of higher education (as defined in section 101 of the Higher Education Act of 1965) (20 U.S.C. 1001); or

''(v) a certified commercial information technology training provider.''.

SA 3514. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant

additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, insert the following new section:

SEC. 113. INFORMATION TECHNOLOGY TRAINING.

Section 240 of the Trade Act of 1974, as amended by section 111, is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A), by inserting '', including a program that trains an adversely affected worker for employment in a new career field'' after ''customized training'';

(B) in subparagraph (D), by striking ''and'' at the end;

(C) by redesignating subparagraph (E) as subparagraph (F);

(D) after subparagraph (D), by inserting the following new subparagraph:

''(E) information technology training.''; and

(E) in the flush language following subparagraph (F), as redesignated, by striking ''(E)'' and inserting ''(F)'';

(2) in subsection (b), by adding at the end the following new paragraph:

''(3) MULTIPLE TRAINING PROGRAMS.—The Secretary may pay the costs of multiple training programs for an adversely affected worker covered by a certification issued under section 231, provided that those training programs are not duplicative.''; and

(3) in subsection (f), by striking paragraph (3), and inserting the following new paragraph:

''(3) DEFINITIONS.—For purposes of this section:

''(A) SUITABLE EMPLOYMENT.—The term 'suitable employment' means, with respect to a worker, work of a substantially equal or higher skill level than the worker's past adversely affected employment, and wages for such work at not less than 80 percent of the worker's average weekly wage.

''(B) INFORMATION TECHNOLOGY TRAINING.—The term 'information technology training' means a training program that is designed to result in the awarding of an industry-accepted information technology certification that is provided by—

''(i) any information technology trade association or corporation to the employees of such association or corporation;

''(ii) the employer of an adversely affected worker;

''(iii) a State;

''(iv) a school district, university system, or an institution of higher education (as defined in section 101 of the Higher Education Act of 1965) (20 U.S.C. 1001); or

''(v) a certified commercial information technology training provider.''.

SA 3515. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XXI, insert the following:

SEC. 2114. REPORT FROM THE INTERNATIONAL TRADE COMMISSION ON IMPORT SENSITIVE PRODUCTS.

(a) IMPORT SENSITIVE LIST.—Notwithstanding any other provision of law, at least 90 days before initiating negotiations on import sensitive products, the President shall publish and furnish the International Trade Commission with a list of import sensitive products which may be considered for modification or continuance of duties, continuance of duty-free or excise treatment, or additional duties.

(b) REPORT.—Within 120 days after receipt of the list described in subsection (a) or on the day the President enters into negotiations, whichever is later, the Commission shall, with respect to each import sensitive product, provide a written report to the President and Congress as to the probable economic effect of modifying duties or removing nontariff measure on United States industries producing like or directly competitive product. The report may include the advice of the Commission as to whether any reduction in the rate of duty should take place over a longer period of time than the minimum period provided for in section 2103(a)(2) of this title.

(c) ACTIONS OF THE COMMISSION.—

(1) REPORT.—In preparing the report to the President and Congress, the Commission shall, to the extent practicable, act in accordance with section 131 (d) and (e) of the Trade Act of 1974 (19 U.S.C. 2151).

(2) PUBLIC COMMENT.—Notwithstanding any other provision of law, the Commission shall, in preparing the report required by this section seek public comment through public hearings, written statements, or any other method practicable.

(d) DEFINITION.—The term ''import sensitive product'' means a product or industry to which section 2104(b)(2)(A)(i) applies and as defined in section 503(b)(1) of the Trade Act of 1974.

SA 3516. Mr. REED (for himself, Mr. BINGAMAN, Mr. CORZINE, and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 9, strike line 24, and all that follows through page 12, line 24, and insert the following:

''(11) DOWNSTREAM PRODUCER.—The term 'downstream producer' means a firm that performs additional, value-added production processes, including a firm that performs final assembly, finishing, or packaging of articles produced by another firm.

''(12) EXTENDED COMPENSATION.—The term 'extended compensation' has the meaning given that term in section 205(4) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

''(13) JOB FINDING CLUB.—The term 'job finding club' means a job search workshop which includes a period of structured, supervised activity in which participants attempt to obtain jobs.

''(14) JOB SEARCH PROGRAM.—The term 'job search program' means a job search workshop or job finding club.

''(15) JOB SEARCH WORKSHOP.—The term 'job search workshop' means a short (1- to 3-day) seminar, covering subjects such as labor market information, résumé writing, interviewing techniques, and techniques for finding job openings, that is designed to provide participants with knowledge that will enable the participants to find jobs.

''(16) ON-THE-JOB TRAINING.—The term 'on-the-job training' has the same meaning as that term has in section 101(31) of the Workforce Investment Act.

''(17) PARTIAL SEPARATION.—A partial separation shall be considered to exist with respect to an individual if—

''(A) the individual has had a 20-percent or greater reduction in the average weekly hours worked by that individual in adversely affected employment; and

''(B) the individual has had a 20-percent or greater reduction in the average weekly wage of the individual with respect to adversely affected employment.

''(18) REGULAR COMPENSATION.—The term 'regular compensation' has the meaning given that term in section 205(2) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

''(19) REGULAR STATE UNEMPLOYMENT.—The term 'regular State unemployment' means unemployment insurance benefits other than an extension of unemployment insurance by a State using its own funds beyond either the 26-week period mandated by Federal law or any additional period provided for under the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

''(20) SECRETARY.—The term 'Secretary' means the Secretary of Labor.

''(21) STATE.—The term 'State' includes each State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(22) STATE AGENCY.—The term 'State agency' means the agency of the State that administers the State law.

''(23) STATE LAW.—The term 'State law' means the unemployment insurance law of the State approved by the Secretary under section 3304 of the Internal Revenue Code of 1986.

''(24) SUPPLIER.—The term 'supplier' means a firm that produces component parts for, or articles considered to be a part of, the production process for articles produced by a firm or subdivision covered by a certification of eligibility under section 231. The term 'supplier' also includes a firm that provides services under contract to a firm or subdivision covered by such certification.

SA 3517. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 135, line 9, strike all through page 164, line 16, and insert the following:

TITLE VI—HEALTH CARE COVERAGE OPTIONS FOR WORKERS ELIGIBLE FOR TRADE ADJUSTMENT ASSISTANCE

SEC. 601. TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.

(a) IN GENERAL.—Subchapter B of chapter 65 of the Internal Revenue Code of 1986 (relating to abatements, credits, and refunds) is amended by inserting after section 6428 the following new section:

''SEC. 6429. TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by subtitle A an amount equal to 70 percent of the amount paid by the taxpayer during the taxable year for coverage for the taxpayer, the taxpayer's spouse, and dependents of the taxpayer under qualified health insurance during eligible coverage months.

''(b) ELIGIBLE COVERAGE MONTH.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible coverage month' means any month if, as of the first day of such month—

''(A) the taxpayer is an eligible individual,

''(B) the taxpayer is covered by qualified health insurance,

''(C) the premium for coverage under such insurance for such month is paid by the taxpayer, and

''(D) the taxpayer does not have other specified coverage.

''(2) SPECIAL RULES.—

''(A) JOINT RETURNS.—In the case of a joint return, the requirements of paragraph (1) shall be treated as met if at least 1 spouse satisfies such requirements.

''(B) EXCLUSION OF MONTHS IN WHICH INDIVIDUAL IS IMPRISONED.—Such term shall not include any month with respect to an individual if, as of the first day of such month, such individual is imprisoned under Federal, State, or local authority.

''(3) OTHER SPECIFIED COVERAGE.—For purposes of this subsection, an individual has other specified coverage for any month if, as of the first day of such month—

''(A) SUBSIDIZED COVERAGE.—

''(i) FOR TAA PROGRAM INDIVIDUALS.—In the case of an individual described in subsection (c)(1), such individual is covered under any qualified health insurance (other than insurance described in subparagraph (A), (B), or (F) of subsection (d)(1)) under which at least 50 percent of the cost of coverage (determined under section 4980B(f)(4)) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse.

''(ii) FOR WAGE INSURANCE PROGRAM INDIVIDUALS.—In the case of an individual described in subsection (c)(2), such individual is either—

''(I) eligible for coverage under any qualified health insurance (other than insurance described in subparagraph (A), (B), or (F) of subsection (d)(1)) under which at least 50 percent of the cost of coverage (determined under section 4980B(f)(4)) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse, or

''(II) covered under any such qualified health insurance under which any portion of the cost of coverage (as so determined) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse.

''(iii) TREATMENT OF CAFETERIA PLANS.—For purposes of clause (i) or (ii), the cost of coverage shall be treated as paid or incurred by an employer to the extent the coverage is in lieu of a right to receive cash or other qualified benefits under a cafeteria plan (as defined in section 125(d)).

''(B) COVERAGE UNDER MEDICARE, MEDICAID, OR SCHIP.—Such individual—

''(i) is entitled to benefits under part A of title XVIII of the Social Security Act or is enrolled under part B of such title, or

''(ii) is enrolled in the program under title XIX or XXI of such Act (other than under section 1928).

''(C) CERTAIN OTHER COVERAGE.—Such individual—

''(i) is enrolled in a health benefits plan under chapter 89 of title 5, United States Code,

''(ii) is entitled to receive benefits under chapter 55 of title 10, United States Code, or

''(iii) is entitled to receive benefits under chapter 17 of title 38, United States Code.

''(c) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'eligible individual' means an individual who—

''(1) would be eligible to participate in the trade adjustment allowance program under section 235 of the Trade Act of 1974, as amended by section 111 of the Trade Adjustment Assistance Reform Act of 2002, if section 235 (as so amended) were applied without regard to subsection (a)(3)(B) thereof; or

''(2) is participating in the wage insurance program under section 243(b) of such Act (as so amended).

''(d) QUALIFIED HEALTH INSURANCE.—

''(1) IN GENERAL.—For purposes of this section, subject to paragraph (2), the term 'qualified health insurance' means health insurance coverage or coverage under a group health plan through—

''(A) COBRA continuation coverage,

''(B) continuation coverage under a similar State program,

''(C) the enrollment of the eligible worker and the eligible worker's spouse and dependents in health insurance coverage offered through a qualified State high risk pool or other comparable State-based health insurance coverage alternative,

''(D) the enrollment of the eligible worker and the eligible worker's spouse and dependents in the health insurance program offered for State employees,

''(E) the enrollment of the eligible worker and the eligible worker's spouse and dependents in a State-based health insurance program that is comparable to the health insurance program offered for State employees,

''(F) a direct payment arrangement entered into by the State and a group health plan (including a multiemployer plan as defined in section 414(f)), an issuer of health insurance coverage, an administrator of health insurance coverage or a group health plan, or an employer, as appropriate, on behalf of the eligible worker and the eligible worker's spouse and dependents,

''(G) the enrollment of the eligible worker and the eligible worker's spouse and dependents in a State-operated health plan that does not receive any Federal financial participation,

''(H) the enrollment of the eligible worker and the eligible worker's spouse and dependents in health insurance coverage offered through a State arrangement with a private sector health care coverage purchasing pool,

''(I) in the case of an eligible worker who was enrolled in individual health insurance coverage during the 6-month period that ends on the date on which the worker became unemployed, enrollment in such individual health insurance coverage, or

''(J) enrollment of the eligible worker and the eligible worker's spouse and dependents in coverage under a group health plan that is available through the employment of the worker's spouse and is not described in subsection (b)(3)(A)(i).

''(2) REQUIREMENTS.—Health insurance coverage or coverage under a group health plan shall not be treated as being described in any of subparagraphs (B) through (H) of paragraph (1) unless, with respect to such coverage provided to eligible workers and the eligible worker's spouse or dependents—

''(A) enrollment is guaranteed for workers who provide a qualified health insurance credit eligibility certificate described in section 7527 and who pay the remainder of the premium for such enrollment,

''(B) no pre-existing condition limitations are imposed with respect to such eligible workers,

''(C) the worker is not required (as a condition of enrollment or continued enrollment under the coverage) to pay a premium or contribution that is greater than the premium or contribution for an individual who is not an eligible worker who has comparable coverage,

''(D) benefits under the coverage are the same as (or substantially similar to) the benefits provided to individuals who are not eligible workers who have comparable coverage,

''(E) the standard loss ratio for the coverage is not less than 65 percent,

''(F) in the case of coverage provided under paragraph (1)(E), the premiums and benefits are comparable to the premiums and benefits applicable to State employees, and

''(G) such coverage otherwise meets requirements established by the Secretary.

''(3) DEFINITIONS.—For purposes of this section:

''(A) COBRA CONTINUATION COVERAGE.—The term 'COBRA continuation coverage' means coverage under a group health plan provided by an employer pursuant to section 4980B.

''(B) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term by section 5001(b)(1).

''(C) HEALTH INSURANCE COVERAGE.—Except to the extent provided by the Secretary, the term 'health insurance coverage' has the meaning given such term by section 9832(b)(1) (other than insurance if substantially all of its coverage is of excepted benefits described in section 9832(c) or provided under a flexible spending arrangement, as determined under section 106(c).

''(D) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The term 'individual health insurance coverage' means health insurance coverage offered to individuals other than in connection with a group health plan. Such term does not include Federal- or State-based health insurance coverage.

''(E) QUALIFIED STATE HIGH RISK POOL.—The term 'qualified State high risk pool' has the meaning given that term in section 2744(c)(2) of the Public Health Service Act (42 U.S.C. 300gg–44(c)(2)).

''(F) STANDARD LOSS RATIO.—The term 'standard loss ratio', with respect to the pool of insured individuals under coverage described in subparagraph (B) through (H) of paragraph (1) for a year, means—

''(i) the amount of claims incurred with respect to the pool of insured individuals in each such type of coverage for such year; divided by

''(ii) the premiums paid for enrollment in each such coverage for such year.

''(e) COORDINATION WITH ADVANCE PAYMENTS OF CREDIT.—

''(1) RECAPTURE OF EXCESS ADVANCE PAYMENTS.—If any payment is made by the Secretary under section 7527 during any calendar year to a provider of qualified health insurance for an individual, then the tax imposed by this chapter for the individual's last taxable year beginning in such calendar year shall be increased by the aggregate amount of such payments.

''(2) RECONCILIATION OF PAYMENTS ADVANCED AND CREDIT ALLOWED.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit (other than the credit allowed by subsection (a)) allowable under part IV of subchapter A of chapter 1.

''(f) SPECIAL RULES.—

''(1) COORDINATION WITH OTHER DEDUCTIONS.—Amounts taken into account under subsection (a) shall not be taken into account in determining any deduction allowed under section 162(l) or 213.

''(2) MSA DISTRIBUTIONS.—Amounts distributed from an Archer MSA (as defined in section 220(d)) shall not be taken into account under subsection (a).

''(3) DENIAL OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

''(4) CREDIT TREATED AS REFUNDABLE CREDIT.—For purposes of this title, the credit allowed under this section shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1.

''(5) EXPENSES MUST BE SUBSTANTIATED.—A payment for qualified health insurance to which subsection (a) applies may be taken into account under this section only if the

taxpayer substantiates such payment in such form as the Secretary may prescribe.''.

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to information concerning transactions with other persons) is amended by inserting after section 6050S the following new section:

''SEC. 6050T. RETURNS RELATING TO TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.

''(a) REQUIREMENT OF REPORTING.—Every person—

''(1) who, in connection with a trade or business conducted by such person, receives payments during any calendar year from any individual for coverage of such individual or any other individual under qualified health insurance (as defined in section 6429(d)), and

''(2) who claims a reimbursement for an advance credit amount,

shall, at such time as the Secretary may prescribe, make the return described in subsection (b) with respect to each individual from whom such payments were received or for whom such a reimbursement is claimed.

''(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary may prescribe, and

''(2) contains—

''(A) the name, address, and TIN of each individual referred to in subsection (a),

''(B) the aggregate of the advance credit amounts provided to such individual and for which reimbursement is claimed,

''(C) the number of months for which such advance credit amounts are so provided, and

''(D) such other information as the Secretary may prescribe.

''(c) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

''(1) the name and address of the person required to make such return and the phone number of the information contact for such person, and

''(2) the information required to be shown on the return with respect to such individual.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

''(d) ADVANCE CREDIT AMOUNT.—For purposes of this section, the term 'advance credit amount' means an amount for which the person can claim a reimbursement pursuant to a program established by the Secretary under section 7527.''.

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by redesignating clauses (xi) through (xvii) as clauses (xii) through (xviii), respectively, and by inserting after clause (x) the following new clause:

''(xi) section 6050T (relating to returns relating to trade adjustment assistance health insurance credit),''.

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking ''or'' at the end of subparagraph (Z), by striking the period at the end of subparagraph (AA) and inserting '', or'', and by adding after subparagraph (AA) the following new subparagraph:

''(BB) section 6050T (relating to returns relating to trade adjustment assistance health insurance credit).''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050S the following new item:

''Sec. 6050T. Returns relating to trade adjustment assistance health insurance credit.''.

(c) CRIMINAL PENALTY FOR FRAUD.—

(1) IN GENERAL.—Subchapter B of chapter 75 of the Internal Revenue Code of 1986 (relating to other offenses) is amended by adding at the end the following:

''SEC. 7276. PENALTIES FOR OFFENSES RELATING TO TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.

''Any person who knowingly misuses Department of the Treasury names, symbols, titles, or initials to convey the false impression of association with, or approval or endorsement by, the Department of the Treasury of any insurance products or group health coverage in connection with the credit for trade adjustment assistance health insurance under section 6429 shall on conviction thereof be fined not more than $10,000, or imprisoned not more than 1 year, or both.''.

(2) The table of sections for subchapter B of chapter 75 of such Code is amended by adding at the end the following:

''Sec. 7276. Penalties for offenses relating to trade adjustment assistance health insurance credit.''.

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 6429 of such Code''.

(2) The table of sections for subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 6429. Trade adjustment assistance health insurance credit.''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2001, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

(2) PENALTIES.—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

SEC. 602. ADVANCE PAYMENT OF TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7527. ADVANCE PAYMENT OF TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.

''(a) GENERAL RULE.—The Secretary shall establish a program for making payments on behalf of eligible individuals (as defined in section 6429(c)) to providers of health insurance for such individuals for whom a qualified health insurance credit eligibility certificate is in effect.

''(b) QUALIFIED HEALTH INSURANCE CREDIT ELIGIBILITY CERTIFICATE.—For purposes of this section, except as provided by the Secretary, a qualified health insurance credit eligibility certificate is a statement certified by a designated local agency (as defined in section 51(d)(11)) (or by any other entity designated by the Secretary) which—

''(1) certifies that the individual was an eligible individual (as defined in section 6429(c)) as of the first day of any month, and

''(2) provides such other information as the Secretary may require for purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 7527. Advance payment of trade adjustment assistance health insurance credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

SEC. 603. HEALTH INSURANCE COVERAGE FOR ELIGIBLE INDIVIDUALS.

(a) ELIGIBILITY FOR GRANTS.—Section 173(a) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(a)) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3) by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(4) from funds appropriated under section 174(c)—

''(A) to a State to provide the assistance described in subsection (f) to any eligible worker (as defined in subsection (f)(4)(B)); and

''(B) to a State to provide the assistance described in subsection (g) to any eligible worker (as defined in subsection (g)(5)).''.

(b) USE OF FUNDS FOR HEALTH INSURANCE COVERAGE.—Section 173 of the Workforce Investment Act of 1998 (29 U.S.C. 2918) is amended by adding at the end the following:

''(f) HEALTH INSURANCE COVERAGE ASSISTANCE FOR ELIGIBLE WORKERS.—

''(1) IN GENERAL.—Funds made available to a State under paragraph (4)(A) of subsection (a) may be used by the State for the following:

''(A) HEALTH INSURANCE COVERAGE.—To assist an eligible worker (as defined in paragraph (4)(B)) in enrolling in health insurance coverage or coverage under a group health plan through—

''(i) COBRA continuation coverage;

''(ii) continuation coverage under a similar State program;

''(iii) the enrollment of the eligible worker and the eligible worker's spouse and dependents in health insurance coverage offered through a qualified State high risk pool or other comparable State-based health insurance coverage alternative;

''(iv) the enrollment of the eligible worker and the eligible worker's spouse and dependents in the health insurance program offered for State employees;

''(v) the enrollment of the eligible worker and the eligible worker's spouse and dependents in a State-based health insurance program that is comparable to the health insurance program offered for State employees;

''(vi) a direct payment arrangement entered into by the State and a group health plan (including a multiemployer plan as defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37))), an issuer of health insurance coverage, an administrator of health insurance coverage or a group health plan, or an employer, as appropriate, on behalf of the eligible worker and the eligible worker's spouse and dependents;

''(vii) the enrollment of the eligible worker and the eligible worker's spouse and dependents in a State-operated health plan that does not receive any Federal financial participation;

''(viii) the enrollment of the eligible worker and the eligible worker's spouse and dependents in health insurance coverage offered through a State arrangement with a private sector health care coverage purchasing pool;

''(ix) in the case of an eligible worker who was enrolled in individual health insurance coverage during the 6-month period that ends on the date on which the worker became unemployed, enrollment in such individual health insurance coverage; or

''(x) enrollment of the eligible worker and the eligible worker's spouse and dependents in coverage under a group health plan that is available through the employment of the worker's spouse and is not described in paragraph (4)(C)(i)(I).

''(B) ESTABLISHMENT OF HEALTH INSURANCE COVERAGE MECHANISMS.—To establish or administer—

''(i) a qualified State high risk pool for the purpose of providing health insurance coverage to an eligible worker and the eligible worker's spouse and dependents;

''(ii) a State-based program for the purpose of providing health insurance coverage to an eligible worker and the eligible worker's spouse and dependents that is comparable to the State health insurance program for State employees; or

''(iii) a program under which the State enters into arrangements described in subparagraph (A)(vi).

''(C) ADMINISTRATIVE EXPENSES.—To pay the administrative expenses related to the enrollment of eligible workers and the eligible workers spouses and dependents in health insurance coverage or coverage under a group health plan described in subparagraph (A), including—

''(i) eligibility verification activities;

''(ii) the notification of eligible workers of available health insurance coverage options;

''(iii) processing qualified health insurance credit eligibility certificates provided for under section 7527 of the Internal Revenue Code of 1986;

''(iv) providing assistance to eligible workers in enrolling in health insurance coverage;

''(v) the development or installation of necessary data management systems; and

''(vi) any other expenses determined appropriate by the Secretary.

''(2) REQUIREMENTS.—With respect to health insurance coverage or coverage under a group health plan provided to eligible workers under any of clauses (ii) through (viii) of paragraph (1)(A), the State shall ensure that—

''(A) enrollment is guaranteed for workers who provide a qualified health insurance credit eligibility certificate described in section 7527 of the Internal Revenue Code of 1986 and who pay the remainder of the premium for such enrollment;

''(B) no pre-existing condition limitations are imposed with respect to such eligible workers;

''(C) the worker is not required (as a condition of enrollment or continued enrollment under the coverage) to pay a premium or contribution that is greater than the premium or contribution for a individual who is not an eligible worker who has comparable coverage;

''(D) benefits under the coverage are the same as (or substantially similar to) the benefits provided to individuals who are not eligible workers who have comparable coverage;

''(E) the standard loss ratio for the coverage is not less than 65 percent;

''(F) in the case of coverage provided under paragraph (1)(A)(v), the premiums and benefits are comparable to the premiums and benefits applicable to State employees; and

''(G) such coverage otherwise meets requirements established by the Secretary.

''(3) AVAILABILITY OF FUNDS.—

''(A) EXPEDITED PROCEDURES.—With respect to applications submitted by States for grants under this subsection, the Secretary shall—

''(i) not later than 15 days after the date on which the Secretary receives a completed application from a State, notify the State of the determination of the Secretary with respect to the approval or disapproval of such application;

''(ii) in the case of a State application that is disapproved by the Secretary, provide technical assistance, at the request of the State, in a timely manner to enable the State to submit an approved application; and

''(iii) develop procedures to expedite the provision of funds to States with approved applications.

''(B) AVAILABILITY AND DISTRIBUTION OF FUNDS.—The Secretary shall ensure that funds made available under section 174(c)(1)(A) to carry out subsection (a)(4)(A) are available to States throughout the period described in section 174(c)(2)(A).

''(4) DEFINITIONS.—For purposes of this subsection:

''(A) 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.

''(B) ELIGIBLE WORKER.—The term 'eligible worker' means an individual—

''(i) who—

''(I) would be eligible to participate in the trade adjustment allowance program under section 235 of the Trade Act of 1974, as amended by section 111 of the Trade Adjustment Assistance Reform Act of 2002, if section 235 (as so amended) were applied without regard to subsection (a)(3)(B) thereof; or

''(II) is participating in the wage insurance program under section 243(b) of such Act (as so amended);

''(ii) who does not have other specified coverage; and

''(iii) who is not imprisoned under Federal, State, or local authority.

''(C) OTHER SPECIFIED COVERAGE.—With respect to any individual, the term 'other specified coverage' means—

''(i) SUBSIDIZED COVERAGE.—

''(I) FOR TAA PROGRAM INDIVIDUALS.—In the case of an individual described in subparagraph (B)(i)(I), such individual is covered under any qualified health insurance (other than insurance described in clause (i), (ii), or (vi) of paragraph (1)(A)) under which at least 50 percent of the cost of coverage (determined under section 4980B(f)(4) of the Internal Revenue Code of 1986) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse.

''(II) FOR WAGE INSURANCE PROGRAM INDIVIDUALS.—In the case of an individual described in subparagraph (B)(i)(II), such individual is either—

''(aa) eligible for coverage under any qualified health insurance (other than insurance described in clause (i), (ii), or (vi) of paragraph (1)(A)) under which at least 50 percent of the cost of coverage (determined under section 4980B(f)(4) of such Code) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse; or

''(bb) covered under any such qualified health insurance under which any portion of the cost of coverage (as so determined) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse.

''(III) TREATMENT OF CAFETERIA PLANS.—For purposes of subclause (I) or (II), the cost of coverage shall be treated as paid or incurred by an employer to the extent the coverage is in lieu of a right to receive cash or other qualified benefits under a cafeteria plan (as defined in section 125(d) of such Code).

''(ii) COVERAGE UNDER MEDICARE, MEDICAID, OR SCHIP.—Such individual—

''(I) is entitled to benefits under part A of title XVIII of the Social Security Act or is enrolled under part B of such title; or

''(II) is enrolled in the program under title XIX or XXI of such Act (other than under section 1928).

''(iii) CERTAIN OTHER COVERAGE.—Such individual—

''(I) is enrolled in a health benefits plan under chapter 89 of title 5, United States Code;

''(II) is entitled to receive benefits under chapter 55 of title 10, United States Code; or

''(III) is entitled to receive benefits under chapter 17 of title 38, United States Code.

''(D) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given that term in section 2791(a) of the Public Health Service Act (42 U.S.C. 300gg–91(a)), section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1)), and section 5001(b)(1) of the Internal Revenue Code of 1986.

''(E) HEALTH INSURANCE COVERAGE.—Except to the extent provided by the Secretary, the term 'health insurance coverage' has the meaning given that term in section 2791(b)(1) of the Public Health Service Act (42 U.S.C. 300gg–91(b)(1)) (other than insurance if substantially all of its coverage is of excepted benefits described in section 2791(c) of such Act (42 U.S.C. 300gg–91(c)) or provided under a flexible spending arrangement, as determined under section 106(c) of the Internal Revenue Code of 1986.

''(F) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The term 'individual health insurance coverage' means health insurance coverage offered to individuals other than in connection with a group health plan. Such term does not include Federal- or State-based health insurance coverage.

''(G) QUALIFIED STATE HIGH RISK POOL.—The term 'qualified State high risk pool' has the meaning given that term in section 2744(c)(2) of the Public Health Service Act (42 U.S.C. 300gg–44(c)(2)).

''(H) STANDARD LOSS RATIO.—The term 'standard loss ratio', with respect to the pool of insured individuals under coverage described in clauses (ii) through (viii) of subparagraph (A) for a year, means—

''(i) the amount of claims incurred with respect to the pool of insured individuals in each such type of coverage for such year; divided by

''(ii) the premiums paid for enrollment in each such coverage for such year.

''(g) INTERIM HEALTH INSURANCE COVERAGE AND OTHER ASSISTANCE.—

''(1) IN GENERAL.—Funds made available to a State under paragraph (4)(B) of subsection (a) may be used by the State to provide assistance and support services to eligible workers, including health care coverage, transportation, child care, dependent care, and income assistance.

''(2) INCOME SUPPORT.—With respect to any income assistance provided to an eligible worker with such funds, such assistance shall supplement and not supplant other income support or assistance provided under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) (as in effect on the day before the effective date of the Trade Adjustment Assistance Reform Act of 2002) or the unemployment compensation laws of the State where the eligible worker resides.

''(3) HEALTH INSURANCE COVERAGE.—With respect to any assistance provided to an eligible worker with such funds in enrolling in health insurance coverage or coverage under a group health plan, the following rules shall apply:

''(A) The State may provide assistance in obtaining such coverage to the eligible worker and to the eligible worker's spouse and dependents.

''(B) Such assistance shall supplement and may not supplant any other State or local funds used to provide health care coverage and may not be included in determining the amount of non-Federal contributions required under any program.

''(4) AVAILABILITY OF FUNDS.—

''(A) EXPEDITED PROCEDURES.—With respect to applications submitted by States for grants under this subsection, the Secretary shall—

''(i) not later than 15 days after the date on which the Secretary receives a completed application from a State, notify the State of the determination of the Secretary with respect to the approval or disapproval of such application;

''(ii) in the case of a State application that is disapproved by the Secretary, provide technical assistance, at the request of the State, in a timely manner to enable the State to submit an approved application; and

''(iii) develop procedures to expedite the provision of funds to States with approved applications.

''(B) AVAILABILITY AND DISTRIBUTION OF FUNDS.—The Secretary shall ensure that funds made available under section 174(c)(1)(B) to carry out subsection (a)(4)(B) are available to States throughout the period described in section 174(c)(2)(B).

''(5) DEFINITION OF ELIGIBLE WORKER.—In this subsection, the term 'eligible worker' means an individual who is a member of a group of workers certified after April 1, 2002, under chapter 2 of title II of the Trade Act of 1974 (as in effect on the day before the effective date of the Trade Adjustment Assistance Reform Act of 2002) and who would be determined to be participating in the trade adjustment allowance program under such chapter (as so in effect) if such chapter were applied without regard to section 231(a)(3)(B) of the Trade Act of 1974 (as so in effect).''.

(c) APPROPRIATIONS.—Section 174 of the Workforce Investment Act of 1998 (29 U.S.C. 2919) is amended by adding at the end the following:

''(c) ASSISTANCE FOR ELIGIBLE WORKERS.—

''(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated—

''(A) to carry out subsection (a)(4)(A) of section 173—

''(i) $10,000,000 for fiscal year 2002; and

''(ii) $60,000,000 for each of fiscal years 2003 through 2007; and

''(B) to carry out subsection (a)(4)(B) of section 173—

''(i) $50,000,000 for fiscal year 2002;

''(ii) $100,000,000 for fiscal year 2003; and

''(iii) $50,000,000 for fiscal year 2004.

''(2) AVAILABILITY OF FUNDS.—Funds appropriated under—

''(A) paragraph (1)(A) for each fiscal year shall, notwithstanding section 189(g), remain available for obligation during the pendency of any outstanding claim under the Trade Act of 1974, as amended by the Trade Adjustment Assistance Reform Act of 2002; and

''(B) paragraph (1)(B), for each fiscal year shall, notwithstanding section 189(g), remain available during the period that begins on the date of enactment of the Trade Adjustment Assistance Reform Act of 2002 and ends on September 30, 2004.''.

(d) CONFORMING AMENDMENT.—Section 132(a)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2862(a)(2)(A)) is amended by inserting '', other than under subsection (a)(4), (f), and (g)'' after ''grants''.

(e) TEMPORARY EXTENSION OF COBRA ELECTION PERIOD FOR CERTAIN INDIVIDUALS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the election period for COBRA continuation coverage (as defined in section 6429(d)(3)(A) of the Internal Revenue Code of 1986) with respect to any eligible individual (as defined in section 6429(c) of such Code) for whom such period has expired as of the date of the enactment of this Act, shall not end before the date that is 60 days after the date the individual becomes such an eligible individual.

(2) PREEXISTING CONDITIONS.—If an individual becomes such an eligible individual, any period before the date of such eligibility shall be disregarded for purposes of determining the 63-day periods referred to in section 701(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)), section 2701(c)(2) of the Public Health Service Act (42 U.S.C. 300gg(c)(2)), and section 9801(c)(2) of the Internal Revenue Code of 1986.

SA 3518. Mr. BAUCUS (for himself, and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 135, line 9, strike all through page 164, line 16, and insert the following:

TITLE VI—HEALTH CARE COVERAGE OPTIONS FOR WORKERS ELIGIBLE FOR TRADE ADJUSTMENT ASSISTANCE

SEC. 601. TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.

(a) IN GENERAL.—Subchapter B of chapter 65 of the Internal Revenue Code of 1986 (relating to abatements, credits, and refunds) is amended by inserting after section 6428 the following new section:

''SEC. 6429. TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by subtitle A an amount equal to 70 percent of the amount paid by the taxpayer during the taxable year for coverage for the taxpayer, the taxpayer's spouse, and dependents of the taxpayer under qualified health insurance during eligible coverage months.

''(b) ELIGIBLE COVERAGE MONTH.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible coverage month' means any month if, as of the first day of such month—

''(A) the taxpayer is an eligible individual,

''(B) the taxpayer is covered by qualified health insurance,

''(C) the premium for coverage under such insurance for such month is paid by the taxpayer, and

''(D) the taxpayer does not have other specified coverage.

''(2) SPECIAL RULES.—

''(A) JOINT RETURNS.—In the case of a joint return, the requirements of paragraph (1) shall be treated as met if at least 1 spouse satisfies such requirements.

''(B) EXCLUSION OF MONTHS IN WHICH INDIVIDUAL IS IMPRISONED.—Such term shall not include any month with respect to an individual if, as of the first day of such month, such individual is imprisoned under Federal, State, or local authority.

''(3) OTHER SPECIFIED COVERAGE.—For purposes of this subsection, an individual has other specified coverage for any month if, as of the first day of such month—

''(A) SUBSIDIZED COVERAGE.—

''(i) FOR TAA PROGRAM INDIVIDUALS.—In the case of an individual described in subsection (c)(1), such individual is covered under any qualified health insurance (other than insurance described in subparagraph (A), (B), or (F) of subsection (d)(1)) under which at least 50 percent of the cost of coverage (determined under section 4980B(f)(4)) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse.

''(ii) FOR WAGE INSURANCE PROGRAM INDIVIDUALS.—In the case of an individual described in subsection (c)(2), such individual is either—

''(I) eligible for coverage under any qualified health insurance (other than insurance described in subparagraph (A), (B), or (F) of subsection (d)(1)) under which at least 50 percent of the cost of coverage (determined under section 4980B(f)(4)) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse, or

''(II) covered under any such qualified health insurance under which any portion of the cost of coverage (as so determined) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse.

''(iii) TREATMENT OF CAFETERIA PLANS.—For purposes of clause (i) or (ii), the cost of coverage shall be treated as paid or incurred by an employer to the extent the coverage is in lieu of a right to receive cash or other qualified benefits under a cafeteria plan (as defined in section 125(d)).

''(B) COVERAGE UNDER MEDICARE, MEDICAID, OR SCHIP.—Such individual—

''(i) is entitled to benefits under part A of title XVIII of the Social Security Act or is enrolled under part B of such title, or

''(ii) is enrolled in the program under title XIX or XXI of such Act (other than under section 1928).

''(C) CERTAIN OTHER COVERAGE.—Such individual—

''(i) is enrolled in a health benefits plan under chapter 89 of title 5, United States Code,

''(ii) is entitled to receive benefits under chapter 55 of title 10, United States Code, or

''(iii) is entitled to receive benefits under chapter 17 of title 38, United States Code.

''(c) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'eligible individual' means an individual who—

''(1) is participating in the trade adjustment allowance program under section 235 of the Trade Act of 1974, as amended by section 111 of the Trade Adjustment Assistance Reform Act of 2002, or would be eligible to participate in such program if section 235 (as so amended) were applied without regard to subsection (a)(3)(B) thereof; or

''(2) is participating in the wage insurance program under section 243(b) of such Act (as so amended).

''(d) QUALIFIED HEALTH INSURANCE.—

''(1) IN GENERAL.—For purposes of this section, subject to paragraph (2), the term 'qualified health insurance' means health insurance coverage or coverage under a group health plan through—

''(A) COBRA continuation coverage,

''(B) continuation coverage under a similar State program,

''(C) the enrollment of the eligible worker and the eligible worker's spouse and dependents in health insurance coverage offered through a qualified State high risk pool or other comparable State-based health insurance coverage alternative,

''(D) the enrollment of the eligible worker and the eligible worker's spouse and dependents in the health insurance program offered for State employees,

''(E) the enrollment of the eligible worker and the eligible worker's spouse and dependents in a State-based health insurance program that is comparable to the health insurance program offered for State employees,

''(F) a direct payment arrangement entered into by the State and a group health plan (including a multiemployer plan as defined in section 414(f)), an issuer of health insurance coverage, an administrator of health insurance coverage or a group health plan, or an employer, as appropriate, on behalf of the eligible worker and the eligible worker's spouse and dependents,

''(G) the enrollment of the eligible worker and the eligible worker's spouse and dependents in a State-operated health plan that does not receive any Federal financial participation,

''(H) the enrollment of the eligible worker and the eligible worker's spouse and dependents in health insurance coverage offered through a State arrangement with a private sector health care coverage purchasing pool,

''(I) in the case of an eligible worker who was enrolled in individual health insurance coverage during the 6-month period that ends on the date on which the worker became unemployed, enrollment in such individual health insurance coverage, or

''(J) enrollment of the eligible worker and the eligible worker's spouse and dependents in coverage under a group health plan that is available through the employment of the worker's spouse and is not described in subsection (b)(3)(A)(i).

''(2) REQUIREMENTS.—Health insurance coverage or coverage under a group health plan shall not be treated as being described in any of subparagraphs (B) through (H) of paragraph (1) unless, with respect to such coverage provided to eligible workers and the eligible worker's spouse or dependents—

''(A) enrollment is guaranteed for workers who provide a qualified health insurance credit eligibility certificate described in section 7527 and who pay the remainder of the premium for such enrollment,

''(B) no pre-existing condition limitations are imposed with respect to such eligible workers,

''(C) the worker is not required (as a condition of enrollment or continued enrollment under the coverage) to pay a premium or contribution that is greater than the premium or contribution for an individual who is not an eligible worker who has comparable coverage,

''(D) benefits under the coverage are the same as (or substantially similar to) the benefits provided to individuals who are not eligible workers who have comparable coverage,

''(E) the standard loss ratio for the coverage is not less than 65 percent,

''(F) in the case of coverage provided under paragraph (1)(E), the premiums and benefits are comparable to the premiums and benefits applicable to State employees, and

''(G) such coverage otherwise meets requirements established by the Secretary.

''(3) DEFINITIONS.—For purposes of this section:

''(A) COBRA CONTINUATION COVERAGE.—The term 'COBRA continuation coverage' means coverage under a group health plan provided by an employer pursuant to section 4980B.

''(B) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term by section 5001(b)(1).

''(C) HEALTH INSURANCE COVERAGE.—Except to the extent provided by the Secretary, the term 'health insurance coverage' has the meaning given such term by section 9832(b)(1) (other than insurance if substantially all of its coverage is of excepted benefits described in section 9832(c) or provided under a flexible spending arrangement, as determined under section 106(c).

''(D) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The term 'individual health insurance coverage' means health insurance coverage offered to individuals other than in connection with a group health plan. Such term does not include Federal- or State-based health insurance coverage.

''(E) QUALIFIED STATE HIGH RISK POOL.—The term 'qualified State high risk pool' has the meaning given that term in section 2744(c)(2) of the Public Health Service Act (42 U.S.C. 300gg–44(c)(2)).

''(F) STANDARD LOSS RATIO.—The term 'standard loss ratio', with respect to the pool of insured individuals under coverage described in subparagraph (B) through (H) of paragraph (1) for a year, means—

''(i) the amount of claims incurred with respect to the pool of insured individuals in each such type of coverage for such year; divided by

''(ii) the premiums paid for enrollment in each such coverage for such year.

''(e) COORDINATION WITH ADVANCE PAYMENTS OF CREDIT.—

''(1) RECAPTURE OF EXCESS ADVANCE PAYMENTS.—If any payment is made by the Secretary under section 7527 during any calendar year to a provider of qualified health insurance for an individual, then the tax imposed by this chapter for the individual's last taxable year beginning in such calendar year shall be increased by the aggregate amount of such payments.

''(2) RECONCILIATION OF PAYMENTS ADVANCED AND CREDIT ALLOWED.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit (other than the credit allowed by subsection (a)) allowable under part IV of subchapter A of chapter 1.

''(f) SPECIAL RULES.—

''(1) COORDINATION WITH OTHER DEDUCTIONS.—Amounts taken into account under subsection (a) shall not be taken into account in determining any deduction allowed under section 162(l) or 213.

''(2) MSA DISTRIBUTIONS.—Amounts distributed from an Archer MSA (as defined in section 220(d)) shall not be taken into account under subsection (a).

''(3) DENIAL OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

''(4) CREDIT TREATED AS REFUNDABLE CREDIT.—For purposes of this title, the credit allowed under this section shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1.

''(5) EXPENSES MUST BE SUBSTANTIATED.—A payment for qualified health insurance to which subsection (a) applies may be taken into account under this section only if the taxpayer substantiates such payment in such form as the Secretary may prescribe.''.

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to information concerning transactions with other persons) is amended by inserting after section 6050S the following new section:

''SEC. 6050T. RETURNS RELATING TO TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.

''(a) REQUIREMENT OF REPORTING.—Every person—

''(1) who, in connection with a trade or business conducted by such person, receives payments during any calendar year from any individual for coverage of such individual or any other individual under qualified health insurance (as defined in section 6429(d)), and

''(2) who claims a reimbursement for an advance credit amount,

shall, at such time as the Secretary may prescribe, make the return described in subsection (b) with respect to each individual from whom such payments were received or for whom such a reimbursement is claimed.

''(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary may prescribe, and

''(2) contains—

''(A) the name, address, and TIN of each individual referred to in subsection (a),

''(B) the aggregate of the advance credit amounts provided to such individual and for which reimbursement is claimed,

''(C) the number of months for which such advance credit amounts are so provided, and

''(D) such other information as the Secretary may prescribe.

''(c) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

''(1) the name and address of the person required to make such return and the phone number of the information contact for such person, and

''(2) the information required to be shown on the return with respect to such individual.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

''(d) ADVANCE CREDIT AMOUNT.—For purposes of this section, the term 'advance credit amount' means an amount for which the person can claim a reimbursement pursuant to a program established by the Secretary under section 7527.''.

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by redesignating clauses (xi) through (xvii) as clauses (xii) through (xviii), respectively, and by inserting after clause (x) the following new clause:

''(xi) section 6050T (relating to returns relating to trade adjustment assistance health insurance credit),''.

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking ''or'' at the end of subparagraph (Z), by striking the period at the end of subparagraph (AA) and inserting '', or'', and by adding after subparagraph (AA) the following new subparagraph:

''(BB) section 6050T (relating to returns relating to trade adjustment assistance health insurance credit).''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050S the following new item:

''Sec. 6050T. Returns relating to trade adjustment assistance health insurance credit.''.

(c) CRIMINAL PENALTY FOR FRAUD.—

(1) IN GENERAL.—Subchapter B of chapter 75 of the Internal Revenue Code of 1986 (relating to other offenses) is amended by adding at the end the following:

''SEC. 7276. PENALTIES FOR OFFENSES RELATING TO TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.

''Any person who knowingly misuses Department of the Treasury names, symbols,

titles, or initials to convey the false impression of association with, or approval or endorsement by, the Department of the Treasury of any insurance products or group health coverage in connection with the credit for trade adjustment assistance health insurance under section 6429 shall on conviction thereof be fined not more than $10,000, or imprisoned not more than 1 year, or both.''.

(2) The table of sections for subchapter B of chapter 75 of such Code is amended by adding at the end the following:

''Sec. 7276. Penalties for offenses relating to trade adjustment assistance health insurance credit.''.

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 6429 of such Code''.

(2) The table of sections for subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 6429. Trade adjustment assistance health insurance credit.''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2001, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

(2) PENALTIES.—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

SEC. 602. ADVANCE PAYMENT OF TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7527. ADVANCE PAYMENT OF TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.

''(a) GENERAL RULE.—The Secretary shall establish a program for making payments on behalf of eligible individuals (as defined in section 6429(c)) to providers of health insurance for such individuals for whom a qualified health insurance credit eligibility certificate is in effect.

''(b) QUALIFIED HEALTH INSURANCE CREDIT ELIGIBILITY CERTIFICATE.—For purposes of this section, except as provided by the Secretary, a qualified health insurance credit eligibility certificate is a statement certified by a designated local agency (as defined in section 51(d)(11)) (or by any other entity designated by the Secretary) which—

''(1) certifies that the individual was an eligible individual (as defined in section 6429(c)) as of the first day of any month, and

''(2) provides such other information as the Secretary may require for purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 7527. Advance payment of trade adjustment assistance health insurance credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

SEC. 603. HEALTH INSURANCE COVERAGE FOR ELIGIBLE INDIVIDUALS.

(a) ELIGIBILITY FOR GRANTS.—Section 173(a) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(a)) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3) by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(4) from funds appropriated under section 174(c)—

''(A) to a State to provide the assistance described in subsection (f) to any eligible worker (as defined in subsection (f)(4)(B)); and

''(B) to a State to provide the assistance described in subsection (g) to any eligible worker (as defined in subsection (g)(5)).''.

(b) USE OF FUNDS FOR HEALTH INSURANCE COVERAGE.—Section 173 of the Workforce Investment Act of 1998 (29 U.S.C. 2918) is amended by adding at the end the following:

''(f) HEALTH INSURANCE COVERAGE ASSISTANCE FOR ELIGIBLE WORKERS.—

''(1) IN GENERAL.—Funds made available to a State under paragraph (4)(A) of subsection (a) may be used by the State for the following:

''(A) HEALTH INSURANCE COVERAGE.—To assist an eligible worker (as defined in paragraph (4)(B)) in enrolling in health insurance coverage or coverage under a group health plan through—

''(i) COBRA continuation coverage;

''(ii) continuation coverage under a similar State program;

''(iii) the enrollment of the eligible worker and the eligible worker's spouse and dependents in health insurance coverage offered through a qualified State high risk pool or other comparable State-based health insurance coverage alternative;

''(iv) the enrollment of the eligible worker and the eligible worker's spouse and dependents in the health insurance program offered for State employees;

''(v) the enrollment of the eligible worker and the eligible worker's spouse and dependents in a State-based health insurance program that is comparable to the health insurance program offered for State employees;

''(vi) a direct payment arrangement entered into by the State and a group health plan (including a multiemployer plan as defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37))), an issuer of health insurance coverage, an administrator of health insurance coverage or a group health plan, or an employer, as appropriate, on behalf of the eligible worker and the eligible worker's spouse and dependents;

''(vii) the enrollment of the eligible worker and the eligible worker's spouse and dependents in a State-operated health plan that does not receive any Federal financial participation;

''(viii) the enrollment of the eligible worker and the eligible worker's spouse and dependents in health insurance coverage offered through a State arrangement with a private sector health care coverage purchasing pool;

''(ix) in the case of an eligible worker who was enrolled in individual health insurance coverage during the 6-month period that ends on the date on which the worker became unemployed, enrollment in such individual health insurance coverage; or

''(x) enrollment of the eligible worker and the eligible worker's spouse and dependents in coverage under a group health plan that is available through the employment of the worker's spouse and is not described in paragraph (4)(C)(i)(I).

''(B) ESTABLISHMENT OF HEALTH INSURANCE COVERAGE MECHANISMS.—To establish or administer—

''(i) a qualified State high risk pool for the purpose of providing health insurance coverage to an eligible worker and the eligible worker's spouse and dependents;

''(ii) a State-based program for the purpose of providing health insurance coverage to an eligible worker and the eligible worker's spouse and dependents that is comparable to the State health insurance program for State employees; or

''(iii) a program under which the State enters into arrangements described in subparagraph (A)(vi).

''(C) ADMINISTRATIVE EXPENSES.—To pay the administrative expenses related to the enrollment of eligible workers and the eligible workers spouses and dependents in health insurance coverage or coverage under a group health plan described in subparagraph (A), including—

''(i) eligibility verification activities;

''(ii) the notification of eligible workers of available health insurance coverage options;

''(iii) processing qualified health insurance credit eligibility certificates provided for under section 7527 of the Internal Revenue Code of 1986;

''(iv) providing assistance to eligible workers in enrolling in health insurance coverage;

''(v) the development or installation of necessary data management systems; and

''(vi) any other expenses determined appropriate by the Secretary.

''(2) REQUIREMENTS.—With respect to health insurance coverage or coverage under a group health plan provided to eligible workers under any of clauses (ii) through (viii) of paragraph (1)(A), the State shall ensure that—

''(A) enrollment is guaranteed for workers who provide a qualified health insurance credit eligibility certificate described in section 7527 of the Internal Revenue Code of 1986 and who pay the remainder of the premium for such enrollment;

''(B) no pre-existing condition limitations are imposed with respect to such eligible workers;

''(C) the worker is not required (as a condition of enrollment or continued enrollment under the coverage) to pay a premium or contribution that is greater than the premium or contribution for a individual who is not an eligible worker who has comparable coverage;

''(D) benefits under the coverage are the same as (or substantially similar to) the benefits provided to individuals who are not eligible workers who have comparable coverage;

''(E) the standard loss ratio for the coverage is not less than 65 percent;

''(F) in the case of coverage provided under paragraph (1)(A)(v), the premiums and benefits are comparable to the premiums and benefits applicable to State employees; and

''(G) such coverage otherwise meets requirements established by the Secretary.

''(3) AVAILABILITY OF FUNDS.—

''(A) EXPEDITED PROCEDURES.—With respect to applications submitted by States for grants under this subsection, the Secretary shall—

''(i) not later than 15 days after the date on which the Secretary receives a completed application from a State, notify the State of the determination of the Secretary with respect to the approval or disapproval of such application;

''(ii) in the case of a State application that is disapproved by the Secretary, provide technical assistance, at the request of the State, in a timely manner to enable the State to submit an approved application; and

''(iii) develop procedures to expedite the provision of funds to States with approved applications.

''(B) AVAILABILITY AND DISTRIBUTION OF FUNDS.—The Secretary shall ensure that funds made available under section 174(c)(1)(A) to carry out subsection (a)(4)(A)

are available to States throughout the period described in section 174(c)(2)(A).

''(4) DEFINITIONS.—For purposes of this subsection:

''(A) 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.

''(B) ELIGIBLE WORKER.—The term 'eligible worker' means an individual who—

''(i) is—

''(I) participating in the trade adjustment allowance program under section 235 of the Trade Act of 1974, as amended by section 111 of the Trade Adjustment Assistance Reform Act of 2002, or would be eligible to participate in such program if section 235 (as so amended) were applied without regard to subsection (a)(3)(B) thereof; or

''(II) participating in the wage insurance program under section 243(b) of such Act (as so amended);

''(ii) does not have other specified coverage; and

''(iii) is not imprisoned under Federal, State, or local authority.

''(C) OTHER SPECIFIED COVERAGE.—With respect to any individual, the term 'other specified coverage' means—

''(i) SUBSIDIZED COVERAGE.—

''(I) FOR TAA PROGRAM INDIVIDUALS.—In the case of an individual described in subparagraph (B)(i)(I), such individual is covered under any qualified health insurance (other than insurance described in clause (i), (ii), or (vi) of paragraph (1)(A)) under which at least 50 percent of the cost of coverage (determined under section 4980B(f)(4) of the Internal Revenue Code of 1986) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse.

''(II) FOR WAGE INSURANCE PROGRAM INDIVIDUALS.—In the case of an individual described in subparagraph (B)(i)(II), such individual is either—

''(aa) eligible for coverage under any qualified health insurance (other than insurance described in clause (i), (ii), or (vi) of paragraph (1)(A)) under which at least 50 percent of the cost of coverage (determined under section 4980B(f)(4) of such Code) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse; or

''(bb) covered under any such qualified health insurance under which any portion of the cost of coverage (as so determined) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse.

''(III) TREATMENT OF CAFETERIA PLANS.—For purposes of subclause (I) or (II), the cost of coverage shall be treated as paid or incurred by an employer to the extent the coverage is in lieu of a right to receive cash or other qualified benefits under a cafeteria plan (as defined in section 125(d) of such Code).

''(ii) COVERAGE UNDER MEDICARE, MEDICAID, OR SCHIP.—Such individual—

''(I) is entitled to benefits under part A of title XVIII of the Social Security Act or is enrolled under part B of such title; or

''(II) is enrolled in the program under title XIX or XXI of such Act (other than under section 1928).

''(iii) CERTAIN OTHER COVERAGE.—Such individual—

''(I) is enrolled in a health benefits plan under chapter 89 of title 5, United States Code;

''(II) is entitled to receive benefits under chapter 55 of title 10, United States Code; or

''(III) is entitled to receive benefits under chapter 17 of title 38, United States Code.

''(D) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given that term in section 2791(a) of the Public Health Service Act (42 U.S.C. 300gg–91(a)), section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1)), and section 5001(b)(1) of the Internal Revenue Code of 1986.

''(E) HEALTH INSURANCE COVERAGE.—Except to the extent provided by the Secretary, the term 'health insurance coverage' has the meaning given that term in section 2791(b)(1) of the Public Health Service Act (42 U.S.C. 300gg–91(b)(1)) (other than insurance if substantially all of its coverage is of excepted benefits described in section 2791(c) of such Act (42 U.S.C. 300gg–91(c)) or provided under a flexible spending arrangement, as determined under section 106(c) of the Internal Revenue Code of 1986.

''(F) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The term 'individual health insurance coverage' means health insurance coverage offered to individuals other than in connection with a group health plan. Such term does not include Federal- or State-based health insurance coverage.

''(G) QUALIFIED STATE HIGH RISK POOL.—The term 'qualified State high risk pool' has the meaning given that term in section 2744(c)(2) of the Public Health Service Act (42 U.S.C. 300gg–44(c)(2)).

''(H) STANDARD LOSS RATIO.—The term 'standard loss ratio', with respect to the pool of insured individuals under coverage described in clauses (ii) through (viii) of subparagraph (A) for a year, means—

''(i) the amount of claims incurred with respect to the pool of insured individuals in each such type of coverage for such year; divided by

''(ii) the premiums paid for enrollment in each such coverage for such year.

''(g) INTERIM HEALTH INSURANCE COVERAGE AND OTHER ASSISTANCE.—

''(1) IN GENERAL.—Funds made available to a State under paragraph (4)(B) of subsection (a) may be used by the State to provide assistance and support services to eligible workers, including health care coverage, transportation, child care, dependent care, and income assistance.

''(2) INCOME SUPPORT.—With respect to any income assistance provided to an eligible worker with such funds, such assistance shall supplement and not supplant other income support or assistance provided under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) (as in effect on the day before the effective date of the Trade Adjustment Assistance Reform Act of 2002) or the unemployment compensation laws of the State where the eligible worker resides.

''(3) HEALTH INSURANCE COVERAGE.—With respect to any assistance provided to an eligible worker with such funds in enrolling in health insurance coverage or coverage under a group health plan, the following rules shall apply:

''(A) The State may provide assistance in obtaining such coverage to the eligible worker and to the eligible worker's spouse and dependents.

''(B) Such assistance shall supplement and may not supplant any other State or local funds used to provide health care coverage and may not be included in determining the amount of non-Federal contributions required under any program.

''(4) AVAILABILITY OF FUNDS.—

''(A) EXPEDITED PROCEDURES.—With respect to applications submitted by States for grants under this subsection, the Secretary shall—

''(i) not later than 15 days after the date on which the Secretary receives a completed application from a State, notify the State of the determination of the Secretary with respect to the approval or disapproval of such application;

''(ii) in the case of a State application that is disapproved by the Secretary, provide technical assistance, at the request of the State, in a timely manner to enable the State to submit an approved application; and

''(iii) develop procedures to expedite the provision of funds to States with approved applications.

''(B) AVAILABILITY AND DISTRIBUTION OF FUNDS.—The Secretary shall ensure that funds made available under section 174(c)(1)(B) to carry out subsection (a)(4)(B) are available to States throughout the period described in section 174(c)(2)(B).

''(5) DEFINITION OF ELIGIBLE WORKER.—In this subsection, the term 'eligible worker' means an individual who is a member of a group of workers certified after April 1, 2002, under chapter 2 of title II of the Trade Act of 1974 (as in effect on the day before the effective date of the Trade Adjustment Assistance Reform Act of 2002) and is participating in the trade adjustment allowance program under such chapter (as so in effect) or who would be determined to be participating in such program under such chapter (as so in effect) if such chapter were applied without regard to section 231(a)(3)(B) of the Trade Act of 1974 (as so in effect).''.

(c) APPROPRIATIONS.—Section 174 of the Workforce Investment Act of 1998 (29 U.S.C. 2919) is amended by adding at the end the following:

''(c) ASSISTANCE FOR ELIGIBLE WORKERS.—

''(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated—

''(A) to carry out subsection (a)(4)(A) of section 173—

''(i) $10,000,000 for fiscal year 2002; and

''(ii) $60,000,000 for each of fiscal years 2003 through 2007; and

''(B) to carry out subsection (a)(4)(B) of section 173—

''(i) $50,000,000 for fiscal year 2002;

''(ii) $100,000,000 for fiscal year 2003; and

''(iii) $50,000,000 for fiscal year 2004.

''(2) AVAILABILITY OF FUNDS.—Funds appropriated under—

''(A) paragraph (1)(A) for each fiscal year shall, notwithstanding section 189(g), remain available for obligation during the pendency of any outstanding claim under the Trade Act of 1974, as amended by the Trade Adjustment Assistance Reform Act of 2002; and

''(B) paragraph (1)(B), for each fiscal year shall, notwithstanding section 189(g), remain available during the period that begins on the date of enactment of the Trade Adjustment Assistance Reform Act of 2002 and ends on September 30, 2004.''.

(d) CONFORMING AMENDMENT.—Section 132(a)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2862(a)(2)(A)) is amended by inserting '', other than under subsection (a)(4), (f), and (g)'' after ''grants''.

(e) TEMPORARY EXTENSION OF COBRA ELECTION PERIOD FOR CERTAIN INDIVIDUALS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the election period for COBRA continuation coverage (as defined in section 6429(d)(3)(A) of the Internal Revenue Code of 1986) with respect to any eligible individual (as defined in section 6429(c) of such Code) for whom such period has expired as of the date of the enactment of this Act, shall not end before the date that is 60 days after the date the individual becomes such an eligible individual.

(2) PREEXISTING CONDITIONS.—If an individual becomes such an eligible individual, any period before the date of such eligibility

shall be disregarded for purposes of determining the 63-day periods referred to in section 701(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)), section 2701(c)(2) of the Public Health Service Act (42 U.S.C. 300gg(c)(2)), and section 9801(c)(2) of the Internal Revenue Code of 1986.

SA 3519. Mr. FEINGOLD (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that act, and for other purposes, which was ordered to lie on the table; as follows:

Strike all in the amendment, and insert in lieu thereof the following:

''Notwithstanding any other provision of this Act, section 1143 of this Act shall not take effect.''

SA 3520. Mr. FEINGOLD (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that act, and for other purposes, which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

''Notwithstanding any other provision of this Act, section 1143 of this Act shall not take effect.''

SA 3521. Mr. REID (for Mr. JEFFORDS) proposed an amendment to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; as follows:

At the end of the title relating to Customs Reauthorization, insert the following:

SEC. __. AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS STAFFING.

There are authorized to be appropriated to the Department of Treasury such sums as may be necessary to provide an increase in the annual rate of basic pay—

(1) for all journeyman Customs inspectors and Canine Enforcement Officers who have completed at least one year's service and are receiving an annual rate of basic pay for positions at GS–9 of the General Schedule under section 5332 of title 5, United States Code, from the annual rate of basic pay payable for positions at GS–9 of the General Schedule under section 5332, to an annual rate of basic pay payable for positions at GS–11 of the General Schedule under such section 5332; and

(2) for the support staff associated with the personnel described in subparagraph (A), at the appropriate GS level of the General Schedule under such section 5332.

SA 3522. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. EXTRADITION REQUIREMENT.

(a) IN GENERAL.—The benefits provided under any preferential tariff program authorized by this Act shall not apply to any product of a country that fails to comply within 30 days with a United States government request for the extradition of an individual for trial in the United States if that individual has been indicted by a Federal grand jury for a crime involving a violation of the Controlled Substances Act (21 U.S.C. 101 et seq.).

(b) EFFECTIVE DATE.—Subsection (a) shall take effect on the day after the date of enactment of this Act.

SA 3523. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

SEC. . EXTRADITION REQUIREMENT.

(a) IN GENERAL.—The benefits provided under any preferential tariff program authorized by this Act shall not apply to any product of a country that fails to comply within 30 days with a United States government request for the extradition of an individual for trial in the United States if that individual has been indicted by a Federal grand jury for a crime involving a violation of the Controlled substances Act (21 U.S.C. 101 et seq.).

(b) EFFECTIVE DATE.—Subsection (a) shall take effect on the day after the date of enactment of this Act.

SA 3524. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . EXTRADITION REQUIREMENT.

(a) IN GENERAL.—The benefits provided under any preferential tariff program authorized by this Act shall not apply to any product of a country that fails to comply within 30 days with a United States government request for the extradition of an individual for trial in the United States if that individual has been indicated by a Federal grand jury for a crime involving a violation of the Controlled Substances Act (21 U.S.C. 101 et seq.).

(b) EFFECTIVE DATE.—Subsection (a) shall take effect on the day after the date of enactment of this Act.

SA 3525. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following;

SEC. . TRADE ADJUSTMENT ASSISTANCE AND HEALTH BENEFITS FOR TEXTILE AND APPAREL WORKERS.

(a) IN GENERAL.—An individual employed in the textile or apparel industry before the date of enactment of this Act who, after December 31, 1998—

(1) lost, or loses, his or her job (other than by termination for cause); and

(2) has not been re-employed in that industry, is deemed to be eligible for adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(b) EFFECTIVE DATE.—This section takes effect on the day after the date of enactment of this Act.

SA 3526. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following;

SEC. . TRADE ADJUSTMENT ASSISTANCE AND HEALTH BENEFITS FOR TEXTILE AND APPAREL WORKERS.

(a) IN GENERAL.—An individual employed in the textile or apparel industry before the date of enactment of this Act who, after December 31, 1998—

(1) lost, or loses, his or her job (other than by termination for cause); and

(2) has not been re-employed in that industry, is deemed to be eligible for adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(b) EFFECTIVE DATE.—This section takes effect on the day after the date of enactment of this Act.

SA 3527. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following;

SEC. . TRADE ADJUSTMENT ASSISTANCE AND HEALTH BENEFITS FOR TEXTILE AND APPAREL WORKERS.

(a) IN GENERAL.—An individual employed in the textile or apparel industry before the date of enactment of this Act who, after December 31, 1998—

(1) lost, or loses, his or her job (other than by termination for cause); and

(2) has not been re-employed in that industry, is deemed to be eligible for adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(b) EFFECTIVE DATE.—This section takes effect on the day after the date of enactment of this Act.

SA 3528. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place add the following:

SEC. . TRADE ADJUSTMENT ASSISTANCE AND HEALTH BENEFITS FOR TEXTILE AND APPAREL WORKERS.

(a) IN GENERAL.—An individual employed in the textile or apparel industry before the date of enactment of this Act who, after December 31, 1998—

(1) lost, or loses, his or her job (other than by termination for cause); and

(2) has not been re-employed in that industry, is deemed to be eligible for adjustment

assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(b) EFFECTIVE DATE.—This section takes effect on the day after the date of enactment of this Act.

SEC. . SENSE OF THE SENATE REGARDING PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) IN GENERAL.—It is the sense of the Senate that paragraph (4) of section 7701(a) of the Internal Revenue Code of 1986 (defining domestic) should be amended to read as follows:

''(4) DOMESTIC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

''(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

''(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

''(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

''(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Sub-clause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

''(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

''(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

''(iv) PARTNERSHIP TRANSACTIONS.—The term 'corporate expatriation transaction' includes any transaction if—

''(I) a nominally foreign (referred to in this subparagraph as the acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

''(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

''(v) SPECIAL RULES.—For purposes of this subparagraph—

''(I) a series of related transactions shall be treated as 1 transaction, and

''(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

''(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

''(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

''(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliation group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).''

(b) EFFECTIVE DATES.—It is further the sense of the Senate that—

(1) such an amendment should not apply to corporate expatriation transactions completed after September 11, 2001;

(2) such an amendment should also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003; and

(3) that any revenues attributable to such an amendment should be used to pay for benefits for textile and apparel workers deemed to be eligible for adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) under this Act.

SA 3529. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

SEC. . TRADE ADJUSTMENT ASSISTANCE AND HEALTH BENEFITS FOR TEXTILE AND APPAREL WORKERS.

(a) IN GENERAL.—An individual employed in the textile or apparel industry before the date of enactment of this Act who, after December 31, 1998—

(1) lost, or loses, his or her job (other than by termination for cause); and

(2) has not been re-employed in that industry, is deemed to be eligible for adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(b) EFFECTIVE DATE.—This section takes effect on the day after the date of enactment of this Act.

SEC. . SENSE OF THE SENATE REGARDING PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) IN GENERAL.—It is the sense of the Senate that paragraph (4) of section 7701(a) of the Internal Revenue Code of 1986 (defining domestic) should be amended to read as follows:

''(4) DOMESTIC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

''(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

''(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

''(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

''(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of Clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

''(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

''(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

''(iv) PARTNERSHIP TRANSACTIONS.—The term 'corporate expatriation transaction' includes any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

''(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

''(v) SPECIAL RULES.—For purposes of this subparagraph—

''(I) a series of related transactions shall be treated as 1 transaction, and

''(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

''(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

''(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

''(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).''

(b) EFFECTIVE DATES.—It is further the sense of the Senate that—

(1) such an amendment should apply to corporate expatriation transactions completed after September 11, 2001;

(2) such an amendment should also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003; and

(3) that any revenues attributable to such an amendment should be used to pay for benefits for textile and apparel workers deemed to be eligible for adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) under this Act.

SA 3530. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; while was ordered to lie on the table; as follows:

In lieu of the matter proposed insert the following:

SEC. . TRADE ADJUSTMENT ASSISTANCE AND HEALTH BENEFITS FOR TEXTILE AND APPAREL WORKERS.

(a) IN GENERAL.—An individual employed in the textile or apparel industry before the date of enactment of this Act who, after December 31, 1998—

(1) lost, or loses, his or her job (other than by termination for cause); and

(2) has not been re-employed in that industry, is deemed to be eligible for adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(b) EFFECTIVE DATE.—This section takes effect on the day after the date of enactment of this Act.

SEC. . SENSE OF THE SENATE REGARDING PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) IN GENERAL.—It is the sense of the Senate that paragraph (4) of section 7701(a) of the Internal Revenue Code of 1986 (defining domestic) should be amended to read as follows:

''(4) DOMESTIC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

''(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

''(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

''(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

''(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

''(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affilated group) in the foreign country in which or under the law of which the corporation is created or organized, and

''(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

''(iv) PARTNERSHIP TRANSACTIONS.—The term 'corporate expatriation transaction' includes any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

''(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

''(v) SPECIAL RULES.—For purposes of this subparagraph—

''(I) a series of related transactions shall be treated as 1 transaction, and

''(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

''(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

''(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

''(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).''

(b) EFFECTIVE DATES.—It is further the sense of the Senate that—

(1) such as amendment should apply to corporate expatriation transactions completed after September 11, 2001;

(2) such an amendment should also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003; and

(3) that any revenues attributable to such an amendment should be used to pay for benefits for textile and apparel workers deemed to be eligible for adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) under this Act.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Energy and Natural Resources has scheduled a field hearing in Bloomfield, NM to identify issues related to the inspection and enforcement of Bureau of Land Management oil and gas wells in the Farmington area and attempts to remedy computer problems affecting Minerals Management Service payments in New Mexico.

The hearing will take place on Friday, May 31, at 9:00 a.m. at the Bloomfield Cultural Complex at 333 S. First Street, Bloomfield, NM.

Those wishing to submit written statements on the subject matter of this hearing should address them to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510.

For further information, please call John Watts at 202/224–5488.

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, May 22, 2002, at 10 a.m. in room 485 of the Russell Senate Office Building to conduct a hearing on S. 1340, a bill to amend the Indian Land Consolidation Act to provide for probate reform with respect to trust or restricted lands.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

SUBCOMMITTEE ON WATER AND POWER

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, June 6, 2002, at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of the hearing is to receive testimony on the following bills:

S. 1310, to provide for the sale of certain real property in the Newlands Project, Nevada, to the City of Fallon, Nevada;

S. 2475, to amend the Central Utah Project Completion Act to clarify the responsibilities of the Secretary of the Interior with respect to the Central Utah Project, to redirect unexpended budget authority for the Central Utah Project for wastewater treatment and reuse and other purposes, to provide for prepayment of repayment contracts for municipal and industrial water delivery facilities, and to eliminate a deadline for such prepayment;

S. 1385, to authorize the Secretary of the Interior, pursuant to the provisions of the Reclamation Wastewater and Groundwater Study and Facilities Act, to participate in the design, planning, and water construction of the Lakehaven water reclamation project for the reclamation and reuse of water,

S. 1824/H.R. 2828, to authorize payments to certain Klamath Project water distribution entities for amounts assessed by the entities for operation and maintenance of the Project's irrigation works for 2001, to authorize funds to such entities of amounts collected by the Bureau of Reclamation for reserved works for 2001, and for other purposes;

S. 1883, to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes;

S. 1999, to re-authorize the Mni Wiconi Rural Water Supply Project; and

H.R. 706, to direct the Secretary of the Interior to convey certain properties in the vicinity of the Elephant Butte Reservoir and the Caballo Reservoir, NM.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Patty Beneke or Mike Connor of the committee staff at (202–224–5451) or (202–224–5479).

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 Tuesday, May 21, 2002, immediately following the first rollcall vote, to conduct a mark-up on the nomination of Mr. Anthony Lowe, of Washington, to be Federal Insurance and Mitigation Administrator of the Federal Emergency Management Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, May 21, 2002, at 4:30 p.m., to host the House and Senate conferees on S. 1372 and H.R. 2871, Export-Import Bank Reauthorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the committee on Commerce, science, and transportation be authorized to meet on Tuesday, May 21, 2002, at 9:30 a.m., on implementation of the Aviation and Transportation Security Act.

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 Tuesday, May 21, 2002 at 10:30 a.m., to hold a nomination hearing.

Witnesses

Mrs. Paula A. DeSutter, of Virginia, to be Assistant Secretary of State for Verification and Compliance, to be introduced by: The Honorable Jon Kyl, United States Senate, Washington, DC.

Mr. Michael A. Guhin, of Maryland, for the rank of Ambassador during his tenure of service as U.S. Fissile Material Negotiator, and Mr. Stephen G. Rademaker, of Delaware, to be Assistant Secretary of State for Arms Control, to be introduced by: The Honorable Henry Hyde, U.S. House of Representatives, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on ''Getting Fit, Staying Healthy: Strategies for Improving Nutrition and Physical Activity in America'' during the session of the Senate on Tuesday, May 21, 2002. At 2:30 p.m. in SD–430.

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 hearing on ''Oversight of the Department of Justice—Civil Rights Division'' on Tuesday, May 21, 2002 in Dirksen Room 226 at 2:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSUMER AFFAIRS AND FOREIGN COMMERCE AND TOURISM

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Affairs and Foreign Commerce and Tourism be authorized to meet on Tuesday, May 21, 2002, at 2:30 p.m. on U.S. Trade Policy with Cuba

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, May 21, 2002, at 9:30 a.m. in open session to receive testimony on improved management of Department of Defense test and evaluation facilities.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to executive session to consider the following: Calendar No. 831; and the nominations placed on the Secretary's desk, Coast Guard promotions; that the nominations be confirmed; the motions to reconsider be laid on the table; the President be immediately notified of the Senate's action; any statements thereon be printed in the RECORD as though read; and the Senate return to legislative session without further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed as follows:

COAST GUARD

The following named officers for appointment in the United States Coast Guard to the grade indicated under title 14, U.S.C., section 271:

To be rear admiral

Rear Adm. (lh) Vivien S. Crea, 9704.
Rear Adm. (lh) Robert F. Duncan, 3843.
Rear Adm. (lh) Kevin J. Eldridge, 5421.
Rear Adm. (lh) Thomas J. Gilmour, 0516.
Rear Adm. (lh) Jeffrey J. Hathaway, 9612.
Rear Adm. (lh) Charles D. Wurster, 3540.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

COAST GUARD

PN1751 Coast Guard nomination of Mikeal S. Staier, which was received by the Senate and appeared in the Congressional Record of May 13, 2002.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ORDERS FOR WEDNESDAY, MAY 22, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, May 22; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate begin a period of morning business until 10:30 a.m. with Senators permitted to speak for up to 10 minutes each, with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Republican leader or his designee; that at 10:30 a.m., the Senate resume consideration of the trade bill for debate only until 11:30 a.m., with the time equally divided between the two leaders or their designees; further that the Senate vote on cloture on the Baucus substitute amendment at 11:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPRESSING THE SENSE OF CONGRESS THAT WORKERS DESERVE FAIR TREATMENT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 115 submitted earlier today by Senator KENNEDY.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 115) expressing the sense of the Congress that all workers deserve fair treatment and safe working conditions, and honoring Dolores Huerta for her commitment to the improvement of working conditions for children, women, and farm worker families.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent the concurrent resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD as if read without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 115) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 115

Whereas Dolores Huerta is a preeminent civil rights leader who has been fighting for the rights of the underserved for more than 40 years;

Whereas Dolores Huerta was born on April 10, 1930, in Dawson, New Mexico;

Whereas Dolores Huerta was raised, along with her 2 brothers and 2 sisters, in the San Joaquin Valley town of Stockton, California,

where she was witness to her mother's care and generosity for local, poverty-stricken farm worker families;

Whereas after earning a teaching credential from Stockton College, Dolores Huerta was motivated to become a public servant and community leader upon seeing her students suffer from hunger and poverty;

Whereas Dolores Huerta defied cultural and gender stereotypes by becoming a powerful and distinguished champion for farm worker families;

Whereas in addition to her unyielding support for farm workers' rights, Dolores Huerta has been a stalwart advocate for the protection of women and children;

Whereas notwithstanding her intensity of spirit and her willingness to brave challenges, Dolores Huerta has always espoused peaceful, nonviolent tactics to promote her ideals and achieve her goals;

Whereas Dolores Huerta established her career as a social activist in 1955 when she founded the Stockton chapter of the Community Service Organization, a Latino association based in California, and became involved in the association's civic and educational programs;

Whereas in 1962, together with Cesar Chavez, Dolores Huerta founded the National Farm Workers Association, a precursor to the United Farm Workers Organizing Committee, which was formed in 1967;

Whereas Dolores Huerta is the proud mother of 11 children and has 14 grandchildren; and

Whereas Dolores Huerta was inducted into the Women's Hall of Fame in 1993 for her relentless dedication to farm worker issues: Now, therefore, be it

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

(1) it is the sense of the Congress that all workers deserve fair treatment and safe working conditions; and

(2) the Congress honors Dolores Huerta for her commitment to the improvement of working conditions for children, women, and farm worker families.

CENTENNIAL OF ESTABLISHMENT OF CRATER LAKE NATIONAL PARK

Mr. REID. Mr. President, I ask unanimous consent the Energy Committee be discharged from further consideration of S. Res. 273 and that the Senate 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 resolution (S. Res. 273) recognizing the centennial of the establishment of the Crater Lake National Park.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent the resolution and the preamble be agreed to, the motion to reconsider be laid on the table, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 273) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 273

Whereas Crater Lake, at 1,943 feet deep, is the deepest lake in the United States;

Whereas Crater Lake is a significant natural feature, the creation of which, through the eruption of Mount Mazama 7,700 years ago, dramatically affected the landscape of an area that extends from southern Oregon into Canada;

Whereas legends of the formation of Crater Lake have been passed down through generations of the Klamath Tribe, Umpqua Tribe, and other Indian tribes;

Whereas on June 12, 1853, while in search of the legendary Lost Cabin gold mine, John Wesley Hillman, Henry Klippel, and Isaac Skeeters discovered Crater Lake;

Whereas William Gladstone Steele dedicated 17 years to developing strong local support for the conservation of Crater Lake, of which Steele said, ''All ingenuity of nature seems to have been exerted to the fullest capacity to build a grand awe-inspiring temple the likes of which the world has never seen before'';

Whereas on May 22, 1902, President Theodore Roosevelt signed into law a bill establishing Crater Lake as the Nation's sixth national park, mandating that Crater Lake National Park be ''dedicated and set apart forever as a public park or pleasure ground for the benefit of the people of the United States'' (32 Stat. 202);

Whereas Crater Lake National Park is a monument to the beauty of nature and the importance of providing public access to the natural treasures of the United States; and

Whereas May 22, 2002, marks the 100th anniversary of the designation of Crater Lake as a national park: Now, therefore, be it

Resolved, That the Senate recognizes May 22, 2002, as the centennial of the establishment of Crater Lake National Park.

NEXT ROLLCALL VOTE

Mr. REID. Mr. President, the next rollcall vote will occur at approximately 11:30 a.m. tomorrow morning on cloture on the Baucus substitute.

ORDER TO ADJOURN

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment following the statements of Senator VOINOVICH and Senator INHOFE. I understand that Senator VOINOVICH's statement will take approximately 30 minutes and Senator INHOFE's statement will take about 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Ohio is recognized.

NATO ENLARGEMENT

Mr. VOINOVICH. Mr. President, Last week, May 14–15, Secretary of State Colin Powell joined foreign ministers from all 19 members of the NATO Alliance in Reykjavik, Iceland, where they began to lay the groundwork for the Summit of the NATO Alliance in Prague this November.

As many of my colleagues are aware, three themes have emerged to fill the agenda in Prague: first, discussion of NATO's capabilities and the ability to respond to today's most urgent threats; second, the selection of new members; and third, the beginning of new relationships with Russia, Ukraine and other members of the international community.

During the two-day ministerial meeting in Reykjavik, Secretary Powell and his NATO colleagues addressed each of these issues, beginning with the announcement of a new NATO-Russia Council. As the British foreign minister put it, we saw the end of the cold war—again.

The agreement, which is to be finalized in Rome on May 28th, puts Russia and the 19 members of the NATO Alliance at the same table, as equal partners, to discuss a number of issues, including counterterrorism, military cooperation, nonproliferation and peacekeeping. While establishing new areas in which NATO and Russia will work together, the agreement makes certain that NATO will maintain complete control over enlargement and core military issues.

This news is even more significant when coupled with the recent announcement that President Bush and Russian President Putin will sign a treaty to reduce their nuclear arsenals by nearly two-thirds when they meet in Moscow later this month. As Secretary Powell remarked in Reykjavik, our relationship with Russia seems to be on sound footing as we look toward the 21st century. It is my hope that conversations continue to be productive, and I look forward to further discussion about the implementation of these two agreements. However, I remain a little bit skeptical that this will substantially change our relationship with Russia.

In addition to discussion about NATO's relationship with Russia, the ministerial meeting highlighted the urgent need to address the widening gap in military capabilities between the United States and our NATO allies. As Under Secretary of State for Political Affairs Marc Grossman remarked in testimony before the Senate Foreign Relations Committee on May 1, ''The growing capabilities gap between Europe and the United States is the most serious long-term problem facing NATO, and must be addressed.''

This message is not new to members of the Alliance. We've talked about it before. NATO developed the Defense Capabilities Initiative, DCI, at the Washington Summit in 1999 to begin to address deficiencies in technology and military equipment. But there has been little progress, and as the events of September 11th have made all too clear, the Alliance must have the ability to respond in times of crisis.

While the United States and our NATO allies have begun to identify new threats in Europe and beyond, as Secretary Grossman remarked, ''There has to be lots more done at NATO to meet them.''

The United States has identified shortfalls in four key areas of NATO's military capabilities, which Under Secretary of Defense for Policy Doug Feith outlined in Senate testimony earlier this month. These include: first, nuclear, biological and chemical defenses

to protect allied troops and territory; next, the capability to transport troops to the battlefield—in short, we need the right aircraft to get our troops where they need to be; third, communication and information systems to allow allied countries to work together effectively; and finally, modern weapons systems, such as precision-guided munitions and capabilities to suppress enemy air defense.

In a NATO Communiqué released on May 14th, the NATO foreign ministers recognized the need to take steps to improve military capabilities. They note that ''To carry out the full range of its missions, NATO must be able to field forces that can move quickly to wherever they are needed, sustain operations over distance and time, and achieve their objectives.'' In order to fulfill these objectives, they further note that ''This will require the development of new and balanced capabilities within the Alliance, including strategic lift and modern strike capabilities, so that NATO can more effectively respond collectively to any threat of aggression against a member state.''

While this statement is important, I am hopeful that these words will be followed by action and the financial commitments necessary to make this vision a reality. The United States has acted to increase its investment in defense. And as Secretary Powell remarked to reporters last week, ''We think that all of our colleagues in NATO should be doing likewise.''

The United States will spend more than 3.5 percent of its GDP on defense in Fiscal Year 2002. While we ask NATO aspirant countries to spend 2 percent of their GDP on defense, nearly half of NATO's current members do not meet this benchmark. Though we sought to address this issue with the Defense Capabilities Initiative in 1999, defense spending in many countries has actually decreased since that time. If NATO is going to stay relevant, members of the Alliance must do better with their defense budgets. At the NATO Parliamentary Assembly meeting in Sofia, Bulgaria next week, I will be asking them why they have not kept commitments on their defense spending.

NATO Secretary General Lord Robertson underscored the importance of making substantial contributions to military capabilities during the meeting in Reykjavik, saying the Alliance must change if it is to be effective. Further, he was clear in his message: NATO must ''modernize or be marginalized.''

Without the ability to communicate and work together in the field, NATO cannot be effective. And without the fundamental ability to get forces to the frontline to provide for the defense of NATO interests when the time comes, NATO cannot fulfill its basic mission of collective security. I look forward to continued discussion on this issue in the months leading to Prague, and I am hopeful that as NATO defense ministers and heads of state discuss viable options for closing the capabilities gap, they come prepared to make financial commitments to finally get the job done.

In addition to driving home the need for improved military capabilities, the events of 9/11 and the U.S.-led military campaign in Afghanistan have raised serious questions about NATO's ability to respond to terrorist threats, which may likely originate outside of the Alliance's traditional area of operations. This has already generated much debate, and I believe this will be an important item on the agenda in Prague. It will also be important in Bulgaria. I am hopeful there will be productive dialogue as NATO considers action in this realm in the future.

Finally, in addition to new capabilities and new relationships, the question of new members will be on the forefront of the agenda this fall. This is a big deal.

I have been a proponent of enlargement of the NATO Alliance to include Europe's new democracies for many years, and I look forward to a robust round of enlargement in Prague.

In March, I spoke to a gathering of individuals with ties to every country aspiring to join the NATO Alliance, including: Albania, Bulgaria, Estonia, Latvia, Lithuania, Macedonia, Romania, Slovakia, and Slovenia, as well as Croatia. They came together to promote the merits of enlargement as a single, unified group—working together to deliver the message that NATO expansion is in the strategic interest of the United States, Europe, and the broader international community of democracies.

As the meeting concluded, the delegation passed a resolution in support of enlargement, reaffirming the importance of NATO to the security and stability of Europe.

Mr. President, I ask unanimous consent that a copy of the Joint Statement prepared at that meeting be printed in the RECORD.

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

JOINT STATEMENT OF THE REPRESENTATIVES OF ETHNIC COMMUNITIES ON THE ENLARGEMENT OF THE NORTH ATLANTIC TREATY ORGANIZATION, WASHINGTON, DC, MARCH 16, 2002

1. We, the Representatives of the American ethnic communities of the Albanian, Bulgarian, Croatian, Czech, Estonian, Hungarian, Latvian, Lithuanian, Macedonian, Polish, Romanian, Slovak and Slovenian descent, have gathered in Washington, D.C. to endorse the vision of a Europe whole and free as presented by President George W. Bush on June 15, 2001 and by former president William J. Clinton on October 22, 1996.

2. We believe that NATO is the backbone of the transatlantic community and has been an effective bulwark in the defense of freedom, democracy and human rights. We further believe that a strong involvement of the United States in Europe serves the vital interest of the United States.

3. We thank the United States House of Representatives for overwhelmingly passing the Freedom Consolidation Act of 2001 and we urge its expeditious passage by the United States Senate.

4. We believe that the accession of the Czech Republic, Hungary and Poland to NATO has contributed to transatlantic security and strengthened and expanded the zone of peace, stability, democracy and cooperation in Europe.

5. We share President Bush's belief that ''All of Europe's new democracies, from the Baltic to the Black Sea and all that lie between, should have the same chance for security and freedom—and the same chance to join the institutions of Europe—as Europe's old democracies have.'' Furthermore, we believe that the almost 55 million people who live in Europe's aspirant nations should contribute to and share in the benefits of the family of European nations.

6. We commend Europe's new democracies for their progress in solidifying democracy, establishing market economies and building strong and just civil societies. We believe that the invitation to join NATO will be a major achievement in the struggle for freedom. In this regard, we honor all who have suffered in this cause and we thank the United States for its abiding support.

7. We recognize the significant progress that has been made by Europe's new democracies in their preparation to shoulder the responsibilities that membership in NATO requires.

8. We commend Europe's new democracies for their solidarity with the American people after the terrorist attacks of September 11, 2001 and for their willingness to act as de facto allies of the United States and NATO. We recognize the contributions of Europe's new democracies for opening their air and land facilities to the United States and NATO and for sharing their resources in promoting global security and in the fight against terrorism.

9. We applaud Europe's new democracies for their commitment to cooperation which was initiated in Vilnius, Lithuania in May, 2000.

10. We urge Europe's new democracies to accelerate needed reforms to enable their invitations to join NATO at the Prague Summit. We also understand that this continued commitment to shared values is an essential component of such membership.

11. We express our thanks to the Czech Republic, Hungary and Poland for their support of the Vilnius process, to Denmark and Norway for their work in the security of the Baltics and to Greece and turkey for their support of their closest neighbor nations.

12. We commit ourselves to support and promote the fulfillment of the vision of a Europe whole and free and respectfully urge the President of the United States and the United States Senate to support invitations to all aspirant nations who have demonstrated their preparedness for admission to NATO.

Mr. VOINOVICH. In the resolution, they note: ''We believe that NATO is the backbone of the transatlantic community and has been an effective bulwark in the defense of freedom, democracy and human rights. We further believe that a strong involvement of the United States in Europe serves the vital interest of the United States.''

I strongly support that message, and I share the sentiments expressed by President Bush in remarks he delivered in Poland last June, when he said that as the NATO Summit in Prague approaches, ''We should not calculate how little we can get away with, but

how much we can do to advance the cause of freedom.''

During the cold war, as a public official in the State of Ohio, I remained a strong supporter of the captive nations, who were for so many years denied the right of self-determination by the former Soviet Union.

When I was mayor of Cleveland during the 1980s, we celebrated the independence days of the captive nations at city hall—flying their flags, singing their songs and praying that one day the people in those countries would know freedom.

In August 1991, as communism's grip loosened, I wrote a letter to then-President George H.W. Bush urging him to recognize the independence of the Baltic nations. Now, these countries are among those being considered for membership in the NATO alliance.

Last May, I had the opportunity to visit Estonia, Latvia and Lithuania as part of a Senate delegation traveling to the meeting of the NATO parliamentary assembly, and I—along with my colleagues—was very impressed with what I saw.

Our observations were confirmed when many of us visited with General Ralston. He spoke very eloquently about what he has seen in the Baltic nations—with heavy emphasis on their communication systems. He spoke about BALTnet, and said the communication system in place in the Balts is as good as any system within NATO. So is the network in Slovenia they are ready to plug into NATO immediately.

As I stood with my colleagues in the streets of Lithuania—surrounded by thousands of Lithuanian citizens all rallying in support of NATO enlargement—I remembered the celebrations we had in Cleveland years earlier, when Lithuania was still part of the Soviet empire. It was a remarkable feeling for me to stand in a free Lithuania, and to talk about making the country part of the NATO alliance.

After I returned to the United States, I sent a letter to President Bush conveying my impressions of some of the work done in those countries. I encouraged him to guarantee the freedom of those once subjected to life under Communism by making clear his strong support for NATO enlargement.

I was pleased when the President outlined his vision for NATO enlargement in Warsaw last summer, noting that ''All of Europe's new democracies, from the Baltic to the Black Sea and all that lie between, should have the same chance for security and freedom—and the same chance to join the institutions of Europe—as Europe's old democracies have.''

During my time in the Senate, I have been privileged to travel to a number of other NATO aspirant countries—Macedonia and Albania during the war in Kosovo in 1999, and Slovenia, Romania, and Croatia in 2000. I will visit Bulgaria over the Memorial Day recess to take part in the meeting of the NATO parliamentary assembly, and I also hope to visit Slovenia and Slovakia—the only country on the list that I have yet to visit—later this month.

As we approach the Prague summit in November, the NATO alliance finds itself at pivotal point in world history.

More than a decade ago, the fall of the Berlin Wall and the collapse of the Soviet empire marked a moment of profound change for millions of people in Europe and the world at large. It was clear that the global political scene was changed forever.

As we look toward Prague, it is evident that the world is again a changed place. We face new challenges, and we must rise to meet them.

It is clear that the events of September 11 have given all of us a new focus. They have opened our eyes to issues that must not be ignored. I am grateful for the support that the United States has received from our NATO allies and those countries aspiring to join the alliance. This assistance is critical for the international community to be successful in carrying out a comprehensive campaign to fight terrorism, and it is important that these collaborative efforts continue.

NATO's decision to invoke article V—signifying that an attack on one was an attack on all—sent a strong message of solidarity to the people of the United States, and the world at large. The world is different not just for us in America, but for all of Western civilization. NATO has begun to examine the role the alliance will play in efforts to protect the world against threats associated with terrorism and weapons of mass destruction.

Without a doubt, the events of September 11 dramatically impacted the conversations that took place in Iceland last week, and they will certainly influence the agenda in Prague this November. As the United States and other members of NATO consider enlargement of the alliance in the six months leading to Prague, it is within the broader context of a changed world post-9–11.

I believe this debate is still very relevant. In fact, as some have said, discussion about NATO enlargement is perhaps more important now than ever before.

I strongly agree with remarks made by Under Secretary of State Grossman in testimony before the Foreign Relations Committee earlier this month. While acknowledging that some people have argued that after September 11, expansion of the alliance should not remain a priority, Secretary Grossman said he does not agree.

He remarked, ''I believe that enlargement should remain a priority . . . The events of September 11th show us that the more allies we have, the better off we're going to be; the more allies we have to prosecute the war on terrorism, the better off we're going to be. And if we're going to meet these new threats to our security, we need to build the broadest and strongest coalition possible of countries that share our values and are able to act effectively with us. With freedom under attack, we must demonstrate our resolve to do as much as we can to advance our cause.''

While NATO is a collective security organization, formed to defend freedom and democracy in Europe, we cannot forget that common values form the foundation of the alliance.

When we consider enlargement to include Europe's new democracies, we must answer a central question: how would each country contribute to the collective security of the NATO alliance? When we answer that question, our response should certainly factor in the military attributes of each aspirant country, which continue to be evaluated by U.S. and NATO military officials. At the same time, as NATO evaluates its needs for the future, we should take into consideration other ways in which aspirant countries can contribute to the collective defense of Europe.

Since September 11, the United States and NATO have called on members of the international community to provide critical assistance in a number of areas outside of the traditional military realm. While these do not outweigh the need for improved defense capabilities, such as strategic airlift capabilities and improved communication systems, they are nonetheless critical to thwarting future terrorist attacks.

Deputy Secretary of State Richard Armitage outlined a number of these areas in remarks to leaders of the NATO aspirant countries at the V–10 summit in Bucharest, Romania 2 months ago. Secretary Armitage said, ''The threats we now face have changed the way we think about defending ourselves and broadened the scope of possible contributions to the common defense. Forces in the field remain indispensable, but other contributions are just as important. Law enforcement, intelligence sharing, controlling the flow of terrorist financing are essential weapons in responding to today's threats.''

We have seen the benefit of these contributions as the international community continues to engage in a global campaign against terrorism. The nine NATO aspirant countries, as well as Croatia, have reached out to the United States in the aftermath of the September 11 attacks.

They have pledged their solidarity, volunteered their resources, and shared intelligence information with the United States and NATO. They have decided to act not as aspirants, but as allies, and their support is highly important.

As significant as this cooperation has been, the work is not done. It is critical that countries aspiring to join the alliance continue their efforts to make progress in areas outlined in the membership action plan—developing free market economies, promoting democracy and the rule of law, respecting the

rights of minorities, and implementing military reforms. These values are the hallmark of the NATO alliance, and they must not be neglected.

Secretary Armitage underscored this point to NATO aspirant countries at the V–10 summit in Bucharest. He reaffirmed President Bush's commitment to enlargement, which the President made clear in his remarks in Warsaw, Poland last June. Secretary Armitage called on the aspirant countries to continue their work, saying, ''We believe that the conditions are better than ever to pursue a robust enlargement. Now it's up to you. You have worked hard on your Membership Action Plans . . . You have pursued political and economic reform programs; and you have continued to restructure your militaries. These efforts must continue.''

I was pleased when NATO foreign ministers again confirmed their belief in the importance of NATO enlargement at the ministerial meeting last week, noting ''At their Prague Summit in November this year, our Heads of State and Government will launch the next round of NATO enlargement. This will confirm the Alliance's commitment to remain open to new members, and enhance security in the Euro-Atlantic area.''

As the U.S. Government has done, NATO foreign ministers called on aspirant countries to continue their work to join the alliance not only in the upcoming months, but in the years beyond November's summit.

As we approach the Prague Summit, I look forward to continued discussion about the key issues facing the NATO Alliance. I am pleased that the Secretary of State's visit to Reykjavik was productive, providing a solid foundation for the ambitious agenda to be tackled in Prague. I am confident that our visit to Bulgaria for the meeting of the NATO parliamentary assembly will also serve as a forum to further discussion on the subjects of new capabilities, new members and new relationships.

I am pleased that the Senate voted overwhelmingly in favor of the Freedom Consolidation Act last week, which passed by a vote of 85 to 6. This bill puts the Senate on record in support of enlargement of the alliance in Prague, expressing the belief that NATO should remain open to Europe's new democracies able to accept the responsibilities that come with membership.

At the same time, as I expressed last week and many of my colleagues made clear during Senate debate of the measure, this does not guarantee Senate support for the extension of invitations to all nine candidate countries in Prague. There is still work to be done, and NATO aspirants should continue to make progress on their membership Action Plans in the months leading to Prague.

As a member of Congress who has long been involved with Euro-Atlantic issues, I understand the importance of NATO expansion to strengthening security and stability in Europe. I supported enlargement of the alliance in 1997; I will again support enlargement at Prague. And I believe NATO should be open to further expansion in the future.

It is clear that the selection of new members this year will take place in a world vastly different than it was during the last round of enlargement; nonetheless, we should continue to explore questions on enlargement as NATO moves forward to strengthen its ability to provide for the collective defense of Europe in the post September 11th security environment.

I strongly believe that supporting NATO expansion demonstrates our country's commitment to freedom, democracy and peace, and I will continue to promote expansion of the Alliance to include Europe's new democracies which demonstrate the ability to handle the responsibility of NATO membership.

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma is recognized.

PRESIDENT BUSH'S KNOWLEDGE OF SEPTEMBER 11

Mr. INHOFE. Mr. President, I take a moment to add my voice to those who were outraged and offended last week at these idle attempts by some Members of Congress to impugn the integrity of our President, George W. Bush. Sure, they all now will deny that was their intent because they have been home and they have heard from their people, and the people do not believe it. They know it is cheap politics.

Let's not kid ourselves. The statements some of our colleagues made on this floor, in the other body, and in the press had one clear inference and insinuation: They were suggesting, even charging, that President Bush had prior knowledge about what was going to happen on September 11, that he could have done something to prevent the terrorist attacks in New York and Washington, and he did not do anything about it.

While they were making these accusations based on leaks from classified intelligence briefings, they were clearly questioning the competence, the truthfulness, and the integrity of our President. As Vice President DICK CHENEY said Sunday, these charges made through these kinds of statements were outrageous and beyond the pale. Anyone who has the slightest understanding of intelligence briefings knows that raw scraps of information, of which there are hundreds and thousands at any given time, cannot be equated with knowing the details of a specific plot.

I have served on the Senate Intelligence Committee since 1994. We get briefings, and the briefings come in sometimes daily, sometimes weekly, sometimes monthly, where they have an assessment of accusations, a threat assessment, and there is kind of a summary page on top for people who do not want to wade through all of that material. In any given report, there are sometimes over a thousand threats, and the threats having to do with this never made it to the executive summary.

While these people were making these accusations based on leaks about classified intelligence briefings, they were clearly questioning the competency of this President.

I am heartened that the American people have so resoundingly repudiated the suggestion that President Bush is somehow culpable for what happened on September 11. Let's also be clear that any truly thorough investigation of what happened on September 11 must extend back into the actions and inactions of the previous administration and what it did and did not do in addressing terrorism on its watch.

Today's editorial in the Washington Times spells out a few things we need to remember in order to put September 11 in context. In the February 1993 World Trade Center bombing, six people were killed, a thousand wounded; Ramsey Youseff, attack mastermind, connected to Iraq intelligence. In October 1993, during the Somalia firefight, we remember so well the 18 American Rangers who were killed in Mogadishu, their naked bodies dragged through the streets. Militia were trained at that time by the al-Qaida. We know that today.

June 1996, Khobar Towers bombing: 19 U.S. soldiers killed in Saudi Arabia, al-Qaida terrorists among those involved. August of 1998, two U.S. Embassy bombings in Africa: 224 people were killed. Al-Qaida terrorists were involved again. Then-President Clinton launched 75 cruise missiles at an empty Afghan camp and a Sudanese pharmaceutical factory.

October 2000, the U.S.S. *Cole* bombing: 17 U.S. sailors were killed. Again, al-Qaida was involved. All evidence points to the fact that they were involved.

In each case, the Clinton administration sought to avoid taking firm steps against Osama bin Laden and other terrorist groups that have targeted U.S. interests, U.S. soldiers, and U.S. citizens. Certainly, any investigation of failures in the war on terrorism will take these issues into careful consideration.

As the Washington Times editorial says today:

> Given the abysmal performance of the Clinton administration in combating terrorism during the 1990s, it would be a huge mistake for Democrats to attempt to gain political mileage by blaming September 11 on President Bush.

I ask unanimous consent that the entire editorial be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit No. 1.)

Mr. INHOFE. A few of the quotes that came from Senators, and I am

only going to quote four Members of Congress, one House Member and three Senators. Although I could quote about 10 of them, I think my point is made by these four. One Senator said:

I am gravely concerned about the information provided us just yesterday that the President received a warning in August about the threat of hijackers by Osama bin Laden and his organization. It clearly raises some very important questions that have to be asked and have to be answered.

Another Senator said:

We have learned something today that raises a number of serious questions. We have learned that President Bush had been informed last year before September 11 of a possible plot by those associated with Osama bin Laden to hijack a U.S. airline.

Another Senator:

I don't know, again, what he knew and what the White House knew and when they knew it and what they did about it . . .

. . . but if prior information had been warnings were there . . .

Another Member on the floor said:

Yet we have had the gnawing question: was there something that could have been done to prevent the attacks on September 11?

I am very proud of the Senator occupying the chair now because he refrained from trying to engage in this type of political activity.

What do all four Members who made these statements on the floor of the House and Senate have in common? They are all four running for President of the United States. It is unconscionable that anyone would imply our God-fearing President, George W. Bush, might have known something about this and not done everything he could to prevent it. This is simply politics at its worst.

EXHIBIT 1

DEMAGOGUING SEPTEMBER 11

Just a few days ago, Democrats on Capitol Hill seemed quite eager to make political hay out of news reports suggesting that President Bush might have known in advance about the September 11 attacks. Prominent Democrats like Sens. Tom Daschle, Hillary Rodham Clinton and House Minority Leader Dick Gephardt have loudly demanded investigations into what the administration knew about the possibility that terrorists were preparing to attack the United States.

By Sunday, however, some of the harshest Democratic critics were clearly having second thoughts about such a brazen attempt to use September 11 to score political points against Mr. Bush. ''I never, ever thought that anybody, including the president, did anything up to September 11 other than their best,'' Mr. Gephardt said. This is a politically prudent move on Mr. Gephardt's part. Given the abysmal performance of the Clinton administration in combatting terrorism during the 1990s, it would be a huge mistake for Democrats to attempt to gain political mileage by blaming September 11 on President Bush.

Time and time again, the Clinton White House tried to avoid taking firm steps against Osama bin Laden's al Qaeda and other terrorist groups that have targeted the United States. As David Horowitz noted on The Washington Times' op-ed page yesterday, the Clinton administration did nothing in response to al Qaeda's February 1993 bombing of the World Trade Center, in which six persons were killed and nearly 1,000 wounded. Moreover, President Clinton and his aides sought to play down the fact that the mastermind of the attack was Ramzi Youssef, an Iraqi intelligence agent. Journalist Andrew Sullivan quotes Clinton aide George Stephanopoulos as saying that the Clinton administration ignored the implications of the WTC attack because ''it wasn't a successful bombing.''

Nine months later in Somalia, Mohammed Farah Aideed's militiamen, who were trained by al Qaeda, killed 18 American soldiers and dragged their bodies through the streets of Mogadishu. Mr. Clinton's response was to end the U.S.-led humanitarian mission in Somalia and send veteran diplomat Robert Oakley to negotiate surrender terms. In June 1996, 19 American servicemen were killed when al Qaeda joined forces with the Iranian- and Syrian-backed Hezbollah to bomb the Khobar Towers apartment complex in Saudi Arabia. The Saudis refused to cooperate with FBI agents sent to investigate the matter, so Washington just forgot about it. Mr. Sullivan notes that in October, a former Clinton administration official told The Washington Post that, had Mr. Clinton made a serious effort to rein in al Qaeda then, ''We probably would have never seen a September 11.''

In 1998, as Mr. Clinton was preparing to inform the nation of his affair with Monica Lewinsky, al Qaeda killed 224 persons in bombings of U.S. embassies in Kenya and Tanzania. So Mr. Clinton responded by firing 75 missiles at suspected bin Laden training camps in Afghanistan (bin Laden escaped unharmed) and to mistakenly destroy a ''nerve gas factory'' in Khartoum which was actually making pharmaceutical products. Two years later, the United States did nothing of consequence in response to the bombing of the USS Cole in Yemen, in which 17 Americans died. ''Clearly, not enough was done'' to combat terrorism during the Clinton years, former Deputy Attorney General Jamie Gorelick acknowledged shortly after the September 11 attacks. Mrs. Gorelick added that even though President Clinton doubled the size of the FBI's counterterrorism budget, the bureau was so slow to hire agents that the money was never used.

As for Mrs. Clinton, investigative journalist Steven Emerson notes that she and her husband ''repeatedly wined and dined at the White House'' members of the American Muslim Council (AMC), including Abdulrahman Alamoudi, an apologist for Hamas, which has repeatedly denied it is a terrorist group. The AMC, Mr. Emerson adds, provided talking points for Mrs. Clinton's syndicated newspaper column and speeches and was even permitted to organize a reception for itself at the White House. In short, the Democrats are in no position to smear Mr. Bush on September 11 or terrorist in general.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m., Wednesday, May 22, 2002.

Thereupon, the Senate, at 7:51 p.m., adjourned until Wednesday, May 22, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 21, 2002:

DEPARTMENT OF JUSTICE

JAMES THOMAS ROBERTS, JR., OF GEORGIA, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF GEORGIA FOR THE TERM OF FOUR YEARS, VICE JOHN W. CALDWELL, TERM EXPIRED.

JAMES ROBERT DOUGAN, OF MICHIGAN, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF MICHIGAN FOR THE TERM OF FOUR YEARS, VICE BARBARA C. JURKAS, TERM EXPIRED.

DAVID SCOTT CARPENTER, OF NORTH DAKOTA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF NORTH DAKOTA FOR THE TERM OF FOUR YEARS, VICE BRIAN C. BERG, TERM EXPIRED.

JAMES MICHAEL WAHLRAB, OF OHIO, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF OHIO FOR THE TERM OF FOUR YEARS, VICE ROY ALLEN SMITH, TERM EXPIRED.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 21, 2002:

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

To be rear admiral

REAR ADM. (LH) VIVIEN S. CREA
REAR ADM. (LH) ROBERT F. DUNCAN
REAR ADM. (LH) KEVIN J. ELDRIDGE
REAR ADM. (LH) THOMAS J. GILMOUR
REAR ADM. (LH) JEFFREY J. HATHAWAY
REAR ADM. (LH) CHARLES D. WURSTER

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.

COAST GUARD NOMINATION OF MIKEAL S. STAIER.

Daily Digest

HIGHLIGHTS

The House passed H.R. 3994, Afghanistan Freedom Support Act.

Senate

Chamber Action

Routine Proceedings, pages S4577–S4655

Measures Introduced: Four bills and two resolutions were introduced, as follows: S. 2534–2537, S. Res. 273, and S. Con. Res. 115. **Page S4623**

Measures Reported:

Report to accompany S. 1271, to amend chapter 35 of title 44, United States Code, for the purpose of facilitating compliance by small business concerns with certain Federal paperwork requirements, to establish a task force to examine information collection and dissemination. (S. Rept. No. 107–153)

S. 1742, to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, with an amendment in the nature of a substitute. **Page S4623**

Measures Passed:

Safe Workplace Conditions: Senate agreed to S. Con. Res. 115, expressing the sense of the Congress that all workers deserve fair treatment and safe working conditions, and honoring Dolores Huerta for her commitment to the improvement of working conditions for children, women, and farm worker families. **Pages S4627, S4650–51**

Crater Lake National Park Centennial: Committee on the Judiciary was discharged from further consideration of S. Res. 273, recognizing the centennial of the establishment of Crater Lake National Park, and the resolution was then agreed to. **Page S4651**

Andean Trade Preference Expansion Act: Senate continued consideration of H.R. 3009, to extend the Andean Trade Preference Act, and to grant additional trade benefits under that Act, taking action on the following amendments proposed thereto: **Pages S4580–S4614**

Adopted:

By a unanimous vote of 96 yeas (Vote No. 120), Hutchison Amendment No. 3441 (to Amendment No. 3401), to prohibit a country that has not taken steps to support the United States efforts to combat terrorism from receiving certain trade benefits. **Pages S4592–93**

Rejected:

Allen Amendment No. 3406 (to Amendment No. 3401), to provide mortgage payment assistance for employees who are separated from employment. (By 50 yeas to 49 nays, (Vote No. 119), Senate tabled the amendment.) **Pages S4591–92**

Reid (for Kerry) Amendment No. 3430 (to Amendment No. 3401), to ensure that any artificial trade distorting barrier relating to foreign investment is eliminated in any trade agreement entered into under the Bipartisan Trade Promotion Authority Act of 2002. (By 55 yeas to 41 nays (Vote No. 121), Senate tabled the amendment.) **Pages S4593–S4605**

Reid (for Torricelli/Mikulski) Amendment No. 3415 (to Amendment No. 3401), to amend the labor provisions to ensure that all trade agreements include meaningful, enforceable provisions on workers' rights. **Pages S4607–09**

Withdrawn:

Rockefeller Amendment No. 3433 (to Amendment No. 3401), to provide a 1-year eligibility period for steelworker retirees and eligible beneficiaries affected by a qualified closing of a qualified steel company for assistance with health insurance coverage and interim assistance. **Pages S4580–91**

Dorgan Amendment No. 3439 (to Amendment No. 3401), to permit private financing of agricultural sales to Cuba. **Pages S4605–07**

Pending:

Baucus/Grassley Amendment No. 3401, in the nature of a substitute. **Pages S4580–S4614**

Dorgan Amendment No. 3442 (to Amendment No. 3401), to require the United States Trade Representative to identify effective trade remedies to address the unfair trade practices of the Canadian Wheat Board. **Page S4580**

Reid (for Reed) Amendment No. 3443 (to Amendment No. 3401), to restore the provisions relating to secondary workers. **Page S4580**

Reid (for Nelson (FL)/Graham) Amendment No. 3440 (to Amendment No. 3401), to limit tariff reduction authority on certain products. **Page S4580**

Reid (for Bayh) Amendment No. 3445 (to Amendment No. 3401), to require the ITC to give notice of section 202 investigations to the Secretary of Labor. **Page S4580**

Reid (for Byrd) Amendment No. 3447 (to Amendment No. 3401), to amend the provisions relating to the Congressional Oversight Group. **Page S4580**

Reid (for Byrd) Amendment No. 3448 (to Amendment No. 3401), to clarify the procedures for procedural disapproval resolutions. **Page S4580**

Reid (for Byrd) Amendment No. 3449 (to Amendment No. 3401), to clarify the procedures for extension disapproval resolutions. **Page S4580**

Reid (for Byrd) Amendment No. 3450 (to Amendment No. 3401), to limit the application of trade authorities procedures to a single agreement resulting from DOHA. **Page S4580**

Reid (for Byrd) Amendment No. 3451 (to Amendment No. 3401), to address disclosures by publicly traded companies of relationships with certain countries or foreign-owned corporations. **Page S4580**

Reid (for Byrd) Amendment No. 3452 (to Amendment No. 3401), to facilitate the opening of energy markets and promote the exportation of clean energy technologies. **Page S4580**

Reid (for Byrd) Amendment No. 3453 (to Amendment No. 3401), to require that certification of compliance with section 307 of the Tariff Act of 1930 be provided with respect to certain goods imported into the United States. **Page S4580**

Boxer/Murray Amendment No. 3431 (to Amendment No. 3401), to require the Secretary of Labor to establish a trade adjustment assistance program for certain service workers. **Page S4580**

Boxer Amendment No. 3432 (to Amendment No. 3401), to ensure that the United States Trade Representative considers the impact of trade agreements on women. **Page S4580**

Reid (for Durbin) Amendment No. 3456 (to Amendment No. 3401), to extend the temporary duty suspensions with respect to certain wool. **Page S4580**

Reid (for Durbin) Amendment No. 3457 (to Amendment No. 3401), to extend the temporary duty suspensions with respect to certain wool. **Page S4580**

Reid (for Durbin) Amendment No. 3458 (to Amendment No. 3401), to establish and implement a steel import notification and monitoring program. **Page S4580**

Reid (for Harkin) Amendment No. 3459 (to Amendment No. 3401), to include the prevention of the worst forms of child labor as one of the principal negotiating objectives of the United States. **Page S4580**

Reid (for Corzine) Amendment No. 3461 (to Amendment No. 3401), to help ensure that trade agreements protect national security, social security, and other significant public services. **Page S4580**

Reid (for Corzine) Amendment No. 3462 (to Amendment No. 3401), to strike the section dealing with border search authority for certain contraband in outbound mail. **Page S4580**

Reid (for Hollings) Amendment No. 3463 (to Amendment No. 3401), to provide for the certification of textile and apparel workers who lose their jobs or who have lost their jobs since the start of 1999 as eligible individuals for purposes of trade adjustment assistance and health insurance benefits, and to amend the Internal Revenue code of 1986 to prevent corporate expatriation to avoid United States income tax. **Page S4580**

Reid (for Hollings) Amendment No. 3464 (to Amendment No. 3401), to ensure that ISAC Committees are representative of the Producing sectors of the United States Economy. **Page S4580**

Reid (for Hollings) Amendment No. 3465 (to Amendment No. 3401), to provide that the benefits provided under any preferential tariff program, excluding the North American Free Trade Agreement, shall not apply to any product of a country that fails to comply within 30 days with a United States government request for the extradition of an individual for trial in the United States if that individual has been indicted by a Federal grand jury for a crime involving a violation of the Controlled Substances Act. **Page S4580**

Reid (for Landrieu) Amendment No. 3470 (to Amendment No. 3401), to provide trade adjustment assistance benefits to certain maritime workers. **Pages S4580–81**

Brownback Amendment No. 3446 (to Amendment No. 3401), to extend permanent normal trade relations to the nations of Central Asia and the South Caucasus, and Russia. **Pages S4609–12**

Grassley Modified Amendment No. 3474 (to Amendment No. 3446), to express the sense of the Senate regarding the United States-Russian Federation summit meeting, May 2002. **Pages S4612–14**

Reid (for Jeffords) Amendment No. 3521 (to Amendment No. 3401), to authorize appropriations

for certain staff of the United States Customs Service. Page S4614

During consideration of this measure today, Senate also took the following actions:

By 56 yeas to 40 nays (Vote No. 117), three-fifths of those Senators duly chosen and sworn not having voted in the affirmative, Senate failed to agree to the motion to close further debate on Rockefeller Amendment No. 3433 (to Amendment No. 3401), listed above. Pages S4590–91

By 58 yeas to 35 nays (Vote No. 118), Senate agreed to the motion to instruct the Sergeant at Arms to request the attendance of absent Senators. Page S4591

Daschle Amendment No. 3434 (to Amendment No. 3433), to clarify that steelworker retirees and eligible beneficiaries are not eligible for other trade adjustment assistance unless they would otherwise be eligible for that assistance, fell when Rockefeller Amendment No. 3433 (to Amendment No. 3401), listed above, was withdrawn. Page S4580

A motion was entered to close further debate on the bill and, in accordance with Rule XXII of the Standing Rules of the Senate, a cloture vote will occur on Thursday, May 23, 2002. Page S4614

A unanimous-consent-time agreement was reached providing for further consideration of the bill at 10:30 a.m., on Wednesday, May 22, 2002, with a vote on the motion to close further debate on Baucus/Grassley Amendment No. 3401 (listed above), to occur at approximately 11:30 a.m. Page S4650

Nominations Confirmed: Senate confirmed the following nominations:

6 Coast Guard nominations in the rank of admiral.

A routine list in the Coast Guard. Page S4655

Nominations Received: Senate received the following nominations:

James Thomas Roberts, Jr., of Georgia, to be United States Marshal for the Southern District of Georgia for the term of four years.

James Robert Dougan, of Michigan, to be United States Marshal for the Western District of Michigan for the term of four years.

David Scott Carpenter, of North Dakota, to be United States Marshal for the District of North Dakota for the term of four years.

James Michael Wahlrab, of Ohio, to be United States Marshal for the Southern District of Ohio for the term of four years. Page S4655

Messages From the House: Page S4622

Measures Referred: Page S4622

Executive Communications: Pages S4622–23

Executive Reports of Committees: Page S4623

Additional Cosponsors: Pages S4623–25

Statements on Introduced Bills/Resolutions: Pages S4625–27

Additional Statements: Pages S4616–22

Amendments Submitted: Pages S4627–49

Notices of Hearings/Meetings: Page S4649

Authority for Committees to Meet: Pages S4649–50

Record Votes: Five record votes were taken today. (Total–121) Pages S4591–93, S4605

Quorum Calls: One quorum call was taken today. (Total–2) Page S4591

Adjournment: Senate met at 9 a.m., and adjourned at 7:51 p.m., until 9:30 a.m., on Wednesday, May 22, 2002.

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS—DEFENSE

Committee on Appropriations: Subcommittee on Defense concluded hearings on proposed budget estimates for fiscal year 2003 for the Department of Defense, after receiving testimony from Donald H. Rumsfeld, Secretary of Defense; and Gen. Richard B. Myers, USAF, Chairman, Joint Chiefs of Staff.

DOD TEST AND EVALUATION FACILITIES

Committee on Armed Services: Subcommittee on Emerging Threats and Capabilities concluded hearings on proposed legislation to improve the management of the Department of Defense Test and Evaluation Facilities, focusing on the value and quality of testing, infrastructure investments, and resource management, after receiving testimony from Michael W. Wynne, Principal Deputy Under Secretary for Acquisition, Technology, and Logistics, and Thomas P. Christie, Director, Operational Test and Evaluation, both of the Department of Defense; John J. Young, Jr., Assistant Secretary of the Navy for Research, Development, and Acquisition; and John E. Krings, Member, Defense Science Board Task Force on Test and Evaluation Capabilities, and former Director, Operational Test and Evaluation, Department of Defense.

NOMINATION

Committee on Banking, Housing, and Urban Affairs: Committee ordered favorably reported the nomination of Anthony Lowe, of Washington, to be Federal Insurance Administrator, Federal Emergency Management Agency.

AVIATION SECURITY

Committee on Commerce, Science, and Transportation: Committee concluded oversight hearings to examine the implementation of the Aviation and Transportation Security Act (P.L. 107–71), after receiving testimony from Norman Mineta, Secretary, and John Magaw, Under Secretary of the Transportation Security Administration, both of the Department of Transportation.

U.S./CUBA TRADE POLICY

Committee on Commerce, Science, and Transportation: Subcommittee on Consumer Affairs, Foreign Commerce, and Tourism concluded hearings to examine U.S./Cuban trade policy, focusing on the President's Initiative for a New Cuba, current U.S. trade embargo against Cuba, Cuba as a future business partner, and humanitarian assistance, after receiving testimony from Otto J. Reich, Assistant Secretary for Western Hemisphere Affairs, and Shaun E. Donnelly, Principal Deputy Assistant Secretary, Bureau of Economic and Business Affairs, both of the Department of State; Dennis K. Hays, Cuban American National Foundation, Washington, D.C.; Stephen Weber, Maryland Farm Bureau, Baltimore, on behalf of the American Farm Bureau Federation; Lissa Weinmann, Americans for Humanitarian Trade With Cuba, New York, New York.

NOMINATIONS

Committee on Foreign Relations: Committee concluded hearings on the nominations of Paula A. DeSutter, of Virginia, to be Assistant Secretary for Verification and Compliance, Michael Alan Guhin, of Maryland, for the rank of Ambassador during tenure of service as U.S. Fissile Material Negotiator, and Stephen Geoffrey Rademaker, of Delaware, to be Assistant Secretary for Arms Control, all of the Department of State, after the nominees testified and answered questions in their own behalf. Ms. DeSutter was introduced by Senator Kyl, and Mr. Rademaker was introduced by Representatives Hyde and Gilman.

IMPROVING NUTRITION AND PHYSICAL ACTIVITY

Committee on Health, Education, Labor, and Pensions: Committee concluded hearings to examine strategies for improving nutrition and physical activity, in an effort to stave off the obesity epidemic in America, after receiving testimony from William H. Dietz, Director, Division of Nutrition and Physical Activity, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, Department of Health and Human Services; Denise Austin, Washington, D.C., on behalf of P.E.4Life; Sally M. Davis, University of New Mexico Center for Health Promotion and Disease Prevention, Albuquerque; Kelley D. Brownell, Yale University Center for Eating & Weight Disorders, New Haven, Connecticut; Lisa Katic, Grocery Manufacturers of America, Washington, D.C.; and Richard A. Dickey, Wake Forest University School of Medicine, Winston-Salem, North Carolina, on behalf of the Endocrine Society.

DOJ CIVIL RIGHTS DIVISION

Committee on the Judiciary: Committee concluded oversight hearings to examine the Department of Justice Civil Rights Division, after receiving testimony from Ralph F. Boyd, Jr., Assistant Attorney General, Department of Justice.

House of Representatives

Chamber Action

Measures Introduced: 10 public bills, H.R. 4779–4788; and 3 resolutions, H. Con. Res. 407, and H. Res. 424–425, were introduced.

Pages H2734–35

Reports Filed: Reports were filed today as follows:

Conference report on H.R. 3448, to improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies (H. Rept. 107–481).

H. Res. 426, providing for consideration of H.R. 3129, to authorize appropriations for fiscal years 2002 and 2003 for the United States Customs Service for antiterrorism, drug interdiction, and other operations, for the Office of the United States Trade Representative, for the United States International Trade Commission (H. Rept. 107–482);

H. Res. 427, waiving points of order against the conference report to accompany H.R. 3448, to improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies (H. Rept. 107–483); and

H. Res. 428, providing for consideration of H.R. 4775, making supplemental appropriations for the

fiscal year ending September 30, 2002, and for other purposes (H. Rept. 107–484).

Pages H2691–H2732, H2734

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Kirk to act as Speaker pro tempore for today. **Page H2663**

Guest Chaplain: The prayer was offered by the guest chaplain, pastor Ken Wilde, Capital Christian Center of Meridian, Idaho. **Pages H2665–66**

Recess: The House recessed at 9:20 a.m. and reconvened at 10 a.m. **Page H2665**

Private Calendar: On the call of the Private Calendar, the House passed the following measures: H. Res. 103, referring H.R. 1258, for the relief of Sarabeth M. Davis, Robert S. Borders, Victor Maron, Irving Berke, and Adele E. Conrad'', to the chief judge of the United States Court of Federal Claims for a report thereon; H.R. 486, for the relief of Barbara Makuch; and H.R. 487, for the relief of Eugene Makuch. The House passed over without prejudice H.R. 392, for the relief of Nancy B. Wilson.

Page H2666

Suspensions: The House agreed to suspend the rules and pass the following measures:

Dot Kids Implementation and Efficiency Act: H.R. 3833, amended, to facilitate the creation of a new, second-level Internet domain within the United States country code domain that will be a haven for material that promotes positive experiences for children and families using the Internet, provides a safe online environment for children, and helps to prevent children from being exposed to harmful material on the Internet (agreed to by a yea-and-nay vote of 406 yeas to 2 nays, Roll No. 174); **Pages H2669–76**

Child Sex Crimes Wiretapping Act: H.R. 1877, amended, to amend title 18, United States Code, to provide that certain sexual crimes against children are predicate crimes for the interception of communications (agreed to by a yea-and-nay vote of 396 yeas to 11 nays, Roll No. 175); **Pages H2676–80**

Embassy Employee Compensation Act: H.R. 3375, to provide compensation for the United States citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001 (agreed to by a yea-and-nay vote of 391 yeas to 18 nays, Roll No. 176);

Pages H2680–85

Encouraging Work and Supporting Marriage Act: H.R. 4626, amended, to amend the Internal Revenue Code of 1986 to accelerate the marriage penalty relief in the standard deduction and to modify the work opportunity credit and the welfare-to-work credit (agreed to by a yea-and-nay vote of 409 yeas to 1 nays, Roll No. 177);

Pages H2685–(continued next issue)

Independence of East Timor: H. Con. Res. 405, amended, commemorating the independence of East Timor and expressing the sense of Congress that the President should establish diplomatic relations with East Timor (agreed to by a yea-and-nay vote 405 yeas to 1 nay, Roll No. 178). Agreed to amend the title to read ''Concurrent resolution commemorating the independence of East Timor and commending the President for promptly establishing diplomatic relations with East Timor.''; **(See next issue.)**

Veterans' Major Medical Facilities Construction: Debated on May 20, H.R. 4514, amended, to authorize the Secretary of Veterans Affairs to carry out construction projects for the purpose of improving, renovating, and updating patient care facilities at Department of Veterans Affairs medical centers (agreed to by a yea-and-nay vote of 411 yeas with none voting ''nay,'' Roll No. 183); **(See next issue.)**

Jobs for Veterans Act: Debated on May 20, H.R. 4015, amended, to amend title 38, United States Code, to revise and improve employment, training, and placement services furnished to veterans (agreed to by a yea-and-nay vote of 409 yeas with none voting ''nay,'' Roll No. 184); and **(See next issue.)**

Veterans Compensation Cost-of-Living Adjustment: Debated on May 20, H.R. 4085, amended, to increase, effective as of December 1, 2002, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans (agreed to by a yea-and-nay vote of 410 yeas with none voting nays, Roll No. 185). Agreed to amend the title so as to read: ''A bill to amend title 38, United States Code, to provide a cost-of-living increase in the rates of compensation for veterans with service-connected disability and dependency and indemnity compensation for surviving spouses of such veterans, to expand certain benefits for veterans and their survivors, and for other purposes.''; **(See next issue.)**

Bob Hope Veterans Chapel, Los Angeles National Cemetery: H.R. 4592, to name the chapel located in the national cemetery in Los Angeles, California, as the ''Bob Hope Veterans Chapel''; **(See next issue.)**

Small Business Advocacy Improvement: H.R. 4231, amended, to improve small business advocacy; and **(See next issue.)**

Extension of Export-Import Bank: H.R. 4782, to extend the authority of the Export-Import Bank until June 14, 2002. **(See next issue.)**

Suspensions—Proceedings Postponed: The House completed debate on the following motions to suspend the rules. Further proceedings were postponed until Wednesday, May 22. **(See next issue.)**

Federal Deposit Insurance Reform: H.R. 3717, amended, to reform the Federal deposit insurance system; and **(See next issue.)**

Tribute to Ground Zero Rescue, Recovery, and Clean-up Workers: H. Res. 424, paying tribute to the workers in New York City for their rescue, recovery, and clean-up efforts at the site of the World Trade Center. **(See next issue.)**

Afghanistan Freedom Support Act: The House passed H.R. 3994, to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries by a recorded vote of 390 ayes to 22 noes, Roll No. 182. **(See next issue.)**

Agreed to the Committee on International Relations amendment in the nature of a substitute printed in the bill (H. Rept. 107–420) and made in order by the rule.

Agreed To:

Hyde Amendment that makes technical changes, authorizes and encourages the applications of subsections (a), (b), (c), and (e) of section 490 of the Foreign Assistance Act to bilateral and multilateral assistance to major opium producing regions to promote counter narcotics efforts; and encourages the use of research conducted by U.S. land grant colleges and universities particularly in the areas of agriculture and rural development; **(See next issue.)**

Lantos amendment that promotes the secure delivery of humanitarian and other assistance in Afghanistan and requires the submission of the strategy for meeting its security needs within 45 days of enactment (agreed to by a recorded vote of 407 ayes to 4 noes, Roll No. 179); **(See next issue.)**

Jackson-Lee en bloc amendments No. 3 and 4 printed in the Congressional Record of May 20 that emphasize healthcare and education for Afghan orphans and all children; **(See next issue.)**

Jackson-Lee en bloc amendments No. 5 and 6 printed in the Congressional Record of May 20, as modified to delete amendment No. 6, that prohibits the use of children as soldiers or combatants (agreed to by a recorded vote of 413 ayes with none voting "no," Roll No. 180); **(See next issue.)**

Waters amendment, as modified, that prohibits U.S. participation in poppy cultivation or illicit narcotics growth, production, or trafficking and requires reports concerning the Government of Afghanistan's progress in the eradication of poppy cultivation (agreed to by a recorded vote of 412 ayes with none voting " no," Roll No. 181). **(See next issue.)**

Withdrawn:

Hoeffel amendment was offered but subsequently withdrawn that sought to mandate a coordinator for United States interests, program, and policy in Afghanistan. **(See next issue.)**

The Clerk was authorized to make corrections and conforming changes in the engrossment of the bill. **(See next issue.)**

The House agreed to H. Res. 419, the rule that provided for consideration of the bill on May 15, 2002. **(See next issue.)**

Recess: the House recessed at 11:57 p.m. and reconvened at 12:30 a.m. on Wednesday, May 22. **(See next issue.)**

Amendments: Amendments ordered printed pursuant to the rule appear on pages H2735–37.

Quorum Calls—Votes: Eight yea-and-nay votes and four recorded votes developed during the proceedings of the House today and will appear in the next issue. There were no quorum calls.

Adjournment: The House met at 9 a.m. and adjourned at 12:32 a.m. on Wednesday, May 22.

Committee Meetings

GROUNDWATER—MTBE CONTAMINATION

Committee on Energy and Commerce: Subcommittee on Environment and Hazardous Materials held a hearing entitled "MTBE Contamination in Groundwater: Identifying and Addressing the Problem." Testimony was heard from Ben Grumbles, Deputy Assistant Administrator, Office of Water, EPA; Timothy Miller, Chief, National Water Quality Assessment Program, U.S. Geological Survey, Department of the Interior; John B. Stephenson, Director, EPA; and public witnesses.

FEDERAL EMPLOYEES—CAFETERIA BENEFIT PLANS

Committee on Government Reform: Subcommittee on Civil Service, Census and Agency Organization held a hearing on "More Value for Federal Employees: Cafeteria Benefit Plans." Testimony was heard from Dennis G. Jacobs, Judge, U.S. Court of Appeals, Second Circuit; and public witnesses.

HEALTHCARE—RACIAL DISPARITIES

Committee on Government Reform: Subcommittee on Criminal Justice, Drug Policy and Human Resources held a hearing entitled "Racial Disparities in Healthcare: Confronting Unequal Treatment." Testimony was heard from Delegate

Christensen; the following officials of the Department of Health and Human Services: Ruben King-Shaw, Jr., Deputy Administrator, Center for Medicare and Medicaid Services; Carolyn Clancy, Associate Director, Agency for Health Care Research and Quality; John Ruffin, M.D., Director, National Center on Minority Health and Health Disparities; and Nathan Stinson, Jr., M.D., Deputy Assistant Secretary, Minority Health; and public witnesses.

SUPPLEMENTAL APPROPRIATIONS

Committee on Rules: Granted, by a vote of 8 to 2, an open rule on H.R. 4775, making supplemental appropriations for the fiscal year ending September 30, 2002. providing one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the bill. The rule provides that the amendments printed in the Rules Committee report shall be considered as adopted in the House and in the Committee of the Whole. The rule waives points of order against provisions in the bill, except as specified in the rule. The rule authorizes the Chair to accord priority in recognition to Members who have pre-printed their amendments in the Congressional Record. The rule waives points of order during consideration of the bill against amendments for failure to comply with clause 2(e)of rule XXI (prohibiting non-emergency designated amendments to be offered to an appropriations bill containing an emergency designation). The rule provides one motion to recommit with or without instructions. The rule provides that House Concurrent Resolution 353, as adopted by the House, shall have force and effect as though adopted by Congress. Testimony was heard from Chairman Young of Florida and Representatives Callahan, LaTourette, Thune, Moran of Kansas, Rehberg, Obey, Lowey, Kaptur, Farr of California, Skelton, Frost, Peterson of Minnesota, Clayton, Pomeroy, McGovern, Turner and Carson of Oklahoma.

CUSTOMS BORDER SECURITY ACT

Committee on Rules: Granted, by voice vote, a structured rule providing one hour of general debate on H.R. 3129, Customs Boarder Security Act of 2001, equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The rule waives all points of order against consideration of the bill. The rule provides that it shall be in order to consider as an original bill for the purpose of amendment the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill. The rule waives all points of order against the committee amendment in the nature of a substitute. The rule makes in order only those amendments printed in the Rules Committee report accompanying the resolution. The rule provides that the amendments printed in the report may be offered only in the order printed in the report, may be offered only the member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The rule waives all points of order against the amendments printed in the report. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Chairman Thomas and Representative Rangel.

CONFERENCE REPORT—BIOTERRORISM PREPAREDNESS ACT

Committee on Rules: Granted by voice vote, a rule waiving all points of order against the conference report to accompany H.R. 3448, Bioterrorism Preparedness Act of 2002 and against its consideration. The rule provides that the conference report shall be considered as read. Conference report to accompany testimony was heard from Chairman Tauzin.

SBA PROGRAMS—SUGGESTIONS FOR IMPROVEMENTS

Committee on Small Business: Subcommittee on Workforce, Empowerment and Government Programs held a hearing on Suggestions for improvements in SBA programs: veterans and disaster loans sales, focusing on the progress made by the National Veterans Business Development Corporation and on H.R. 3263, Veterans' Small Business Relief Act of 2001. Testimony was heard from the following officials of the SBA: William Elmore, Associate Administrator, Veterans Business Development; and Ronald E. Bew, Associate Deputy Administrator, Capital Access; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Transportation and Infrastructure: Subcommittee on Economic Development, Public Buildings and Emergency Management approved for full Committee action the following: H.R. 4770, amended, Ronald C. Sheffield Federal Property Protection Act of 2002; and 11(b) Resolutions for Anniston, Alabama, Harrisburg, Pennsylvania, San Antonio, Texas, Greenville, South Carolina.

RELIEVING HIGHWAY CONGESTION

Committee on Transportation and Infrastructure: Subcommittee on Highways and Transit held a hearing on Relieving Highway Congestion through Capacity Enhancements and Increased Efficiency. Testimony

was heard from Mary E. Peters, Administrator, Federal Highway Administration, Department of Transportation; and public witnesses.

TAX RELIEF INCENTIVES—RENEWAL COMMUNITIES

Committee on Ways and Means: Subcommittee on Oversight held a hearing on Tax Relief Incentives for Renewal Communities. Testimony was heard from Representatives Watts of Oklahoma and Davis of Illinois; Roy A. Bernardi, Assistant Secretary, Community Planning and Development, Department of Housing and Urban Development; Eric Solomon, Deputy Assistant Secretary, Regulatory Affairs, Department of the Treasury; and public witnesses.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST of May 20, 2002, *p. D514)*

H.R. 2048, to require a report on the operations of the State Justice Institute. Signed on May 20, 2002. (Public Law 107–179)

H.R. 2305, to require certain Federal officials with responsibility for the administration of the criminal justice system of the District of Columbia to serve on and participate in the activities of the District of Columbia Criminal Justice Coordinating Council. Signed on May 20, 2002. (Public Law 107–180)

H.R. 4156, to amend the Internal Revenue Code of 1986 to clarify that the parsonage allowance exclusion is limited to the fair rental value of the property. Signed on May 20, 2002. (Public Law 107–181)

COMMITTEE MEETINGS FOR WEDNESDAY, MAY 22, 2002

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education, to hold hearings to examine issues surrounding Parkinson's disease, 9:30 a.m., SH–216.

Full Committee, business meeting to mark up an original bill making emergency supplemental appropriations for the fiscal year ending September 30, 2002, 2 p.m., S–128 Capitol.

Committee on Commerce, Science, and Transportation: to hold hearings to examine the promotion of local telecommunication competition, focusing on greater broadband deployment, 9:30 a.m., SR–253.

Subcommittee on Consumer Affairs, Foreign Commerce, and Tourism, to hold hearings to examine the federal regulation of the sport of boxing and boxing regulation, 1 p.m., SH–216.

Subcommittee on Science, Technology, and Space, to hold hearings to examine the National Science Foundation budget, focusing on Federal research and development activities, 2:30 p.m., SR–253.

Committee on Energy and Natural Resources: to hold hearings on S.J. Res. 34, approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982, 9:30 a.m., SD–106.

Committee on Governmental Affairs: business meeting to consider pending calendar business; and to authorize the issuance of subpoenas to the Executive Office of the President and the Office of the Vice President in connection with the Committee's investigation regarding Enron Corporation, 9:30 a.m., SD–342.

Committee on Indian Affairs: to hold hearings on S. 1340, to amend the Indian Land Consolidation Act to provide for probate reform with respect to trust or restricted lands, 10 a.m., SR–485.

Select Committee on Intelligence: to hold closed hearings on pending intelligence matters, 2:30 p.m., SH–219.

Committee on the Judiciary: Subcommittee on Crime and Drugs, to hold hearings to examine Federal cocaine sentencing policies, 10:30 a.m., SD–226.

House

Committee on Financial Services, hearing on European Union's Financial Services Action Plan and its implications for the American financial services industry, 10 a.m., 2128 Rayburn.

Committee on International Relations, hearing on International Adoptions: Problems and Solution, 10:15 a.m., 2172 Rayburn.

Subcommittee on the Middle East and South Asia, hearing on the Future of U.S.-Saudi Relations, 2 p.m., 2172 Rayburn.

Committee on the Judiciary, Subcommittee on Courts, the Internet, and Intellectual Property, oversight hearing on "The Accuracy and Integrity of the WHOIS DATABASE," 10 a.m., 2141 Rayburn.

Committee on Resources, to mark up the following: H. Con. Res. 352, expressing the sense of Congress that Federal land management agencies should fully implement the Western Governors Association "Collaborative 10-year Strategy for Reducing Wildland Fire Risks to Communities and the Environment" to reduce the overabundance of forest fuels that place national resources at high risk of catastrophic wildfire, and prepare a National Prescribed Fire Strategy that minimizes risks of escape; H. Con. Res. 395, celebrating the 50th anniversary of the constitution of the Commonwealth of Puerto Rice; H.R. 521, to amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam; H.R. 1606, to amend section 507 of the Omnibus Parks and Public Lands Management Act of 1996 to authorize additional appropriations for historically black colleges and universities, to decrease the matching requirement related to such appropriations; H.R. 2388, National Heritage Areas Policy Act of 2001; H.R. 2982, to authorize the

establishment of a memorial within the area in the District of Columbia referred to in the Commemorative Works Act as ''Area I'' or ''Area II'' to the victims of terrorist attacks on the United States, to provide for the design and construction of such a memorial; H.R. 3307, Vicksburg National Military Park Boundary Modification Act; H.R. 3380, to authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within the boundary of Great Smoky Mountains National Park; H.R. 3558, Species Protection and Conservation of the Environment Act; H.R. 3786, Glen Canyon National Recreation Area Boundary Revision Act of 2002; H.R. 3858, New River Gorge Boundary Act of 2002; H.R. 3936, to designate and provide for the management of the Shoshone National Recreation Trail; H.R. 3942, John Muir National Historic Site Boundary Adjustment Act; H.R. 4103, Martin's Cove Land Transfer Act; H.R. 4129, to amend the Central Utah Project Completion Act to clarify the responsibilities of the Secretary of the Interior with respect to the Central Utah Project, to redirect unexpended budget authority for the Central Utah Project for wastewater treatment and reuse and other purposes, to provide for prepayment of repayment contracts for municipal and industrial water delivery facilities, and to eliminate a deadline for such prepayment; and H.R. 4609, to direct the Secretary of the Interior to conduct a comprehensive study of the Rathdrum Prairie/Spokane Valley Aquifer, located in Idaho and Washington, 10 a.m., 1334 Longworth.

Subcommittee on Water and Power, hearing on the following bills: H.R. 3561, Twenty-First Century Water Policy Commission Establishment Act; and H.R. 4638, to reauthorize the Mni Wiconi Rural Water Supply Project, 2 p.m., 1334 Longworth.

Committee on Science, to mark up the following bills: H.R. 4664, Investing in America's Future Act of 2002; H.R. 3130, Technology Talent Act of 2001; H.R. 4687, National Construction Safety Team Act; H.R. 2486, Inland Flood Forecasting and Warning Act of 2001; and H.R. 2733, Enterprise Integration Act of 2001, 10 a.m., 2318 Rayburn.

Committee on Transportation and Infrastructure, to mark up the following: H.R. 2950, Rail Infrastructure Development and Expansion Act of the 21st Century; H.R. 3429, Over-the-Road Bus Security and Safety Act of 2001; H.R. 3609, Pipeline Infrastructure Protection To Enhance Security and Safety Act; H.R. 4545, Amtrak Reauthorization Act of 2002; the Ronald C. Sheffield Federal Property Protection Act of 2002; several public building 11 (b) resolutions; and other pending business, 11 a.m., 2167 Rayburn.

Joint Meetings

Conference: meeting of conferees on H.R. 333, to amend title 11, United States Code, 2 p.m., S–211 Capitol.

Commission on Security and Cooperation in Europe: to hold hearings to examine the rise in anti-Semitism violence throughout Western Europe and Russia, 10 a.m., SD–628.

Next Meeting of the SENATE

9:30 a.m., Wednesday, May 22

Senate Chamber

Program for Wednesday: After the transaction of any morning business (not to extend beyond 10:30 a.m.), Senate will resume consideration of H.R. 3009, Andean Trade Preference Expansion Act, with a vote on the motion to close further debate on Baucus/Grassley Amendment No. 3401, in the nature of a substitute, to occur at approximately 11:30 a.m.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Wednesday, May 22

House Chamber

Program for Wednesday: Consideration of the conference report on H.R. 3448, Bioterrorism Preparedness Act of 2002 Conference Report (rule waiving points of order, one hour of debate);

Consideration of H.R. 3129, Customs Border Security Act of 2002 (structured rule, one hour of general debate); and

Consideration of H.R. 4775, Supplemental Appropriations for Fiscal Year 2002 (open rule, one hour of general debate).

(House proceedings for today will be continued in the next issue of the Record)

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