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No. 86

## House of Representatives

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore (Mr. JOHNSON of Illinois).

### DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC,  
June 25, 2002.

I hereby appoint the Honorable TIMOTHY V. JOHNSON 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 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

### TRIBUTE TO DAVID McLEAN WALTERS

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized during morning hour debates for 1 minute.

Ms. ROS-LEHTINEN. Mr. Speaker, I am proud to pay tribute to David McLean Walters, our former ambassador to the Vatican as he celebrates his 85th birthday.

As an ambassador, Mr. Walters served our country, but as patriarch of Miami Children's Hospital, he has impacted our Nation's future.

Ambassador Walter's vision of creating a facility that provides top pediatric care for the children of south Florida has blossomed and become a reality through his tireless efforts over the past 30 years. The tragic loss of the ambassador's granddaughter to leukemia served as his impetus for expanding a small local hospital. But what began as a humble idea has developed into one of the top children's medical facilities in the country, earning the title "Pinnacle of Pediatrics."

Today, Miami Children's Hospital diagnoses and treats thousands of suffering children, providing them with the best possible care.

Ambassador Walters' accomplishments have assured a brighter future for our children, and, indeed, our Nation.

### MEDICARE 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, this morning once again, as I have so many times, I take to the floor to talk about the need for a Medicare prescription drug benefit, and I was hoping this week that I would be able to thank my Republican colleagues for finally bringing up some legislation that would at least make an attempt to address the prescription drug issue. I read, though, today in both Congress Daily as well as in The New York Times that there is a real possibility that there may be a delay in the House drug bill action until July.

Well, let me say once again, Mr. Speaker, how extremely disappointed I am to see that the Republicans, the Republican leadership in the House, continue to fiddle with this very impor-

tant issue. They promised that they were going to bring up a prescription drug bill before the Memorial Day recess, then they promised they were going to bring up a prescription drug bill before the July 4th recess.

Now it seems there is a real possibility they are not going to bring it up. I hope they do, even though I think they have a terrible bill that will not accomplish anything for the American people or for America's seniors. At least if we have the opportunity to have a debate on the floor, it allows us as Democrats to bring up our substitute bill, which is a real Medicare prescription drug benefit that would lower prices for seniors.

Now, it is interesting to see why the Republicans may be having trouble bringing up their bill. I have said over and over again that the problem with the Republican proposal is it is not Medicare, it does not guarantee any benefits. What it does is throw money to private insurance companies in the hope that they will provide some sort of benefit for seniors that, unfortunately, does not have any guarantee about the scope of coverage or what the premium would be or whether there would be any benefit at all, because we know the private insurance companies say they probably will not offer this coverage.

The other problem that the Republicans have is that they do not address the issue of price at all. They have language in their bill that says that the administrator of the program cannot interfere with price in any way. Well, that seems to be the problem. That is why they are having trouble bringing up their bill.

If you look in Congress Daily today, it mentions the gentleman from Minnesota (Mr. GUTKNECHT), who says that he wants to push for inclusion of language allowing fewer restrictions on bringing FDA-approved drugs back into the country, known as reimportation.

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

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



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Well, Democrats have been saying for a long time that we should allow reimportation of drugs, because that is the way of bringing costs down. But the Republicans do not want to do that. When I tried to offer an amendment that would accomplish that in the Committee on Energy and Commerce the other night, they voted against it. The gentleman from Minnesota (Mr. GUTKNECHT) goes on to say, or his spokesman I should say, "If we do not address the cost comparison, it is like building a house without a solid foundation," the spokeswoman said for Mr. GUTKNECHT. So that means they are concerned about costs.

Once again, some of the Republicans seem to be unwilling to vote for this Republican bill because it does not have any cost containment. It does not control price the way the Democratic bill, in fact, would.

In fact, further on in Congress Daily it says, "Representative JACK KINGSTON and JO ANN EMERSON plan to discuss the issue of cost at a press conference today and announce a new congressional caucus to deal with drug costs."

Once again, the problem the Republicans have, no Medicare benefit, no real benefit at all, and no effort to address the issue of cost. That is why they are running into problems.

Today's New York Times is about the Family USA study announced yesterday that talks about how the costs of prescription drugs are going up way out of proportion to the cost of inflation. It says in the article that one conservative Republican, the gentleman from Georgia (Mr. COLLINS), has indicated that he will vote against the Republican bill; and it goes on to say that one of the Republicans, the gentleman from Oklahoma (Mr. ISTOOK), has expressed concern about the effects on pharmacies, because, as we know, the chain drugstores and retail pharmacies oppose the Republican bill, and the reason they do so is because they do not think it is going to provide any benefit and will make it harder for them to operate and provide pharmacy benefits.

So let me say I understand full well why the Republicans are having a problem bringing up their bill, because it does not deal with price, it does not address the issue of price, it is forbidden to deal with the issue of price. That is why they have the noninterference language. It does not provide a benefit.

But they should still bring it up and allow the opportunity for us to debate the bill and bring up our Democratic substitute, which is a good bill and could be considered and passed here and go over to the Senate and become law. So the fact they are having problems with their legislation does not mean that they should postpone another week or two or three or a month or who knows how long between now and November before the end of this session, because we need to address this issue. And if there are faults in

their legislation, bring it to the floor and we will expose those faults and come up with a better bill, rather than just saying we are going to delay and not have an opportunity to address this issue, which is what the Republican leadership has done so far.

#### AGRICULTURE SUBSIDY CONCERNS

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

Mr. SMITH of Michigan. Mr. Speaker, one challenge that we have in the U.S. House of Representatives, in Congress, is the overzealousness to spend more money. Of course, the money has to come from taxpayers throughout the United States that pay taxes into the Federal system.

What many politicians have discovered is that the more programs they start and the more money they spend, the more popular they are back home and the greater the likelihood they are going to be reelected. So members of congress take new pork-barrel projects home and end up on the front pages of the paper or on television: "Congressman such-and-such is giving you more government services." I think we have to remind ourselves that all of this money comes from taxpayers.

I see a lot of young people, Mr. Speaker, in the gallery; and they are the generation at risk. As we increase spending, as we increase borrowing, what we are doing in effect is increasing the mortgage, the debt, that these young citizens are going to have to pay off some day, and probably increasing the likelihood that their taxes are going to have to continue to rise as the size of government gets larger and larger.

One concern that I have that has been in a lot of the media and newspapers is the generosity of the farm bill that was passed in terms of giving million-dollar payments to many of the very, very large farmers in the United States. I met with Senator GRASSLEY last week, and we are trying to strategize how we can change that farm bill so that we have some kind of a cap, some kind of a limit on those exceptionally large million-dollar-plus payments that are going to the super-large landowners in this country. We are looking now at the appropriation bills and language we might put in the appropriation bills.

Very briefly, Mr. Speaker, this is somewhat complicated, so we have sort of hoodwinked a lot of the American people saying, there are limits on the price support that farmers can receive. But there is a loophole. That loophole is called "generic certificates," and that means that when you reach the limit on monetary price supports, you can still forfeit the grain back to the government, and the government will give you a certificate that a farmer can exchange for money, because the limits

are on cash payments to farmers and certificates are not considered a cash payment. That ends up being a loophole, allowing the very large farmers to get millions of dollars in price support benefits.

Mr. Speaker, we have a system in Congress where seniority tends to rise you to the top in terms of being a committee chairman. Right now agriculture is pretty much dominated in terms of leadership by members from Texas. We have the chairman of the House Committee on Agriculture from Texas; we have the ranking member of that committee, that is the top ranking Democrat, from Texas. Also the chairman of the Committee on Appropriations Subcommittee for Agriculture is from Texas.

When it turns out that Texas is one of the top States in the Nation that uses this generic certificate, if you will, loophole, then we see great political pressure to continue that loophole provision. I am in hopes there can be a better understanding by the American people, by this Congress, of what the loophole is; and that it is reasonable to set limits on price support payments.

Our public policy should be to help and hopefully strengthen the traditional family farm in this country. That family farms might be 500 or 5,000 acres, but it is not the 80,000-acre farms.

Mr. Speaker, I would conclude by saying I am hopeful we can, in our appropriation bill, come up with some language to have an effective limitation on these exceptionally large payments that go to the exceptionally large farmers.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair must remind Members that references to persons in the gallery are prohibited by clause 7 of rule XVII.

#### MEDICARE PRESCRIPTION DRUG COVERAGE

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

Mr. BROWN of Ohio. Mr. Speaker, I wanted to follow up on the comments of my friend, the gentleman from New Jersey (Mr. PALLONE), about the prescription drug industry, the unwillingness of this Congress, which is so captured by corporate prescription drug company special interests and the Republican leadership ties to those large corporate drug company interests, and why this Congress will not move forward on providing a prescription drug benefit inside America for America's seniors and doing something about the outrageous price scheme that prescription drug companies inflict on this country.

We are talking about an industry that has been one of the most profitable industries in America, return on investment, return on sales, return on equity, for almost every one of the last 20 years. We are also talking about an industry, the prescription drug industry, which has the lowest tax rate of any industry in America. We are also talking about an industry where half of the research and development that flows to new prescription drugs is given by taxpayers through the National Institutes of Health and foundations and others. Yet Americans are rewarded by paying more for their prescription drugs than people in any other country in the world.

America's seniors pay two and three times what seniors in Canada and France and Germany and Israel and Japan and nations all over the globe pay. The reason for that, Mr. Speaker, is in large part because of the lobbying force, the lobbying strength, the prowess of the prescription drug industry.

There are more than 600 lobbyists for the prescription drug industry that lobby this Congress, more than 600 people. There are very close ties between the prescription drug industry and the President of the United States. There are very close ties between the prescription drug industry and the Republican leadership in this Congress.

All you had to do was watch last week in the Committee on Energy and Commerce, watch vote after vote after vote on the prescription drug legislation, where many of us were saying we want a Medicare prescription drug benefit, we wanted to do something about prices, we believe that senior citizens should have as good a benefit as Members of Congress. Every amendment we had to do that, Republicans down the line in every case voted no.

I had an amendment to the legislation that said no senior should get a prescription drug benefit less than any Member of Congress. That was voted down on a party-line vote. Other Democrats had amendments to try to control prices, to try to bring prices down, to try to bring competition into the prescription drug business so we would see prices drop. Those were voted down on party-line votes. But when it came to subsidizing insurance companies for prescription drug benefit, that is what the Republicans supported.

Let me compare the two pieces of legislation, the Democratic plan and the Republican plan; and you can see the influence that the prescription drug industry had over Republican leaders.

The Democratic plan has a \$25-a-month premium. The Republican plan has a premium that will be set by the insurance companies, somewhere between \$35 and \$85 a month. The Democratic plan had a \$100 deductible. The Republican plan had a deductible, again set by the insurance industry, but probably upwards of \$250.

The Democratic plan had for the first \$1,000 of costs, out-of-pocket costs for

seniors, they would only pay 20 percent, the first \$1,000; 20 percent of the second \$1,000; and the government would pick up the cost beyond that. In the Republican plan, the seniors will reach into their pockets and pay thousands of dollars more than under the Democratic plan.

As the gentleman from New Jersey (Mr. PALLONE) said earlier, the Republican plan does nothing to restrain prices so that Americans will continue to pay two and three and four times for their prescriptions what people in every other country in the world pay.

Now, not coincidentally, last week we stopped our markup in the middle of the day one day so the Republican Members could go to a fundraiser underwritten by the prescription drug industry. The Chair of the fundraiser was the CEO of a British prescription drug company GlaxoWellcome. He and his company contributed \$250,000 to get Republicans elected to Congress. Other drug companies gave \$150,000 and \$250,000 to this event.

The next day after this event, which raised millions and millions of dollars for Republicans, millions of which, several hundred thousand, millions of which actually came from drug companies, the next day this committee voted down the line over and over again, with Republicans supporting the drug industry.

It should come as no surprise as you watch this drug debate unfold this week, or maybe when we come back through the month of July, you will see Republicans continue to do the bidding of the prescription drug industry. That is one reason the Democratic plan should pass, which is written for and by seniors over the Republican plan, which is written for and by the drug companies.

#### TAX CUTS BENEFITING AMERICANS

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

Mr. WELLER. Mr. Speaker, just a brief response to my friend from Ohio's partisan comments. It is always interesting that some will criticize campaign contributions, when their own party has solicited and accepted campaign contributions from the same industries or interests. So hypocrisy is nothing new in Washington D.C.

Mr. Speaker, I want to talk this morning about an issue of fairness, fundamental fairness. Let me begin by just drawing attention to what we in Washington and around the country call the Bush tax cut.

Last year, with the leadership of the House Republican majority, we passed through the House and Senate, and the President signed into law, an across-the-board tax cut that cut taxes for every American. Over 100 million Americans saw their taxes lowered. We

eliminated the death tax, the marriage tax penalty, and we made it easier to save for retirement and for college education.

Unfortunately, because of a quirk in the rules of the archaic rules of the other body, that tax cut had to be temporary. As we debate various issues before the Congress, it is always interesting that in the Congress historically it has been easy to raise taxes permanently, it has been easy to increase spending permanently, but it is very difficult to cut taxes permanently.

Today I want to talk a little bit about one issue that I have been very involved in, an issue of fairness, and that is, is it right, is it fair that under our Tax Code millions of married working couples where a husband and wife are both in the workforce and because they are married, they pay higher taxes? We call it the marriage tax penalty.

On average, the marriage tax penalty today is about \$1,700. Where you have a husband and wife both in the workforce, they pay on average about \$1,700 in higher taxes just because they are married. We thought it was wrong that under our Tax Code society's most basic institution, which is marriage, was being punished.

I have a couple here that is from the district that I represent, Jose and Magdalena Castillo, their son Eduardo, daughter Carolina. They live in Joliet, Illinois. They are laborers, construction workers.

In the case of Jose and Magdalena Castillo, prior to the Bush tax cut being signed into law they paid about \$1,150 more in higher taxes. The reason that a married couple where you have both the man and the woman in the workforce and your taxes are higher because you are married is because, in the case of Jose and Magdalena, like millions of other married working couples, they file jointly, which means that you combine your income. That pushed them into a higher tax bracket and cost them \$1,150 in higher taxes.

In Joliet, Illinois, \$1,150 is several months' worth of car payments; it is several months of daycare for Eduardo and Carolina while mom and dad are at work. It is real money for real people.

I was proud that one of the centerpieces of the Bush tax cut this past year, signed into law last June by President Bush a little over a year ago, was our legislation to eliminate and wipe out the marriage tax penalty.

Unfortunately, because this provision was temporary, unless we make permanent the elimination of the marriage tax penalty, that we make permanent the Bush tax cut, 36 million married working couples, like Jose and Magdalena Castillo of Joliet, Illinois, will see their marriage penalty come back, where they are going to end up paying higher taxes just because they are married. The Congressional Budget

Office estimates that 36 million married working couples will see a tax increase of almost \$42 billion unless Congress makes permanent our effort to eliminate the marriage tax penalty.

I was very proud, just 2 weeks ago this House of Representatives voted overwhelmingly in a bipartisan way to make permanent the elimination of the marriage tax penalty. Every House Republican voted "yes," and even though the Democratic leadership argued against our efforts to eliminate the marriage tax penalty, 60 Democrats broke ranks with their leadership and joined with House Republicans to vote to make permanent our effort to eliminate the marriage tax penalty.

My hope is both the House and Senate will be able to accomplish elimination of the marriage tax penalty permanently and that we will be able to get this legislation to the President this year. It is a priority.

When you think about it, in Washington, D.C., the marriage tax penalty suffered by Jose and Magdalena Castillo of \$1,150, that is pennies. That is chump change in Washington, D.C. But to the real people back home, in the south Suburbs of Chicago, in Joliet Illinois, \$1,150 is real money. In the case of Eduardo and Carolina, for their children they could set that money aside for their college education in education savings accounts.

Mr. Speaker, let us eliminate the marriage tax penalty permanently; and let us hope the Senate joins with the House, that we do it in a bipartisan way and get it done this year.

#### HELPING SENIORS WITH PRESCRIPTION DRUG COSTS

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

Mr. FOLEY. Mr. Speaker, I commend the gentleman from Illinois on his excellent advocacy to eliminate the marriage tax penalty. It is a perverse thing in the Tax Code that would have us tax marriage, and I am glad we are successfully removing that barrier from families so they can spend more of their disposable income on their children, rather than sending it here to Washington.

I am quite perplexed with the statements made earlier by the gentleman from Ohio relative to Medicare and prescription drug coverage. Regrettably, rather than talking substance, they talk political attack.

I come from Florida, the seventh largest senior population of all 435 districts, my 16th Congressional District based in West Palm Beach, Florida.

Seniors care about Social Security, seniors care about Medicare, and seniors do care about prescription drugs. But rather than having a fair and full debate on these very important programs, the minority of this House chooses instead to demagogue and de-

mean, disparage and create basically smoke screens.

Now, for 40 years they ran this place, and never once did they offer prescription drug coverage. In fact, their party was the one that actually put in a penalty to Social Security recipients by taxing their Social Security income. And yet they talk that they are "senior-friendly" and here to do the "people's work."

They raise issues like fundraising. The gentleman from Ohio suggested we did not deal with the very important bill because the Republicans were at a fundraiser. Well, let me underscore that our committee, the Committee on Ways and Means and the Committee on Energy and Commerce worked and labored mightily to produce a bill that will provide prescription drug coverage. No fundraiser interfered with our pursuit of this important dialogue on behalf of America's seniors.

Now, I have to chuckle because the party that advocated campaign finance reform, the ones that made it the centerpiece of their campaign attacks, the ones that said it was the most important piece of legislation ever to be voted on in this House, were the first ones to advance arguments against the very law that they passed. They were the first ones to send lawyers down to the Federal Election Commission to try and find loopholes in campaign finance reform so that they could continue to raise their gross excess sums of money.

Rather than point fingers and start having a dialogue on campaign finance reform, I would prefer we talk about the things that matter to seniors, and that is a bill that we have on this floor. Seniors in my district are not greedy. Seniors in my district realize for a plan to work it must function fairly and equitably. It must not tax the Medicare system beyond its capacity.

In addition to Medicare prescription drugs, we still have to provide home health care, nursing home care and hospitalization. We also have to provide a myriad of other services under Medicare for our seniors, our most vulnerable.

They talk as if it is a one-size-fits-all, pass prescription drugs and the world goes on and lives happily ever. Their plans costs \$900 billion over 10 years. In their own budget documents, they do not even have the money provided for this giveaway program that they suggest is important.

Seniors need help with prescription drugs, and we are providing it. We are not trying to buy votes for the next election; we are trying to provide a plan that provides the poorest seniors, the sickest seniors, and helps every senior with their drug plan. The Committee on Ways and Means spent a lot of time and effort in providing this drug opportunity.

I would suggest that if Members of the other side of the aisle really want to engage in concrete debate, rather than having objections and motions to

rise and motions to table and motions to adjourn, we have gone through that charade on many important bills on this floor, they sit there and repeatedly stop the work process on this floor because their nose is out of joint about some little issue, and then they wonder why we do not have things on the floor to vote on. If they quit moving to rise, we may stay long enough to consider the very important debate.

My grandmother came from Poland. She was a maid in a Travel Lodge Motel. She cleaned 28 rooms a day. She died at the age of 88 with \$10,000 in the bank, her life savings. She desperately depended on Medicare, and she desperately depended on Social Security; and in her memory I am on this floor, as I am in committee, fighting to preserve those two fundamental programs, as well as adding a very important key piece to that puzzle, which is prescription drugs.

It is shameful the way the other side of the aisle conducts the debate on this issue. Rather than talking intelligently to seniors and talking about relief for prescription drugs, they demagogue and scare seniors, scaring seniors. It would be a crime, if it was not so sad, that they sit there and tell seniors that somehow our party does not care about them. I can assure you we do, we care deeply.

Republicans will deliver a plan that meets the test of time and meets the test of seniors.

#### PROVIDING MODERN MEDICARE BENEFITS

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

Mr. RYAN of Wisconsin. Mr. Speaker, I wanted to follow up on what my colleague, the gentleman from Florida (Mr. FOLEY), was talking about, and that is this week we here in Congress are considering a prescription drug benefit. But we are doing much more than that; we are working on trying to fix Medicare.

Mr. Speaker, it is very important that we realize that when Medicare was created in 1965, it was created at that time to provide comprehensive health care for all seniors over the age of 65. That was the goal of Medicare. It is a good goal.

But the problem we face today is in the year 2002 seniors on Medicare are getting 1965 health care. They are not getting the year 2002 health care, because in 1965, we did not have all these wonderful health care technologies. We did not have all these breakthrough prescription drugs. Then it was a take-two-aspirin-and-call-me-in-the-morning kind of society. So Medicare reimbursed people if they needed a procedure, if they needed an operation; and that is how Medicare works today.

So what you have seen occur over time is as health care technologies

have developed, as we have pioneered pharmaceutical developments and come up with all these breakthrough drugs to make our lives healthier and to make our lives longer, you have seen a big source of cost shifting occurring. So if you need surgery, in many cases today you can have a prescription drug that will help you avoid that surgery, except for the fact that Medicare does not pay for that.

So here is what is happening today. Seniors are forced to pay for their own drugs, even though if we were to redesign Medicare today we would obviously have prescription drug coverage as a key component of Medicare. So while Medicare waits until you are sick and then pays for your surgery or your procedure, we could save the government a lot of money and make people much healthier if they had a drug benefit within Medicare to help manage their disease, manage their illness, and prevent chronic illnesses from occurring in the first place. That is what Congress is trying to do today.

Mr. Speaker, now that we all agree, and I think you can safely say, I think, that Democrats and Republicans agree that we need to modernize Medicare, we need to improve it with a prescription drug benefit and make the system comprehensive again, like we tried to do in 1965, and make it comprehensive in such a way that Medicare continues to evolve with the times, so 10 years from now in the year 2012 we are not scratching our heads saying "Gol-darn it, Medicare is only giving people 2002 medicine, and it is 2012 and we need to have the year 2012 medicine." That is a very important point in this debate. We need to set up Medicare so it grows with the times; so it adds new benefits and evolves as health care technology evolves.

Mr. Speaker, where we are in the difference of debate between the two aisles here today, between the two different approaches on the Democrat side of the aisle and the Republican side of the aisle, is this: on the Republican side of the aisle, we recognize that two-thirds of America's seniors already have some kind of drug coverage or another. About a quarter of the seniors in America today already have their drugs paid for by their former employers. It is a part of their retirement benefit. We want to make sure that we are not going to make someone pay for a benefit that they already have.

We also want to make sure that taxpayers, that the government is not going to unnecessarily pay for a benefit that the private sector is already paying for.

That is a different problem with the Democrat plan. Their plan is a universal government monopoly, one-size-fits-all plan. It is a take-it-or-leave-it, one-plan plan, and what the consequence of that will be is it will displace all that private sector-provided health care benefits. All those private sector-provided drug plans will now be displaced and taken up by Medicare and the taxpayers.

The way we look at it is this: if a former employer is paying for the drugs of their retirees, why should the government tell them, do not bother paying for your retiree's retirement benefit because the government and taxpayers are going to pick it up?

What we want to do is this: we want to make sure that everybody on Medicare has access to a comprehensive drug coverage plan, but we do not want to force them into the government plan. We want seniors to have a choice of plans that can fit their need and their benefit. It should be voluntary. If you already have a comprehensive benefit, you do not have to take this plan; and you should be able to get a plan that fits your need.

That is what we accomplish. We have catastrophic coverage for all seniors that kicks in at \$3,800. We have co-insurance on the first \$2,000 of drugs. The one advantage that the Republican plan has that the Democrats do not is that we achieve deep discounts in prices of all drugs for senior citizens.

Mr. Speaker, I urge passage of our plan. I think it is a superior plan. I think it does more to extend the solvency of Medicare, so we can save this program for the baby boomers. The alternative plan on the other side of the aisle actually brings the insolvency of Medicare up earlier, it is irresponsible, it bankrupts Medicare and forces seniors into a one-size-fits-all government plan and displaces private sector involvement in Medicare.

#### RECESS

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

Accordingly (at 11 o'clock and 7 minutes a.m.), the House stood in recess until noon.

□ 1200

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. QUINN) at noon.

#### PRAYER

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

Lord God of heaven and earth, with each new day You call us to arise to full stature as we awake from sleep. While asleep we were all held in common, heaving in and out the breath of life and protected in the shadow of Your hand. But now arisen, we approach with individuality and diversity the challenge of life before us.

While asleep, rich and poor alike are restless over selfish cares in a relative world. Now brought together in the light of day, Your people are summoned to reality and called to work together for the common good of all.

May the House of Representatives be blessed in its work today, seeking di-

verse responses to commonly defined problems. Let there be no waste of human effort, of allotted resources or precious commodity of time as the people of this country unite in the alleviation of the suffering of many and in the endeavors of equal justice and equal opportunity for all, now and forever we pray. Amen.

#### THE JOURNAL

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

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

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

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

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

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

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

#### PLEDGE OF ALLEGIANCE

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

Mr. WILSON of South Carolina 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.

#### IMPROVING ACCESS TO PHYSICIANS IN MEDICALLY UNDERSERVED AREAS ACT

(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, today I rise to support H.R. 4858, the Improving Access to Physicians in Medically Underserved Areas Act introduced by my good friend and colleague, the gentleman from Kansas (Mr. MORAN).

As the representative of the Second District of Nevada, I represent an area of over 100,000 square miles, including every rural community in the State, and I know all too well how difficult it is to recruit doctors and nurses to these areas. One program which has assisted our State in recruiting doctors to Nevada is the J-1 visa program.

H.R. 4858 reauthorizes the J-1 visa program and increases the number of

visa waivers for international medical graduates that a State may request from 20 to 30. Rural Americans deserve access to quality health care, and the J-1 visa program helps to achieve this goal. In fact, thanks to the J-1 visa program, over 60 doctors have come to Nevada over the past few years to practice medicine in underserved areas.

I encourage all of my colleagues to support the successful program and vote for H.R. 4858.

#### THE PRESIDENT'S MIDDLE EAST SPEECH

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

Mr. LANTOS. Mr. Speaker, I commend the President's speech on the Middle East, and I strongly support his vision. In calling for new Palestinian leadership and democratic reforms, the President has announced the end of the Arafat era.

Never has an end been so richly deserved. Having been handed an opportunity after an opportunity, Yasser Arafat has led the Palestinians to death, murder and destruction. Now, as President Bush made clear, it is time for the Palestinians to choose a new leader, a new type of leader, non-violent, democratic and noncorrupt, if there is to be hope for peace.

Every American agrees that the nations committed to peace must oppose regimes that support terror, nations such as Iraq and Iran, and that the dictatorship in Syria, whose foreign minister last week defended suicide bombers by saying "they have a right to their opinion," must once and for all close all terrorist camps and expel all terrorist organizations not only from Syria but from Lebanon it illegally occupies.

As for the Palestinians, Mr. Speaker, if they reject the culture of death and embrace the President's prerequisites for peace by electing new leaders, building democracy, ending anti-Israel incitement, committing to non-violence, and destroying their terrorist infrastructure, I shall fight as hard as I can for the President's program, including humanitarian assistance for the Palestinian people.

#### ENERGY

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

Mr. REHBERG. Mr. Speaker, I rise today to urge those across the aisle to once and for all end their negative rhetoric and support a comprehensive energy plan for America's future. I understand that there are those that would have the United States continue to import almost 60 percent of our oil from many of the very same terrorist-sponsoring regimes our sons and daughters are bravely fighting today. I, however, will not.

Mr. Speaker, I have an 18-year-old son; and I will do everything I can to not allow this Congress to place him and thousands of other young boys and girls in harm's way simply to appease a few extremist groups here in Washington. The President's energy plan balances the needs of our environment while recognizing that America must develop our domestic sources of energy if we are to truly be an independent nation.

I urge my colleagues to support American independence through the passage of H.R. 4.

#### MEDICARE PRESCRIPTION DRUG BENEFIT

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

Mr. BROWN of Ohio. Mr. Speaker, Republicans are telling us repeatedly that seniors deserve better prescription drug options like those available to Members of Congress. I wholeheartedly agree, but it is difficult to see how a Republican plan that requires seniors to go outside of Medicare and purchase inferior HMO-like private drug insurance would deliver such coverage.

According to the nonpartisan Congressional Research Service, the Republican plan is 40 percent less valuable than the coverage offered to Members of Congress. During last week's markup, I offered an amendment that would have replaced the standard coverage in the Republican bill with the same coverage under the Federal health benefits program that Members of Congress receive. But the night before our amendment was offered, Republicans adjourned early so they could attend a \$30 million fund-raising dinner underwritten by America's drug companies. The CEO of GlaxoWellcome, a British pharmaceutical company, gave \$200,000 to the GOP that night and chaired the event.

When the markup resumed the next day, it came as no surprise when Republicans voted the amendment down, meaning this week Congress will be forced to vote on legislation that will give seniors less than Members of Congress have.

#### SPREADING AWARENESS ABOUT ALZHEIMER'S DISEASE

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

Mr. WILSON of South Carolina. Mr. Speaker, Alzheimer's disease affects 4 million Americans, and that number is expected to triple within the next 50 years. Nearly half of those over the age of 85 have Alzheimer's. It is a disease that touches almost every American family in some way, and I believe it is time to increase funding for Alzheimer's research to find a cure.

The disease process can begin in the brain as many as 20 years before the

symptoms appear; and, once diagnosed, a person's average life-span is 8 years. Due to lost productivity of employees who are caregivers and the health care costs associated with Alzheimer's, the disease costs American families more than \$61 billion annually.

South Carolinians are particularly concerned about Alzheimer's because one of our favorite sons, former Congressman and Governor Carroll Campbell, is undergoing treatment for the disease and is being encouraged by his devoted wife Iris with his sons Carroll, Jr., and Mike.

I would like to commend the efforts of the Coastal Carolina, Mid-State and Upstate chapters of the Alzheimer's Association along with the Alzheimer's facility of the Lexington Medical Center. These South Carolinians have worked tirelessly to spread awareness about this disease, and their efforts today to find a cure will hopefully save many Americans in the future.

#### THE IRONY IN PRESCRIPTION DRUG AND DEBT LIMIT ISSUES

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

Mr. SMITH of Michigan. Mr. Speaker, Congress is faced with two difficult votes coming up. One is to start a prescription drug program for seniors. The other is to increase the debt limit. I see a certain degree of irony in the fact that, while we are increasing the debt, or, if you will, the mortgage on our kids for them to pay off in the future, at the same time we are voting to expand and implement the largest, most expensive entitlement program that we have had in many, many years. It is a challenge. But everybody needs to realize that it is going to be the young workers, that sometimes are in a more difficult financial situation than the seniors, that are going to have to pay increased taxes for a giant increase in the Medicare program and the cost of increased debt. In other words taxpayers pay for the prescription drugs for seniors.

It is coming to grips with that irony that is the challenge; I think we need to move very carefully in our decisions of what new welfare programs we enact and how we pay back the increased debt.

#### PARTIAL-BIRTH ABORTION BAN

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

Mr. ADERHOLT. Mr. Speaker, I am proud to join with 83 Members of Congress in cosponsoring H.R. 4965, the Partial-Birth Abortion Ban Act. I commend the gentleman from Ohio (Mr. CHABOT) for sponsoring this legislation. The time has come for us to take a firm and decisive stand against this deplorable procedure.

I have cosponsored two previous Partial-Birth Abortion Acts, in 1997 and

again in 2000. The measure passed the House by overwhelming votes.

On June 28, 2000, almost 3 months after the House last voted on the partial-birth abortion ban, the Supreme Court struck down a Nebraska ban on partial-birth abortions in the Stenberg case. And so once again we are here to stand and to fight against this violent and crude procedure.

The Congress' last attempt to ban partial-birth abortions failed, but we must continue to do everything we can to save innocent lives. So many of us here in the House and the Senate and all across America want to see this legislation passed into law, not to trample on the rights of any individual as some would say. We want this legislation to pass to become law simply to protect the lives of the innocent.

This afternoon I would urge my colleagues to join with me in cosponsoring this important piece of legislation that will save the lives of many, many and let our common goal be to protect the lives of mothers and infants.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Record votes may be taken in two groups, the first occurring after debate has concluded on H.R. 4679, and the second after debate has concluded on the remaining motions to suspend the rules.

#### IMPROVING ACCESS TO PHYSICIANS IN MEDICALLY UNDERSERVED AREAS

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4858) to improve access to physicians in medically underserved areas.

The Clerk read as follows:

H.R. 4858

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

#### SECTION 1. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) INCREASE IN NUMERICAL LIMITATION ON WAIVERS REQUESTED BY STATES.—Section 214(l)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(B)) is amended by striking “20;” and inserting “30;”.

(b) EXTENSION OF DEADLINE.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking “2002.” and inserting “2004.”.

(c) TECHNICAL CORRECTION.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1182(e)) is amended by striking “214(k);” and inserting “214(l);”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if this Act were enacted on May 31, 2002.

□ 1215

The SPEAKER pro tempore (Mr. QUINN). Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) 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 on H.R. 4858, 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. 4858 extends authority for a visa-requirement waiver that permits certain foreign medical doctors to practice medicine in underserved areas without first leaving the United States. The bill also increases the number of foreign residence waivers from 20 per State to 30 per State.

Aliens who attend medical school in the United States on “J” visas are required to leave the United States after graduating to reside abroad for 2 years before they may practice medicine in the United States. The intent behind this policy is to encourage American-trained foreign doctors to return home to improve health conditions and advance the medical profession in their native countries.

In 1994, the Congress created a waiver of the 2-year foreign residence requirement for foreign doctors who commit to practicing medicine for no less than 3 years in the geographic area or areas, either rural or urban, which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals. The waiver limited the number of foreign doctors to 20 per State so that underserved areas in all States receive doctors. The original waiver was set to expire on June 1, 1996. The Congress extended the waiver to June 1, 2002.

States with underserved medical areas worry that health facilities in such areas will have to close down if the authority for these medical waivers is not extended. The States have also requested additional waivers so that they have more doctors to help keep their clinics open.

Mr. Speaker, H.R. 4858 increases the numerical limitation on waivers requested by States from 20 per State per year to 30 per State per year. It also extends the deadline for the authorization of the waiver to June 1, 2004. The bill retroactively takes effect May 31, 2002, prior to the waiver's expiration.

I urge my colleagues to support this bill so that urgently needed doctors may continue to practice medicine in areas that are in critical need of medical care.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

I thank the distinguished chairman of the Committee on the Judiciary. I would like to offer my support for this legislation.

I offer my support for this legislation with a qualification, recognizing that this legislation did not come before the Subcommittee on Immigration and Claims and was marked up in full committee. I believe the importance of this legislation was such that deviation from regular order and committee procedures was to be understood. So I rise in support of this legislation, a bill that will help provide underserved areas with needed health care providers.

As my colleagues know, there are many inner city and rural areas in dire need of doctors, and this program will allow a limited number of foreign doctors the opportunity to practice in America. In working on this legislation, I worked with Members and colleagues from both rural and urban areas, and their advocacy for this showed the dire need for those who are in underserved areas.

The bill was introduced by the gentleman from Kansas (Mr. MORAN); and many of our colleagues from the rural areas and, as I said, inner city areas, have asked for this legislation to be in place.

Mr. Speaker, H.R. 4858 reauthorizes the Conrad 20 program until May 31, 2004. The reauthorization is retroactively effective to May 31, 2002, as that was the date of the expiration of the program and also noting the ending of the involvement of the USDA. The bill also includes a modest increase in the number of eligible foreign physicians. That number goes from 20 to 30 based upon a survey showing the need.

Might I note that the Texas Primary Care Office, certainly a State of which I come from that recognizes the importance of serving in rural areas and inner city areas, surveyed all 50 States on the use of the J-1 visa. Upon the USDA announcement that they were ending their participation, the PCO again surveyed the States and, as a result, the most recent survey by the PCO, every State but two, indicated that they are or are intending to put in place a Conrad 20 program, which would utilize the J-1 visas.

Under current immigration law, a “J” visa is available to foreign physicians as an exchange visitor if the person meets certain requirements, including the intention to return to his or her home country, participation in an exchange visitor program designated by the U.S. Information Agency, and participation in a program that is intended to train foreign nationals in a field that can be utilized in the person's home country, and sufficient funds and fluency in English. They are limited in the number of visas of a 2-



year residency requirement available to foreign physicians.

In particular, a foreign physician may obtain a waiver through a recommendation issued by an interested State or Federal agency interested in facilitating the physician's employment in a designated medically underserved area.

Until recently, the USDA, as I indicated, participated in this program. However, back in late February, citing security concerns, the USDA announced that they were no longer going to act as an interested government agency in processing J-1 visas. Now the role of recommending J-1 visas rests primarily with the State agencies.

I want to ensure, however, that as we work with the INS, that the INS certainly will be involved in providing assistance as it may be needed. This is an important aspect of the question of homeland security, and I would hope this legislation does not in any way suggest to the American people that we attempt to jeopardize security and/or would not be concerned in light of the Federal oversight agency, the USDA, no longer being involved in those programs. Rural communities still need health care, urban centers still need health care; in fact, Americans need health care.

It is interesting to note, Mr. Speaker, the fast pace at which this legislation has come. Again, I would like to thank the proponents of the legislation, and they have my support, but certainly I would be remiss if I did not mention the fact that we are about to address the question dealing with Medicare and the particular provisions to provide senior citizens with efforts to give them a Medicare drug benefit.

I am hoping that as we came together in a bipartisan manner to support this legislation, as I indicated that I support, that we can look seriously at the Democratic proposal. That is a serious proposal that provides a deductible and a \$25-a-month premium and provides for an 80 percent coverage for Medicare benefits for our seniors. This is the kind of work we should be doing in the House of Representatives. This is the kind of serious legislation that we should be doing and not attending to special interests and harming the particular senior citizens that we are trying to protect.

So, with that, Mr. Speaker, let me support this legislation and hope that my colleagues in a bipartisan manner will likewise support this legislation so that we can have good health care, protected health care in this country.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the gentleman from Kansas (Mr. MORAN), the author of the bill.

Mr. MORAN of Kansas. Mr. Speaker, I thank the gentleman from Wisconsin and the gentlewoman from Texas for their remarks earlier today; and I

would like to thank them, as well as the gentleman from Pennsylvania (Mr. GEKAS), the subcommittee chairman, that dealt with this issue for their prompt attention to an issue that is terribly important to rural America and urban America as well. It is good to see us come together, Republicans and Democrats, urban and rural, on behalf of health care for our citizens.

Much of our time, in fact, this week much of our time will be spent on the affordability of health care. How do we help our citizens pay for it? How do we make health care more affordable? Many of us who live in regions of the country that are underserved struggle to have access to health care. How do we keep physicians in our communities? How do we keep our hospital doors open? How do we have our other health care providers available for the citizens who happen to live in the urban core of the city or in a rural community of our country?

One of the ways that we can help address the issue of physicians in underserved areas is the J-1 visa program. Clearly, it has been an opportunity for physicians to remain in the United States and serve in those underserved areas during the history of the program beginning in 1994. There are 98 physicians in Kansas who were waived under this program. Of those, 50 are still practicing in our State.

Mr. Speaker, this is often the only opportunity that a community, a clinic, or a hospital in a rural or underserved urban area has to access a physician. I would guess in the 6 years that I have been a Member of Congress, probably not more than 4 weeks goes by that I do not have a call or letter or e-mail from a clinic, a community, or a hospital saying, can you help us locate a physician and can you help us with the paperwork associated with the J-1 visa.

These are ways in which our communities are served. Lacrosse, Kansas, population 1,800 has had a J-1 visa physician in place who is now retiring. He and his wife are the only physicians in the community. They are both here on a J-1 visa. For 2 years they have been telling the community they are retiring. The community has been looking for a physician and, gratefully, they found a J-1 visa physician.

They may have been the last J-1 visa granted in the United States. Back in February of this year, the Department of Agriculture concluded that it would no longer be an interested government agency for processing J-1 visas.

The Rural Health Care Coalition, which I chair with the gentleman from North Carolina (Mr. MCINTYRE) and I tried to quickly respond to this issue. In fact, 56 Members of Congress, including the gentleman from Nebraska (Mr. OSBORNE) and the gentleman from Texas (Mr. STENHOLM), who are here today, asked the Bush administration to come together and to solve the problem. Because there are two ways a J-1 visa can be issued, one through the

Federal Government and one through the State program. Forty-six States in our country has a State program. Kansas is one that does not, although we are certainly encouraging them under the current circumstances to create a State program.

Today, we reauthorized both programs. The Bush administration and the Department of Agriculture, I am very grateful to them, they responded. They processed the J-1 applications that were in the works; and they decided to have an inter-government agency meeting, a set of meetings, between INS, the State Department, the Department of Agriculture, the Department of Health and Human Services to figure out how do we continue the J-1 visa program.

So this actually is an experience in the 6 years I have been in Congress in which I thought government responded in a way that it should to meet the needs of citizens of our Nation.

So today I am here to support strongly the reauthorization of the J-1 visa program, to continue to encourage the Federal Government to be engaged in the process of helping us sponsor J-1 visa physicians and to particularly reauthorize the program for States and to expand the number of individual physicians that can be admitted under the State program from 20 a year to 30 a year to meet the needs in the absence of a Federal interested government agency of rural communities across our country.

The program is important. It is the way that health care is delivered in rural and urban settings across our country. Access to a physician is so important, and it ought not matter where you live. This program has worked. Security and other concerns with the program are being addressed, and we have general support from the Bush administration and from the INS and from the State Department as we reauthorize this program, both at the Federal level and at the State level.

I appreciate the Rural Health Care Coalition and my colleagues in Congress who care about these issues; and I appreciate the fact that Republicans, Democrats, and urban and rural Members of Congress came together on behalf of citizens and the delivery of health care to those citizens here on the floor this afternoon. I urge my colleagues to support this legislation. I thank again the chairman and the ranking members for their continued consideration of this issue and their promptness in moving it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman from Kansas for his leadership on this issue, and I thank him for the very important statement of having Americans have access to good health care. That is why I remind my colleagues of the importance of ensuring that we have an effective Medicare prescription drug benefit that clearly is fundable and clearly



is supportable by the seniors who need it very much.

Mr. Speaker, I am delighted to yield 5 minutes to the distinguished gentleman from Texas (Mr. STENHOLM).

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

I rise in strong support of H.R. 4858, which I have been pleased to work on and cosponsor with the gentleman from Kansas (Mr. MORAN). I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for bringing the bill to the floor today.

Mr. Speaker, H.R. 4858 reauthorizes and expands the State Conrad 20 program. The 2-year reauthorization allows States to continue to act as an interested government agency in order to sponsor foreign-born doctors to practice in medically underserved areas. The number of doctors that can be sponsored per State is expanded from 20 to 30.

Since the mid-1990s, 42 States and the District of Columbia have been using the Conrad 20 program, processing an estimated 595 physicians per year.

□ 1230

However, the demand for doctors continues to grow. Despite a continuing population migration to urban and suburban communities throughout the State, the vast majority of Texas remains rural, posing unique challenges to the delivery and accessibility of high-quality health care. Not only are health care services likely to be unevenly distributed, but many rural residents do not even have access to a local doctor, primary care provider, or hospital.

Regrettably, a doctor would diagnose the health care problems in rural communities as chronic and persistent. The issues are not new, and we have tried a variety of medicines to remedy these problems, but we still have a long way to go before we achieve a healthy rural America.

Consider the following state-wide facts: 77 percent of Texas counties are considered rural, and 88 percent of these are considered medically underserved; 2.9 million people, or 15 percent of the State's 19.6 million residents, reside in nonmetropolitan counties; 25 rural Texas counties have no primary care physician; an additional 29 counties have only one; only 11 percent of licensed primary care physicians practice in rural areas.

For other health professionals, the figures are similar: pharmacists, 11.9 percent; physician assistants, 18 percent.

Access to primary care promotes appropriate entry into the health system and is vital to ensure the long-term viability of rural health care delivery. Without access to local health care professionals, rural residents are frequently forced to leave their communities to receive necessary treatments. Not only is this a burden to rural residents, who are often older or lack reli-

able transportation, but it drains vital health care dollars from the local community, further straining the financial well-being of rural communities.

It is imperative that we identify and expand those programs that provide physicians, pharmacists, nurses, dentists, and physician assistants incentives to practice in rural areas. The J-1 visa waiver program was expanded in 1995, allowing medical exchange graduates in U.S. residency training to extend their stay for 3 years, provided they practice in an underserved community.

For certain rural, as well as urban, areas in the United States, the J-1 docs have been key providers. Since 1995, Texas alone has received the services of over 350 J-1 physicians. This represents service to a population of over 1 million people. One million people have received health care that they would not otherwise have received, or at least it would have been more difficult to receive, as a result of this program that we reauthorize today.

However, on March 1, 2002, USDA made a unilateral decision to stop acting as a sponsor for international medical graduates in rural health services. Everyone involved in this program, starting with the Department of Public Health of every State, to the health care facilities who are desperately waiting for their recruited physicians to start work in their rural communities, to the doctor who needed the waiver to start work and have legal status, were shocked to learn of the elimination of this vital program.

Through the quick efforts of the Rural Health Care Coalition, we were able to convince USDA at a minimum to process those doctors who already had an application pending. While I am pleased with USDA's decision to take a second look at the program, the affected health care facilities have lost several critical months during which they could have had a physician filling that void in their community.

However, I would like to take this opportunity to encourage USDA, the State Department, and the INS to expedite those pending applications to the best extent possible, as our rural communities are in dire need and deserve every opportunity to access medical care. The J-1 waiver program is considered a lifeline for rural communities all over the United States.

In the 17th district of Texas that I have the privilege of representing, I have three hospitals awaiting approval for a J-1 doctor: Fisher County Hospital in Rotan, North Runnels Hospital in Winters, and the San Angelo State School in San Angelo. These are doctors whose applications were pending at the time of the decision to stop the program.

Coordination among agencies involved to expeditiously process these applicants has reached a critical stage in my district, as I am sure it has in many rural areas across the country. I am hopeful through the efforts of the

Rural Health Care Coalition and the White House task force formed to look into reinstating the J-1 program, we can develop a workable plan to meet the ever-growing needs of access to quality health care in rural America.

However, until we have an alternative solution at the Federal level, there is no other sponsorship program that can fill the void for our rural communities other than the Conrad 20 program. I urge my colleagues to support H.R. 4858 in an effort to fill that void.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Speaker, I would like to express my support of H.R. 4858, introduced by my good friend, the gentleman from Kansas (Mr. MORAN).

I am very pleased to be a cosponsor of this legislation, along with the gentleman from Kansas and the gentleman from Texas (Mr. STENHOLM), who recently spoke. All of us serve sparsely populated rural areas. There are a lot of small towns with great distances between these towns.

It is very, very difficult in these areas to recruit doctors. Usually in these types of communities there is only one doctor, and usually that doctor is the only doctor for many, 30, 40, or 50, miles. So the problem is that the doctor knows when he goes to that community that there is not going to be any rotation, and that doctor is always on call at 2 o'clock in the morning, 6 o'clock in the morning, late at night, whatever.

So, number one, it is difficult to find somebody that will answer that call. Then once you get somebody who will agree, oftentimes it is even more difficult to recruit that doctor's spouse, because in those communities there is no shopping center, there is no symphony, there is no major league sports team in any close proximity. So to get that combination of a doctor and the spouse that will come to that type of community is very difficult.

When a small town loses a doctor, then it loses its hospital and then begins to lose young people, because young people with children usually do not want to be in a community where there is no hospital or no doctor. The community very rapidly begins to unravel.

By April 15 of this year, 36 physicians were placed in rural Nebraska communities under the J-1 program. An example of this would be Oshkosh, Nebraska, which is a county of roughly 1,700 square miles with one doctor serving 2,500 people. We were able to secure an internist from Poland on a J-1 visa waiver. This has been critical to the survival of the hospital and the community.

So this has been a tremendously important program to rural areas as well as to urban areas. We like the flexibility of the program. It has been able to provide some key specialists in certain communities.

Mr. Speaker, we urge support of H.R. 4858. I would like to thank the gentleman from Kansas (Mr. MORAN) for his leadership, and I would like to especially thank the gentleman from Wisconsin (Chairman SENSENBRENNER) for bringing this legislation to the floor.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in conclusion, let me acknowledge two points that I thought the previous speakers made very well, but I think it is very important.

It is very important that the pending applications be processed between the INS, the State Department, and the USDA. I think it is also important to recognize that not having a physician in any community, whether it be urban or rural, is like not having a school. It is a vital part of the components of a community, such as access to health care.

This particular legislation had the concerns, of course, because it represented foreign physicians, that there was a question of homeland security, or a question of security in light of the incidences of September 11.

One of the things that we are trying to do as the President moves his legislation forward is to ensure that, as much as we can, the lifestyles of Americans and the values of Americans continue. We recognize that as these individuals come in to share their talents that this particular visa will give them the authority to work and to give service, but it also gives the ability for this country to be safe. We should balance those responsibilities.

Let me also say, Mr. Speaker, that our previous speakers have mentioned the fact that access to health care is important, and I believe that the quality of health care is important. So that is why I emphasize in my support of this legislation the importance, as well, for this Congress to support a viable Medicare drug benefit through the Medicare process, one that will provide the 80 percent coverage, a premium of \$25, and a deductible of \$100.

We must realize that when we do this for our seniors and those that need access to health care, we provide preventive medicine. What we do in doing that is to ensure that the usage of Medicare part A and B hospitalization, emergency surgeries, et cetera, are diminished because we have the kind of care that our seniors need with respect to a good Medicare drug benefit for prescription drugs.

Mr. Speaker, the fight still continues for good health care in America. When we pass this legislation, we will help our rural and inner city areas which are underserved, and we will fix some of those problems; but we will not fix them in totality if we do not pass a Medicare drug benefit, prescription drug benefit, tied to the Medicare plan that provides 80 percent coverage and is not one that plays to the special interests, paying money to pharmaceuticals when that is not needed.

We really need to be seriously considering providing good health care.

Mr. COSTELLO. Mr. Speaker, I rise today in support of H.R. 4858. The number of doctors practicing in rural America continues to decline. Congress needs to find ways to meet the medical needs of all rural Americans. This important legislation brings us one step closer to improving access to medical care in rural America by expanding a state program to recruit physicians.

The need for this legislation became crucial after the Federal program used to bring doctors to rural areas was brought to a halt in February 2002. The U.S. Department of Agriculture announced it would no longer process J-1 Visa applications for foreign doctors wishing to practice in underserved areas. This left the state operated program as the only option for recruiting much-needed doctors to work in medically underserved areas. However, this program expired on May 31, 2002.

H.R. 4558 reauthorizes the state program for two years and expands the program from 20 to 30 doctors per state, in order to accommodate the increased demands. This year alone, three psychiatrists applying for the J-1 visa program in Illinois left my state to apply in other states because Illinois could not provide any additional J-1 Visa waivers. This legislation would have allowed these psychiatrists to remain in Illinois where their service is greatly needed. Since 1994, the J-1 Visa waiver program has brought 338 physicians to Illinois, many of which currently serve in my district.

I am committed to ensuring that, to the maximum extent possible, physicians are available to provide service to medically underserved areas. J-1 Visa participants can and will help meet these needs once the program is reauthorized. Mr. Speaker, for these reasons I support this legislation and urge my colleagues to do the same.

Mr. TOWNS. Mr. Speaker, I rise today in support of H.R. 4858, introduced by my colleague Congressman MORAN of Kansas. As a co-sponsor of this legislation, let me stress that it is vital to maintaining access to health care for the medically underserved, both in urban and rural areas. This legislation is needed to reauthorize the J1 Visa waiver program, whose authorization expired on June 1, 2002. The J1 Visa waiver program has been successful in recruiting physicians in both primary care and specialty areas in both rural and urban medically underserved communities. Without this critical program many rural communities would be without access to basic primary care if not for a physician with a J1 Visa waiver.

Since its inception in 1994, the J1 Visa program has been successful as both a Federal and State program, but in late February, the U.S. Department of Agriculture announced that it was no longer going to act as the Federal Interested Government Agency (IGA) in processing J1 Visa applications for physicians wishing to practice in rural underserved areas. The USDA cited security concerns as the issue. However, USDA's decision caused a major shortage of filling the needs of the medically underserved. Although, the Administration has formed a task force to address the Federal J1 program in selecting another IGA to sponsor candidates, we still need to reauthorize the state program to limit the disruption in health care services in these communities.

Today, I am pleased that we here in Congress have an opportunity to take a proactive stand to ensure that the states' J1 Visa program is continued. I urge my colleagues to support this bill.

Mr. SIMPSON. Mr. Speaker, I rise to support H.R. 4858, introduced by my good friend Representative JERRY MORAN of Kansas. This legislation will extend for two years the J-1 visa waiver program for states and increase each state's allotment from 20 to 30.

The J-1 visa waiver program allows foreign medical students to remain practicing in the U.S. without having to return to their home countries for two years, as the J-1 visa requires. International Medical Graduates are a thriving part of the physician population in the U.S. It is estimated that close to 24% of practicing physicians are foreign nationals. In addition, in 1999 over 2,000 foreign medical graduates were practicing in health professional shortage areas or medically underserved areas, where waiver recipients are required to work.

I am a strong supporter of the J-1 visa waiver program and disagree with USDA's decision to withdraw as an Interested Government Agency. Since 1994, California has received 229 J-1 visa waiver physicians to practice in underserved areas. Five states—Texas, Louisiana, Michigan, California and Florida account for 45% of USDA J-1 recommendations. USDA's withdrawal has left states with nowhere else to turn but to the state waiver programs, often referred to as Conrad-20 programs.

Since the USDA began its program in 1994, the agency has recommended over 3,000 physicians for J-1 visa waiver status. As USDA will not longer make these recommendations, the states now will have to fill this vital role. Hospitals and clinics needing a foreign doctor that would have turned to USDA, which did not have a waiver recommendation limit, will now rely on the states to fulfill their needs.

However, the states have been limited to only twenty recommendations per year. Without USDA involvement the 20 slots are simply not enough to fill the void for most states. I am in support of increasing the number of slots to 30, as this will help the problem, but I am worried that this number is insufficient for many states. A recent survey by the Texas Primary Care office found that 23 states could recommend more than 20. Although increasing the limit to 30 will help, it will not address all of the states' needs, especially in California. In this same survey, 15 states indicated that they could use over 31 waivers. Seven of those states said they could use more than 51 waivers.

This J-1 visa waiver program is essential to ensuring that our rural health clinics and medical practices can remain in business serving our rural constituencies. These areas cannot attract American doctors despite aggressive recruitment procedures. Foreign doctors fill this significant role. I strongly support continuing this important state program and endorse increasing the number of slots to thirty as a first step to providing much needed medical personnel in underserved areas across the country.

Mr. PALLONE. Mr. Speaker, I rise in support of H.R. 4858, a bill to improve access to physicians in medically underserved areas. In many rural areas of the country, we are experiencing an enormous shortage of qualified

doctors. For this reason, the J-1 visa waiver program was established on the State and Federal level.

This program allowed foreign medical graduates to come to the United States on a J-1 visa for up to 3 years to train in accredited residency programs in rural, underserved parts of the country. Mr. Speaker, the impetus behind accepting physicians from other countries and training them in American residency positions is to attract physicians to provide care to the medically underserved who live in rural areas where doctors trained in the United States do not want to practice.

The law states that once the residency program is complete, the doctors are required to return to their country of origin for two years. However, the Federal government and states have the authority to waive the requirements if it is in the United States' interest to keep the physician here. The US Department of Agriculture (USDA) Rural Development Branch was thrilled by the waiver because it provided the opportunity to retain medical trainees who would continue to serve in typically medically underserved communities in rural America. In addition, individual state agencies could act as an Interested Government Agency (IGA) and under the Conrad 20 program, could process up to 20 J-1 doctors on their own.

Unfortunately, the USDA has indicated an intention to stop granting permission under the J-1 visa waiver program. National security concerns have taken hold and new, extensive background checks have put the USDA in the position of not being able to afford to continue this program to keep foreign medical graduates. At the same time, the Conrad 20 program which allowed states to process J-1 visa waivers expired on May 31, 2002.

I support passage of H.R. 4858, because this legislation would reauthorize the Conrad 20 program for 2 years and expand the number of J-1 visa waivers to 30 per state in order to make up for increasing demands brought on by the termination of the Federal government program under the USDA.

I will work to see that this bill is taken up by the other body and signed into law by the President to ensure that medical care is available throughout all rural, underserved communities in the United States.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield back the balance of my time.

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

The SPEAKER pro tempore (Mr. QUINN). 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. 4858.

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, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## LIFETIME CONSEQUENCES FOR SEX OFFENDERS ACT OF 2002

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4679) to amend title 18, United States Code, to provide a maximum term of supervised release of life for child sex offenders, as amended.

The Clerk read as follows:

H.R. 4679

*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 "Lifetime Consequences for Sex Offenders Act of 2002".*

### SEC. 2. SUPERVISED RELEASE TERM FOR SEX OFFENDERS.

*Section 3583 of title 18, United States Code, is amended by adding at the end the following:*

*"(k) SUPERVISED RELEASE TERMS FOR SEX OFFENDERS.—Notwithstanding subsection (b), the authorized term of supervised release for any offense under chapter 109A, 110, 117, or section 1591 is any term of years or life."*

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 the bill, H.R. 4679, as amended, 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. 4679, the Lifetime Consequences for Sex Offenders Act of 2002, amends the current law, which grants Federal courts the authority to include in any sentence a term of supervised release after imprisonment.

Under this legislation, a court would be authorized to impose a term of supervised release for any term of years or life for a number of serious sex offenses. These offenses include crimes of sexual abuse, sexual exploitation of children, transportation for illegal sexual activity, sex trafficking of children by force, fraud, or coercion. Under current law, a term of supervised release for any of these crimes is limited to a maximum term of between 1 and 5 years.

This legislation will provide judges with greater discretion in dealing with sex offenders. The court imposing the sentence is in the best possible position to determine if an extended period of supervision is necessary, based on that court's knowledge of the facts of the case and the defendant's criminal history.

The court is also in the best position to determine what conditions of release are necessary to ensure the defendant

will not reoffend and the public will be safe.

There is no requirement in this bill that a judge impose any term of supervised release if the court feels that it is not necessary. The court may also revoke such supervision at any time after 1 year if the court decides that supervision is no longer warranted.

Lifetime supervised release is not a novel idea. A court may currently impose a life term of supervised release for certain Federal drug and terrorism offenses. It does not make any sense to tie the hands of the court in the case of a sex offender if that court knows that there is a greater possibility that a defendant will victimize another person if they are not subject to the conditions of supervised release.

Study after study has shown extremely high recidivism rates for sex offenders. The lifelong harm that they cause to their victims far outweighs any inconvenience they may suffer as a result of lifetime supervision. This legislation will give the courts the ability to permanently monitor those individuals who have demonstrated a higher risk to society.

Mr. Speaker, I urge my colleagues to support this legislation, and 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. 4679. Mr. Speaker, this bill lacks any standard for application of lifetime supervision and would make subject to lifetime supervision those who may be involved only in misdemeanors and in cases involving consensual acts, including consensual touching between teenagers still in high school. There may be cases for which consideration of such treatment is warranted, but certainly not in misdemeanors and consensual sex acts.

During the committee consideration of the bill, I offered amendments aimed at focusing the bill on the types of cases that might warrant consideration of lifetime supervision by eliminating misdemeanors and consensual acts for first-time offenders, but these amendments were rejected and were on a procedure that does not allow amendments on the floor.

□ 1245

Although judges have the discretion to impose lifetime supervision or not, a judge must consider that if Congress authorizes lifetime supervision for first-time misdemeanors or consensual acts between adults or between high school students, with no indication of how it should be applied in these cases, it must be that Congress intends for it to apply in such cases. In this overzealous context of indiscriminately ferreting out sex offenders for harsher treatment, there are likely to be judges who, like the lawmakers promoting such policies, who will prefer to err on the side of harsh treatments to avoid the possible criticism that they were not as tough as they could have been should an offender actually recidivate.

We have plenty of evidence as to how this harsh treatment is applied in our criminal justice system and that it is minorities will be at the receiving end. That is because this bill will only apply to cases of Federal jurisdiction, and we know that the Federal jurisdiction crimes fall disproportionately on Native Americans who comprise about 75 to 80 percent of all cases involving Federal jurisdiction. And even if the clear racially disparate unfairness is not there, it is also unfair for offenders in the same State to face vastly differing harshness and treatments just because they were either right on the reservation or across the road outside of the reservation.

For many crimes covered by this lifetime supervision provision, the situation will be more about enforcing the conditions of supervision than about preventing additional sex offenses. That is because the supervision will take place when the defendant is out in the community and just checks in occasionally for supervision. Offenders will be in and out of prison not for new sexual offenses but for technical violations of their conditions of supervision. This is not only unfair to what may be a very minor offender but it is actually a waste of the taxpayers' resources.

There were no hearings on the bill and no showing that there is any problem with the length of supervision period now available for the courts and certainly no hearing to see why this should apply disproportionately to Native Americans, as to whether or not there is any special problem in the Native American community. This suggests something to make it look like we are doing something about crime when in reality we are not doing anything but imposing unnecessarily harsh and unfair policies on Native Americans. I, therefore, urge the defeat of this bill.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GEKAS), the author of the bill.

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

Mr. GEKAS. Mr. Speaker, I thank the chairman for yielding me time, and I thank everyone concerned.

This legislation was not born of a whim or out of reason of trying to fill a day of litigation where other things could not have been accomplished. This came about as a result of a Federal judge who was shocked by the fact that on certain cases involving sex offenders that the Federal judge was unable to put onto the offenders' sentence a supervised release for more than 5 years, in some cases for no more than 1 year.

So in discussions I had with the Federal judge, he proposed and I accepted the proposition that, because a sex offender in front of a judge is subject to the scrutiny of the entire background of this offender to the extent of pre-

vious offenses, ages and names of people who were harmed, the whole aspect of the offender who happens to be in front of judge, coupled with the felony fact that recidivism among sex offenders, particularly those who would harm young children, the pedophiles, that that rate of recidivism is so high that we cannot as a society gamble that after a short period of supervision that this individual will not harm another youngster, and so we are here at the well of the House proposing that we allow these Federal judges in front of whom these sex offenders will appear to a lifetime maximum of supervision.

It might not be that many years. It might be 10 years. It might be five. And the judge at any time during this period can change it, can change it back, all subject to the discretion of the judge pursuant to the circumstances that obtain with regard to this particular sex offender.

The gentleman from Virginia (Mr. SCOTT) opines that this is specially hard on Indian tribes. But the gentleman from Wisconsin (Mr. SENSENBRENNER) outlined that one of the patterns on which this sex offender extended supervision period was based was for the drug offenses and the terroristic offenses that already are on the books in which lifetime supervision is part of the sentencing option. So they were not fashioned at any cost to the Federal jurisdiction over Indian tribes. Drug offenses among Indians or terroristic offenses among Indians are treated equitably as the law provides. So it will be for the sex offenders who have this high rate of recidivism which we wish to curtail.

Mr. Speaker, I have introduced H.R. 4679, the Lifetime Consequences for Sex Offenders Act of 2002 to give our Federal judges the power they need to properly ensure that sex offenders pay for their crimes, and that our legal system remains appropriately accountable for a sex offender when they are released into the public. As you know, Federal judges currently have the power under 18 U.S.C. 3583 to order mandatory periods of post-release supervision for Federal felons. The law provides that Class A and B felons may be ordered into mandatory supervision for a period of up to 5 years. Class C and D felons may be ordered into mandatory supervision for up to 3 years. Furthermore, lesser felons and misdemeanants may receive no more than a maximum sentence of 1 year post-release supervision.

Importantly, Congress has created several important exceptions to the three tiers of supervised release just described. Federal judges may sanction many Title 21 Federal drug offenses by imposing conditions of supervised release lasting up to a lifetime in length. Additionally, as we all remember well, President Bush signed into law the USA-PATRIOT Act several months ago. That bill provided Federal judges with the discretion of ordering long-term supervision of periods ranging up to a lifetime for those guilty of many terrorism offenses.

Long-term supervision for Federal drug offenders and those who attempt terroristic acts will help to ensure the future safety of our citi-

zens. It will clearly help to make sure our government can account for those felons who are released from prison as they reintegrate with society. This Congress recognized the severe nature of these crimes and found wanting a system that hamstrung Federal judges from meting out justice by severely limiting their options when it came to post release mandatory supervision.

If Federal judges can impose lifetime supervision for drug offenses, they should be able to provide a similar sanction for sex offenders. I know very well that many Federal judges feel strongly that they are not able to truly protect the citizenry from sex offenders without the ability to escalate supervision requirements beyond the arbitrary 5 year limit. I recently spoke with Judge F.S. Van Antwerpen of the Eastern District of Pennsylvania about his experiences in sentencing felons engaged in Internet child pornography crimes. The destructive and harmful crimes engaged in by some of the felons he sentenced left him with little hope that these child predators would truly reform after release from prison. Without the sanction of long-term, and possibly life-long supervision, these dangerous predators may relapse back into their obscene habits later in life.

The sexual offenses covered under my bill, H.R. 4679, range from the interstate coercion and enticement of minors into sexual activity, to the transportation of individuals across state lines with the intent of engaging in prostitution or other illegal sexual conduct. Longer periods of supervision are available in many State legal systems. Why should a sex offender who happened to cross State lines to sexually abuse a child, receive a lighter sentence than one who engages in the same acts with a child within a single State? How many of America's parents realize that when a sex offender leaves the prison system, the Federal legal system they rely upon to keep their children safe from predators maintains no supervision of that sex offender after a few short years? How many serious sex offenders have no one to help brake them when they begin to slide into their old destructive ways?

I am very concerned about recidivism rates for sexual offenders. Studies have shown recidivism rates varying from 15% to nearly 75% for sex offenders, depending on the type of sex offense and the length of the study. And these numbers do not tell the whole story: as much as 80% of sex offenses go unreported! Regardless of the numbers, any repeat of these especially heinous crimes simply are not acceptable, especially when the legal system can do more. There is reason for optimism—if we take the right steps. Statistics suggest that people are much more likely to engage in repeat victimization before they are caught. Regardless of their inclinations, sex offenders are likely to restrain themselves if they know they are being watched.

Mandatory supervision in no way implies 24 hour monitoring or surveillance of individuals. Consistent and periodic contact with Federal probation officers, however, makes sense. These Federal officials are able to gauge the on-going efforts of released felons to reintegrate into society. They can spot trouble before it becomes destructive to the individual under supervision, or worse, to innocent third parties. Additionally, Federal judges can add "reasonable" additional stipulations to the terms of release for Federal criminals including mandatory counseling, thereby affording

released felons the safety net of counseling services for durations beyond a handful of years.

My fellow colleagues, we all deplore the destructive and revolting nature of sex crimes. Our Federal law enforcement agencies, our prosecutors, and our judges want and need tools like the one I propose today, to help combat these vile crimes. Let us take a positive step today for America's families and our children. I ask that you vote for H.R. 4679, the Lifetime Consequences for Sex Offenders Act of 2002.

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

Mr. Speaker, I would just point out that some of the cases, some of the situations that would be covered by this would be crossing State lines from Washington, D.C., to the Commonwealth of Virginia for the purposes of committing fornication. That would be a crime for which, that is, two consenting adults, that would be a crime for which you could be subjected to lifetime supervision and a violation of which could put you in jail for violating the provision of your supervision.

The bill needs to be narrowed to cover the kind of cases we are talking about; and for that reason the bill should be opposed, the motion to suspend the rules should be opposed so that we could have a situation where we could actually amend the bill to cover those acts which we are actually trying to cover.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. SMITH), the chairman of the Subcommittee on Crime, Terrorism and Homeland Security of the Committee on the Judiciary.

Mr. SMITH of Texas. Mr. Speaker, I want to thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary, for yielding me time.

Mr. Speaker, H.R. 4679, The Lifetime Consequences for Sex Offenders Act of 2002, was introduced by the gentleman from Pennsylvania (Mr. GEKAS) and allows Federal judges to include, as part of the sentence of a convicted sex offender, a term of supervised release for any period of time. The court can end the term of supervised release and discharge the defendant at any time after 1 year if the court is satisfied that such action is warranted by the conduct of the defendant and serves the interest of justice.

Studies have shown that sex offenders are four times more likely than other violent criminals to recommit their crimes. Moreover, recidivism rates do not appreciably decline as the offender ages.

According to the United States Department of Justice's Bureau of Justice Statistics, since 1980 the number of prisoners sentenced for violent sexual assault other than rape has increased 15 percent each year, faster than any other category of violent crime.

National data also indicates that sex offenders are apprehended for only a fraction of the crimes they actually commit. In fact, in some estimates only one in five serious sex offenses are reported to authorities and only 3 percent of such crimes result in the apprehension of an offender.

By passing this legislation, we will give judges the discretion necessary to impose a term of supervised release that is appropriate for each defendant. Authorities will be able to monitor those sex offenders who pose the greatest threat to our society for as long as the court feels they are a danger to society.

Mr. Speaker, there is nothing mandatory about this bill. If a judge decides that supervision is not necessary, then there is no requirement to impose any term of supervised release. But it is mandatory that Congress pass this legislation if we are to deter criminals from committing these terrifying crimes.

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

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think the definition and the explanation of this bill has been well made by the previous speakers. I would like to focus on I think a singular and important point that the gentleman from Virginia (Mr. SCOTT) has made.

There is no doubt in my continued support on the floor of the House for legislation that deals with penalizing, if you will, those who would prey upon children and those who would act criminally with respect to sex acts as it impacts the victims, both women and children and others.

I have always been one that believes that there is more work to be done in protecting the public from those that would be predators as it relates to sexual offenses and, as well, crimes against children. We have to look no further than our television screen right now and the debate or the information coming out of Utah on the missing young Smart girl as well as the long list of missing children and exploited children to know that this is the work we should be doing. But I believe the distinguished gentleman from Virginia (Mr. SCOTT) has a very valid point, and it should be addressed, and I really wish we had the opportunity to have had this legislation go through the Committee on Rules.

There is no emergency that would not have allowed us, again, to look at this legislation for its best effectiveness. There is no reason to not provide guidelines so that we can be assured that the legislation attacks the problem that we want it to attack, and that is the violent and, if you will, repeat and vicious offenders, sex offenders who would go after and prey upon innocent victims.

It means that there should be a sense of tolerance, however, for those who

otherwise could be rehabilitated or that the offenses do not meet the test. We are simply asking that you allow guidelines to be utilized so that you can distinguish between potential for misdemeanors, consensual sexual conduct or if something occurred between two teenagers in the course of their interaction. This is what I believe, Mr. Speaker, the key is on this legislation, to be able to have a guideline to make this better legislation.

I would hope the gentleman would have the opportunity to have this legislation assessed and that our colleagues would look at putting an amendment in that deals with putting in guidelines for this legislation.

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

Mr. Speaker, in closing, I would just again state that someone in Washington, D.C., crossing the line to go to the Commonwealth of Virginia to commit fornication, two consenting adults, if caught, could be subjected to lifetime supervision. I do not think that is the kind of case the supporters of the bill were talking about.

We ought to bring this bill up in a forum where one could amend it to take those kind of situations out, and for that reason the motion to suspend the rules ought to be defeated.

Mr. PAUL. Mr. Speaker, the policy behind H.R. 4679, the Lifetime Consequences for Sex Offenders Act, is unobjectionable. Given the high rates of recidivism among sex criminals, it is certainly legitimate to take steps to reduce the likelihood that a paroled sex criminal will commit further crimes. In fact, given the likelihood that a sex offender will attempt to commit another sex crime, it is reasonable to ask why rapists and child molesters are not simply imprisoned for life?

However, Mr. Speaker, questions of the proper punishment for sexual crimes are not issues properly under federal jurisdiction. The Constitution grants the federal government jurisdiction over only three crimes: treason, counterfeiting, and piracy. It is hard to stretch the definition of treason, counterfeiting, or piracy to include sex crimes. Therefore, even though I agree with the policy behind H.R. 4679, I must remind my colleagues that the responsibility for investigating, prosecuting and punishing sex crimes is solely that of state and local governments.

We have been reminded by both Chief Justice William H. Rehnquist and former U.S. Attorney General Ed Meese that more federal crimes, while they make politicians feel good, are neither constitutionally sound nor prudent. Rehnquist has stated that "The trend to federalize crimes that traditionally have been handled in state courts . . . threatens to change entirely the nature of our federal system." Meese stated that Congress' tendency in recent decades to make federal crimes out of offenses that have historically been state matters has dangerous implications both for the fair administration of justice and for the principle that states are something more than mere administrative districts of a nation governed mainly from Washington.

In conclusion, Mr. Speaker, while I am in fundamental agreement with the policies expressed in H.R. 4679, the Lifetime Consequences for Sex Offenders Act, I must remind my colleagues that this is an area over which Congress has no constitutional responsibility. I hope my colleagues will join me in restoring state and local government's constitutional authority over criminal activities not related to treason, piracy, and counterfeiting.

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

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

The SPEAKER pro tempore (Mr. QUINN). 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. 4679, 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.

□ 1300

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. QUINN). Pursuant to clause 8 of rule XX, the Chair will now put the question on the approval of the Journal and then on motions to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order:

Approving the Journal, de novo;

H.R. 4858, by the yeas and nays;

H.R. 4679, by the yeas and nays.

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

#### THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the pending business is the question on agreeing to the Speaker's approval of the Journal.

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

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 371, nays 40, answered “present” 2, not voting 21, as follows:

[Roll No. 253]

#### YEAS—371

Abercrombie	Doggett	Keller
Ackerman	Dooley	Kelly
Aderholt	Doolittle	Kennedy (RI)
Akin	Doyle	Kerns
Allen	Dreier	Kildee
Andrews	Duncan	Kilpatrick
Armey	Dunn	Kind (WI)
Baca	Edwards	King (NY)
Bachus	Ehlers	Kingston
Baker	Ehrlich	Kirk
Baldacci	Emerson	Klecza
Ballenger	Engel	Knollenberg
Barcia	Eshoo	LaFalce
Barr	Etheridge	LaHood
Barrett	Evans	Lampson
Bartlett	Farr	Langevin
Barton	Fattah	Lantos
Bass	Ferguson	Latham
Becerra	Flake	LaTourette
Bentsen	Fletcher	Leach
Bereuter	Foley	Lee
Berkley	Forbes	Levin
Berman	Ford	Lewis (CA)
Berry	Frank	Lewis (KY)
Biggert	Frelinghuysen	Linder
Bilirakis	Frost	Lipinski
Bishop	Gallegly	Lofgren
Blumenauer	Ganske	Lowey
Blunt	Gekas	Lucas (KY)
Boehlert	Gephardt	Lucas (OK)
Boehner	Gibbons	Luther
Bonilla	Gilchrest	Lynch
Bono	Gillmor	Maloney (CT)
Boozman	Gilman	Maloney (NY)
Boswell	Gonzalez	Manzullo
Boucher	Goode	Markey
Boyd	Goodlatte	Mascara
Brady (TX)	Gordon	Matheson
Brown (FL)	Goss	Matsui
Brown (OH)	Graham	McCarthy (MO)
Brown (SC)	Granger	McCarthy (NY)
Bryant	Graves	McCollum
Burr	Green (TX)	McCrery
Burton	Green (WI)	McGovern
Buyer	Greenwood	McHugh
Calvert	Grucci	McInnis
Camp	Gutierrez	McIntyre
Cannon	Hall (OH)	McKeon
Cantor	Hall (TX)	McKinney
Capito	Hansen	Meehan
Capps	Harman	Menendez
Capuano	Hastings (WA)	Mica
Cardin	Hayes	Millender-
Carson (OK)	Herger	McDonald
Castle	Hill	Miller, Dan
Chabot	Hilleary	Miller, Gary
Chambliss	Hinchey	Miller, Jeff
Clayton	Hobson	Mink
Clement	Hoeffel	Mollohan
Clyburn	Hoekstra	Moran (KS)
Coble	Holden	Moran (VA)
Collins	Honda	Morella
Combest	Hooley	Murtha
Cooksey	Horn	Myrick
Cox	Hostettler	Nadler
Coyne	Houghton	Napolitano
Cramer	Hoyer	Neal
Crenshaw	Hulshof	Nethercutt
Crowley	Hunter	Ney
Cubin	Hyde	Northup
Culberson	Inslee	Norwood
Cummings	Isakson	Nussle
Cunningham	Israel	Obey
Davis (CA)	Issa	Ortiz
Davis (FL)	Istook	Osborne
Davis (IL)	Jackson (IL)	Ose
Davis, Jo Ann	Jackson-Lee	Otter
Davis, Tom	(TX)	Owens
Deal	Jefferson	Oxley
DeGette	John	Pallone
Delahunt	Johnson (CT)	Pascarell
DeLauro	Johnson (IL)	Pastor
DeLay	Johnson, E. B.	Paul
DeMint	Johnson, Sam	Payne
Deutsch	Jones (NC)	Pelosi
Diaz-Balart	Jones (OH)	Pence
Dicks	Kanjorski	Peterson (PA)
Dingell	Kaptur	Petri

Phelps	Schiff	Terry
Pickering	Schrock	Thomas
Pitts	Scott	Thornberry
Platts	Sensenbrenner	Thune
Pombo	Serrano	Thurman
Pomeroy	Sessions	Tiahrt
Portman	Shadegg	Tiberi
Price (NC)	Shaw	Tierney
Putnam	Shays	Toomey
Quinn	Sherman	Towns
Radanovich	Sherwood	Turner
Rahall	Shinkus	Udall (CO)
Rangel	Shows	Upton
Regula	Shuster	Velazquez
Rehberg	Simmons	Vitter
Reyes	Simpson	Walden
Reynolds	Skeen	Walsh
Rivers	Skelton	Wamp
Rodriguez	Slaughter	Watkins (OK)
Roemer	Smith (MI)	Watson (CA)
Rogers (KY)	Smith (NJ)	Watt (NC)
Rogers (MI)	Smith (TX)	Waxman
Rohrabacher	Smith (WA)	Weiner
Ros-Lehtinen	Snyder	Weldon (FL)
Ross	Solis	Weldon (PA)
Rothman	Souder	Wexler
Roukema	Spratt	Whitfield
Roybal-Allard	Stark	Wicker
Royce	Stearns	Wilson (NM)
Rush	Stenholm	Wilson (SC)
Ryan (WI)	Stump	Wolf
Ryun (KS)	Sullivan	Woolsey
Sanders	Sununu	Wynn
Sandlin	Tanner	Young (AK)
Sawyer	Tauscher	Young (FL)
Saxton	Tauzin	
Schakowsky	Taylor (NC)	

#### NAYS—40

Baird	Hefley	Sabo
Baldwin	Holt	Strickland
Borski	Kennedy (MN)	Stupak
Brady (PA)	Kucinich	Sweeney
Clay	Larsen (WA)	Taylor (MS)
Condit	Lewis (GA)	Thompson (CA)
Costello	LoBiondo	Thompson (MS)
Crane	McDermott	Udall (NM)
DeFazio	McNulty	Visclosky
English	Miller, George	Waters
Filner	Moore	Weller
Gutknecht	Oberstar	Wu
Hart	Olver	
Hastings (FL)	Ramstad	

#### ANSWERED “PRESENT”—2

Carson (IN)	Tancred
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#### NOT VOTING—21

Blagojevich	Hilliard	Peterson (MN)
Bonior	Hinojosa	Pryce (OH)
Callahan	Jenkins	Riley
Conyers	Kolbe	Sanchez
Everett	Larson (CT)	Schaffer
Fossella	Meek (FL)	Traffant
Hayworth	Meeks (NY)	Watts (OK)

□ 1324

Mr. WU changed his vote from “yea” to “nay.”

So the Journal was approved.

The result of the vote was announced as above recorded.

Stated for:

Mr. KOLBE. Mr. Speaker, earlier today, I was unavoidably detained and missed a vote on approving the Journal. Had I voted, I would have voted “yea” on this vote (No. 253).

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATHAM). Pursuant to clause 8 of rule XX, the Chair announces that he will reduce to a minimum of 5 minutes the period of time for electronic voting on motions to suspend the rules on which the Chair has postponed further proceedings.



# IMPROVING ACCESS TO PHYSICIANS IN MEDICALLY UNDERSERVED AREAS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4858.

The Clerk read the title of the bill.

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. 4858, on which the yeas and nays are ordered.

This will be a 5 minute vote.

The vote was taken by electronic device, and there were—yeas 407, nays 7, not voting 20, as follows:

[Roll No. 254]

YEAS—407

Abercrombie	Cox	Gutierrez
Ackerman	Coyne	Gutierrez
Aderholt	Cramer	Hall (OH)
Akin	Crane	Hall (TX)
Allen	Crenshaw	Hansen
Andrews	Crowley	Harman
Armey	Cubin	Hart
Baca	Culberson	Hastings (FL)
Bachus	Cummings	Hastings (WA)
Baird	Cunningham	Hayes
Baker	Davis (CA)	Herger
Baldacci	Davis (FL)	Hill
Baldwin	Davis (IL)	Hilleary
Ballenger	Davis, Tom	Hinchee
Barcia	Deal	Hobson
Barr	DeFazio	Hoeffel
Barrett	DeGette	Hoekstra
Bartlett	Delahunt	Holden
Barton	DeLauro	Holt
Bass	DeLay	Honda
Becerra	DeMint	Hooley
Bentsen	Deutsch	Horn
Bereuter	Diaz-Balart	Hostettler
Berkley	Dicks	Houghton
Berman	Dingell	Hoyer
Berry	Doggett	Hulshof
Biggert	Dooley	Hunter
Bishop	Doolittle	Hyde
Blumenauer	Doyle	Inslee
Blunt	Dreier	Isakson
Boehlert	Dunn	Israel
Boehner	Edwards	Issa
Bonilla	Ehlers	Istook
Bono	Ehrlich	Jackson (IL)
Boozman	Emerson	Jackson-Lee
Borski	Engel	(TX)
Boswell	English	Jefferson
Boucher	Eshoo	John
Boyd	Etheridge	Johnson (CT)
Brady (PA)	Evans	Johnson (IL)
Brady (TX)	Farr	Johnson, E. B.
Brown (FL)	Fattah	Johnson, Sam
Brown (OH)	Ferguson	Jones (NC)
Brown (SC)	Filner	Jones (OH)
Bryant	Flake	Kanjorski
Burr	Fletcher	Kaptur
Burton	Foley	Keller
Buyer	Forbes	Kelly
Calvert	Ford	Kennedy (MN)
Camp	Frank	Kerns
Cannon	Frelinghuysen	Kildee
Cantor	Frost	Kilpatrick
Capito	Galleghy	Kind (WI)
Capps	Ganske	King (NY)
Capuano	Gekas	Kingston
Cardin	Gephardt	Kirk
Carson (IN)	Gibbons	Kleczka
Carson (OK)	Gilchrest	Knollenberg
Castle	Gillmor	Kolbe
Chabot	Gilman	Kucinich
Chambliss	Gonzalez	LaFalce
Clay	Goodlatte	LaHood
Clayton	Gordon	Lampson
Clement	Goss	Langevin
Clyburn	Graham	Lantos
Coble	Granger	Larsen (WA)
Collins	Graves	Latham
Combest	Green (TX)	LaTourette
Condit	Green (WI)	Leach
Cooksey	Greenwood	Lee
Costello	Grucchi	Levin

Lewis (GA)	Pascarell	Slaughter
Lewis (KY)	Pastor	Smith (MI)
Linder	Paul	Smith (NJ)
Lipinski	Payne	Smith (TX)
LoBiondo	Pelosi	Smith (WA)
Loftgren	Pence	Snyder
Lowe	Peterson (PA)	Solis
Lucas (KY)	Petri	Souder
Lucas (OK)	Phelps	Spratt
Luther	Pickering	Stark
Lynch	Pitts	Stenholm
Maloney (CT)	Platts	Strickland
Maloney (NY)	Pombo	Stump
Manzullo	Pomeroy	Stupak
Markey	Portman	Sullivan
Mascara	Price (NC)	Sununu
Matheson	Putnam	Sweeney
Matsui	Quinn	Tanner
McCarthy (MO)	Radanovich	Tauscher
McCarthy (NY)	Rahall	Tauzin
McCollum	Ramstad	Taylor (MS)
McCrery	Rangel	Taylor (NC)
McDermott	Regula	Terry
McGovern	Rehberg	Thomas
McHugh	Reyes	Thompson (CA)
McInnis	Reynolds	Thompson (MS)
McIntyre	Rivers	Thornberry
McKeon	Rodriguez	Thune
McKinney	Roemer	Thurman
McNulty	Rogers (KY)	Tiahrt
Meehan	Rogers (MI)	Tiberi
Meek (FL)	Rohrabacher	Tierney
Menendez	Ros-Lehtinen	Toomey
Mica	Ross	Towns
Millender	Rothman	Turner
McDonald	Roukema	Udall (CO)
Miller, Dan	Roybal-Allard	Udall (NM)
Miller, Gary	Royce	Upton
Miller, George	Rush	Velazquez
Miller, Jeff	Ryan (WI)	Visclosky
Mink	Ryun (KS)	Vitter
Mollohan	Sabo	Walden
Moore	Sanders	Walsh
Moran (KS)	Sandlin	Wamp
Moran (VA)	Sawyer	Waters
Morella	Saxton	Watkins (OK)
Murtha	Schaffer	Watson (CA)
Holt	Schakowsky	Watt (NC)
Myrick	Schiff	Waxman
Nadler	Schrock	Weiner
Napolitano	Scott	Weldon (FL)
Neal	Scott	Weldon (PA)
Nethercutt	Sensenbrenner	Weller
Ney	Serrano	Wexler
Northup	Sessions	Whitfield
Norwood	Shadegg	Wicker
Nussle	Shaw	Wilson (NM)
Oberstar	Shays	Wilson (SC)
Obey	Sherman	Wolf
Oliver	Sherwood	Woolsey
Ortiz	Shimkus	Wu
Osborne	Shows	Wynn
Ose	Shuster	Young (AK)
Otter	Simmons	Young (FL)
Owens	Simpson	
Oxley	Skeen	
Pallone	Skelton	

NAYS—7

Bilirakis	Goode	Tancredo
Davis, Jo Ann	Hefley	
Duncan	Stearns	

NOT VOTING—20

Blagojevich	Hilliard	Peterson (MN)
Bonior	Hinojosa	Pryce (OH)
Callahan	Jenkins	Riley
Conyers	Kennedy (RI)	Sanchez
Everett	Larson (CT)	Trafficant
Fossella	Lewis (CA)	Watts (OK)
Hayworth	Meeks (NY)	

□ 1334

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. LARSON of Connecticut. Mr. Speaker, on rollcall Nos. 253 and 254 I was unavoidably detained. Had I been present, I would have voted "yea."

## HAPPY BIRTHDAY JAY PIERSON

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

Mr. ARMEY. Mr. Speaker, we all appreciate the ladies and gentlemen that work for us and the staff on this floor. They are so helpful in so many ways, and I wonder if the Members would like to join me in wishing a very happy 55th birthday to a very special person, Jay Pierson, on this day.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATHAM). Without objection, the Chair will continue 5-minute voting.

There was no objection.

## LIFETIME CONSEQUENCES FOR SEX OFFENDERS ACT OF 2002

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4679, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4679, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 409, nays 3, not voting 22, as follows:

[Roll No. 255]

YEAS—409

Abercrombie	Brady (TX)	Davis (FL)
Ackerman	Brown (FL)	Davis (IL)
Aderholt	Brown (OH)	Davis, Jo Ann
Akin	Brown (SC)	Davis, Tom
Allen	Bryant	Deal
Andrews	Burr	DeFazio
Armey	Burton	DeGette
Baca	Buyer	Delahunt
Bachus	Calvert	DeLauro
Baird	Camp	DeLay
Baker	Cannon	DeMint
Baldacci	Cantor	Deutsch
Baldwin	Capito	Diaz-Balart
Ballenger	Capps	Dicks
Barcia	Capuano	Dingell
Barr	Cardin	Doggett
Barrett	Carson (IN)	Dooley
Bartlett	Carson (OK)	Doolittle
Barton	Castle	Doyle
Bass	Chabot	Dreier
Becerra	Chambliss	Duncan
Bentsen	Clay	Dunn
Bereuter	Clayton	Edwards
Berkley	Clement	Ehlers
Berman	Coble	Ehrlich
Berry	Collins	Emerson
Biggert	Combest	Engel
Bilirakis	Condit	English
Bishop	Conyers	Eshoo
Blumenauer	Cooksey	Etheridge
Blunt	Costello	Evans
Boehlert	Cox	Farr
Boehner	Coyne	Fattah
Bonilla	Cramer	Ferguson
Bonior	Crane	Filner
Bono	Crenshaw	Flake
Boozman	Crowley	Fletcher
Borski	Cubin	Foley
Boswell	Culberson	Forbes
Boucher	Cummings	Ford
Boyd	Cunningham	Frank
Brady (PA)	Davis (CA)	Frelinghuysen



Frost  
Gallegly  
Ganske  
Gekas  
Gephardt  
Gibbons  
Gilchrest  
Gillmor  
Gillman  
Gonzalez  
Goode  
Goodlatte  
Gordon  
Goss  
Graham  
Granger  
Graves  
Green (TX)  
Green (WI)  
Greenwood  
Grucci  
Gutierrez  
Gutknecht  
Hall (OH)  
Hall (TX)  
Hansen  
Harman  
Hart  
Hastings (FL)  
Hastings (WA)  
Hayes  
Hefley  
Herger  
Hill  
Hilleary  
Hinchey  
Hobson  
Hoeffel  
Hoekstra  
Holden  
Holt  
Honda  
Hooley  
Hostettler  
Houghton  
Hoyer  
Hulshof  
Hunter  
Hyde  
Inslee  
Isakson  
Israel  
Issa  
Istook  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jefferson  
John  
Johnson (CT)  
Johnson (IL)  
Johnson, E. B.  
Johnson, Sam  
Jones (NC)  
Jones (OH)  
Kanjorski  
Kaptur  
Keller  
Kelly  
Kennedy (MN)  
Kerns  
Kildee  
Kilpatrick  
Kind (WI)  
King (NY)  
Kingston  
Kirk  
Klecza  
Knollenberg  
Kolbe  
Kucinich  
LaHood  
Lampson  
Langevin  
Lantos  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Leach  
Lee  
Levin  
Lewis (CA)  
Lewis (GA)  
Lewis (KY)

Linder  
Lipinski  
LoBiondo  
Lofgren  
Lowey  
Lucas (KY)  
Luther  
Lynch  
Maloney (CT)  
Maloney (NY)  
Manzullo  
Markey  
Mascara  
Matheson  
Matsui  
McCarthy (MO)  
McCollum  
McCrery  
McDermott  
McGovern  
McHugh  
McInnis  
McIntyre  
McKeon  
McKinney  
McNulty  
Meehan  
Meek (FL)  
Menendez  
Mica  
Millender-  
McDonald  
Miller, Dan  
Miller, Gary  
Miller, George  
Miller, Jeff  
Mink  
Mollohan  
Moore  
Moran (KS)  
Moran (VA)  
Morella  
Murtha  
Myrick  
Napolitano  
Neal  
Nethercutt  
Ney  
Northup  
Norwood  
Nussle  
Oberstar  
Obey  
Oliver  
Ortiz  
Osborne  
Ose  
Otter  
Owens  
Oxley  
Pallone  
Pascarell  
Pastor  
Payne  
Pelosi  
Pence  
Peterson (PA)  
Petri  
Phelps  
Pickering  
Pitts  
Platts  
Pombo  
Pomeroy  
Portman  
Price (NC)  
Putnam  
Quinn  
Radanovich  
Rahall  
Ramstad  
Rangel  
Regula  
Rehberg  
Reyes  
Reynolds  
Rivers  
Rodriguez  
Roemer  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Ros-Lehtinen  
Ross

Rothman  
Roukema  
Roybal-Allard  
Royce  
Rush  
Ryan (WI)  
Ryun (KS)  
Sabo  
Sanders  
Sandlin  
Sawyer  
Saxton  
Schaffer  
Schakowsky  
Schiff  
Schrock  
Sensenbrenner  
Serrano  
Sessions  
Shadegg  
Shaw  
Shays  
Sherman  
Sherwood  
Shimkus  
Shows  
Shuster  
Simmons  
Simpson  
Skeen  
Skelton  
Slaughter  
Smith (MI)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Solis  
Souder  
Spratt  
Stark  
Stearns  
Stenholm  
Strickland  
Stump  
Stupak  
Sullivan  
Sununu  
Sweeney  
Tancred  
Tanner  
Tauscher  
Tauzin  
Taylor (MS)  
Taylor (NC)  
Terry  
Thomas  
Thompson (CA)  
Thompson (MS)  
Thornberry  
Thune  
Thurman  
Tiahrt  
Tiberi  
Tierney  
Toomey  
Towns  
Turner  
Udall (NM)  
Upton  
Velazquez  
Visclosky  
Vitter  
Walden  
Walsh  
Wamp  
Waters  
Watkins (OK)  
Watson (CA)  
Waxman  
Weiner  
Weldon (FL)  
Weldon (PA)  
Weller  
Wexler  
Whitfield  
Wicker  
Wilson (NM)  
Wilson (SC)  
Wolf  
Woolsey  
Wu  
Wynn  
Young (AK)  
Young (FL)

## NOT VOTING—22

Blagojevich  
Callahan  
Clyburn  
Everett  
Fossella  
Hayworth  
Hilliard  
Hinojosa  
Horn  
Jenkins  
Kennedy (RI)  
LaFalce  
Lucas (OK)  
McCarthy (NY)  
Meeks (NY)  
Peterson (MN)  
Pryce (OH)  
Riley  
Sanchez  
Trafigant  
Udall (CO)  
Watts (OK)

□ 1344

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

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend title 18, United States Code, to provide a maximum term of supervised release of life for sex offenders."

A motion to reconsider was laid on the table.

□ 1345

## CHILD OBSCENITY AND PORNOGRAPHY PREVENTION ACT OF 2002

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4623) to prevent trafficking in child pornography and obscenity, to proscribe pandering and solicitation relating to visual depictions of minors engaging in sexually explicit conduct, to prevent the use of child pornography and obscenity to facilitate crimes against children, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4623

*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 Obscenity and Pornography Prevention Act of 2002".*

## SEC. 2. FINDINGS.

*Congress finds the following:*

(1) Obscenity and child pornography are not entitled to protection under the First Amendment under *Miller v. California*, 413 U.S. 15 (1973) (obscurity), or *New York v. Ferber*, 458 U.S. 747 (1982) (child pornography) and thus may be prohibited.

(2) The Government has a compelling state interest in protecting children from those who sexually exploit them, including both child molesters and child pornographers. "The prevention of sexual exploitation and abuse of children constitutes a government objective of surpassing importance," *New York v. Ferber*, 458 U.S. 747, 757 (1982) (emphasis added), and this interest extends to stamping out the vice of child pornography at all levels in the distribution chain. *Osborne v. Ohio*, 495 U.S. 103, 110 (1990).

(3) The Government thus has a compelling interest in ensuring that the criminal prohibitions against child pornography remain enforceable and effective. "[T]he most expeditious if not the only practical method of law enforcement may be to dry up the market for this material by imposing severe criminal penalties on persons selling, advertising, or otherwise promoting the product." *Ferber*, 458 U.S. at 760.

(4) In 1982, when the Supreme Court decided *Ferber*, the technology did not exist to: (A) create depictions of virtual children that are indistinguishable from depictions of real children; (B) create depictions of virtual children using compositions of real children to create an unidentifiable child; or (C) disguise pictures of real children being abused by making the image look computer generated.

(5) Evidence submitted to the Congress, including from the National Center for Missing and Exploited Children, demonstrates that technology already exists to disguise depictions of real children to make them unidentifiable and to make depictions of real children appear computer generated. The technology will soon exist, if it does not already, to make depictions of virtual children look real.

(6) The vast majority of child pornography prosecutions today involve images contained on computer hard drives, computer disks, and/or related media.

(7) There is no substantial evidence that any of the child pornography images being trafficked today were made other than by the abuse of real children. Nevertheless, technological advances since *Ferber* have led many criminal defendants to suggest that the images of child pornography they possess are not those of real children, insisting that the government prove beyond a reasonable doubt that the images are not computer-generated. Such challenges will likely increase after the *Ashcroft v. Free Speech Coalition* decision.

(8) Child pornography circulating on the Internet has, by definition, been digitally uploaded or scanned into computers and has been transferred over the Internet, often in different file formats, from trafficker to trafficker. An image seized from a collector of child pornography is rarely a first-generation product, and the retransmission of images can alter the image so as to make it difficult for even an expert conclusively to opine that a particular image depicts a real child. If the original image has been scanned from a paper version into a digital format, this task can be even harder since proper forensic delineation may depend on the quality of the image scanned and the tools used to scan it.

(9) The impact on the government's ability to prosecute child pornography offenders is already evident. The Ninth Circuit has seen a significant adverse effect on prosecutions since the 1999 Ninth Circuit Court of Appeals decision in *Free Speech Coalition*. After that decision, prosecutions generally have been brought in the Ninth Circuit only in the most clear-cut cases in which the government can specifically identify the child in the depiction or otherwise identify the origin of the image. This is a fraction of meritorious child pornography cases. The National Center for Missing and Exploited Children testified that, in light of the Supreme Court's affirmation of the Ninth Circuit decision, prosecutors in various parts of the country have expressed concern about the continued viability of previously indicted cases as well as declined potentially meritorious prosecutions.

(10) In the absence of congressional action, this problem will continue to grow increasingly worse. The mere prospect that the technology exists to create computer or computer-generated depictions that are indistinguishable from depictions of real children will allow defendants who possess images of real children to escape prosecution, for it threatens to create a reasonable doubt in every case of computer images even when a real child was abused. This threatens to render child pornography laws that protect real children unenforceable.

(11) To avoid this grave threat to the Government's unquestioned compelling interest in effective enforcement of the child pornography laws that protect real children, a statute must be adopted that prohibits a narrowly-defined subcategory of images.

(12) The Supreme Court's 1982 *Ferber v. New York* decision holding that child pornography was not protected drove child pornography off the shelves of adult bookstores. Congressional action is necessary to ensure that open and notorious trafficking in such materials does not reappear.

## SEC. 3. IMPROVEMENTS TO PROHIBITION ON VIRTUAL CHILD PORNOGRAPHY.

(a) Section 2256(8)(B) of title 18, United States Code, is amended to read as follows:

NAYS—3

Nadler  
Scott  
Watt (NC)

“(B) such visual depiction is a computer image or computer-generated image that is, or is indistinguishable (as defined in section 1466A) from, that of a minor engaging in sexually explicit conduct; or”.

(b) Section 2256(2) of title 18, United States Code, is amended to read as follows:

“(2)(A) Except as provided in subparagraph (B), ‘sexually explicit conduct’ means actual or simulated—

“(i) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

“(ii) bestiality;

“(iii) masturbation;

“(iv) sadistic or masochistic abuse; or

“(v) lascivious exhibition of the genitals or pubic area of any person;

“(B) For purposes of subsection 8(B) of this section, ‘sexually explicit conduct’ means—

“(i) actual sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, or lascivious simulated sexual intercourse where the genitals, breast, or pubic area of any person is exhibited;

“(ii) actual or lascivious simulated;

“(I) bestiality;

“(II) masturbation; or

“(III) sadistic or masochistic abuse; or

“(iii) actual or simulated lascivious exhibition of the genitals or pubic area of any person;”.

(c) Section 2252A(c) of title 18, United States Code, is amended to read as follows:

“(c)(1) Except as provided in paragraph (2), it shall be an affirmative defense to a charge of violating this section that the alleged offense did not involve the use of a minor or an attempt or conspiracy to commit an offense under this section involving such use.

“(2) A violation of, or an attempt or conspiracy to violate, this section which involves child pornography as defined in section 2256(8)(A) or (C) shall be punishable without regard to the affirmative defense set forth in paragraph (1).”.

#### **SEC. 4. PROHIBITION ON PANDERING MATERIALS AS CHILD PORNOGRAPHY.**

(a) Section 2256(8) of title 18, United States Code, is amended—

(1) in subparagraph (C), by striking “or” at the end and inserting “and”; and

(2) by striking subparagraph (D).

(b) Chapter 110 of title 18, United States Code, is amended—

(1) by inserting after section 2252A the following:

##### **“§2252B. Pandering and solicitation**

“(a) Whoever, in a circumstance described in subsection (d), offers, agrees, attempts, or conspires to provide or sell a visual depiction to another, and who in connection therewith knowingly advertises, promotes, presents, or describes the visual depiction with the intent to cause any person to believe that the material is, or contains, a visual depiction of a minor engaging in sexually explicit conduct shall be subject to the penalties set forth in section 2252A(b)(1), including the penalties provided for cases involving a prior conviction.

“(b) Whoever, in a circumstance described in subsection (d), offers, agrees, attempts, or conspires to receive or purchase from another a visual depiction that he believes to be, or to contain, a visual depiction of a minor engaging in sexually explicit conduct shall be subject to the penalties set forth in section 2252A(b)(1), including the penalties provided for cases involving a prior conviction.

“(c) It is not a required element of any offense under this section that any person actually provide, sell, receive, purchase, possess, or produce any visual depiction.

“(d) The circumstance referred to in subsection (a) and (b) is that—

“(1) any communication involved in or made in furtherance of the offense is communicated or

transported by the mail, or in interstate or foreign commerce by any means, including by computer, or any means or instrumentality of interstate or foreign commerce is otherwise used in committing or in furtherance of the commission of the offense;

“(2) any communication involved in or made in furtherance of the offense contemplates the transmission or transportation of a visual depiction by the mail, or in interstate or foreign commerce by any means, including by computer;

“(3) any person travels or is transported in interstate or foreign commerce in the course of the commission or in furtherance of the commission of the offense;

“(4) any visual depiction involved in the offense has been mailed, or has been shipped or transported in interstate or foreign commerce by any means, including by computer, or was produced using materials that have been mailed, or that have been shipped or transported in interstate or foreign commerce by any means, including by computer; or

“(5) the offense is committed in the special maritime and territorial jurisdiction of the United States or in any territory or possession of the United States.”.

(2) in the analysis for the chapter, by inserting after the item relating to section 2252A the following:

“2252B. Pandering and solicitation.”.

#### **SEC. 5. PROHIBITION OF OBSCENITY DEPICTING YOUNG CHILDREN.**

(a) Chapter 71 of title 18, United States Code, is amended—

(1) by inserting after section 1466 the following:

##### **“§1466A. Obscene visual depictions of young children**

“(a) Whoever, in a circumstance described in subsection (d), knowingly produces, distributes, receives, or possesses with intent to distribute a visual depiction that is, or is indistinguishable from, that of a pre-pubescent child engaging in sexually explicit conduct, or attempts or conspires to do so, shall be subject to the penalties set forth in section 2252A(b)(1), including the penalties provided for cases involving a prior conviction.

“(b) Whoever, in a circumstance described in subsection (d), knowingly possesses a visual depiction that is, or is indistinguishable from, that of a pre-pubescent child engaging in sexually explicit conduct, or attempts or conspires to do so, shall be subject to the penalties set forth in section 2252A(b)(2), including the penalties provided for cases involving a prior conviction.

“(c) For purposes of this section—

“(1) the term ‘visual depiction’ includes undeveloped film and videotape, and data stored on computer disk or by electronic means which is capable of conversion into a visual image, and also includes any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means;

“(2) the term ‘pre-pubescent child’ means that (A) the child, as depicted, is one whose physical development indicates the child is 12 years of age or younger; or (B) the child, as depicted, does not exhibit significant pubescent physical or sexual maturation. Factors that may be considered in determining significant pubescent physical maturation include body habitus and musculature, height and weight proportion, degree of hair distribution over the body, extremity proportion with respect to the torso, and dentition. Factors that may be considered in determining significant pubescent sexual maturation include breast development, presence of axillary hair, pubic hair distribution, and visible growth of the sexual organs;

“(3) the term ‘sexually explicit conduct’ has the meaning set forth in section 2256(2); and

“(4) the term ‘indistinguishable’ used with respect to a depiction, means virtually indistinguishable, in that the depiction is such that an

ordinary person viewing the depiction would conclude that the depiction is of an actual minor engaged in sexually explicit conduct. This definition does not apply to depictions that are drawings, cartoons, sculptures, or paintings depicting minors or adults.

“(d) The circumstance referred to in subsections (a) and (b) is that—

“(1) any communication involved in or made in furtherance of the offense is communicated or transported by the mail, or in interstate or foreign commerce by any means, including by computer, or any means or instrumentality of interstate or foreign commerce is otherwise used in committing or in furtherance of the commission of the offense;

“(2) any communication involved in or made in furtherance of the offense contemplates the transmission or transportation of a visual depiction by the mail, or in interstate or foreign commerce by any means, including by computer;

“(3) any person travels or is transported in interstate or foreign commerce in the course of the commission or in furtherance of the commission of the offense;

“(4) any visual depiction involved in the offense has been mailed, or has been shipped or transported in interstate or foreign commerce by any means, including by computer, or was produced using materials that have been mailed, or that have been shipped or transported in interstate or foreign commerce by any means, including by computer; or

“(5) the offense is committed in the special maritime and territorial jurisdiction of the United States or in any territory or possession of the United States.

“(e) In a case under subsection (b), it is an affirmative defense that the defendant—

“(1) possessed less than three such images; and

“(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any image or copy thereof—

“(A) took reasonable steps to destroy each such image; or

“(B) reported the matter to a law enforcement agency and afforded that agency access to each such image.

##### **“§1466B. Obscene visual representations of pre-pubescent sexual abuse**

“(a) Whoever, in a circumstance described in subsection (e), knowingly produces, distributes, receives, or possesses with intent to distribute a visual depiction of any kind, including a drawing, cartoon, sculpture, or painting, that—

“(1) depicts a pre-pubescent child engaging in sexually explicit conduct, and

“(2) is obscene, or who attempts or conspires to do so, shall be subject to the penalties set forth in section 2252A(b)(1), including the penalties provided for cases involving a prior conviction.

“(b) Whoever, in a circumstance described in subsection (e), knowingly possesses a visual depiction of any kind, including a drawing, cartoon, sculpture, or painting, that—

“(1) depicts a pre-pubescent child engaging in sexually explicit conduct, and

“(2) is obscene, or who attempts or conspires to do so, shall be subject to the penalties set forth in section 2252A(b)(2), including the penalties provided for cases involving a prior conviction.

“(c) It is not a required element of any offense under this section that the pre-pubescent child depicted actually exist.

“(d) For purposes of this section, the terms ‘visual depiction’ and ‘pre-pubescent child’ have respectively the meanings given those terms in section 1466A, and the term ‘sexually explicit conduct’ has the meaning given that term in section 2256(2)(B).

“(e) The circumstance referred to in subsection (a) and (b) is that—

“(1) any communication involved in or made in furtherance of the offense is communicated or

transported by the mail, or in interstate or foreign commerce by any means, including by computer, or any means or instrumentality of interstate or foreign commerce is otherwise used in committing or in furtherance of the commission of the offense;

“(2) any communication involved in or made in furtherance of the offense contemplates the transmission or transportation of a visual depiction by the mail, or in interstate or foreign commerce by any means, including by computer;

“(3) any person travels or is transported in interstate or foreign commerce in the course of the commission or in furtherance of the commission of the offense;

“(4) any visual depiction involved in the offense has been mailed, or has been shipped or transported in interstate or foreign commerce by any means, including by computer, or was produced using materials that have been mailed, or that have been shipped or transported in interstate or foreign commerce by any means, including by computer; or

“(5) the offense is committed in the special maritime and territorial jurisdiction of the United States or in any territory or possession of the United States.

“(f) In a case under subsection (b), it is an affirmative defense that the defendant—

“(1) possessed less than three such images; and

“(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any image or copy thereof—

“(A) took reasonable steps to destroy each such image; or

“(B) reported the matter to a law enforcement agency and afforded that agency access to each such image.”; and

(2) in the analysis for the chapter, by inserting after the item relating to section 1466 the following:

“1466A. Obscene visual depictions of young children.

“1466B. Obscene visual representations of pre-pubescent sexual abuse.”.

(b)(1) Except as provided in paragraph (2), the applicable category of offense to be used in determining the sentencing range referred to in section 3553(a)(4) of title 18, United States Code, with respect to any person convicted under section 1466A or 1466B of such title, shall be the category of offenses described in section 2G2.2 of the Sentencing Guidelines.

(2) The Sentencing Commission may promulgate guidelines specifically governing offenses under section 1466A of title 18, United States Code, provided that such guidelines shall not result in sentencing ranges that are lower than those that would have applied under paragraph (1).

#### **SEC. 6. PROHIBITION ON USE OF MATERIALS TO FACILITATE OFFENSES AGAINST MINORS.**

Chapter 71 of title 18, United States Code, is amended—

(1) by inserting at the end the following:

##### **“§1471. Use of obscene material or child pornography to facilitate offenses against minors**

“(a) Whoever, in any circumstance described in subsection (c), knowingly—

“(1) provides or shows to a person below the age of 16 years any visual depiction that is, or is indistinguishable from, that of a pre-pubescent child engaging in sexually explicit conduct, any obscene matter, or any child pornography; or

“(2) provides or shows any obscene matter or child pornography, or any visual depiction that is, or is indistinguishable from, that of a pre-pubescent child engaging in sexually explicit conduct, or any other material assistance to any person in connection with any conduct, or any attempt, incitement, solicitation, or conspiracy to engage in any conduct, that involves a minor

and that violates chapter 109A, 110, or 117, or that would violate chapter 109A if the conduct occurred in the special maritime and territorial jurisdiction of the United States,

shall be subject to the penalties set forth in section 2252A(b)(1), including the penalties provided for cases involving a prior conviction.

“(b) For purposes of this section—

“(1) the term ‘child pornography’ has the meaning set forth in section 2256(8);

“(2) the terms ‘visual depiction’, ‘pre-pubescent child’, and ‘indistinguishable’ have the meanings respectively set forth for those terms in section 1466A(c); and

“(3) the term ‘sexually explicit conduct’ has the meaning set forth in section 2256(2).

“(c) The circumstance referred to in subsection (a) is that—

“(1) any communication involved in or made in furtherance of the offense is communicated or transported by the mail, or in interstate or foreign commerce by any means, including by computer, or any means or instrumentality of interstate or foreign commerce is otherwise used in committing or in furtherance of the commission of the offense;

“(2) any communication involved in or made in furtherance of the offense contemplates the transmission or transportation of a visual depiction or obscene matter by the mail, or in interstate or foreign commerce by any means, including by computer;

“(3) any person travels or is transported in interstate or foreign commerce in the course of the commission or in furtherance of the commission of the offense;

“(4) any visual depiction or obscene matter involved in the offense has been mailed, or has been shipped or transported in interstate or foreign commerce by any means, including by computer, or was produced using materials that have been mailed, or that have been shipped or transported in interstate or foreign commerce by any means, including by computer; or

“(5) the offense is committed in the special maritime and territorial jurisdiction of the United States or in any territory or possession of the United States.”;

(2) in the analysis for the chapter, by inserting at the end the following:

“1471. Use of obscene material or child pornography to facilitate offenses against minors.”.

#### **SEC. 7. EXTRATERRITORIAL PRODUCTION OF CHILD PORNOGRAPHY FOR DISTRIBUTION IN THE UNITED STATES.**

Section 2251 is amended—

(1) by striking “subsection (d)” each place it appears in subsections (a), (b), and (c) and inserting “subsection (e)”;

(2) by redesignating subsections (c) and (d), respectively, as subsections (d) and (e); and

(3) by inserting after subsection (b) a new subsection (c) as follows:

“(c)(1) Any person who, in a circumstance described in paragraph (2), employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, any sexually explicit conduct outside of the United States, its possessions and Territories, for the purpose of producing any visual depiction of such conduct, shall be punished as provided under subsection (e).

“(2) The circumstance referred to in paragraph (1) is that—

“(A) the person intends such visual depiction to be transported to the United States, its possessions, or territories, by any means including by computer or mail;

“(B) the person transports such visual depiction to, or otherwise makes it available within, the United States, its possessions, or territories, by any means including by computer or mail.”.

#### **SEC. 8. STRENGTHENING ENHANCED PENALTIES FOR REPEAT OFFENDERS.**

Sections 2251(e) (as redesignated by section 7(2)), 2252(b), and 2252A(b) of title 18, United

States Code, are each amended by inserting “chapter 71,” immediately before each occurrence of “chapter 109A.”.

#### **SEC. 9. SERVICE PROVIDER REPORTING OF CHILD PORNOGRAPHY AND RELATED INFORMATION.**

(a) Section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032) is amended—

(1) in subsection (b)(1)—

(A) by inserting “2252B,” after “2252A.”; and

(B) by inserting “or a violation of section 1466A or 1466B of that title,” after “of that title).”;

(2) in subsection (c), by inserting “or pursuant to” after “to comply with”;

(3) by amending subsection (f)(1)(D) to read as follows:

“(D) where the report discloses a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such State law.”;

(4) by redesignating paragraph (3) of subsection (b) as paragraph (4); and

(5) by inserting after paragraph (2) of subsection (b) the following new paragraph:

“(3) In addition to forwarding such reports to those agencies designated in subsection (b)(2), the National Center for Missing and Exploited Children is authorized to forward any such report to an appropriate official of a state or subdivision of a state for the purpose of enforcing state criminal law.”.

(b) Section 2702 of title 18, United States Code is amended—

(1) in subsection (b)—

(A) in paragraph (6)—

(i) by inserting “or” at the end of subparagraph (A)(i);

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraph (C) as subparagraph (B);

(B) by redesignating paragraph (6) as paragraph (7);

(C) by striking “or” at the end of paragraph (5); and

(D) by inserting after paragraph (5) the following new paragraph:

“(6) to the National Center for Missing and Exploited Children, in connection with a report submitted thereto under section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032); or”;

(2) in subsection (c)—

(A) by striking “or” at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by adding after paragraph (4) the following new paragraph:

“(5) to the National Center for Missing and Exploited Children, in connection with a report submitted thereto under section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032); or”.

#### **SEC. 10. SEVERABILITY.**

If any provision of this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons not similarly situated or to other circumstances, shall not be affected by such invalidation.

#### **SEC. 11. INVESTIGATIVE AUTHORITY RELATING TO CHILD PORNOGRAPHY.**

Section 3486(a)(1)(C)(i) of title 18, United States Code, is amended by striking “the name, address” and all that follows through “subscriber or customer” and inserting “the information specified in section 2703(c)(2)”.

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

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

## GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 4623, 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, on April 16, 2002, the Supreme Court of the United States in the case of *Ashcroft v. the Free Speech Coalition* held that the current definition of child pornography as enacted by the Child Pornography Protection Act of 1996 is overbroad and, thus, unconstitutional.

In response to that decision, Ernest Allen, the president and CEO of the National Center for Missing and Exploited Children, testified that he believes that the Court's decision will result in the proliferation of child pornography in America unlike anything we have seen in more than 20 years. He concluded that, as a result of the Court's decision, thousands of children will be sexually victimized, most of whom will not report the offense.

Technology will exist, or may exist today, to create depictions of virtual children that are indistinguishable from depictions of real children. Just the mere possibility that such technology exists will make it impossible for law enforcement and prosecutors to enforce the child pornography laws in cases where computers are involved.

A vast majority of child pornography prosecutions today involve images contained on computer hard drives, computer disks or related media. A computer image seized from a child pornographer is rarely a first-generation product. These pictures are e-mailed over and over again or scanned in from photographs of real children being abused and exploited. The transmission of images over an e-mail system can alter the image and make it impossible for even an expert to know whether or not a particular image depicts a real child. If the original image has been scanned from a paper version into a digital format, accurate analysis can be even more difficult because proper forensic delineation may depend upon the quality of the image scanned and the tools used to scan it. As a result, the prosecution of child pornography cases that involve a computer in any form are threatened.

Convicted child pornographers are appealing their cases with claims that the government must prove that the child in the picture is real. This can be an insurmountable burden on the prosecution. In fact, on May 1, the committee received testimony that while there are estimates that hundreds of thousands of child pornography files are in existence and available on the

Internet, law enforcement has established the identity of less than 100 children to date.

The government has an obligation to respond to the Supreme Court's decision, as it has an unquestionable compelling interest to protect children from those who would sexually exploit them. The Supreme Court recognized this compelling interest in its 1982 *New York v. Ferber* decision, holding that child pornography is not protected by the first amendment. The government will not be able to protect real children unless it can effectively prosecute and enforce child pornography laws. In order to do that, a statute must be adopted that narrows the definition of child pornography to withstand constitutional muster.

H.R. 4623, the Child Obscenity and Pornography Prevention Act of 2002, does that. In response to the Court's decision, this bill narrows the definition of child pornography, strengthens the existing affirmative defense, amends the obscenity laws to address virtual and real child pornography that involve visual depictions of pre-pubescent children, creates new offenses against pandering visual depictions as child pornography, and creates new offenses against providing children obscene or pornographic material.

Mr. Speaker, this is carefully crafted legislation that will help to protect our children from the worst predators in our society. I urge my colleagues to support it.

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

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

Mr. Speaker, H.R. 4623 is a hasty attempt to override the United States Supreme Court decision of just 2 months ago, *Ashcroft v. Free Speech Coalition*. Unfortunately, it tries to do exactly what the Supreme Court said could not be done. H.R. 4623 seeks to ban virtual child pornography. It not only defines child pornography to include virtual child pornography that is indistinguishable from real child pornography, but makes even possession of an image that is indistinguishable a crime. Child pornography may be banned and prosecuted. However, pornography that does not involve a real child is just that, pornography which, if not obscene, has been ruled by the Supreme Court to be not illegal. To constitute child pornography, a real child must be involved. The Supreme Court has ruled that computer-generated images depicting childlike characters which do not involve real children do not constitute child pornography any more than a movie with a 22-year-old actor who plays and looks like a 15-year-old engaging in sex would be illegal.

The Supreme Court has ruled that pornography, computer-generated or not, which is not produced using real children, and is not otherwise obscene, is protected under the first amendment. H.R. 4623, like the CPPA struck

down in *Ashcroft v. Free Speech*, attempts to ban this protected material and therefore is likely to meet the same fate. The fatal flaw in the CPPA was its criminalization of speech that was neither obscene under Supreme Court guidelines nor child pornography involving the abuse of real children under *New York v. Ferber*.

H.R. 4623 repeats that mistake. Like the CPPA, this bill would not only criminalize speech that is not obscene but also speech that has redeeming literary, artistic, political or other social value. For example, the bill would punish therapists and academic researchers who used computer-generated images in their research and filmmakers who create explicit anti-child abuse documentaries.

The bill creates a strict liability offense. Under the bill, prohibited images may not be possessed for any reason, however legitimate. Therefore, any scholarly research that may be used to verify or refute the underlying assumptions in the bill is rendered impossible. Proponents of the bill believe the Court left open the question of whether the government can criminalize computer-generated images that are not obscene and do not involve real children. Obscene images can always be prosecuted, but the Court clearly said that the government cannot criminalize images which are not obscene unless the product involved actual children.

In striking down the bill and upholding its decision in *Ferber*, the Supreme Court stated: "In contrast to the speech in *Ferber*, speech that itself is the record of sexual abuse, the CPPA prohibits speech that records no crime and creates no victims by its production. Virtual child pornography is not intrinsically related to the sexual abuse of children as were the materials in *Ferber*. *Ferber*, then, not only referred to the distinction between actual and virtual child pornography, it relied on it as a reason for supporting its holding. *Ferber* provides no support for a statute that eliminates the distinction and makes the alternative mode criminal as well."

In interpreting the *Osborne* case of 1990, the Court said: "Osborne also noted the State's interest in preventing child pornography from being used as an aid in the solicitation of minors. The Court, however, anchored its holding in the concern for the participants, those whom it called the victims of child pornography. It did not suggest that, absent this concern, other governmental interests would suffice. The case reaffirmed that where the speech is neither obscene nor the product of sexual abuse, it does not fall outside the protection of the first amendment. The distribution of descriptions or other depictions of sexual conduct, not otherwise obscene, which do not involve live performance or photographic or other visual reproduction of live performances, retains first amendment protection."

Proponents also argue that the Court did not consider the harm to real children that will occur when, through technological advances, it may become impossible to tell whether it is real children or virtual children, thereby allowing harm to real children because the government cannot tell the difference for purposes of bringing prosecution. The Court did consider that and said: "The government next argues that its objective of eliminating the market for pornography produced using real children necessitates a prohibition on virtual images as well. Virtual images, the government contends, are indistinguishable from real ones; they are part of the same market and are often exchanged. In this way, it is said, virtual images promote the trafficking in works produced through the exploitation of real children. The hypothesis is somewhat implausible. If virtual images were identical to illegal child pornography, the illegal images would be driven from the market by the indistinguishable substitutes. Few pornographers would risk prosecution by abusing real children if fictional, computerized images would suffice."

Nor was the Court persuaded, Mr. Speaker, by the argument that virtual images will make it very difficult for the government to prosecute cases. As to that concern, the Court stated: "Finally, the government says that the possibility of producing images by using computer imaging makes it very difficult for it to prosecute those who produce pornography by using real children. Experts, we are told, may have difficulty in saying whether the pictures were made by using real children or by using computer imaging. The necessary solution, the argument runs, is to prohibit both kinds of images. The argument, in essence, is that protected speech may be banned as a means to ban unprotected speech. This analysis turns the first amendment upside down. The government may not suppress lawful speech as the means to suppress unlawful speech."

It also talked about the affirmative defense and said: "To avoid this objection, the government would have us read the CPPA not as a measure suppressing speech but as a law shifting the burden to the accused to prove the speech is lawful. In this connection, the government relies on an affirmative defense under the statute, which allows a defendant to avoid conviction for nonpossession offenses by showing that the materials were produced using only adults and were not otherwise distributed in a manner conveying the impression that they depicted real children. The government raises serious constitutional difficulties by seeking to impose on the defendant the burden of proving his speech is not unlawful. An affirmative defense applies only after prosecution has begun, and the speaker must himself prove, on pain of a felony conviction, that his conduct falls within the affirmative defense. In cases under the CPPA, the evidentiary

burden is not trivial. Where the defendant is not the producer of the work, he may have no way of establishing the identity, or even the existence, of the actors. If the evidentiary issue is a serious problem for the government, as it asserts, it will be at least as difficult for the innocent possessor."

The Ashcroft decision in essence reiterates the principles of Ferber regarding the boundaries for fighting child pornography, like, number one, non-obscene descriptions or depictions of sexual conduct that do not involve real children are a form of speech which, even if despicable, is protected by the first amendment. The Court said that the government should focus its efforts on education and on punishment for violations of the law by those who actually harm children in the creation of child pornography rather than abridging the rights of free speech of those who would create something from their imagination.

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Again, the Court said that the fact that the speech may be used to perpetrate a crime is insufficient reason to ban the speech. "The government may not prohibit speech because it increases the chance an unlawful act will be committed 'at some indefinite future time.'" Further, the Government said, "The Government may not suppress lawful speech as the means to suppress unlawful speech."

So, therefore, Mr. Speaker, this bill just reiterates the mistakes in the original legislation. It is unlikely that the bill will ever be upheld and, therefore, ought to be defeated.

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

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

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

Mr. Speaker, H.R. 4623, the Child Obscenity and Pornography Prevention Act of 2002, is a bipartisan piece of legislation that was passed by the Committee on the Judiciary 22 to 3. Because I see him on the floor, I would especially like to thank the gentleman from California (Mr. SCHIFF) for his contributions to this bill as well.

Mr. Speaker, H.R. 2623 responds to the Ashcroft v. Free Speech Coalition Supreme Court decision. This decision will have a devastating effect on the prosecution of child pornographers who are so often child molesters as well.

Just this month, a doctor in San Antonio appealed his conviction for possessing child pornography. The appeal came after the Free Speech Coalition decision and challenged the conviction because the government was not required to prove that the children depicted in his pornographic images obtained on-line were real. The San Antonio Express-News reported that these appeals are occurring nationwide.

Mr. Speaker, this legislation addresses the concerns of the Supreme Court. Specifically, this bill narrows the definition of child pornography and amends the obscenity laws to address virtual and real child pornography that involves visual depictions of pre-pubescent children. It also creates new offenses against providing children obscene or pornographic material.

The Court was concerned in Free Speech Coalition that the breadth of the language would prohibit legitimate movies like "Traffic" or plays like "Romeo and Juliet." Limiting the definition to computer images or computer-generated images will help exclude ordinary motion pictures from the coverage of "virtual child pornography."

Next, the bill narrows the definition by replacing the phrase "appears to be" with the phrase "is indistinguishable from" and clarifies that this definition does not apply to depictions that are drawings, cartoons, sculptures, or paintings depicting minors or adults.

At the request of the National Center for Missing and Exploited Children, this bill allows the Federally-funded Internet Crimes Against Children Task Forces to receive reports from the Cyber Tipline. These task forces are State and local police agencies that have been identified by the National Center as competent to investigate and prosecute computer-facilitated crimes against children.

Mr. Speaker, finally, in response to a new website that displays pictures of children being raped and sodomized by adults, where the pictures are clearly virtual, but obscene, this bill includes a provision that would enhance the penalties for such obscenity.

Mr. Speaker, children are the most innocent and vulnerable among us. We should do everything we possibly can to protect them, and that is why I hope my colleagues will support this piece of legislation.

Mr. SCOTT. Mr. Speaker, I yield 3 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I thank the ranking member for yielding me this time.

These are dangerous times when it comes to child pornography. The Internet has allowed distribution in ways never imagined before, making it much more prevalent throughout our society, at the very time we have a Supreme Court ruling knocking out the prohibition on computer-generated child pornography. We need to respond, and we need to respond immediately. That is why I commend the gentleman from Texas (Mr. SMITH), the chairman of the subcommittee, and others who have worked on this legislation, including the gentleman from Florida (Mr. FOLEY) and the gentleman from Texas (Mr. LAMPSON). This has been a truly bipartisan effort to forge immediately a response that will withstand constitutional review and put back into

the code strong protections for our children against child pornography.

In the end, make no bones about it. This is about protecting our children. Meetings I have held with prosecutors, with child protection advocates, have made it very clear to me that the use of child pornography is damaging to children, sets them up as targets for ultimate exploitation, and whets the appetite of the exploiters, making them more likely to commit acts against our children.

The Attorney General and the Justice Department were very involved in assembling a panel of constitutional experts reviewing the court ruling and fashioning a legislative response that will withstand court review. This is not about some immediate, knee-jerk response to a Supreme Court ruling that causes us concern. This is a carefully calibrated effort to put back into the code constitutional standards and prohibitions now needed to be restored against virtual child pornography. There are new constitutionally compliant definitions about the virtual imagery that we are condemning, a tighter and stronger affirmative defense for those prosecuted under this, required, as my prosecutors tell me, to allow them to be able to continue to prosecute these matters.

I had a prosecutor in North Dakota tell me he took two cases right off his desk and put them right back into the file, being unable to prosecute them under the court ruling. This will put him back into business in bringing these needed actions.

It stops commercial trade in child pornography: the trading, the selling, the buying. This is not constitutionally protected free speech, and the prohibition is restored with this legislation. It clarifies the definition of obscenity by defining, whether real or virtual, explicit sex involving young children as per se obscene. Clearly, I believe we are on very strong ground that will withstand constitutional muster and make an important contribution to prosecutors trying to bring actions against this kind of material.

There is a severability clause in this legislation, thus raising the very sincere arguments that they have about whether or not this is constitutional. Clearly, the several clauses of this bill are not all constitutional. I absolutely believe they are all constitutional, but, in any event, we should pass the law, have the Justices review it, and I believe ultimately strengthen significantly the protections of our children against child pornography.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Speaker, I would like to associate myself with the comments of the gentleman from Wisconsin (Mr. SENSENBRENNER) and those of the gentleman from Texas (Mr. SMITH). I believe that in light of the Supreme Court decision of Free Speech

Coalition against Ashcroft, Congress must act again and immediately to give law enforcement the ability to fight the scourge of child pornography, whether real or virtual.

The Supreme Court struck down provisions of the law passed by this Congress in 1996 because some were poorly defined and too broadly targeted. We have heard some criticism today that this bill is still in conflict with the recent decision by the Supreme Court. I think that criticism is unfounded, and I want to speak for a moment about some of the specific changes we have made to focus and narrow and improve the bill.

In response to the Free Speech Coalition decision, section 3(a) of this bill narrows the definition of child pornography so that it is a computer image or computer-generated image that is, or is indistinguishable from, that of a minor engaging in sexually explicit conduct. This provision narrows the definition in several ways. First, it limits the definition to computer images or computer-generated images; second, it limits the definition by requiring the virtual images be indistinguishable from real images; and, third, it uses the newly defined definition for "sexually explicit conduct."

The bill also strengthens the affirmative defense for those charged under the law to address another criticism of the Supreme Court. Finally, the bill also narrows the definition for the offense of pandering material as child pornography.

It is clear from these provisions and others in the bill that the drafting was done very carefully to address the issues raised by the Supreme Court decision and improved the law as the court suggested. I urge my colleagues to support the bill and once again make it clear that some material is so universally offensive that it does not deserve unlimited protect of the first amendment.

Mr. SCOTT. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. SCHIFF).

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

Mr. Speaker, I rise in support of the bill, and I want to commend the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the committee, and the gentleman from Texas (Mr. SMITH), the chairman of the subcommittee, for their work on this issue.

In the Ashcroft decision, the Supreme Court struck down the existing child pornography laws on the basis that they, in addition to prohibiting child pornography that was made by using, by molesting real children, that it also prohibited the use of adults who looked youthful looking, looked like children, and also prohibited virtual pornography, virtual child pornography produced using computers and computer graphics. But effectively, by striking down this law and by stating

that only real child pornography could be prosecuted, the court struck the heart out of efforts to prosecute the real thing.

Computer technology has advanced to the point now where it is simply not possible for the government to meet a burden of demonstrating whether images were created using computer technology or the images are real. So the committee and the subcommittee worked together to try to address the concerns that the court raised and, at the same time, restore the ability of prosecutors to bring these cases against those who would victimize and molest children to produce child pornography.

In the Ashcroft decision, it recognized this dilemma, this problem, the need to go after these cases and yet the need to draft the law narrowly, and the court specifically said, we leave open, we leave open the question of whether there could be an affirmative defense; in other words, whether the burden could be shifted on this particular element to the defense to demonstrate that they only used adult actors who looked like children or they only used computer technology. That question was left open.

That is a difficult constitutional question, but if we are to restore the prosecution's ability to prosecute child pornography using real children, we must embrace this affirmative defense as the method to do so. And the law is very narrowly crafted. It prohibits the use, the sales, the pandering of child pornography that is virtually indistinguishable from real, that is generated by computers, but virtually indistinguishable from real, and then it allows the defense to affirmatively defend by saying, no, this was solely developed using computers, or, no, this was developed only by using youthful-looking adults, facts which are much more likely to be in the sole possession of the defense than in the possession of the prosecution.

So what we have is a bill that restores the prosecution's ability to bring these cases, that frames it as narrowly as possible to survive constitutional scrutiny, that indeed makes use of the vehicle the Supreme Court itself identified, that of an affirmative defense.

Will this statute survive against scrutiny by the Supreme Court? I believe it will. It will be a tough decision, but the fact of the matter is, in the absence of this legislative action, we will simply be incapable of prosecuting child pornography. I urge Members to support the bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1½ minutes to the gentleman from Alabama (Mr. BACHUS).

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

Mr. Speaker, many of us serve on the Committee on the Judiciary because we have a legal degree from a good law school, we have a great legal education, but let me tell my colleagues, a



legal education sometimes is a terrible thing to inflict on society. I think that the Supreme Court must have had too much legal education when they made the decision they made, because we know when our children go on line, when they get on their computers and they see child pornography, we know they can be exploited, we know they can be molested, and we know as parents that it does not make a bit of difference whether it is computer-generated, actual or real.

The Supreme Court said this despicable junk can go on; it is not illegal if it is computer-generated. If a prosecutor cannot play the impossible game of picking out an actual, identifiable child, then the molester goes off, he is free to molest, free to continue to abuse our children.

If there is anything as a society we ought to do, it is protect our young people. If there is anything we ought to do, it is stop playing legal games with our fine legal educations and start doing what ought to be done, and that is protecting our children from these sexual predators no matter whether they use computer-driven images or actual images. It is time to stop it. It is time to stop drawing legal distinctions.

Mr. SCOTT. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. NADLER).

□ 1415

Mr. NADLER. Mr. Speaker, this debate is an exercise in surrealism. The Supreme Court recently handed down a decision directly on point. What the sponsors of this bill are trying to do is to overturn a Supreme Court decision that they do not like by statute. We know we cannot do that. Congress cannot overturn a Supreme Court decision.

Now, it is elementary that the first amendment says that one can say, write, draw, or photograph and distribute whatever one wants. The Supreme Court has made one exception to that, or a number of exceptions. One exception is obscenity. If it is obscene, one cannot ban it.

There is another exception: where, to protect children from exploitation, we can stop the distribution of child pornography, defined as pornography that shows children. Why? To protect the children who are exploited in making it.

Now, if the material is itself obscene, we can ban it anyway; but if it is not in itself obscene, it has to be real children, because those are the people we are protecting. The Court clearly said the government cannot criminalize images which are not obscene unless the product involved actual children, because if it does not, the images do not fall outside the protection of the first amendment.

Now we are told by the gentleman from Alabama (Mr. BACHUS) and by the government that the possibility of producing images by using computer imaging, and I am quoting directly from the Supreme Court decision, "makes it

very difficult to prosecute those who produce pornography by using real children. Experts, we are told, may have difficulty in saying whether the pictures were made by using real children or by using computer imaging.

"The necessary solution, the argument runs," and the Court may just as well have been quoting the gentleman from Alabama, "is to prohibit both kinds of images. In order to enable prosecution of the real thing, you should be able to prosecute the virtual images." The Court continues, the Supreme Court of the United States, "The argument, in essence, is that protected speech may be banned as a means to ban unprotected speech. This analysis turns the first amendment upside down. The government may not suppress lawful speech as a means to suppress unlawful speech."

So it is very clear. This bill is clearly unconstitutional. It is an exercise in pure politics. It is simply going to get the Supreme Court to rule again, when it has already told us on exactly the same point. The attempt by the bill to slightly narrow the definition does not matter. Either it is obscene or it is not. If it is not obscene, it is protected, unless real children were used in the production of it; and if they were not, it is still protected speech, period.

That is the Court's analysis. If we want to change that, we cannot do it by a law passed here, so we are wasting our time and misleading the public, who think that we are doing something, because we cannot overturn a Supreme Court decision, one I happen to think is correct, but that is beside the point. We cannot overturn a Supreme Court interpretation of the Constitution of the United States by a bill in Congress.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. GEKAS).

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

Mr. Speaker, the public demands that we do something about child pornography, and the type that now has beset us across the Internet world is even worse than some of the expected child pornography that we have contemplated over the years.

What we are doing here is not trying to overturn the constitutional questions that the Supreme Court used in its rejection of the last case, but rather, to conform to the standards that the Supreme Court has set forth in its very rejection of the first statute.

So it uses words like "indistinguishable" and "broad" or "less broad" than the language that was contained in the first bill that was knocked down by the Supreme Court.

It comes down to this: we want to protect everyone from sex pornography of all sorts, but particularly that involving infants and youngsters. So we have to do everything we can, and the authors of this legislation did everything that they could to make it conform to constitutional standards.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I thank the gentleman for yielding time to me, and I thank the chairman for his hard work on this issue, as well the gentleman from Texas (Mr. SMITH).

I have heard terms described today that this has been rushed to the floor of the House. Maybe those who claim it has been rushed have not had a chance to see the virtual pornography that has been created since the Supreme Court's ruling, endangering our children, virtually created; horrible portrayals of our young and most fragile citizens on the Internet.

Today's passage of this legislation is a pedophile's worst nightmare. Congress is one step closer to helping the High Court side with children over pedophiles.

Mr. Speaker, I ask Members to make no mistake about it. We are not talking about Scooby Doo or Lilo & Stitch, American Beauty, or any of the other characterizations that have been lobbed against the passage of this legislation. The images of exploited children are indeed virtually indistinguishable from the real thing. Our legislation unshackles prosecutors so they can start protecting the children once again.

In the past, prosecution was swift and severe, for good reason, when sexual images of exploited minors were found in someone's possession. Now, after the Supreme Court ruling, unless the prosecutors can find the child in the photo, even if the photo is 10 or 20 years old, the pedophiles walk free. Prosecutors never needed to match the photos with the child, since that is nearly impossible with the laundering system that has been developed from State to State and country to country.

I urge the High Court to reconsider the consequences of its actions the next time they rule on legislation dealing with the protection of our children.

Lastly, we need to get this ban through the Senate and onto the President's desk immediately. With every passing day, another pedophile escapes prosecution because of this flawed ruling of the Supreme Court. Let us stop wasting time and start focusing on protecting our children.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1½ minutes to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Speaker, I thank the gentleman from Texas (Mr. SMITH) and the gentleman from Florida (Mr. FOLEY) for bringing this legislation forward.

Many times, defenders of the first amendment claim that what we hear and see has no bearing on our behavior; hence, pornography is harmless. If this is true, why is it that advertisers spend billions of dollars annually? Obviously, there is a strong connection between what we see and what we hear and what we do.

A recent study indicates that 80 percent of molesters of boys regularly use



hard-core pornography, and 90 percent of molesters of girls use hard-core pornography.

The important thing to realize here is that these people, these perpetrators, are incited by an image. It does not make any difference whether that image is real or virtual. They are incited by that image, and real children are hurt. That is the whole issue, that real children are being hurt by this practice.

Pornography is a \$15 billion business or industry in our Nation. There were 1 million porn sites on the Internet. This has become a real threat to our young people, and it has become a national disgrace. The courts have consistently allowed more and more obscene material under first amendment protection.

The Supreme Court recently overturned a law similar to H.R. 4623. The courts have overturned three other laws in the past 6 years intended to control the spread of pornography. This has inflicted great damage on our young people and on our culture.

Hopefully, H.R. 4623 is written tightly enough that it will withstand a court challenge. I believe it is. The stakes are too high not to try. I urge adoption of H.R. 4623.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. WAMP).

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

Mr. WAMP. Mr. Speaker, I thank the distinguished chairman for yielding time to me, and I appreciate his willingness to stand in the gap for something that is right, and also the authors of the bill.

Mr. Speaker, I come as a father. I have a 15-year-old son and a 13-year-old daughter. Like most teenagers in America today, they spend more time on the Internet than I would personally care for. However, that is the reality that we live in.

I think we have an obligation as legislators to try to keep up with the incredible growth of technology through the Internet and the Internet communication, because if we just buried our heads in the sand and took the position of one of the speakers a moment ago and said that the Congress cannot do anything, basically, about a Supreme Court ruling, I think that is nonsense. We have an obligation to come with new legislation so we can find the right cure that is acceptable before the Supreme Court, and that is what I think this is.

We should persevere, here. This is a world that changes day by day. We are in the Information Age, the third great wave of change in our country. In the Information Age, we are going to see more and more virtual everything, where if one has a headset on, one might not know where they are at times. As a result, we have an obligation to protect our children.

One of my greatest fears as a parent is a pedophile preying on my children.

There are child lures through the Internet now that are so dangerous and so manipulative that we have to have protections for our children who are in this cyberworld and they are unprotected. That is a reality.

We have an obligation as Federal legislators to work within our constitutional law to find a remedy. That is what this bill represents. Frankly, if the Supreme Court rejects this, we need to come back with another bill and continue to persevere until we find something that is acceptable before the Court so our children are protected. This is fundamental to our job and our responsibility as Federal legislators.

I commend the authors and the committee for taking it up; and if we have to come back to the well again and again and again, we should.

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

Mr. Speaker, I just wanted to make two different points. First, the question has been raised about how difficult it is for the government to actually prosecute the cases.

The Supreme Court dealt with that when they said, in throwing out the previous language: "The government raises serious constitutional difficulties by seeking to impose on the defendant the burden of proving that his speech is not unlawful. That affirmative defense applies only after the prosecution has begun, and the speaker must himself prove on the pain of felony conviction that his conduct falls within the affirmative defense."

It goes on to say: "Where the defendant is not the producer of the work, he may have no way of establishing the identity or even the existence of actors. If the evidentiary issue is a serious problem for the government, as it asserts, it will be at least as difficult for the innocent possessor." It dealt with the issue of prosecution and said that is not something that can be used.

Also, let me cite another part of the case. It says: "The government says that indirect harms are sufficient because, as Ferber acknowledged, child pornography rarely can be valuable speech . . . This argument, however, suffers from two flaws. First, Ferber's judgment about child pornography was based on how it was made, not on what it communicated. The case reaffirmed that where speech is neither obscene nor the product of sexual abuse, it does not fall outside the protection of the first amendment."

And second: "Ferber did not hold that child pornography is by definition without value. On the contrary, the Court recognized that some works in the category might have significant value, but relied on virtual images, the very images prohibited by the CPPA, as an alternative and permissible means of expression."

Finally, Mr. Speaker, let me just say that the word "indistinguishable" has been used. The only thing indistinguishable in this debate is that this bill is indistinguishable from the law the

Supreme Court threw out just 2 months ago, and this bill should therefore be defeated.

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

Mr. Speaker, this bill is necessary for two reasons: first, the technology has gotten so good that it is very hard to determine whether the picture that is being transmitted and retransmitted on the Internet is a real child or a computer-created child. That means that if the government cannot prove that a real child was used, then the person who is the defendant will be able to walk out of the courtroom scot-free.

Secondly, as has been stated previously, every conviction of child pornographers as a result of the Ashcroft v. Free Speech Coalition decision is placed in jeopardy because at the time the prosecution took place, it was not a requirement that the government prove beyond a reasonable doubt that it was a real child that was being used for this purpose.

So the Ashcroft decision virtually guts our child pornography laws. That is why the Supreme Court has to be given an opportunity to reflect on the consequences of its decision. What this bill does is it attempts to respond to Ashcroft v. Free Speech Coalition in a way that we can have constitutional and effective anti-child pornography laws in this age of computers, the Internet, and e-mails.

Mr. Speaker, I urge every Member who is concerned about having that type of a law to vote "aye" on the motion to suspend the rules.

Mr. GOODLATTE. Mr. Speaker, new technologies offer a wide variety of resources for research and communication; however, we must face the reality that technology can also be used or harm. For example, computers may be used to generate pornographic depictions of children. In addition, the Internet offers predators unparalleled access to our children and can provide an avenue for abuse and exploitation. The Internet has become a attractive arena for child sex abusers, child pornographers and pedophiles because it is easy for them to share images and information about children and to make contact with children.

As advances in technology began to threaten the protection of children by interfering with the effective prosecution of the child pornography laws that cover the visual depictions of real children, Congress in 1996 attempted to address this concern with the "Child Pornography Prevention Act." The 1996 language included a prohibition of any virtual depictions as well as pictures of youthful-looking adults. However, in a disturbing decision on April 16, 2002, the Supreme Court ruled in Ashcroft v. the Free Speech Coalition that this language was overbroad and unconstitutional, paving the way for child molesters to hide their abuse behind technology; for example, with altered photographs of their victims.

Computer technology exists today to disguise depictions of real children to make them unidentifiable and to make depictions of real children appear compute generated. Furthermore, future technology will have the capability to make depictions of virtual children look real and completely indistinguishable.

Congress has a compelling interest to protect children from sexual exploitation. Sexually explicit computer images that are virtually indistinguishable from images of real minors engaged in sexually explicit conduct poses a serious danger to future prosecutions involving child pornography. The April 16 Supreme Court decision gives protection to child molesters who may claim that the images they possess are not those of real children, insisting that the government prove beyond a reasonable doubt that the images are not computer-generated. To prove a child is real will require identifying the actual child. This is usually impossible since many of the victimized children are from third world countries. The impossible task of identifying the child will allow child molesters and pornographers to escape prosecution for their crimes against children.

Child pornography, virtual or otherwise, is detrimental to our nation's children. Regardless of the method of its production, child pornography is used to promote and incite deviant and dangerous behavior in our society.

I urge each of my colleagues to join me in support H.R. 4623, which will address the April 16 Supreme Court decision in *Ashcroft v. the Free Speech Coalition* to ensure the continued protection of children from sexual exploitation.

Mr. PAUL. Mr. Speaker, as a parent, grandparent and OB-GYN who has had the privilege of delivering over 4,000 babies, I share the revulsion of all decent people at child pornography. Those who would destroy the innocence of children by using them in sexually explicit material deserve the harshest punishment. However, the Child Obscenity and Pornography Prevention Act (H.R. 4623) exceeds Congress' constitutional power and does nothing to protect any child from being abused and exploited by pornographers. Instead, H.R. 4623 redirects law enforcement resources to investigations and prosecutions of "virtual" pornography which, by definition, do not involve the abuse or exploitation of children. Therefore, H.R. 4623 may reduce law enforcement's ability to investigate and prosecute legitimate cases of child pornography.

H.R. 4623 furthers one of the most disturbing trends in modern politics, the federalization of crimes. We have been reminded by both Chief Justice William H. Rehnquist and former U.S. Attorney General Ed Meese that more federal crimes, while they make politicians feel good, are neither constitutionally sound nor prudent. Rehnquist has stated that "The trend to federalize crimes that traditionally have been handled in state courts . . . threatens to change entirely the nature of our federal system." Meese stated that Congress' tendency in recent decades to make federal crimes out of offenses that have historically been state matters has dangerous implications both for the fair administration of justice and for the principle that states are something more than mere administrative districts of a nation governed mainly from Washington.

Legislation outlawing virtual pornography is, to say the least, of dubious constitutionality. The constitution grants the federal government jurisdiction over only three crimes: treason, counterfeiting, and piracy. It is hard to stretch the definition of treason, counterfeiting, or piracy to cover sending obscene or pornographic materials over the internet. Therefore, Congress should leave the issue of whether or

not to regulate or outlaw virtual pornography to states and local governments.

In conclusion, Mr. Speaker, while I share my colleagues' revulsion at child pornography, I do not believe that this justifies expanding the federal police state to outlaw distribution of pornographic images not containing actual children. I am further concerned by the possibility that passage of H.R. 4623 will divert law enforcement resources away from the prosecution of actual child pornography. H.R. 4623 also represents another step toward the nationalization of all police functions, a dangerous trend that will undermine both effective law enforcement and a constitutional government. It is for these reasons that I must oppose this well-intentioned but fundamentally flawed bill.

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

□ 1430

The SPEAKER pro tempore (Mr. GUTKNECHT). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4623, 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.

#### SEX TOURISM PROHIBITION IMPROVEMENT ACT OF 2002

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4477) to amend title 18, United States Code, with respect to crimes involving the transportation of persons and sex tourism, as amended.

The Clerk read as follows:

H.R. 4477

*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 "Sex Tourism Prohibition Improvement Act of 2002".*

#### SEC. 2. SECTION 2423 AMENDMENTS.

(a) *IN GENERAL.*—Section 2423 of title 18, United States Code, is amended by striking subsection (b) and inserting the following:

*"(b) TRAVEL WITH INTENT TO ENGAGE IN ILLEGIT SEXUAL CONDUCT.*—A person who travels in interstate commerce or travels into the United States, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, for the purpose of engaging in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 15 years, or both.

*"(c) ENGAGING IN ILLEGIT SEXUAL CONDUCT IN FOREIGN PLACES.*—Any United States citizen or alien admitted for permanent residence who travels in foreign commerce, and engages in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 15 years, or both.

*"(d) ANCILLARY OFFENSES.*—Whoever arranges, induces, procures, or facilitates the trav-

el of a person knowing that such a person is traveling in interstate commerce or foreign commerce for the purpose of engaging in illicit sexual conduct shall be fined under this title, imprisoned not more than 15 years, or both.

*"(e) ATTEMPT AND CONSPIRACY.*—Whoever attempts or conspires to violate subsection (a), (b), (c), or (d) shall be punishable in the same manner as a completed violation of that subsection.

*"(f) DEFINITION.*—As used in this section, the term 'illicit sexual conduct' means (1) a sexual act (as defined in section 2246) with a person that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States; or (2) any commercial sex act (as defined in section 1591) with a person who the individual engaging in the commercial sex act, knows or should have known has not attained the age of 18 years."

(b) *CONFORMING AMENDMENT.*—Section 2423(a) of title 18, United States Code, is amended by striking "or attempts to do so,".

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 five legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4477 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.

H.R. 4477, the Sex Tourism Prohibition Improvement Act of 2002, addresses a number of problems related to persons who travel to foreign countries and engage in illicit sexual relations with minors. According to the National Center for Missing and Exploited Children, child-sex tourism contributes to the sexual exploitation of children and is increasing. There are more than 100 websites devoted to promoting teenage commercial sex in Asia alone. Because poorer countries are often under economic pressure to develop tourism, those governments often turn a blind eye towards this devastating problem. As a result, children around the world have been trapped and exploited by the sex tourism industry.

While much of the initial attention on child-sex tourism focused on Thailand and other countries of Southeast Asia, it has become disturbingly clear in recent years that there is no hemisphere, continent, or region unaffected by the child-sex trade. While it is difficult to precisely measure the exact number of children affected by sex tourism, experts agree that the number is well into the millions worldwide.

Some of the foreign countries experiencing the most significant problems with sex tourism, such as Nicaragua, Costa Rica, Thailand, and the Philippines, have requested that the United States act to deal with this growing

problem. For reasons ranging from ineffective law enforcement, lack of resources, corruption or generally immature legal systems, U.S. sex tourists often escape prosecution in those countries. It is in those instances that the United States has an interest in pursuing criminal charges in the United States.

Current law requires the Government to prove that the defendant traveled to a foreign country with the intent to engage in sex with a minor. H.R. 4477 eliminates the intent requirement where the defendant completes the travel and actually engages in the illicit sexual activity with a minor.

The bill also criminalizes the actions of sex tour operators by prohibiting persons from arranging, inducing, procuring or facilitating the travel of a person knowing that such a person is traveling in interstate or foreign commerce for the purpose of engaging in illicit sexual conduct with a minor.

The legislation will also close significant loopholes in the law that persons who travel to foreign countries seeking sex with children are currently using to their advantage in order to avoid prosecution. I urge my colleagues to support this legislation.

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

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

I rise in opposition to the bill. The bill is way overbroad in its application, so much so that it would make it a felony, up to 15 years in prison, for the older of two teen-age high school students to attempt or even talk about and agree to travel across State lines or foreign boundaries to engage in consensual sexual activity, including what is referred to as heavy petting, since the provision covers even touching through the definition of sexual act.

It is already a serious felony with up to 15 years in prison for such teenagers, one 19 and one 15, to actually engage in these consensual activities in their community, and now we make it another serious felony for them to even to attempt to travel from Virginia to Washington, D.C., to engage in consensual activities or even to just agree to it, since conspiracy would be a crime.

Certainly there are individuals in situations covered by the bill with which we all can agree, such as sexual predators who prey upon children, but we do not want to put wayward teenagers in this group as the bill does.

During the committee markup on the bill, I offered an amendment to eliminate consensual activities between teenagers, but that amendment was rejected.

Since the bill covers foreign travel by United States citizens and resident aliens traveling from the United States, we are dictating to the world our notions of serious felony crimes, regardless of the cultural norms of other countries. Just as the average age of marriage in this country was 15 for a female and 21 for a male only

about 50 years ago, other countries have much younger averages now than does the United States and provide for consensual relationships to begin between young people much earlier than we expect in the United States.

This bill covers commercial sex transactions regardless of age or consent of the participants; and since States as well as all civilized foreign countries have laws against the underlying activities at which this bill is aimed, there is no demonstrated need to add more Federal criminal laws to go after consensual activities between teens which have nothing to do with the title or the focus of the bill.

There are some valuable provisions in the bill, and it covers much activity, but it also covers much activity for which a 15-year penalty would actually be bizarre. I hope we would defeat the motion to suspend the rules so that the bill could be amended to include just the valuable provisions without including activities which should not be included.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. SMITH), the subcommittee chairman.

Mr. SMITH of Texas. Mr. Speaker, we all need to thank the chairman the Committee of the Judiciary for introducing H.R. 4477, the Sex Tourism Prohibition Improvement Act of 2002. This legislation amends the Federal criminal code to strengthen our laws against those who travel or those who arrange such travel into and out of the United States for the purpose of sexually exploiting children.

Each year more than one million children worldwide are forced into child prostitution, trafficked and sold for sexual purposes or used in child pornography. This world sex market is a multi-billion dollar industry that denies children their rights, their dignity, and their childhood.

Children in developing countries are vulnerable to this sexual exploitation due to a number of factors, including poverty, social dislocation, family breakdown, and homelessness. In some cases, children seek out customers for economic survival. These circumstances could not change the fact that sex with children is morally reprehensible and widely condemned.

Mr. Speaker, this legislation will send a message to those who go to foreign countries to exploit children that no one can abuse a child with impunity, no matter where the offense is committed.

Under current law, the intent to engage in sexual acts with a minor in a foreign country must be formed prior to traveling. Such intent is often difficult to prove without direct arrangements booked through obvious child sex-tour networks.

This legislation will allow the government to prosecute individuals who travel to foreign countries and engage

in illicit sexual conduct with a minor regardless of where the intent to do so was formed.

Mr. Speaker, Congress can help reduce the number of children abused and exploited by passing this legislation today.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, I thank the gentleman for yielding me time. I thank the chairman for bringing this important legislation forward.

When most Americans travel overseas they do so for educational purposes or for relaxation or simply to immerse themselves in another culture, but others have a more perverse goal in mind. They go with the explicit purpose to lure children in and exploit children with illicit sexual activity. This is something we cannot as Americans countenance.

In my home State of Arizona a television station went down to Mexico to the city of Puerto Vallarta and went to the beach and had someone pose as an underage, clearly informing those who propositioned him that he was under age. He was propositioned several times very quickly. Men prowl the beaches there propositioning kids as young as 8 years old, and it goes on day in and day out. Because of the dire poverty in some areas and lax enforcement, Americans believe that they can get away with that kind of activity, and nothing is to stop them except for their conscience.

This bill says not only do they have to worry about their conscience but they have to worry about the Federal Government coming after them. We will not allow this activity to go forward.

It is clear that Americans traveling from one State to another cannot engage in this kind of activity and to exploit young children. They should not be able to travel to other countries for the purpose of using children there for illicit sexual activity. This is simply wrong.

This legislation will go a long way towards closing the loophole that exists that requires prosecutors to prove intent. Whether intent is formed here or in the foreign country, it should not matter. What matters is the act itself, and we should not allow it to happen.

Again, I thank the chairman. I urge support of the bill.

Mr. PAUL. Mr. Speaker, as appalling as it is that some would travel abroad to engage in activities that are rightly illegal in the United States, legislation of this sort poses many problems and offers little solution. First among these is the matter of national sovereignty. Those who travel abroad and break the law in their host country should be subject to prosecution in that country: it is the responsibility of the host country—not the U.S. Congress—to uphold its own laws. It is a highly unique proposal to suggest that committing a crime in a foreign country against a non-U.S. citizen is

within the jurisdiction of the United States Government.

Mr. Speaker, this legislation makes it a federal crime to "travel with intent to engage in illicit sexual conduct." I do think this is a practical approach to the problem. It seems that this bill actually seeks to probe the conscience of anyone who seeks to travel abroad to make sure they do not have illegal or immoral intentions. It is possible or even advisable to make thoughts and intentions illegal? And how is this to be carried out? Should federal agents be assigned to each travel agency to probe potential travelers as to the intent of their travel?

At a time when federal resources are stretched to the limit, and when we are not even able to keep known terrorists out of our own country, this bill would require federal agents to not only track Americans as they vacation abroad but would require that they be able to divine the intentions of these individuals who seek to travel abroad. Talk about a tall order! As well-intentioned as I am sure this legislation is, I do not believe that it is a practical or well-thought-out approach to what I agree is a serious and disturbing problem. Perhaps a better approach would be to share with those interested countries our own laws and approaches to prosecuting those who commit these kinds of crimes, so as to see more effective capture and punishment of these criminals in the countries where the crime is committed.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in strong support of H.R. 4477, the "Sex Tourism Prohibition Improvement Act." Chairman SENSENBRENNER, I thank you for moving this important piece of legislation through your Committee to the House floor and commend you for your leadership on this most serious issue. As the prime author of the "Victims of Trafficking and Violence Protection Act of 2000," legislation that strengthens penalties against those running trafficking rings and provides services as well as protection for victims, I have followed this issue closely.

Sex tourism is a heinous, deplorable activity that is on the rise around the world. In many cases, men prey upon underage girls in prostitution rings who are forced sex slaves. We know that Americans are traveling abroad as part of the sex tourism industry in large numbers. Sadly, it is estimated that there are more than 25 organized sex tour companies based in Miami, New York, and San Diego alone.

Current law states that a person can only be held liable for traveling internationally to engage in sex with a minor if prosecutors can prove he intended to do so before leaving this country. As you might imagine, proving intent in such cases is extremely difficult, basically creating a loophole in the law for men who go abroad to have sex with minors, which in the United States is considered statutory rape.

Thankfully, Chairman SENSENBRENNER's bill will close this intent loophole in the sex tourism industry. While the "Victims of Trafficking and Violence Protection Act of 2000," seeks to punish those running sex trafficking rings and nations that fail to combat human trafficking, the enactment of H.R. 4477 into law will give law enforcement officials the additional powers they need in prosecuting the accomplices of the sex traffickers, those who feed into the industry abroad by paying for sex with minors or other illicit sexual conduct with another person.

Last week, I chaired the International Relations Committee's hearing on the recently released State Department's annual Trafficking in Person's Report. This report ranks countries based on their efforts to combat trafficking, placing them in three different tiers. Countries that fail to take even minimal steps to combat trafficking and are placed on the lowest tier, Tier 3, and will be ineligible to receive non-humanitarian foreign assistance, beginning with the foreign aid budget for FY 2004.

Although some progress has been made, much, much work still needs to be done as the exploitation and bondage of young girls in the sex industry continues to run rampant both in this country and throughout the world. At our hearing, videos were played by human rights groups showing girls as young as 8 and 9 years old being rescued from sex trafficking rings in India and Cambodia. While this is practically unimaginable for decent people to fathom, those involved with the sex industry reason that the younger the girl, the less chance of her infecting the sex tourist with HIV/AIDS.

Sadly we know that many Americans go abroad to prey on young girls in other countries because laws protecting women are very weak, non-existent, or not enforced. I was recently presented a videotape containing undercover footage taken by FOX News near an American military installation in South Korea that shows American military personnel on assignment patrolling establishments where their fellow soldiers were soliciting sex from forced prostitutes.

As Chairman of the House Veteran's Affairs Committee, I have the greatest respect for the men and women who serve in the United States military and it greatly saddens me to report on this case in South Korea before this chamber. A number of my colleagues have joined me in signing a letter to Secretary Rumsfeld asking him to conduct a full investigation into this case.

We must expect the absolute best from the men and women who serve our country while living in foreign countries, both when they are on and off duty. We must also expect any American traveling or living abroad to abide by the standards of decency and respect for women we maintain and set by our laws here in the U.S.—standards we attempt to promote throughout the world through our foreign policy and diplomacy.

As members of Congress, we must continue to fight against the exploitation of women and children through sex trafficking until every person imprisoned in the sex industry is set free. Again, I commend Chairman SENSENBRENNER for his leadership on this issue.

Mrs. MALONEY of New York. Mr. Speaker, I rise in strong support of this legislation.

The exploitation of the world's young women and children in sex trafficking is a tragic human rights offense. Many of these victims are kidnapped, sold, or tricked into brothel captivity.

Trafficking isn't just a problem in other countries. Each year, men, women, and children from all over the world are brought into the United States for the sole purpose of being bought and sold by American citizens for commercial sex. Some estimates place the number as high as 750,000 individuals over the past decade. Instead of dreams of better jobs and better lives, they are trapped into a nightmare of coercion, violence, and disease.

It is important that we protect the victims of the sex trade industry, and punish the predators that exploit them. Made up of recruiters, traffickers, brothel owners, customers and other crime syndicates, the industry profits from the victimization of individuals who cannot defend themselves.

I have worked on the trafficking issue for many years. To stop the actions of sex tour operators like Big Apple Oriental Tours, which is based in New York City, I wrote to the District Attorney and to then-U.S. Attorney General Janet Reno asking them to use State and Federal laws to stop U.S.-based tour groups that feed off the sexual exploitation of impoverished women and young girls in developing countries. New York law prohibits promoting prostitution or profiting from prostitution, yet Big Apple Tours was doing just that.

This legislation would set civil and criminal penalties for certain individuals who engage in sex trafficking. Furthermore, it sets similar penalties for those individuals who arrange these meetings.

We must do more to stop the many human rights abuses inflicted on men, women, and children around the world. Preventing trafficking is an important step to ending the sex trade industry. Although we continue to make important advances in the rights of women throughout the world, as long as there are women whose freedoms, livelihoods, bodies, and souls are held captive because of trafficking, our work will never be done.

I thank the gentleman from Wisconsin for his work on this issue and urge a "yes" vote on this bill.

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

Mr. SENSENBRENNER. 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. 4477, 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.

#### NEW HAMPSHIRE-VERMONT INTERSTATE SCHOOL COMPACT CONSENT ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3180) to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact.

The Clerk read as follows:

H.R. 3180

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is given to the amendment to the New Hampshire-Vermont Interstate School Compact which have been agreed to by such*

States that is substantially as follows: Article VII D of such compact is amended to read as follows:

"D. AUTHORIZATION PROCEEDINGS.—An interstate district shall authorize the incurring of debts to finance capital projects by a majority vote of the district passed at an annual or special district meeting. Such vote shall be taken by secret ballot after full opportunity for debate, and any such vote shall be subject to reconsideration and further action by the district at the same meeting or at an adjourned session thereof. As an alternative, an interstate district may provide in its articles of agreement that such a vote be conducted by Australian or official balloting under procedures as set forth in the articles of agreement, and that such vote be subject to any method of reconsideration, if any, which the interstate district sets forth in the articles of agreement.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from North Carolina (Mr. WATT) 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. 3180.

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. 3180 was introduced by the gentleman from New Hampshire (Mr. BASS) and the gentleman from Vermont (Mr. SANDERS) to amend the New Hampshire-Vermont Interstate School Compact originally approved by Congress in 1969. H.R. 3180 would enable participating interstate school districts to modify the manner in which local school bond issues are considered by the voters. Last year, residents of the Dresden interstate school district, which encompasses the cities of Hanover, New Hampshire, and Norwich, Vermont, voted to approve these changes. The legislatures of New Hampshire and Vermont subsequently ratified these amendments.

Rather than imposing a State or Federal solution upon local school boards, H.R. 3180 maintains the primacy of local school authorities by permitting locally-elected officials to avail themselves of the modified balloting procedures contained in the bill only if they elect to do so.

Mr. Speaker, I urge support of this non-controversial but necessary measure.

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

Mr. WATT of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3180, to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact.

H.R. 3180 was introduced by the gentleman from New Hampshire (Mr. BASS) and the gentleman from Vermont (Mr. SANDERS) to provide participating interstate school districts with the option of choosing all day so-called Australian balloting to occur to support school construction.

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The proposed amendments make these decisions a matter of local prerogative and do not dictate a statewide or Federal approach to resolving these questions.

The New Hampshire-Vermont Compact was originally approved by Congress in 1969 to increase educational opportunities and promote administrative efficiency. Under the original compact, State and local financial support was channeled into two combined districts to reflect State and local contributions; but because Vermont gave more monetary support than New Hampshire, uneven funding allocations emerged. In 1978, Congress consented to a number of clarifying amendments to the original compact to ensure that participating school districts would receive support commensurate with their contributions.

The substance of H.R. 3180 was initiated by residents of the Dresden School District, seeking to amend the compact to allow all-day voting procedures when voting on whether to incur debt. Presently voting on whether to incur debt is conducted under a town hall meeting format, which permits voting only at the conclusion of the meeting. The residents contend that the Australian all-day voting is superior over the town hall meeting format in at least two respects. First, the all-day format is consistent with the way the district conducts its annual district meetings; and, second, and probably more important, the all-day method would allow more voters to weigh in on critical bond issues.

Mr. Speaker, this bill was reported favorably without amendment from the Committee on the Judiciary, and I urge Members to support this noncontroversial legislation.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from New Hampshire (Mr. BASS), who is the author of the bill.

Mr. BASS. Mr. Speaker, I thank the distinguished chairman of the committee and the gentleman from North Carolina (Mr. WATT) for their having brought this bill to the floor in a timely fashion, and I appreciate their comments which are right on the mark.

This is the kind of issue that would be resolved probably in a matter of days in any school district anywhere in the country. As has been mentioned, the problem is that this particular school district crosses State lines. So, as a result, there is a special procedure whereby they can change their bylaws,

and that is the procedure we are undertaking today.

Both the Vermont side of the school district and the New Hampshire side want to have this different so-called "Australian ballot system" in place, which allows the polls, so to speak, to be open during the entire period of the school district meeting or a whole day versus just having a period of voting at the end of the meeting when most people have left. Because it requires the approval of both legislatures of the States, which has occurred, and the approval of Congress, because it is an interstate compact, that is why we are here today.

Eighty-eight percent of the district voters supported this rule change. It is supported by the gentleman from Vermont (Mr. SANDERS), and I urge the House to vote affirmatively on this important measure, which needs to be sent to the Senate as soon as possible.

Mr. WATT of North Carolina. Mr. Speaker, I yield as much time as he may consume to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Speaker, I thank the gentleman from North Carolina (Mr. WATT) for yielding me the time. I apologize for being late. I will be very brief.

Mr. Speaker, I rise today in support of H.R. 3180, the New Hampshire-Vermont Interstate School Compact Consent. This bill will permit the residents of the Dresden School District, which includes Norwich, Vermont, and Hanover, New Hampshire, to implement a change in the procedure used to approve bond initiatives.

The Dresden School District, with the approval of the legislatures of Vermont and New Hampshire, wants to be able to implement all-day secret balloting when appropriate instead of the town meeting system, which is the only approved method currently. Given that the communities involved and the respective States have approved this initiative, we in the Congress should grant our approval.

I thank the chairman and ranking member for moving this bill, and I urge its adoption.

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

Mr. SENSENBRENNER. Mr. Speaker, since the gentleman from Vermont did not get into dairy policy and upset the cows of the chairman of the Judiciary Committee and the speaker pro tempore unduly with his remarks, I will yield back the balance of my time as well.

The SPEAKER pro tempore (Mr. GUTKNECHT). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3180.

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.

### SOCIAL SECURITY PROGRAM PROTECTION ACT OF 2002

Mr. SHAW. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4070) to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4070

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

#### SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Social Security Program Protection Act of 2002".

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

#### Sec. 1. Short title and table of contents.

##### TITLE I—PROTECTION OF BENEFICIARIES

###### Subtitle A—Representative Payees

- Sec. 101. Authority to reissue benefits misused by organizational representative payees.
- Sec. 102. Oversight of representative payees.
- Sec. 103. Disqualification from service as representative payee upon conviction of offenses resulting in imprisonment for more than 1 year and upon fugitive felon status.
- Sec. 104. Fee forfeiture in case of benefit misuse by representative payees.
- Sec. 105. Liability of representative payees for misused benefits.
- Sec. 106. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.

###### Subtitle B—Enforcement

- Sec. 111. Civil monetary penalty authority with respect to wrongful conversions by representative payees.

##### TITLE II—PROGRAM PROTECTIONS

- Sec. 201. Civil monetary penalty authority with respect to knowing withholding of material facts.
- Sec. 202. Denial of title II benefits to fugitive felons and persons fleeing prosecution.
- Sec. 203. Requirements relating to offers to provide for a fee a product or service available without charge from the Social Security Administration.
- Sec. 204. Refusal to recognize certain individuals as claimant representatives.
- Sec. 205. Penalty for corrupt or forcible interference with administration of Social Security Act.
- Sec. 206. Use of symbols, emblems, or names in reference to social security or medicare.

##### TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

- Sec. 301. Cap on attorney assessments.
- Sec. 302. Extension of attorney fee payment system to title XVI claims.

##### TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

###### Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

- Sec. 401. Application of demonstration authority sunset date to new projects.
- Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.
- Sec. 403. Funding of demonstration projects provided for reductions in disability insurance benefits based on earnings.
- Sec. 404. Availability of Federal and State work incentive services to additional individuals.
- Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.

###### Subtitle B—Miscellaneous Amendments

- Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.
- Sec. 412. Nonpayment of benefits upon removal from the United States.
- Sec. 413. Reinstatement of certain reporting requirements.
- Sec. 414. Clarification of definitions regarding certain survivor benefits.
- Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.
- Sec. 416. Coverage under divided retirement system for public employees in Kentucky.
- Sec. 417. Compensation for the Social Security Advisory Board.

###### Subtitle C—Technical Amendments

- Sec. 431. Technical correction relating to responsible agency head.
- Sec. 432. Technical correction relating to retirement benefits of ministers.
- Sec. 433. Technical corrections relating to domestic employment.
- Sec. 434. Technical corrections of outdated references.
- Sec. 435. Technical correction respecting self-employment income in community property States.

##### TITLE I—PROTECTION OF BENEFICIARIES

###### Subtitle A—Representative Payees

#### SEC. 101. AUTHORITY TO REISSUE BENEFITS MIS- USED BY ORGANIZATIONAL REP- RESENTATIVE PAYEES.

##### (a) TITLE II AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 205(j)(5) of the Social Security Act (42 U.S.C. 405(j)(5)) is amended by inserting after the first sentence the following new sentences: "In any case in which a representative payee—

"(A) that is not an individual (regardless of whether it is a 'qualified organization' within the meaning of paragraph (4)(B)); or

"(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VIII, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Com-

missioner of Social Security shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of this paragraph (7)(B)."

(2) MISUSE OF BENEFITS DEFINED.—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by adding at the end the following new paragraph:

"(8) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this paragraph."

##### (b) TITLE VIII AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 807(i) of the Social Security Act (42 U.S.C. 1007(i)) is amended by inserting after the first sentence the following new sentences: "In any case in which a representative payee—

"(1) that is not an individual; or

"(2) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of subsection (1)(2)."

(2) MISUSE OF BENEFITS DEFINED.—Section 807 of such Act (42 U.S.C. 1007) is amended by adding at the end the following new subsection:

"(j) MISUSE OF BENEFITS.—For purposes of this title, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this subsection."

(3) TECHNICAL AMENDMENT.—Section 807(a) of such Act (42 U.S.C. 1007(a)) is amended, in the first sentence, by striking "for his or her benefit" and inserting "for his or her use and benefit".

##### (c) TITLE XVI AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E)) is amended by inserting after the first sentence the following new sentences: "In any case in which a representative payee—

"(i) that is not an individual (regardless of whether it is a 'qualified organization' within the meaning of subparagraph (D)(ii)); or

"(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title VIII, or any combination of such titles;

misuses all or part of an individual's benefit paid to the representative payee, the Commissioner of Social Security shall make payment to the beneficiary or the beneficiary's alternative representative payee of an amount equal to the amount of the benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (H)(ii)."

(2) EXCLUSION OF REISSUED BENEFITS FROM RESOURCES.—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—



(A) in paragraph (12), by striking “and” at the end;

(B) in paragraph (13), by striking the period and inserting “; and”; and

(C) by inserting after paragraph (13) the following new paragraph:

“(14) for the 9-month period beginning after the month in which received, any amount received by such individual (or spouse) or any other person whose income is deemed to be included in such individual’s (or spouse’s) income for purposes of this title as restitution for benefits under this title, title II, or title VIII that a representative payee of such individual (or spouse) or such other person under section 205(j), 807, or 1631(a)(2) has misused.”.

(3) MISUSE OF BENEFITS DEFINED.—Section 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A)) is amended by adding at the end the following new clause:

“(iv) For purposes of this paragraph, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term ‘use and benefit’ for purposes of this clause.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any case of benefit misuse by a representative payee with respect to which the Commissioner makes the determination of misuse on or after January 1, 1995.

#### SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.

(a) CERTIFICATION OF BONDING AND LICENSING REQUIREMENTS FOR NONGOVERNMENTAL ORGANIZATIONAL REPRESENTATIVE PAYEES.—

(1) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended—

(A) in paragraph (2)(C)(v), by striking “a community-based nonprofit social service agency licensed or bonded by the State” in subclause (I) and inserting “a certified community-based nonprofit social service agency (as defined in paragraph (9))”; and

(B) in paragraph (3)(F), by striking “community-based nonprofit social service agencies” and inserting “certified community-based nonprofit social service agencies (as defined in paragraph (9))”; and

(C) in paragraph (4)(B), by striking “any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee” and inserting “any certified community-based nonprofit social service agency (as defined in paragraph (9))”; and

(D) by adding after paragraph (8) (as added by section 101(a)(2) of this Act) the following new paragraph:

“(9) For purposes of this subsection, the term ‘certified community-based nonprofit social service agency’ means a community based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in such State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on such agency which may have been performed since the previous certification.”.

(2) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended—

(A) in subparagraph (B)(vii), by striking “a community-based nonprofit social service agency licensed or bonded by the State” in subclause (I) and inserting “a certified community-based nonprofit social service agency (as defined in subparagraph (I))”; and

(B) in subparagraph (D)(ii)—

(i) by striking “or any community-based” and all that follows through “in accordance” in subclause (II) and inserting “or any certified community-based nonprofit social service agency (as defined in subparagraph (I)), if the agency, in accordance”; and

(ii) by redesignating items (aa) and (bb) as subclauses (I) and (II), respectively (and adjusting the margination accordingly); and

(iii) by striking “subclause (II)(bb)” and inserting “subclause (II)”; and

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

“(I) For purposes of this paragraph, the term ‘certified community-based nonprofit social service agency’ means a community based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(b) PERIODIC ONSITE REVIEW.—

(1) TITLE II AMENDMENT.—Section 205(j)(6) of such Act (42 U.S.C. 405(j)(6)) is amended to read as follows:

“(6)(A) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under this title (alone or in combination with benefits payable under title VIII or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 807, or section 1631(a)(2) in any case in which—

“(i) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

“(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (9) of this subsection or section 1631(a)(2)(I)); or

“(iii) the representative payee is an agency (other than an agency described in clause (ii)) that serves in that capacity with respect to 50 or more such individuals.

“(B) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to subparagraph (A) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

“(i) the number of such reviews;

“(ii) the results of such reviews;

“(iii) the number of cases in which the representative payee was changed and why;

“(iv) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

“(v) the number of cases discovered in which there was a misuse of funds;

“(vi) how any such cases of misuse of funds were dealt with by the Commissioner;

“(vii) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

“(viii) such other information as the Commissioner deems appropriate.”.

(2) TITLE VIII AMENDMENT.—Section 807 of such Act (as amended by section 101(b)(2) of this Act) is amended further by adding at the end the following new subsection:

“(k) PERIODIC ONSITE REVIEW.—(1) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner may provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this section, section 205(j), or section 1631(a)(2) in any case in which—

“(A) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals; or

“(B) the representative payee is an agency that serves in that capacity with respect to 50 or more such individuals.

“(2) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to paragraph (1) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

“(A) the number of such reviews;

“(B) the results of such reviews;

“(C) the number of cases in which the representative payee was changed and why;

“(D) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

“(E) the number of cases discovered in which there was a misuse of funds;

“(F) how any such cases of misuse of funds were dealt with by the Commissioner;

“(G) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

“(H) such other information as the Commissioner deems appropriate.”.

(3) TITLE XVI AMENDMENT.—Section 1631(a)(2)(G) of such Act (42 U.S.C. 1383(a)(2)(G)) is amended to read as follows:

“(G)(i) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits



payable under title II or title VIII) to another individual pursuant to the appointment of the person or agency as a representative payee under this paragraph, section 205(j), or section 807 in any case in which—

“(I) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

“(II) the representative payee is a certified community-based nonprofit social service agency (as defined in subparagraph (I) of this paragraph or section 205(j)(9)); or

“(III) the representative payee is an agency (other than an agency described in subclause (II)) that serves in that capacity with respect to 50 or more such individuals.

“(ii) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to clause (i) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in the reviews and any corrective action taken or planned to be taken to correct the problems, and shall include—

“(I) the number of the reviews;

“(II) the results of such reviews;

“(III) the number of cases in which the representative payee was changed and why;

“(IV) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

“(V) the number of cases discovered in which there was a misuse of funds;

“(VI) how any such cases of misuse of funds were dealt with by the Commissioner;

“(VII) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

“(VIII) such other information as the Commissioner deems appropriate.”.

#### **SEC. 103. DISQUALIFICATION FROM SERVICE AS REPRESENTATIVE PAYEE UPON CONVICTION OF OFFENSES RESULTING IN IMPRISONMENT FOR MORE THAN 1 YEAR AND UPON FUGITIVE FELON STATUS.**

(a) TITLE II AMENDMENTS.—Section 205(j)(2) of the Social Security Act (42 U.S.C. 405(j)(2)) is amended—

(1) in subparagraph (B)(i)—

(A) by striking “and” at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following new subclauses:

“(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year.

“(V) obtain information concerning whether such person is a fugitive felon as described in section 1611(e)(4), and”.

(2) in subparagraph (C)(i)(II), by striking “subparagraph (B)(i)(IV),” and inserting “subparagraph (B)(i)(VI)” and striking “section 1631(a)(2)(B)(ii)(IV)” and inserting “section 1631(a)(2)(B)(ii)(VI)”;

(3) in subparagraph (C)(i)—

(A) by striking “or” at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a comma; and

(C) by adding at the end the following new subclauses:

“(IV) such person has previously been convicted as described in subparagraph

(B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction, or

“(V) such person is in fugitive felon status as described in section 1611(e)(4).”.

(b) TITLE VIII AMENDMENTS.—Section 807 of such Act (42 U.S.C. 1007) is amended—

(1) in subsection (b)(2)—

(A) by striking “and” at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (F); and

(C) by inserting after subparagraph (C) the following new subparagraphs:

“(D) obtain information concerning whether such person has been convicted of any other offense under a law of the United States or of any State of the United States which resulted in imprisonment for more than 1 year;

“(E) obtain information concerning whether such person is a fugitive felon as described in section 804(a)(2); and”;

(2) in subsection (d)(1)—

(A) by striking “or” at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

“(D) such person has previously been convicted as described in subsection (b)(2)(D), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction; or

“(E) such person is in fugitive felon status as described in section 804(a)(2).”.

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended—

(1) in clause (ii)—

(A) by striking “and” at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following new subclauses:

“(IV) obtain information concerning whether the person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

“(V) obtain information concerning whether such person is a fugitive felon as described in section 1611(e)(4); and”;

(2) in clause (iii)(II)—

(A) by striking “clause (ii)(IV)” and inserting “clause (ii)(VI)”;

(B) by striking “section 205(j)(2)(B)(i)(IV)” and inserting “section 205(j)(2)(B)(i)(VI)”;

and

(3) in clause (iii)—

(A) by striking “or” at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a semicolon; and

(C) by adding at the end the following new subclauses:

“(IV) if the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the payment would be appropriate notwithstanding the conviction; or

“(V) such person is in fugitive felon status as described in section 1611(e)(4).”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(e) REPORT TO THE CONGRESS.—The Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration, shall prepare a report evaluating whether the existing procedures and reviews for the qualification (including

disqualification) of representative payees are sufficient to enable the Commissioner to protect benefits from being misused by representative payees. The Commissioner shall submit the report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than 270 days after the date of the enactment of this Act. The Commissioner shall include in such report any recommendations that the Commissioner considers appropriate.

#### **SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY REPRESENTATIVE PAYEES.**

(a) TITLE II AMENDMENTS.—Section 205(j)(4)(A)(i) of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is amended—

(1) in the first sentence, by striking “A” and inserting “Except as provided in the next sentence, a”;

(2) in the second sentence, by striking “The Secretary” and inserting the following: “A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual’s benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual’s benefit for purposes of paragraphs (5) and (6). The Commissioner”.

(b) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i)) is amended—

(1) in the first sentence, by striking “A” and inserting “Except as provided in the next sentence, a”;

(2) in the second sentence, by striking “The Commissioner” and inserting the following: “A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual’s benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual’s benefit for purposes of subparagraphs (E) and (F). The Commissioner”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any month involving benefit misuse by a representative payee in any case with respect to which the Commissioner makes the determination of misuse after December 31, 2002.

#### **SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR MISUSED BENEFITS.**

(a) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) (as amended by sections 101 and 102 of this Act) is amended further—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively;

(2) in paragraphs (2)(C)(v), (3)(F), and (4)(B), by striking “paragraph (9)” and inserting “paragraph (10)”;

(3) in paragraph (6)(A)(ii), by striking “paragraph (9)” and inserting “paragraph (10)”;

(4) by inserting after paragraph (6) the following new paragraph:

“(7)(A) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual’s benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of

benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or such individual's alternative representative payee.

“(B) The total of the amount certified for payment to such individual or such individual's alternative representative payee under subparagraph (A) of this paragraph and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”

(b) **TITLE VIII AMENDMENT.**—Section 807 of such Act (as amended by section 102(b)(2)) is amended further by adding at the end the following new subsection:

“(1) **LIABILITY FOR MISUSED AMOUNTS.**—

“(1) **IN GENERAL.**—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual's alternative representative payee.

“(2) **LIMITATION.**—The total of the amount paid to such individual or such individual's alternative representative payee under paragraph (1) of this subsection and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”

(c) **TITLE XVI AMENDMENTS.**—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) (as amended by section 102 of this Act) is amended further—

(1) in subparagraph (G)(i)(II), by striking “section 205(j)(9)” and inserting “section 205(j)(10)”; and

(2) by striking subparagraph (H) and inserting the following:

“(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual's alternative representative payee.

“(ii) The total of the amount paid to such individual or such individual's alternative representative payee under clause (i) of this subparagraph and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to benefit

misuse by a representative payee in any case with respect to which the Commissioner makes the determination of misuse after December 31, 2002.

**SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.**

(a) **TITLE II AMENDMENTS.**—Section 205(j)(3) of the Social Security Act (42 U.S.C. 405(j)(3)) (as amended by sections 102(a)(1)(B) and 105(a)(2)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph:

“(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.”

(b) **TITLE VIII AMENDMENTS.**—Section 807(h) of such Act (42 U.S.C. 1007(h)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

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

“(3) **AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.**—In any case in which the person described in paragraph (1) or (2) receiving benefit payments on behalf of a qualified individual fails to submit a report required by the Commissioner of Social Security under paragraph (1) or (2), the Commissioner may, after furnishing notice to such person and the qualified individual, require that such person appear in person at a United States Government facility designated by the Social Security Administration as serving the area in which the qualified individual resides in order to receive such benefit payments.”

(c) **TITLE XVI AMENDMENT.**—Section 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is amended by adding at the end the following new clause:

“(v) In any case in which the person described in clause (i) or (iv) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing notice to the person and the individual entitled to the payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.”

(d) **EFFECTIVE DATE.**—The amendment made by this section shall take effect 180 days after the date of the enactment of this Act.

**Subtitle B—Enforcement**

**SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WRONGFUL CONVERSIONS BY REPRESENTATIVE PAYEES.**

(a) **IN GENERAL.**—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a-8) is amended by adding at the end the following new paragraph:

“(3) Any person (including an organization, agency, or other entity) who, having received, while acting in the capacity of a representative payee pursuant to section 205(j), 807, or 1631(a)(2), a payment under title II, VIII, or XVI for the use and benefit of another individual, converts such payment, or

any part thereof, to a use that such person knows or should know is other than for the use and benefit of such other individual shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than \$5,000 for each such conversion. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from the conversion, of not more than twice the amount of any payments so converted.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to violations committed after the date of the enactment of this Act.

**TITLE II—PROGRAM PROTECTIONS**

**SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO KNOWING WITHHOLDING OF MATERIAL FACTS.**

(a) **TREATMENT OF WITHHOLDING OF MATERIAL FACTS.**—

(1) **CIVIL PENALTIES.**—Section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a-8(a)(1)) is amended—

(A) by striking “who” in the first sentence and inserting “who—”;

(B) by striking “makes” in the first sentence and all that follows through “shall be subject to” and inserting the following:

“(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading,

“(B) makes such a statement or representation for such use with knowing disregard for the truth,

“(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading, or

“(D) conceals or fails to disclose the occurrence of any event that the person knows, or should know, is material to the determination of any initial or continuing right to the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, shall be subject to”;

(C) by inserting “or each receipt of such benefits or payments while withholding disclosure of such fact” after “each such statement or representation” in the first sentence;

(D) by inserting “or because of such withholding of disclosure of a material fact” after “because of such statement or representation” in the second sentence; and

(E) by inserting “or such a withholding of disclosure” after “such a statement or representation” in the second sentence.

(2) **ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.**—Section 1129A(a) of such Act (42 U.S.C. 1320a-8a(a)) is amended—

(A) by striking “who” the first place it appears and inserting “who—”;

(B) by striking “makes” and all that follows through “shall be subject to,” and inserting the following:

“(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI that the

person knows or should know is false or misleading,

“(2) makes such a statement or representation for such use with knowing disregard for the truth,

“(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading, or

“(4) conceals or fails to disclose the occurrence of any event that the person knows, or should know, is material to the determination of any initial or continuing right to the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, shall be subject to.”

(b) **CLARIFICATION OF TREATMENT OF RECOVERED AMOUNTS.**—Section 1129(e)(2)(B) of such Act (42 U.S.C. 1320a-8(e)(2)(B)) is amended by striking “In the case of amounts recovered arising out of a determination relating to title VIII or XVI,” and inserting “In the case of any other amounts recovered under this section.”

(c) **CONFORMING AMENDMENTS.**—

(1) Section 1129(b)(3)(A) of such Act (42 U.S.C. 1320a-8(b)(3)(A)) is amended by striking “charging fraud or false statements”.

(2) Section 1129(c)(1) of such Act (42 U.S.C. 1320a-8(c)(1)) is amended by striking “and representations” and inserting “, representations, or actions”.

(3) Section 1129(e)(1)(A) of such Act (42 U.S.C. 1320a-8(e)(1)(A)) is amended by striking “statement or representation referred to in subsection (a) was made” and inserting “violation occurred”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to violations committed after the later of—

(1) 180 days after the date of the enactment of this Act, or

(2) the earlier of the date on which the Commissioner of Social Security implements the system for issuing the receipts required under subsection (e) of this section or the date on which the Commissioner implements the centralized computer file described in such subsection.

(e) **ISSUANCE BY COMMISSIONER OF RECEIPTS TO ACKNOWLEDGE SUBMISSION OF REPORTS OF CHANGES IN EARNING OR WORK STATUS.**—Effective 180 days after the date of the enactment of this Act, until such time as the Commissioner of Social Security implements a centralized computer file recording the date of the submission of information by a beneficiary (or representative) regarding a change in the beneficiary's earning or work status, the Commissioner shall issue a receipt to the beneficiary (or representative) each time he or she submits documentation, or otherwise reports to the Commissioner, on a change in such status.

**SEC. 202. DENIAL OF TITLE II BENEFITS TO FUGITIVE FELONS AND PERSONS FLEEING PROSECUTION.**

(a) **IN GENERAL.**—Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended—

(1) in the heading, by striking “Prisoners” and all that follows and inserting the following: “Prisoners, Certain Other Inmates of Publicly Funded Institutions, and Fugitives”;

(2) in paragraph (1)(A)(ii)(IV), by striking “or” at the end;

(3) in paragraph (1)(A)(iii), by striking the period at the end and inserting a comma;

(4) by inserting after paragraph (1)(A)(iii) the following:

“(iv) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State, or

“(v) is violating a condition of probation or parole imposed under Federal or State law. In the case of an individual from whom such monthly benefits have been withheld pursuant to clause (iv), the Commissioner may, for good cause shown, pay such withheld benefits to the individual.”; and

(5) in paragraph (3), by adding at the end the following new subparagraph:

“(C) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this title, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the beneficiary, and notifies the Commissioner that—

“(i) the beneficiary—

“(I) is described in clause (iv) or (v) of paragraph (1)(A); and

“(II) has information that is necessary for the officer to conduct the officer's official duties; and

“(ii) the location or apprehension of the beneficiary is within the officer's official duties.”

(b) **REGULATIONS.**—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall promulgate regulations governing payment by the Commissioner, for good cause shown, of withheld benefits, pursuant to the last sentence of section 202(x)(1)(A) of the Social Security Act (as amended by subsection (a)).

**SEC. 203. REQUIREMENTS RELATING TO OFFERS TO PROVIDE FOR A FEE A PRODUCT OR SERVICE AVAILABLE WITHOUT CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION.**

(a) **IN GENERAL.**—Section 1140 of the Social Security Act (42 U.S.C. 1320b-10) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

“(4)(A) No person shall offer, for a fee, to assist an individual to obtain a product or service that the person knows or should know is provided free of charge by the Social Security Administration unless, at the time the offer is made, the person provides to the individual to whom the offer is tendered a notice that—

“(i) explains that the product or service is available free of charge from the Social Security Administration, and

“(ii) complies with standards prescribed by the Commissioner of Social Security respecting content of such notice and its placement, visibility, and legibility.

“(B) Subparagraph (A) shall not apply to any offer—

“(i) to serve as a claimant representative in connection with a claim arising under title II, title VIII, or title XVI; or

“(ii) to prepare, or assist in the preparation of, an individual's plan for achieving self-support under title XVI.”; and

(2) in the heading, by striking “PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN

REFERENCE” and inserting “PROHIBITIONS RELATING TO REFERENCES”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates final regulations prescribing the standards applicable to the notice required to be provided in connection with such offer. The Commissioner shall promulgate such final regulations within one year after the date of the enactment of this Act.

**SEC. 204. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS AS CLAIMANT REPRESENTATIVES.**

Section 206(a)(1) of the Social Security Act (42 U.S.C. 406(a)(1)) is amended by inserting after the second sentence the following: “Notwithstanding the preceding sentences, the Commissioner (A) may refuse to recognize as a representative, and may disqualify a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualify, as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. A representative who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter, may be considered for reinstatement only under such rules as the Commissioner may prescribe.”

**SEC. 205. PENALTY FOR CORRUPT OR FORCIBLE INTERFERENCE WITH ADMINISTRATION OF SOCIAL SECURITY ACT.**

Part A of 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:

“ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF SOCIAL SECURITY ACT

“SEC. 1135. CORRUPT OR FORCIBLE INTERFERENCE.—Whoever corruptly or by force or threats of force (including any threatening letter or communication) attempts to intimidate or impede any officer, employee, or contractor of the social security administration (including any State employee of a disability determination service or any other individual designated by the commissioner of social security) acting in an official capacity to carry out a duty under this act, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this act, shall be fined not more than \$5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be fined not more than \$3,000, imprisoned not more than 1 year, or both. In this subsection, the term ‘threats of force’ means threats of harm to the officer or employee of the United States or to a member of the family of such an officer or employee.”

**SEC. 206. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE.**

(a) **IN GENERAL.**—Section 1140(a)(1) of the Social Security Act (42 U.S.C. 1320b-10(a)(1)) is amended—

(1) in subparagraph (A), by inserting “Centers for Medicare & Medicaid Services,”

after “ ‘Health Care Financing Administration’, ” by striking “ ‘or ‘Medicaid’, ” and inserting “ ‘ ‘Medicaid’, ‘Death Benefits Update’, ‘Federal Benefit Information’, ‘Funeral Expenses’, or ‘Final Supplemental Plan’, ” and by inserting “ ‘CMS’, ” after “ ‘HCFA’, ”;

(2) in subparagraph (B), by inserting “Centers for Medicare & Medicaid Services,” after “Health Care Financing Administration,” each place it appears; and

(3) in the matter following subparagraph (B), by striking “the Health Care Financing Administration,” each place it appears and inserting “the Centers for Medicare & Medicaid Services.”

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to items sent after 180 days after the date of the enactment of this Act.

### **TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS**

#### **SEC. 301. CAP ON ATTORNEY ASSESSMENTS.**

(a) **IN GENERAL.**—Section 206(d)(2)(A) of the Social Security Act (42 U.S.C. 406(d)(2)(A)) is amended by inserting “, except that the maximum amount of the assessment may not exceed \$100” after “subparagraph (B)”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 206 of the Social Security Act on or after the first day of the first month that begins after 180 days after the date of the enactment of this Act.

#### **SEC. 302. EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM TO TITLE XVI CLAIMS.**

(a) **IN GENERAL.**—Section 1631(d)(2) of the Social Security Act (42 U.S.C. 1383(d)(2)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i)—

(A) by striking “section 206(a)” and inserting “section 206”; and

(B) by striking “(other than paragraph (4) thereof)” and inserting “(other than subsections (a)(4) and (d) thereof)”; and

(C) by striking “paragraph (2) thereof” and inserting “such section”;

(2) in subparagraph (A)(i), by striking “in subparagraphs (A)(ii)(I) and (C)(i),” and inserting “in subparagraphs (A)(ii)(I) and (D)(i) of subsection (a)(2)”, and by striking “and” at the end;

(3) by striking subparagraph (A)(ii) and inserting the following:

“(i) by substituting, in subsections (a)(2)(B) and (b)(1)(B)(i), the phrase ‘section 1631(a)(7)(A) or the requirements of due process of law’ for the phrase ‘subsection (g) or (h) of section 223’;

“(iii) by substituting, in subsection (a)(2)(C)(i), the phrase ‘under title II’ for the phrase ‘under title XVI’;

“(iv) by substituting, in subsection (b)(1)(A), the phrase ‘pay the amount of such fee’ for the phrase ‘certify the amount of such fee for payment’ and by striking, in subsection (b)(1)(A), the phrase ‘or certified for payment’; and

“(v) by substituting, in subsection (b)(1)(B)(ii), the phrase ‘deemed to be such amounts as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a)’ for the phrase ‘determined before any applicable reduction under section 1127(a)’.”;

(4) by striking subparagraph (B) and inserting the following new subparagraphs:

“(B) Subject to subparagraph (C), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Commissioner of Social Security

shall pay out of such past-due benefits to such attorney an amount equal to the lesser of—

“(i) so much of the maximum fee as does not exceed 25 percent of such past-due benefits (as determined before any applicable reduction under section 1631(g) and reduced by the amount of any reduction in benefits under this title or title II pursuant to section 1127(a)), or

“(ii) the amount of past-due benefits available after any applicable reductions under sections 1631(g) and 1127(a).

“(C)(i) Whenever a fee for services is required to be paid to an attorney from a claimant’s past-due benefits pursuant to subparagraph (B), the Commissioner shall impose on the attorney an assessment calculated in accordance with clause (ii).

“(ii)(I) The amount of an assessment under clause (i) shall be equal to the product obtained by multiplying the amount of the representative’s fee that would be required to be paid by subparagraph (B) before the application of this subparagraph, by the percentage specified in subclause (II), except that the maximum amount of the assessment may not exceed \$100.

“(II) The percentage specified in this subclause is such percentage rate as the Commissioner determines is necessary in order to achieve full recovery of the costs of determining and approving fees to attorneys from the past-due benefits of claimants, but not in excess of 6.3 percent.

“(iii) The Commissioner may collect the assessment imposed on an attorney under clause (i) by offset from the amount of the fee otherwise required by subparagraph (B) to be paid to the attorney from a claimant’s past-due benefits.

“(iv) An attorney subject to an assessment under clause (i) may not, directly or indirectly, request or otherwise obtain reimbursement for such assessment from the claimant whose claim gave rise to the assessment.

“(v) Assessments on attorneys collected under this subparagraph shall be deposited in the Treasury in a separate fund created for this purpose.

“(vi) The assessments authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended, for administrative expenses in carrying out this title and related laws.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 1631(d)(2) of the Social Security Act on or after the first day of the first month that begins after 270 days after the date of the enactment of this Act.

(c) **REPORT TO THE CONGRESS.**—The Commissioner of Social Security, after consulting with representatives of affected beneficiaries and other interested persons, shall prepare a report evaluating the feasibility of extending to non-attorney representatives the fee withholding procedures that apply under titles II and XVI of the Social Security Act for the payment of attorney fees. The Commissioner shall submit the report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than 270 days after the date of the enactment of this Act, and the Commissioner shall include in such report any recommendations that the Commissioner considers appropriate.

### **TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS**

#### **Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999**

#### **SEC. 401. APPLICATION OF DEMONSTRATION AUTHORITY SUNSET DATE TO NEW PROJECTS.**

Section 234 of the Social Security Act (42 U.S.C. 434) is amended—

(1) in the first sentence of subsection (c), by striking “conducted under subsection (a)” and inserting “initiated under subsection (a) on or before December 17, 2004”; and

(2) in subsection (d)(2), by amending the first sentence to read as follows: “The authority to initiate projects under the preceding provisions of this section shall terminate on December 18, 2004.”.

#### **SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE IN CONNECTION WITH DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.**

Section 302(c) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended by striking “(42 U.S.C. 401 et seq.),” and inserting “(42 U.S.C. 401 et seq.) and the requirements of section 1148 of such Act (42 U.S.C. 1320b-19) as they relate to the program established under title II of such Act.”.

#### **SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PROVIDED FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.**

Section 302(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended to read as follows:

“(f) **EXPENDITURES.**—Administrative expenses for demonstration projects under this section shall be paid from funds available for the administration of title II or title XVIII of the Social Security Act, as appropriate. Benefits payable to or on behalf of individuals by reason of participation in projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, from funds available for benefits under such title II or title XVIII.”.

#### **SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK INCENTIVE SERVICES TO ADDITIONAL INDIVIDUALS.**

(a) **FEDERAL WORK INCENTIVES OUTREACH PROGRAM.**—

(1) **IN GENERAL.**—Section 1149(c)(2) of the Social Security Act (42 U.S.C. 1320b-20(c)(2)) is amended to read as follows:

“(2) **DISABLED BENEFICIARY.**—The term ‘disabled beneficiary’ means an individual—

“(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

“(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

“(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

“(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.”.

(2) **EFFECTIVE DATE.**—The amendment made by this subsection shall apply with respect to grants, cooperative agreements, or contracts entered into on or after the date of the enactment of this Act.

(b) **STATE GRANTS FOR WORK INCENTIVES ASSISTANCE.**—

(1) **DEFINITION OF DISABLED BENEFICIARY.**—Section 1150(g)(2) of such Act (42 U.S.C. 1320b-21(g)(2)) is amended to read as follows:

“(2) **DISABLED BENEFICIARY.**—The term ‘disabled beneficiary’ means an individual—

“(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

“(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

“(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

“(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.”.

(2) **ADVOCACY OR OTHER SERVICES NEEDED TO MAINTAIN GAINFUL EMPLOYMENT.**—Section 1150(b)(2) of such Act (42 U.S.C. 1320b-21(b)(2)) is amended by striking “secure or regain” and inserting “secure, maintain, or regain”.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply with respect to payments provided after the date of the enactment of this Act.

**SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREATMENT FOR CERTAIN PURPOSES OF INDIVIDUAL WORK PLANS UNDER THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.**

(a) **IN GENERAL.**—Section 1148(g)(1) of the Social Security Act (42 U.S.C. 1320b-19) is amended by adding at the end, after and below subparagraph (E), the following new sentence:

“An individual work plan established pursuant to this subsection shall be treated, for purposes of section 51(d)(6)(B)(i) of the Internal Revenue Code of 1986, as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect as if included in section 505 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170; 113 Stat. 1921).

#### Subtitle B—Miscellaneous Amendments

**SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN REMAND CASES FULLY FAVORABLE TO THE CLAIMANT.**

(a) **IN GENERAL.**—Section 205(g) of the Social Security Act (42 U.S.C. 405(g)) is amended in the sixth sentence by striking “and a transcript” and inserting “and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to final determinations issued (upon remand) on or after the date of the enactment of this Act.

**SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL FROM THE UNITED STATES.**

(a) **IN GENERAL.**—Paragraphs (1) and (2) of section 202(n) of the Social Security Act (42 U.S.C. 402(n)(1), (2)) are each amended by striking “or (1)(E)”.

(b) **EFFECTIVE DATE.**—The amendment made by this section to section 202(n)(1) of the Social Security Act shall apply to indi-

viduals with respect to whom the Commissioner of Social Security receives a removal notice from the Attorney General after the date of the enactment of this Act. The amendment made by this section to section 202(n)(2) of the Social Security Act shall apply with respect to removals occurring after the date of the enactment of this Act.

**SEC. 413. REINSTATEMENT OF CERTAIN REPORTING REQUIREMENTS.**

Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) does not apply to any report required to be submitted under any of the following provisions of law:

(1)(A) Section 201(c)(2) of the Social Security Act (42 U.S.C. 401(c)(2)).

(B) Section 1817(b)(2) of the Social Security Act (42 U.S.C. 1395i(b)(2)).

(C) Section 1841(b)(2) of the Social Security Act (42 U.S.C. 1395t(b)(2)).

(2)(A) Section 221(c)(3)(C) of the Social Security Act (42 U.S.C. 421(c)(3)(C)).

(B) Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)).

**SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING CERTAIN SURVIVOR BENEFITS.**

(a) **WIDOWS.**—Section 216(c) of the Social Security Act (42 U.S.C. 416(c)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting “except as provided in paragraph (2),” before “she was married”;

(4) by inserting “(1)” after “(c)”; and

(5) by adding at the end the following new paragraph:

“(2) The requirements of paragraph (1)(E) in connection with the surviving wife of an individual shall be treated as satisfied if—

“(A) the individual had been married prior to the individual’s marriage to the surviving wife,

“(B) the prior wife was institutionalized during the individual’s marriage to the prior wife due to mental incompetence or similar incapacity,

“(C) during the period of the prior wife’s institutionalization, the individual would have divorced the prior wife and married the surviving wife, but the individual did not do so because such divorce would have been unlawful, by reason of the prior wife’s institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

“(D) the prior wife continued to remain institutionalized up to the time of her death, and

“(E) the individual married the surviving wife within 60 days after prior wife’s death.”.

(b) **WIDOWERS.**—Section 216(g) of such Act (42 U.S.C. 416(g)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting “except as provided in paragraph (2),” before “he was married”;

(4) by inserting “(1)” after “(g)”; and

(5) by adding at the end the following new paragraph:

“(2) The requirements of paragraph (1)(E) in connection with the surviving husband of an individual shall be treated as satisfied if—

“(A) the individual had been married prior to the individual’s marriage to the surviving husband,

“(B) the prior husband was institutionalized during the individual’s marriage to the

prior husband due to mental incompetence or similar incapacity,

“(C) during the period of the prior husband’s institutionalization, the individual would have divorced the prior husband and married the surviving husband, but the individual did not do so because such divorce would have been unlawful, by reason of the prior husband’s institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

“(D) the prior husband continued to remain institutionalized up to the time of his death, and

“(E) the individual married the surviving husband within 60 days after prior husband’s death.”.

(c) **CONFORMING AMENDMENT.**—Section 216(k) of such Act (42 U.S.C. 416(k)) is amended by striking “clause (5) of subsection (c) or clause (5) of subsection (g)” and inserting “clause (E) of subsection (c)(1) or clause (E) of subsection (g)(1)”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall be effective with respect to applications for benefits under title II of the Social Security Act filed during months ending after the date of the enactment of this Act.

**SEC. 415. CLARIFICATION RESPECTING THE FICA AND SECA TAX EXEMPTIONS FOR AN INDIVIDUAL WHOSE EARNINGS ARE SUBJECT TO THE LAWS OF A TOTALIZATION AGREEMENT PARTNER.**

Sections 1401(c), 3101(c), and 3111(c) of the Internal Revenue Code of 1986 are each amended by striking “to taxes or contributions for similar purposes under” and inserting “exclusively to the laws applicable to”.

**SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES IN KENTUCKY.**

Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by inserting “Kentucky,” after “Illinois.”.

**SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVISORY BOARD.**

(a) **IN GENERAL.**—Subsection (f) of section 703 of the Social Security Act (42 U.S.C. 903(f)) is amended to read as follows:

“Compensation, Expenses, and Per Diem

“(f) A member of the Board shall, for each day (including traveltime) during which the member is attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at the daily rate of basic pay for level IV of the Executive Schedule for each day during which the member is engaged in performing a function of the Board. While serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall be effective as of January 1, 2002.

#### Subtitle C—Technical Amendments

**SEC. 431. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.**

Section 1143 of the Social Security Act (42 U.S.C. 1320b-13) is amended—

(1) by striking “Secretary” the first place it appears and inserting “Commissioner of Social Security”; and

(2) by striking “Secretary” each subsequent place it appears and inserting “Commissioner”.

**SEC. 432. TECHNICAL CORRECTION RELATING TO RETIREMENT BENEFITS OF MINISTERS.**

(a) **IN GENERAL.**—Section 211(a)(7) of the Social Security Act (42 U.S.C. 411(a)(7)) is

amended by inserting “, but shall not include in any such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excluded under section 107 of the Internal Revenue Code of 1986) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e) of such Code) after the individual retires” before the semicolon.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning before, on, or after December 31, 1994.

#### SEC. 433. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 3121(a)(7)(B) of the Internal Revenue Code of 1986 is amended by striking “described in subsection (g)(5)” and inserting “on a farm operated for profit”.

(b) AMENDMENT TO SOCIAL SECURITY ACT.—Section 209(a)(6)(B) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended by striking “described in section 210(f)(5)” and inserting “on a farm operated for profit”.

(c) CONFORMING AMENDMENT.—Section 3121(g)(5) of such Code and section 210(f)(5) of such Act (42 U.S.C. 410(f)(5)) are amended by striking “or is domestic service in a private home of the employer”.

#### SEC. 434. TECHNICAL CORRECTIONS OF OUTDATED REFERENCES.

(a) CORRECTION OF TERMINOLOGY AND CITATIONS RESPECTING REMOVAL FROM THE UNITED STATES.—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by section 412) is amended further—

(1) by striking “deportation” each place it appears and inserting “removal”;

(2) by striking “deported” each place it appears and inserting “removed”;

(3) in paragraph (1) (in the matter preceding subparagraph (A)), by striking “under section 241(a) (other than under paragraph (1)(C) thereof)” and inserting “under section 237(a) (other than paragraph (1)(C) thereof) or 212(a)(6)(A)”;

(4) in paragraph (2), by striking “under any of the paragraphs of section 241(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) thereof)” and inserting “under any of the paragraphs of section 237(a) of the Immigration and Nationality Act (other than paragraph (1)(C) thereof) or under section 212(a)(6)(A) of such Act”;

(5) in paragraph (3)—

(A) by striking “paragraph (19) of section 241(a)” and inserting “subparagraph (D) of section 237(a)(4)”;

(B) by striking “paragraph (19)” and inserting “subparagraph (D)”;

(6) in the heading, by striking “Deportation” and inserting “Removal”.

(b) CORRECTION OF CITATION RESPECTING THE TAX DEDUCTION RELATING TO HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—Section 211(a)(15) of such Act (42 U.S.C. 411(a)(15)) is amended by striking “section 162(m)” and inserting “section 162(l)”.

(c) ELIMINATION OF REFERENCE TO OBSOLETE 20-DAY AGRICULTURAL WORK TEST.—Section 3102(a) of the Internal Revenue Code of 1986 is amended by striking “and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis”.

#### SEC. 435. TECHNICAL CORRECTION RESPECTING SELF-EMPLOYMENT INCOME IN COMMUNITY PROPERTY STATES.

(a) SOCIAL SECURITY ACT AMENDMENT.—Section 211(a)(5)(A) of the Social Security Act (42 U.S.C. 411(a)(5)(A)) is amended by striking “all of the gross income” and all

that follows and inserting “the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions”;

(b) INTERNAL REVENUE CODE OF 1986 AMENDMENT.—Section 1402(a)(5)(A) of the Internal Revenue Code of 1986 is amended by striking “all of the gross income” and all that follows and inserting “the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions; and”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. SHAW) and the gentleman from California (Mr. MATSUI) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. SHAW).

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

Mr. Speaker, the House today will consider the Social Security Program Protection Act of 2002. It is legislation that would provide the Social Security Administration with the additional tools it needs to fight activities that drain program resources and undermine the financial security of beneficiaries.

Many Social Security and supplemental security income beneficiaries have individuals or organizations called representative payees appointed by the agency to help manage their financial affairs when they are not capable. Nearly 7 million beneficiaries entrust their finances to representative payees who help safeguard their income and make sure expenditures are made in their best interests. Most are conscientious and honest. However, some are not.

This bill raises the standard for representative payees and imposes stricter regulation and monetary penalties on those who take advantage of seniors. The bill also expands the existing prohibition against fugitive felons receiving benefits. In 1996, Congress denied supplemental security income benefits to persons fleeing prosecution or confinement. However, fugitive felons can still receive title II benefits. This is plain wrong, and H.R. 4070 denies benefits to those fleeing justice.

Furthermore, the protection act enhances the ability of the Inspector General to fight fraud through new civil monetary penalties. This will help prevent seniors from being taken advantage of by unscrupulous organizations and individuals who deceptively present themselves as part of the Social Security Administration.

While the bill cracks down on fraud and abuse, it also makes it easier for persons applying for disability benefits to obtain needed legal representation, and it improves the flexibility of the

Ticket to Work program to enable more individuals with disabilities to seek and find jobs and achieve self-sufficiency. Also, the bill would amend the Social Security Act to include Kentucky among the States that may divide their retirement systems into two parts and thereby providing Social Security coverage under State agreement only for those State and local workers who choose it.

Ensuring the integrity of Social Security programs is a key responsibility of the agency and of Congress. Taxpayers must be confident that their hard-earned payroll dollars are being spent accurately and wisely. Those who apply for and who receive Social Security benefits must receive timely services and correct and fair decisions. On that we can all agree, and that is why this bill has bipartisan support and was approved unanimously by the Social Security subcommittee.

This bill is the culmination of extensive joint efforts by both the majority and minority Members of the Committee on Ways and Means and the full cooperation and support of the Social Security Administration and the Office of Inspector General. The legislation also benefited from the feedback provisions by advocacy groups and law enforcement agencies. Last, but certainly not least, this bill results in a small amount of savings for both the Social Security trust funds and general revenues.

Today, we have an opportunity to continue our long tradition of achievements on the Social Security program which has been built on a foundation of common ground. Working together over the years, we have removed barriers for individuals with disabilities to return to work. We ended the earnings penalty for seniors who have reached full retirement age; and most recently, the House approved legislation last month to enhance benefits for women.

Working together we can vote today to protect some of the most vulnerable beneficiaries and the integrity of the Social Security program. My hope is that we can continue to build on these important first steps and begin a constructive dialogue to strengthen Social Security for our children, our grandchildren, and for all future generations.

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

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

I rise in support of H.R. 4070, the Social Security Program Protection Act of 2002. At this time, I would like to congratulate and thank my colleague, the gentleman from Florida (Mr. SHAW), the Chair of the Subcommittee on Social Security of the Committee on Ways and Means, for his cooperation and his work on this particular piece of legislation.

□ 1500

Basically, there are three components of this legislation, Mr. Speaker. We have the representative payee issue



that the gentleman from Florida (Mr. SHAW) spoke about, the attorney's fees section as it pertains to supplemental security income, and there are a number of program protections that were added to the Social Security Administration's laws.

In terms of the representative payee, Mr. Speaker, as many people may not know, if a Social Security recipient has a mental disability, is young or perhaps is of extreme old age, oftentimes that individual needs somebody to care for his or her Social Security check, whether it is a disability check or whether it is a regular Social Security check. So we have under the law what is known as representative payees. This has been in existence for quite some time.

As our hearings and anecdotal information that many of us have received in our congressional districts can attest to, we have had problems with this program over the years because, oftentimes, if the representative payee is not somebody of good character, that person may take the Social Security check, abscond with it, and actually do damage to the normal recipient of the Social Security check.

I had that problem some 12 years ago when a woman, Dorothea Puente, had been a caretaker of a home in which about 15 people were living in and she was the representative payee for all these people. She did not need a bond or a license at that time. She actually murdered a number of these people and took their checks. Finally, when one of the relatives found out about the fact that one of the tenants of the rooming house was missing, that is when it was uncovered that many people had been murdered as a result of her activities and she was receiving these checks.

Basically, what this legislation would do is to tighten up the circumstances in which one could be qualified as a representative payee. If one is an organizational payee, it requires the organization to be both licensed and bonded. Right now, it only requires one or the other. And it would also require inspections of certain representative payees in terms of visiting with them, talking with them, and making sure that in fact they are carrying out their fiduciary responsibilities.

Also, if anyone has been convicted of an offense resulting in prison for more than a year, they would be disqualified, or, obviously, a fugitive or felon would be as well. And it would impose a monetary or civil penalty on a payee who misuses benefits, and there was some obvious ambiguity in the law before this time.

One of the most important provisions is that the beneficiary of the Social Security checks oftentimes lose their savings when the representative payee in fact has taken the money. This would, under a certain showing, would require the representative payee to pay the money back but also would allow the recipient of the benefits to be made

whole under a showing of certain circumstances.

Under the second section of the law, the attorney's fee section, Mr. Speaker, many supplemental security recipients need representation, because oftentimes they must seek their claims through the normal administrative review system. This would allow these claimants to have an attorney. Oftentimes, it is hard to get lawyers to represent them because of the way the fee schedule is arranged and also because the attorneys can never be guaranteed they will receive compensation for their work. This would change that by allowing the Social Security Administration to withhold fees for the attorneys and, at the same time, cut the processing fee, which is currently 6.3 percent of the overall attorney fees, to no more than \$100.

Lastly, the third element of this program, obviously, would deny benefits to fugitive felons, which is under current law, and persons fleeing prosecution. It would require companies that charge a fee for services under the Social Security Administration, if in fact the administration does not charge a fee, it requires the companies to state it; that, in fact, the Social Security Administration would provide the same services without any compensation or without fee.

There are a number of other provisions, like it bars attorneys who have been disbarred or otherwise disqualified from the practice of representing claimants under the Social Security Act. So this legislation would go a long way in helping recipients, it would undoubtedly help recipients obtain representation, and it would build in a number of protections for claimants in this Social Security Administration Act.

I would urge support of H.R. 4070; and I want to commend my colleague, the gentleman from Florida (Mr. SHAW), for the work that he has done on this particular legislation.

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

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky (Mr. LEWIS), a valued member of the subcommittee.

Mr. LEWIS of Kentucky. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise today to register my strong support for the Social Security Protection Act of 2002.

Last month, the House passed a bill that would result in higher Social Security for women. It passed 418 to 0. I expect to see the same strong bipartisan support for the legislation we are considering today.

H.R. 4070 is a common-sense bill that provides the Social Security Administration with the necessary resources to fight fraud and abuse within the system. Along with other provisions, this will help save over \$165 million over 5 years.

The bill also improves the landmark Ticket to Work bill to help people with

disabilities find work. In addition, H.R. 4070 adds Kentucky to the list of States that offer divided retirement systems.

In just over 6 months from now, the governments of the City of Louisville and Jefferson County will merge. Since the merger was approved by the people of Jefferson County in November, 2000, local elected officials have been working to go to ensure a smooth transition.

One important issue that still needs to be addressed is how to provide Social Security and Medicare coverage to hazardous duty employees working for the county and city.

On January 6, 2003, all officers will be considered as a single group for Social Security coverage purposes. Currently, some police officers and firefighters contribute to Medicare but not Social Security, some contribute to both, others neither. Ensuring fair and equitable coverage presents a serious challenge to the new government.

After working with all interested parties, it was agreed a divided retirement system is the solution. Currently, 21 States use this system.

Under a divided retirement system, each employee will decide whether to pay into Social Security. All new employees hired after the system is in place would automatically be enrolled in Social Security.

The Kentucky Division of Social Security has already started the education process with representatives from SSA and the Louisville Fraternal Order of Police. And the Kentucky General Assembly has adopted a bill that allows this system to go forward as soon as Congress approves this legislation and President Bush signs it into law.

This provision is important to the police officers and firefighters in my district. I appreciate the gentleman from Florida (Mr. SHAW) and the gentleman from California (Mr. MATSUI) agreeing to include it in H.R. 4070.

In closing, I urge my colleagues to support this bill.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

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

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

I thank and commend the authors of this very worthy legislation for bringing it to the floor, but, Mr. Speaker, I must lament the questions that we are not answering about Social Security, which I think are far more fundamental.

As we speak today, for every \$100 our government is spending, we are only bringing in about \$90 worth of revenue. The way we are making up the \$10 difference is to reach first into the Social Security Trust Fund to fund the operations of this government. That is the number one issue about Social Security, stopping that practice.

We need to bring together the leadership of the House and the Senate to sit around the kitchen table, as many American families did after the disaster of September 11 to figure out how to change their budget, we need to figure out how to change ours.

A second major Social Security question that is not being dealt with on this floor is the idea of privatizing all or part of the Social Security system. This is an idea that is worthy of debate. I think it has many flaws, many risks, and many pitfalls. There are those who in good faith disagree with my conclusions, but no one should disagree that, before this Congress adjourns for the year, ideas about the privatization of Social Security should be brought to this floor, debated, and voted upon, so the American people can see where the Members stand and what they believe about these very important questions.

So I commend the authors for this very worthy bill, but I must lament the fact we are not answering the fundamental fact about Social Security: How do we stop dipping into the fund to fund the operations of the United States Government? That is what we need to focus on.

Mr. SHAW. Mr. Speaker, I yield 2 minutes the gentleman from California (Mr. HERGER), a distinguished member of the Committee on Ways and Means.

Mr. HERGER. Mr. Speaker, I rise in strong support of H.R. 4070, the Social Security Program Protection Act. This legislation contains important provisions to better protect retired and disabled Americans. In particular, I want to congratulate the chairman, the gentleman from Florida (Mr. SHAW), for the changes in his bill designed to keep convicted fugitive felons from getting Social Security checks. These efforts build on legislation I authored in 1996 that blocks fugitives from getting supplemental security income, or SSI, checks.

According to the Social Security Inspector General, since the 1996 changes, over 65,000 fugitives have been identified and almost 7,000 have been arrested. As a result, American taxpayers have saved an estimated \$200 million. The legislation before us today takes the next step by also barring fugitives from getting Social Security checks.

Some Americans receive both Social Security and SSI checks. Yet, under current law, the government stops SSI checks for fugitives while continuing to send Social Security checks, even to known fugitives. This legislation closes that fugitive loophole. Our law should help bring fugitives to justice, not subsidize their flights from justice. This bill does just that.

Over the years, the Committee on Ways and Means on which I serve has taken a number of steps to better protect Social Security recipients and other taxpayers. We ended SSI checks for prisoners and fugitives, and we stopped subsidizing addicts with disability checks. The changes in this leg-

islation follow that same spirit, and I urge my colleagues to support this bill.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from the State of North Dakota (Mr. POMEROY), a member of the Subcommittee on Social Security of the Committee on Ways and Means.

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

This is a fine little bill, contains some protections for people who, because of age and disability, need assistance in managing their financial affairs for a family member, friend, or community organization. I will vote for this bill, and I urge my colleagues to vote for this bill.

But in a broader sense, it is a little like the community fire department of Durango, Colorado, holding an open house today. They are not holding an open house today because they have a fire to fight. Bigger things to do.

Quite frankly, when it comes to the Social Security program, I think there are more pressing matters than this legislation, which admittedly is good. We have to do it. I am glad we are doing it. But to have this take the place of the broader debate is absolutely confounding.

Two principal questions hang over the Social Security program: the first involves its finances. We have gone from retiring debt held by the public, strengthening the financial condition of this country with those Social Security surplus dollars, to now running once again budget deficits. This means a raid on Social Security dollars, taking cash coming in for Social Security and spending it on other programs of government. That is wrong, and it makes our long-term funding problem for Social Security even harder.

Second major issue: privatization. We know the President wants to privatize Social Security. He has said so. He has had a commission that came out with recommendations to privatize Social Security. We know the majority has bills to privatize Social Security. We think we deserve to have debate on the floor of this House about that significant concept.

Count me against it. I believe the existing Social Security program provides vitally important guaranteed revenue to people in their retirement years, to people living on disability, or to individuals who have lost the primary breadwinner in their home. This is a program that has worked for six decades, perhaps better than any other Federal program. To have these plans afoot to so dramatically change the system but held quietly under the rug until the next election is just wrong. Let us get it out, let us debate it, and, in the end, let us strengthen Social Security.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BRADY), a distinguished member of the Subcommittee on Social Security of the Committee on Ways and Means.

Mr. BRADY of Texas. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise today in support of the Social Security Protection Act.

I want to thank Chairman Shaw for his work on this and other issues related to Social Security.

What we are debating today is a bill that will cut down on the waste, fraud, and abuse that surrounds the Social Security system today. This bill is needed to protect the 7 million people in this country who receive Social Security benefits but cannot manage them on their own. People like young, innocent children, people with Alzheimer's, and those with severe mental illness are just a few of the real-life examples we are trying to help.

We expect this bill to pass by a very broad bipartisan margin. That is how Social Security issues ought to pass, with Republicans and Democrats working together to reform this vital retirement system.

□ 1515

It surprises me that we are seeing such a lively debate on this bipartisan measure.

Mr. Speaker, we know if we do not reform Social Security in a bipartisan manner, it will go broke in 2017. Now is the time to get the ball rolling on reform by working together. Republicans have come up with a responsive plan that does not privatize Social Security as Members on the other side of the aisle would scare us with.

The question here is: Is there anyone in Washington who seriously believes we can preserve Social Security once and for all without putting some portion of our payroll taxes to work for us? Common sense tells us we must transition to a traditional retirement plan where money grows over time into a bigger nest egg. The only question is how we do it and how soon. Some would say that is privatizing; most would say that is common sense.

Mr. Speaker, I sincerely hope the rhetoric being heard on the floor is not an indicator for the debate that is to come on this issue. It is time for Republicans and Democrats to sit down and have a reasonable, rational discussion about saving Social Security once and for all.

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

Mr. Speaker, I would just comment to the gentleman from Texas (Mr. BRADY) that perhaps the majority should just bring a bill on the floor on privatization, let us debate it, and vote on it. That way we can discuss it if the gentleman is in favor of it.

Mr. Speaker, I yield 2 minutes to the gentleman from Maine (Mr. ALLEN).

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

Mr. Speaker, I rise in strong support of H.R. 4070, the Social Security Program Protection Act of 2002. I commend the gentleman from Florida (Mr. SHAW) and the gentleman from California (Mr. MATSUI) for their work on this bill.

I want to speak regarding section 415, which will directly benefit one of my constituents, Mrs. Nancy Wilson of Bremen, Maine. In both the 105th and 106th Congresses, private legislation passed this House that I sponsored that would have helped Nancy Wilson, but it was not acted upon by the other body. In the 107th Congress, the Committee on Ways and Means raised objections to the private legislation. However, the committee has graciously worked with me to include in H.R. 4070 language from my bill, H.R. 319, that will help Mrs. Wilson.

She has been denied Social Security benefits for more than 10 years due to a quirk in the law. H.R. 4070 will fix that problem and give her relief. In 1950, Nancy and Al Wilson began living together in Massachusetts. Al Wilson's previous wife, Edna, had been committed to a mental institution and was never going to come out. Massachusetts law at that time prevented divorce on the grounds of insanity so Al could not divorce Edna. The law has since been changed. Al and Nancy lived together for 19 years, raised children together, but were not allowed to marry until Edna's death in 1969. Then they got married, but Al died of cancer 7 months later.

When Nancy tried to claim widow's benefits, she was denied because her marriage to Al had lasted only 7 months, not 9 months. She exhausted her options under the administrative appeals process and then came to her congressional delegation.

Well, Nancy Wilson is a tenacious battler. She will not give up. She will not let her elected representatives give up; and I hope and believe that with passage of this bill, she will finally get the relief to which she is entitled.

Mr. Speaker, I urge support for this legislation.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume. I congratulate the gentleman from Maine (Mr. ALLEN) for his tenacious and unyielding involvement in that particular tragedy. I am delighted that we will at last be able to deliver relief.

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

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island (Mr. LANGEVIN).

Mr. LANGEVIN. Mr. Speaker, today I rise in support of H.R. 4070, the Social Security Program Protection Act, which will provide new safeguards for the nearly 7 million Social Security and SSI beneficiaries who use a representative payee to receive their benefits.

Social Security is among the most important and successful Federal programs ever created. In my home district alone, 110,000 people rely on this critical safety net for their livelihood.

When I was elected to Congress, I promised these Rhode Islanders that I would protect Social Security. While I am pleased by the consideration of H.R. 4070, I would be remiss if I did not

voice any adamant opposition to the Republican leadership's privatization proposals which would jeopardize the benefits to which our Nation's seniors are entitled by subjecting them to the whims of the financial markets.

I urge Members to support this important legislation and to reject privatization proposals which fail to guarantee the continuation of benefits to the most vulnerable among us.

Mr. MATSUI. Mr. Speaker, I yield 3 minutes to the gentlewoman from North Carolina (Mrs. CLAYTON), who is retiring at the end of this Congress.

(Mrs. CLAYTON asked and was given permission to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman for yielding me this time. I thank the gentleman from Florida (Mr. SHAW), as well as all Members, for this bill. I support this bill as a Democrat; but I oppose the undemocratic process, spelled with a small "d." I support it because it is much needed; however, I oppose the process by which this bill comes to the floor. It did not allow many of the minority issues to come to the floor.

I support the bill because it really is an important bill. It added a lot of administrative provisions that are needed. It provides opportunity to assist loved ones manage their finances. It is an important bill that we all support.

But making these important, but modest, improvements to administrative procedures for the Social Security program is not what the American people expect. They really expect more of the Members of Congress and the President to provide, indeed, a reform of Social Security. We can and we should do much more.

In 2000, both Republican and Democratic candidates for the Presidency, as well as Members of the House and Senate, all said we were about strengthening Social Security; we would protect the Social Security trust fund; we would keep faith with our seniors and future generations. All of us without exception, both parties, were for protecting Social Security. A lot of talk was about the lockbox. There was a lot of legislation about the lockbox. We have voted on the lockbox. This indeed has now become a shell game instead of protecting it.

Why? That is a good question with a sad answer. Well, we should be protecting Social Security. If we can afford to have a tax bill that favors the wealthy, although we are adding new responsibilities, we need to protect our security. We should do more. I understand these are stressful times. We need to provide for homeland security, but we can do more.

There are additional bills that need to be brought forward. The majority bill does not address these programs. The minority had a discharge procedure so we could have a full debate. Some are asking why are we not bringing up the privatization bill. That is so fundamental to the structure and the

survival of Social Security. Indeed, Social Security is one program that seniors are looking for us to protect. I urge support for this bill. It is worthy, but it is unworthy as to what we are not doing. I urge Congress to do more for the seniors of America.

Mr. Speaker, today I rise as a democrat—spelled with a small "d"—in support of House Resolution Forty Seventy (H.R. 4070), The Social Security Program Protection Act of 2002; but oppose the process by which this bill comes to the floor for debate—in a manner most un-democratic, further encroaching on the minority's rights.

I support this bill because it adds important protections for people who, due to advanced age, infirmity or disability, could use the assistance of a loved one or a community service organization to manage their finances. It also strengthens antifraud provisions . . . and this I support very much.

But making modest improvements to administrative procedures for the Social Security Program is NOT what the American people expect of the House, the Senate, or the President of the United States. We can and should do such.

In 2000, both the Republican and Democratic candidates for the presidency—as well as members of the House and Senate—campaigning on a promise to safeguard, secure and enhance the life of the Social Security Trust Fund, and to keep faith with our seniors and future generations. There was a lot of talk of a lock-box, and we have voted several times on this lock-box, which has instead become a shell-game sham.

Why? That's a good question with a sad answer.

Having passed a tax bill weighted in favor of the wealthiest individuals and well-heeled corporations, the majority have taken us "back to the future"—of deficit spending and an increase in the debt ceiling—another issue they don't want to debate.

I am not up for re-election in November . . . but I think the American people have a right to ask why—with two years having gone by—the majority has failed to reform Social Security and to protect the Social Security Trust Fund. They have a right to wonder why the future of Social Security is not being debated on this floor at this very moment.

Instead, the majority has only addressed program administrative issues through bills like the one before us, yet they refuse to deal with the most overarching administrative issue: the lack of adequate funding to provide the customer services that workers have already paid for through their FICA contributions.

Rather than having a real debate on important issues, the majority are closing down debate. They have refused to even bring up their privatization bills—bills which have been introduced by the leaders of their party. Democratic members recently filed a discharge petition to try to force debate on this issue and provide for some legislative remedies before the election.

The public has a right to know about the true effects of privatization—cuts in guaranteed benefits, massive raids on the Social Security Trust Funds, huge subsidies for those who have private accounts, and the threat that privatization poses to the ability of the system to keep paying benefits to today's retirees.

The future of Social Security and the retirement income of millions of Americans are too important not to debate and act on. I implore my friends on the other side of the aisle to do the right thing—let's debate this before the election, so the American people can make an informed choice.

Mr. MATSUI. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Florida (Mrs. THURMAN), a member of the Committee on Ways and Means.

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

Mr. Speaker, I commend the Committee on Ways and Means for bringing forward this legislation, H.R. 4070, today. I have heard the debate this afternoon about folks that have been injured because of the misuses. And people that have been taken advantage of by folks that in fact should not be taken advantage of, are those whom I believe are our most fragile and needed members of our society, and those are those who receive Social Security.

I would say on the other side of this, and I know this is a series of pieces of legislation that we have been dealing with in Social Security, and I noted that we have been talking about some legislation that was passed a couple of weeks ago to help women and others, and I believe that begs the question that there are issues within our Social Security system that we ought to be looking at.

Another area that I have great concern over is in the area of disability, how many folks and how long it takes for them to receive disability, and the idea that so many people will end up losing their homes and cars before we get any place.

I am very supportive of the discharge petition that this House has the opportunity to sign. It would give us a full and thorough debate on the issues of Social Security and particularly on the issues that have been brought forward by the commission and other Members of this House on ways that they think privatization would, in fact, be better. I think we should have that debate.

When I say that, I would also like to say that I think there are six areas that I feel very strongly about, and I would just like to list those six issues. I think it increases the financial risk for Social Security beneficiaries, requiring potentially severe cuts in benefits, the harm on women, harm on minorities, and undermining Social Security disability and survivor's benefits; and I believe it would eat away at the value of workers' accounts and significantly reduce the payments that they would receive from them.

Mr. Speaker, while I favor the anti-fraud provisions in H.R. 4070, I hope we have an opportunity to look at all of Social Security and the concerns that we have.

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. ETHERIDGE).

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

Mr. ETHERIDGE. Mr. Speaker, I rise in support of H.R. 4070, the Social Security Program Protection Act. It provides and contains important protections for those folks who need assistance managing their financial affairs. It also improves access to legal representation for disability claimants and strengthens protections against fraud.

Mr. Speaker, we should also be debating the Republican leadership's plan to privatize Social Security. Social Security represents a compact with our seniors that says if they work hard all their life, they will not spend their golden years in poverty. We have no right to break that. No one has a right. I am willing to roll up my sleeves and work with anyone who is willing to do it; but privatization will not save Social Security. In fact, it jeopardizes the retirement security of our seniors and working families. Privatization of Social Security will destroy the system's financial stability, and threaten the benefits of millions of seniors, disabled Americans, and their families.

□ 1530

I urge my colleagues to support this bill. I hope this is not the last Social Security debate we have on this floor this year.

I urge my colleagues to support H.R. 4070, and am hopeful that this will not be the last Social Security debate we have this year. I call on my colleagues to demand an open debate on the Republican privatization plans, and urge them to join me in working to protect Social Security's promise to America by opposing privatization.

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

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

Very briefly, I would like to close with just a few observations. I would like to commend both sides of the aisle for I think a very good and factual debate, looking at the legislation and showing that there are areas pertaining to Social Security where we can come together.

I think a few things, though, need to be said in response to some of the arguments that I have heard from the other side of the aisle. I think the gentlewoman from North Carolina, and I think she has left the floor now, brings a certain level of common sense to this debate that I think should be listened to. I think she is going to be missed, and I am very sorry that she is retiring as a member of the minority party in this Chamber.

There have been some comments regarding raiding the Social Security trust fund. I think it is very important that Congress exercise self-control and not spend the Social Security surplus. But I think the American people have to know that the Social Security trust fund contains promises, not dollars. Those promises are in the form of Treasury bills. Those promises stay there, they are not taken from the So-

cial Security trust fund, and nobody can debate that issue.

But it is debatable, and I think it is something of great concern to both political parties here, that we do have a concern as to the expenditures which are going into the Social Security surplus. I think it is a goal of both political parties to stop spending that surplus as soon as we get through this war effort, as soon as we get totally out of this recession and as soon as we rebuild after the natural disaster that we had in New York. There is a question of debate on that. Whether we can say it is because of overspending or under-taxing, I think the question is certainly debatable and is subject to debate.

But nobody should stand before this Congress or before the American people and say we are raiding the Social Security trust fund which only has promises. It does not have dollars.

But, also, I think it is important to realize that, in going forward to decide what exactly we are going to do with Social Security, when we are coming together; and I would say to the members of the minority side who are trying to get some kind of a discharge petition to get their interpretation of the President's bill before this Congress or getting the two or three other bills before the Congress to have an open debate on it, as soon as I sense any real feeling on the minority party that they want to solve the problem rather than taking a few bills, some fictitious and some real, and crafting them into weapons, as soon as I get the sense that they want to move ahead, I am prepared to move ahead, because I think it is very important.

I am concerned about my grandkids. I have a grandchild by the name of Wyatt who lives in DeLand, Florida. He is 13 years old. He is going to face benefit cuts of 28 percent by the time he is 62 years old. He will get less than \$3 for every \$4 of benefits that are promised to him. We have got to remember we do not only represent seniors of today. We represent our kids and our grandkids. If we are going to take \$1 out of every \$4 that they are entitled to receive, that is, I think, a national tragedy and that is something that is certainly less and far below the mission for which the American people sent us here to the Congress. They did not send us here to misrepresent facts, they did not send us here to hold steady to political beliefs, and they did not send us here, frankly, to privatize Social Security.

And no one is trying to privatize Social Security. In fact, the bill that I have filed leaves the Social Security system totally intact. It does not touch \$1 of it, and it saves Social Security for all time according to the Clinton administration as well as according to the current administration.

Mr. Speaker, again, I would like to thank this Chamber and Members of both sides of the aisle for the debate that we had. I apologize for my voice, but I am in about the third or fourth

day of a cold which I am hopeful that it is no longer contagious.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 4070, the Social Security Program Protection Act of 2002. I urge my colleagues to support this badly needed measure.

Every year, Social Security provides benefits to over 50 million retired and disabled workers, their families and SSI recipients. Of this total, more than 7 million are beneficiaries who cannot manage their own financial affairs and have a "Representative Payee" appointed to guard their monthly benefits.

While the majority of these arrangements are above board, a significant number are subject to fraud and abuse. In these cases, the beneficiary is being cheated out of their Social Security income, which they desperately need, and the taxpayers are being cheated by government funds being diverted to unauthorized recipients.

This legislation protects vulnerable beneficiaries by tightening oversight and regulation of the "Representative Payee" system. Penalties for the misuse of the system are enhanced, and new regulations governing who is eligible for a "Representative Payee" status are further qualified by prohibiting anyone convicted and imprisoned for more than one year from serving in this capacity. Moreover, this measure permits the reissuance of benefits to individuals who have been cheated by their "Representative Payee," and further directs that the recovery of misused benefits from those persons may be undertaken.

This measure also makes a number of modifications to shore up the integrity of the Social Security system by denying benefits to fugitive felons, imposing penalties on recipients who fail to notify SSA of any change in their status and clarifies which attorneys the SS commissioner may refuse to recognize in the handling of specific cases.

Mr. Speaker, this measure helps protect the interests of those who are unable to manage their financial affairs, including their Social Security benefits. In doing this, it addresses an unmet need. Accordingly, I strongly support its passage.

Mr. CRANE. Mr. Speaker, I rise today in support of the Social Security Program Protection Act of 2002.

This legislation gives the Social Security Administration the enhanced tools it needs to help fight fraud and abuse activities that drain program resources and undermine the financial security of beneficiaries.

This legislation also helps individuals with disabilities gain access to representation to help them navigate through complex application process to receive benefit.

Preliminary CBO estimates show this legislation saves the budget \$534 million over 10 years.

The program protections and improvements in this bill are bipartisan and have the support of the Federal Bar Association, the Association of Administrative Law Judges, and the National Organization of Social Security Claimants' Representatives.

I am saddened that the minority has spent today in the same manner they usually choose to spend very other October: scaring our senior citizens.

It is easy for the minority to sit back and cry foul, but I would ask all of my colleagues the following questions: has the minority done

anything but misrepresent our plans to save Social Security?

Have they come to the table with any serious ideas themselves on how to save the program?

The answer to this question, regrettably, is "no."

Mr. DAVIS of Illinois. Mr. Speaker, I rise in support of H.R. 4070, the Social Security Program Protection Act of 2002. This legislation provides needed safeguards for the over 6 million Social Security and Supplemental Security Income beneficiaries who cannot manage their own financial affairs and need a "representative Payee." I fully support increased oversight of Representative Payees to prevent abuse, and the mis-allocation of taxpayer money. I also agree with this bill's provision that allows for the re-issuance of benefit payments that have been taken from the rightful beneficiaries and the recovery of these funds from unscrupulous Representative Payees.

I want to underscore the importance of one of the items in the bill's final section containing miscellaneous and technical provisions. This is the provision that improves the effectiveness of the Ticket to Work and Work Incentives Improvement Act of 1999. It will ensure that employers who hire individuals with disabilities through referral by an employer network also qualify for the Work Opportunity Tax Credit. Americans with disabilities experience an unemployment rate of 70 percent, and we must do everything in our power to make sure that incentives exist to open the doors of opportunity wider to these individuals.

Finally, I want to draw attention to this bill's provision that disqualifies those who have been convicted and imprisoned more than a year from serving as Representative Payees. The bill also allows the Commissioner of Social Security to exercise judgment in determining cases where certain ex-offenders may be certified as Representative Payees despite this prohibition. While we must do everything possible to protect Social Security and Supplemental Security Income beneficiaries from being taken advantage of by unscrupulous individuals, we also must not unjustly condemn ex-offenders who have paid their dues and need to re-gain their ability to participate fully in society.

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

The SPEAKER pro tempore (Mr. LINDEBER). The question is on the motion offered by the gentleman from Florida (Mr. SHAW) that the House suspend the rules and pass the bill, H.R. 4070, 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. SHAW. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

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

The point of no quorum is considered withdrawn.

#### GENERAL LEAVE

Mr. SHAW. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of H.R. 4070, the bill just considered.

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

There was no objection.

#### COMMENDING CONTRIBUTIONS OF ROOFING PROFESSIONALS INVOLVED IN REBUILDING OF PENTAGON

Mr. SULLIVAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 424) commending the patriotic contributions of the roofing professionals who replaced, at no cost to the Federal Government, the section of the Pentagon's slate roof that was destroyed as a result of the terrorist attacks against the United States that occurred on September 11, 2001.

The Clerk read as follows:

#### H. CON. RES. 424

Whereas the damage to the Pentagon that resulted from the terrorist attacks against the United States that occurred on September 11, 2001, included the destruction of more than an acre of the Pentagon's slate roof;

Whereas roofing professionals from throughout the United States, mostly from small businesses, volunteered to work together to replace the destroyed section of the Pentagon's roof;

Whereas these roofing professionals donated approximately \$450,000 worth of labor and materials to the replacement effort; and

Whereas these roofing professionals successfully replaced 60,000 square feet of the Pentagon's slate roof before September 11, 2002, and at no cost to the Federal Government: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That Congress commends the patriotic contributions of the roofing professionals who replaced, at no cost to the Federal Government, the section of the Pentagon's slate roof that was destroyed as a result of the terrorist attacks against the United States that occurred on September 11, 2001.*

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

The Chair recognizes the gentleman from Oklahoma (Mr. SULLIVAN).

#### GENERAL LEAVE

Mr. SULLIVAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 424.

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

There was no objection.

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

Mr. Speaker, House Concurrent Resolution 424, introduced by my distinguished colleagues, the gentleman

from Illinois (Mr. MANZULLO) and the gentlewoman from New York (Ms. VELÁZQUEZ), honors the hard work of the roofers who helped rebuild the Pentagon in the wake of the September 11 attacks.

Mr. Speaker, September 11 is etched in our minds for all time. That terrible day brought destruction and cast a dark shadow over the entire country and world. In the midst of those acts of evil, the Pentagon was severely damaged. Over the past several months, this body has acknowledged and thanked those who have helped rebuild New York and the Pentagon in so many ways following the terrorist attacks.

Today we recognize the diligent work of the roofing professionals, mostly small businesses, who have banded together to volunteer their time, labor and materials worth one-half million dollars to rebuild the section of roof destroyed in the attack on the Pentagon. The fire from the attack ruined more than one acre of slate roofing over the Pentagon in addition to the section of structure that was damaged. Today, the full 20,000 square foot area of roof over the Pentagon now has replacement slate. They completed this work before the deadline at no cost to the taxpayers.

The House commends the patriotic and generous contributions these roofing professionals have made to the rebuilding of the Pentagon.

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

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

Mr. Speaker, I rise today to commemorate the roofing professionals who volunteered their time and effort to repair the roof of the Pentagon following the September 11 terrorist attack.

Mr. Speaker, the Pentagon was struck by a horrible act of terrorism on September 11, 2001. One hundred twenty-five employees at the Pentagon and 64 hostages on Flight 77 perished as a result of the terrorist attack that day. The attack also resulted in the destruction of more than an acre of the Pentagon's slate roof. The renovation effort, known as the Phoenix Project, is under way to restore the damaged portion of the Pentagon and is pushing to have the Pentagon personnel back to work in that portion of the building by September 11, 2002.

Contributing to this effort were roofing professionals from throughout the United States, mostly from small, family-owned businesses who volunteered to work together to replace the destroyed section of the Pentagon's roof. These hard-working Americans donated approximately a half million dollars in materials and labor to the replacement effort and successfully replaced 60,000 square feet of the Pentagon's roof at no cost to the American taxpayers who have already shared a large burden of the emotional and financial costs of September 11. The

completion of this project reflects the spirit that we as Americans can work together, rise from the ashes and overcome any obstacle.

I commend those who have come forth with this resolution. I urge its support.

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

Mr. SULLIVAN. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Speaker, today I rise in support of H. Con. Res. 424, a resolution commending those small businesses and family-owned enterprises in the roofing industry who donated their time and resources to help complete the reconstruction of the portion of the Pentagon roof damaged or destroyed by the terrorist attacks on September 11. I wish to extend my sincere thanks to the many volunteers for the patriotic work and to acknowledge the National Roofing Contractors Association which organized these efforts.

The Pentagon Project, as it was called, was the brainchild of John and Kimberly Francis who are co-owners of a family-run roofing contracting company in Falls Church, Virginia. Searching for something they could offer in response to the attacks, they approached the National Roofing Contractors Association with the idea of assembling a volunteer force of small businesses in the roofing industry to raise the needed cash, material and manpower to rebuild the approximately 60,000 square feet of damaged roof. Small business volunteers from around the country offered to come to Washington to help fix the roof or donated supplies for the project. The result: Less than 9 months after the attack, these volunteers have completed their work and restored a symbol of American power and resolve.

This resolution honors their success, determination and patriotism. It recognizes their eagerness to step forward and contribute in a meaningful way to America's fight against terrorism and resolve to stand firm along the way.

On behalf of the American people, as well as the members of the Committee on Small Business, all of whom cosponsored this resolution, we offer our heartfelt thanks for a job well done and congratulations on a recognition well deserved.

I especially want to thank my colleague, the ranking minority member, the gentlewoman from New York (Ms. VELÁZQUEZ), for her leadership in making sure that this resolution was authored, submitted and came to the floor today.

In fact, about 4 hours ago, we were at the Pentagon for a ceremony that honored these roofers. Sixty thousand square feet is a little over an acre and a half. It is a tremendous amount of roof. You could see the roofers still on the roof today. It must have been 130 degrees up there. This is what they wanted to do for America.

As people came together after September 11, these roofers realized that

they wanted to do something in a meaningful way. As they drive by the Pentagon every day, they can see that portion of the roof that they restored with no cost to the Federal Government because this is their contribution to making America great.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield such time as she may consume to the gentlewoman from New York (Ms. VELÁZQUEZ), the ranking member of the Committee on Small Business.

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

Ms. VELÁZQUEZ. Mr. Speaker, I rise today on behalf of a grateful Nation. Less than 3 months before the anniversary of the worst act of terrorism in our history, a small group of volunteer small business professionals from across the country completed replacement of more than an acre of hard slate roof over the Pentagon. Earlier this morning, many of us participated in a ceremony at the Pentagon to recognize the work of these selfless Americans, and we are here again to thank them for their patriotic generosity.

Small businesses work for America. They anchor our communities and neighborhoods. They create three-fourths of all new jobs, employ half our workers and produce nearly half our GDP. They hauled us out of our last recession into the longest peacetime boom on record. They did it before, and they are doing it again.

But that is not all. When they lock up for the night, small business owners are out in the community, volunteering in school, coaching little league, donating their time and expertise to neighborhood improvement.

But even when it did not seem possible that small businesses could give any more, they did. When terrorists crashed American Airlines Flight 77 into the Pentagon on September 11, small businesses stepped forward to help. Leading the way were John and Kimberly Francis, owners of Northern Virginia Roofing in Falls Church, Virginia. After September 11, they joined millions of Americans in wanting to do something, to give something back.

□ 1545

So when they learned of the extensive damage to the Pentagon's roof, they decided to volunteer their particular talents. They would give a new roof to the Pentagon.

Soon roofing professionals from across the country came to volunteer their time, labor, and materials, rebuilding more than an acre and a half of hard slate roof over the Pentagon. They flew in from all across the country to northern Virginia, they drove, they even brought campers to work on this project.

My colleagues might remember that this was not the best time if one was a small business to donate time on labor. The economy was in a recession and threatened to get worse. Americans



feared for their security and their jobs. Yet these roofers knew that they had a patriotic imperative and an historic opportunity to help heal this breach by doing what they do best. In our darkest moment, they were among our brightest lights.

Eight months later, \$450,000 in donated material and labor have had their desired effect. A professional army of volunteers have given a roof to the Pentagon at no charge to the Federal Government or the American taxpayer.

I hope every Member of this body is inspired by the story of these selfless professionals. Whenever they drive by the Pentagon and see the rapid rebuilding and the work crews on the job day and night, they will see a symbol standing for all that America's small businesses have done for this country. Small businesses not only rebuilt the Pentagon, they rebuilt our resolve. For that and for so much else, we thank them.

I also want to take this opportunity to thank the staff for their hard work, not just on the resolution but giving small businesses the support they needed to accomplish this great fete: Staff Director Michael Day, Mary Ellen Ardonney, Wendy Belzer and James Snyder.

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

I commend the distinguished gentleman from Illinois (Mr. DAVIS) and the gentlewoman from New York (Ms. VELÁZQUEZ) for introducing this resolution and working so hard to ensure its passage. I thank the gentleman from Indiana (Mr. BURTON), the House Committee on Government Reform chairman; the gentleman from California (Mr. WAXMAN), ranking member; the gentleman from Florida (Mr. WELDON) and the gentleman from Illinois (Mr. DAVIS), the chairman and ranking member of the Subcommittee on Civil Service, Census and Agency Organization, for expediting the consideration of this resolution.

Again, Mr. Speaker, I urge all Members to support this resolution to commend the extraordinary generosity and patriotism of the professional roofers who helped rebuild the Pentagon.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I want to thank the distinguished gentleman from Illinois (Mr. DAVIS) for yielding me this time.

Mr. Speaker, I want to commend the patriotic contributions of the local roofing companies in Northern Virginia especially who donated labor, money, and supplies, which nationally totaled about half a million dollars, to rebuild the section of the Pentagon's slate roof that was destroyed on September 11. I am proud that the push for the roofing companies to volunteer their time and

effort and money originated with an idea by a roofing company in my district, Northern Virginia Roofing.

Northern Virginia Roofing is a husband and wife company located in Falls Church. They approached the National Roofing Contractors Association a week after the attacks, right after the attack, and said they wanted to contribute to the recovery effort of the Pentagon. The Association then approached the Defense Department, which gladly accepted the idea of giving the Pentagon a new roof.

Even though it has been more than 8 months since those tragic events of September 11, I am still constantly amazed, as I know my colleagues are, by the acts of heroism and patriotism displayed by the American people. This clear act of unselfishness by these roofing companies sends a clear message to the world that our resolve cannot be diminished. The attacks of September 11 have not weakened the United States and the American spirit. Our core values of freedom and democracy are certainly still intact.

Mr. Speaker, I urge every Member of Congress to support this resolution, and I am sure they will, which not only commends the roofing companies who are working around the clock to rebuild a severely damaged Pentagon, but it is also a testament to the American spirit.

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

We have no further request for time, and in closing I would commend again the chairman and ranking member of the Committee on Small Business for the introduction of this resolution and certainly extend heartfelt appreciation to the family roofers who came together as small businesses to indicate that, when small businesses come together, they can tackle big problems and meet big needs. So I simply commend all of those who are in support of this resolution and urge its passage.

Mr. NUSSLE. Mr. Speaker, I rise in full support of this resolution commending the patriotic contributions of the roofing professionals who replaced the section of the Pentagon's slate roof destroyed by terrorists on September 11, 2001.

The sight of the smoke rising from the Pentagon that day was a vision caused by evil that I will never forget.

Since that time, many Americans have acted with hope and good will and without hesitation to help our Nation move forward from a time and place of tragedy.

Ken and Jared Schmitt of Rafter, Inc. in Dubuque, Iowa offered their time and talents to make a difference. Ken and Jared were among the roofing professionals who volunteered to help repair more than an acre of the Pentagon's slate roof. I had the honor of meeting with them during their stay in the Washington area.

Roofing professionals across the country donated approximately \$450,000 worth of labor and materials to the replacement effort at no cost to the Federal Government.

This resolution offers an opportunity for us to say thank you to those who did this work

out of their sense of duty and generosity. Ken and Jared deserve America's gratitude and respect. There is no question that they have mine.

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

The SPEAKER pro tempore (Mr. LINDER). The question is on the motion offered by the gentleman from Oklahoma (Mr. SULLIVAN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 424.

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. SULLIVAN. 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.

#### FRANK SINATRA POST OFFICE BUILDING

Mr. SULLIVAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3034) to redesignate the facility of the United States Postal Service located at 89 River Street in Hoboken, New Jersey, as the "Frank Sinatra Post Office Building."

The Clerk read as follows:

H.R. 3034

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

#### SECTION 1. FRANK SINATRA POST OFFICE BUILDING.

(a) REDESIGNATION.—The facility of the United States Postal Service located at 89 River Street in Hoboken, New Jersey, and known as the Hoboken Main Post Office, shall be known and designated as the "Frank Sinatra Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Frank Sinatra Post Office Building.

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

The Chair recognizes the gentleman from Oklahoma (Mr. SULLIVAN).

#### GENERAL LEAVE

Mr. SULLIVAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3034 now being considered.

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

There was no objection.

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

Mr. Speaker, H.R. 3034, introduced by our distinguished colleague from New Jersey, designates the Post Office located in Hoboken, New Jersey, as the

Frank Sinatra Post Office Building. Members of the entire House delegation from the State of New Jersey are cosponsors of this legislation.

Mr. Speaker, I rise today in strong support of this bill that honors Frank Sinatra. It is appropriate that we name the Post Office in Hoboken, the birthplace of Frank Sinatra, after him. Born in Hoboken in 1915, Sinatra quickly became one of America's favorite entertainers. Not only is Sinatra known for his timeless classics like "Love and Marriage," "The Lady Is a Tramp," and "Strangers in the Night," to name a few, he also has had a successful film career, appearing on the big screen over 60 times.

In 1994, Sinatra was awarded the Grammy "Legend Award" which was a culmination of a career that saw him win nine Grammy awards.

I would be remiss if I did not mention his timeless classic "New York, New York." His words about New York and the York City area have taken on a new meaning in the past year as we saw our fellow Americans from the New York area fight back in the face of terrorism. It is appropriate that we honor a man who embodied that spirit in his music and we name a Post Office in Hoboken, New Jersey, after him.

Even in his death, Frank Sinatra's music continues to entertain and inspire all Americans.

Mr. Speaker, I urge the adoption of H.R. 3034.

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

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

Mr. Speaker, as a Member of the House Committee on Government Reform, I am pleased to join with the gentleman from Oklahoma (Mr. SULLIVAN) in support of this resolution. I rise in support of H.R. 3034, legislation naming the Post Office after the legendary Frank Sinatra.

H.R. 3034, which was introduced by the gentleman from New Jersey (Mr. MENENDEZ) on October 4, 2001, has met the committee policy and enjoys the support and cosponsorship of the entire New Jersey delegation.

Frank Sinatra was an Academy and Grammy Award winning singer and actor from Hoboken, New Jersey. He was born in 1915 and died in 1998. He cut his first record in 1939 and went on to make more than 1,800 recordings in his lifetime. Who could ever forget Frank Sinatra singing "My Way," "The Lady Is a Tramp," "Strangers in the Night," "Nice and Easy," "New York, New York," "Nancy," "Three Coins and a Fountain," or "Chicago, Chicago, My Kind of Town?"

The man who read lyrics with great clarity and emotion practically brought the house down every time he performed. He garnered nine Grammys and was heralded by fans as the most preeminent singer of the century.

Frank Sinatra's distinguished and versatile acting career included ap-

pearing in at least 60 films. He will always be remembered for such greats as "The Man With the Golden Arm," "The Manchurian Candidate," "Ocean's Eleven," "The House I Live in," "From Here to Eternity," and many others.

Sinatra, nicknamed "Old Blue Eyes" and "Chairman of the Board," was famous for the good times he had with his "Rat Pack" friends, which included Dean Martin and Sammy Davis, Jr. He was also remembered for sticking up for his friends and for sticking by his pals in times of need. He helped open the doors for his friend, Sammy Davis, Jr., and fought Hollywood's blacklist in the 1950s, often putting unemployed actors and friends on his payroll. He was also known as a philanthropist, often sending money to people in need and donating generously to charities.

In 1983, Frank Sinatra was honored by the Kennedy Center; and in 1985 he received the Presidential Medal of Freedom.

Mr. Speaker, I certainly join with all of those who would urge adoption of this measure.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield such time as he might consume to the gentleman from New Jersey (Mr. MENENDEZ), the originator and sponsor of this bill.

(Mr. MENENDEZ asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. MENENDEZ. Mr. Speaker, I want to thank the distinguished gentleman, the ranking Democrat, for helping us bring this to the floor and for yielding me this time; and I thank the chairman of the committee as well.

Mr. Speaker, I rise in strong support of H.R. 3034, legislation that I authored to honor Hoboken, New Jersey's favorite son, a superstar, an icon, and a legend, the late Frank Sinatra. The bill will rename Hoboken's main Post Office as the "Frank Sinatra Post Office Building," bringing a much-deserved and much-awaited fitting tribute home to the birthplace of the most famous "Chairman of the Board." I appreciate my colleagues from the New Jersey delegation joining unanimously in this effort.

Born in Hoboken, New Jersey, on December 12, 1915, Frances Albert Sinatra was one of the preeminent entertainers of the 20th century. Whether wooing us with soulful melodies or his cinematic charisma, Frank Sinatra always managed to attract and entertain large and diverse audiences with a unique and innate style.

□ 1600

Epitomizing the essence of coolness and class, Sinatra used his charm and harmonious voice to become an idol of both young starstruck admirers and older professionals. This musical mastermind mesmerized crowds with ageless classics such as "New York, New York," "My Way," "Night and Day," "Witchcraft," "Love and Marriage," "Strangers in the Night," "September

of My Years," "The Lady is a Tramp," along with countless others.

Ol' Blue Eyes utilized his dynamic talents and culturally-acute instincts to do more than simply entertain. He used music and theater as mediums to carry a socially-conscious message to fans and admirers around the world. In films such as the "Manchurian Candidate" and "Von Ryan's Express," Sinatra the actor educates us on the heroic and selfless sacrifice of America's World War II and Korean War veterans who vigorously defended the cherished principles of freedom and democracy.

During his critically acclaimed performance in "The House I Live In," Sinatra was able to make thousands of Americans understand and appreciate how ethnic and religious diversity is the foundation for cultural and societal progress.

If we listen to the lyrics of that song, "What is America to Me?" in the movie "The House I Live in," I think it wraps up in part why Sinatra was able to touch the hearts of so many people in this country.

He said:

"What is America to me?

"A name, a map, or a flag I see

"A certain word, 'democracy.'

"What is America to me?

"The House I live in

"A plot of earth, a street

"The grocer and the butcher

"Or the people that I meet

"The children in the playground

"The faces that I see

"All races and religions

"That's America to me

"The place I work in

"The worker by my side

"The little town, the city

"Where my people lived and died

"The howdy and the handshake

"The air a feeling free

"And the right to speak your mind out

"That's America to me

"The things I see about me

"The big things and the small

"The little corner newsstand

"Or the house a mile tall

"The wedding in the churchyard

"The laughter and the tears

"And the dream that's been agrowing

"For more than 200 years

"The town I live in

"The street, the house, the room

"The pavement of the city

"Or the garden all in bloom

"The church, the school, the clubhouse

"The million lights I see

"But especially the people

"Yes, especially the people

"That's America to me."

It was those people who came and flocked.

In the middle of his career, Frank Sinatra earned the nickname "Chairman of the Board of Show Business" because of his simultaneously successful career as a musician, entertainer, and leading Hollywood actor.

This Chairman of the Board also was the founder and leader of one of the most dynamic and star-studded ensembles known as the Rat Pack. Members included Dean Martin, Sammy Davis, Jr., and Joey Bishop.

Along with being featured performers on the Las Vegas entertainment scene, this group went on to star in four amusing and witty films: "Ocean's Eleven," "Sergeants Three," "Four for Texas," and "Robin and the Seven Hoods."

During his show business career that spanned more than 50 years, Frank Sinatra is widely regarded to be one of the most successful entertainers of his era. His appearances and performances sparked attention and excitement worthy of only an admired global icon. His resume of achievements and accomplishments include Academy Awards, Grammy Awards, and numerous other entertainment honors.

Although most Americans will remember Frank Sinatra for his chic and graceful presence, there was also a generous and philanthropic side for this superstar. Sinatra's family and people closely associated with him say his charitable interests were endless, and it is estimated that he gave millions of dollars to worthy causes around the world.

Naming Hoboken's main post office after the late Frank Sinatra honors and recognizes Hoboken's number one hero. I am extremely proud to offer this legislation, and I hope that my colleagues join me in passing this measure.

Today we bring decades of Sinatra's success back home to where it all began: Hoboken, New Jersey.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from New York (Mr. SERRANO).

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

Mr. Speaker, some years ago, when we stood on this floor as a prime sponsor of the Frank Sinatra Congressional Gold Medal, we spoke, and everyone did, about Frank Sinatra, the artist, as we are doing today.

But today's conversation and debate takes on a different tone, that is, that Members are also speaking about Frank Sinatra, the American, and Frank Sinatra, the visionary, who saw many things way ahead of his time on the issue of civil rights, on the issue of race relations, on the issue of generosity, when one is gifted and able to make money from that gift they have received, as he was.

So, of course, I could not pass up the opportunity to want to again remind us that we are talking about the greatest popular singer of our generation. We are talking about a person who we use as the measuring stick for anyone who wants to become a great singer, and a mighty task that is, to talk about that diction or that ability to bring forth romantic lyrics in the way that songwriters wanted them to be brought.

So we know about Frank Sinatra, that giant of American and worldwide music. But the other day, and a couple of years ago, I ran across two Frank Sinatras I had heard about and did not know.

One a couple of years ago was that there had been, a discussion we are having these days, by the way, an FBI file kept on Frank Sinatra; and why he was on an FBI file is interesting to note.

It was because, my colleagues would be interested in knowing, during the 1940s he voiced his desire to have housing for returning GIs. On another occasion, he went to meet Mayor Hubert Humphrey in Minneapolis-St. Paul to ask for people to learn how to stop fighting and get along with each other. In those days, that was enough to get one listed as a troublemaker.

Later on, as our colleague, the gentleman from Illinois (Mr. DAVIS), has said, when he demanded from hotels and nightclubs that they treat Sammy Davis, Jr., the same way they treated him, he again was considered a troublemaker.

But most recently, my son, who incidentally has been elected to the New York City Council, came across something which is really interesting. It was written by Frank Sinatra for something called "Magazine Digest" in July of 1945. It is simply titled "Let's Not Forget, We Are All Foreigners." In here, he speaks about how he felt in 1945 about people being called names.

He says, "Let's take it right from the top. Ever hear of a corny old saying, sticks and stones will break my bones, but names will never hurt me? Want to know something, that is not only corny, it is wrong. Names can hurt you. They can hurt you even more than sticks and stones."

Then he goes into saying how adults wreck the minds of children. He says that children, if left alone, will play with each other regardless of their color, their race, their religion, their cultural background, their ethnic background; that they will play as children, and that only adults then come forward and poison minds to create the problems that we have in this country.

He then also said, "Look, the next time you hear anyone say there is no room in this country for foreigners, tell him you have a big piece of news for him. Tell him everybody in the United States is a foreigner. This is our job, your job and my job, and the job of the generations growing up, to stamp out the prejudices that are separating one group of American citizens from another."

That is the Frank Sinatra we should be paying more attention to as we also celebrate his music. I thank the gentleman for this resolution to name this post office in his memory. We will celebrate Frank Sinatra the man, the American, and the world's greatest singer of pop music.

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

In closing, Mr. Speaker, let me just say that from time to time people will ask me, Why do we do these resolutions? Why do we name post offices? Why do we take the time?

I think anyone who heard this discussion this afternoon should never have to ask that question again. They should never have to ask that question again because what we have heard speaks to the embodiment of what America is. It is a Nation of values, it is a Nation of contributions, and it is a Nation that many people have helped to shape.

I think that naming a post office after Frank Sinatra in Hoboken, New Jersey, is an indication of that level of understanding.

Mr. LARSON of Connecticut. Mr. Speaker, I rise today in support of H.R. 3034, the designation of the Frank Sinatra Post Office building. Frank Sinatra, the singer, the actor, the man, was one of the preeminent American icons of this century. Hailed by critics and peers alike as the "greatest singer in the history of popular music," Frank Sinatra's career and life should be commemorated in every way possible.

Mr. Sinatra's music career spanned almost a half-century. From his first record cut in 1939, to his eighth Grammy nod in 1996, Frank Sinatra's presence and his overwhelming charisma could be felt by all those who knew and loved music. Sinatra put his stamp on dozens of tunes familiar to the music lover's ear, including the timeless theme of the Big Apple, "New York, New York" and the anthem of every iconoclast, "My Way."

Frank Sinatra, as we all know, would not allow himself to be limited to just music. He appeared in more than 60 films that ranged from dark dramas to lighthearted comedies. The pinnacle of his acting career amounted to an Oscar nod for his short film entitled, "The House I Live In" and one for himself for his supporting role as Maggio in the film, "From Here to Eternity." Just like everything else he did, Sinatra threw himself into every role, giving everything he had to give.

There are very few people in this century that effected so many Americans of various generations. He continuously gave back to the community that gave him so much, through his music and films as well as through his generous donations to various charities. He donated amounts of money estimated to be in the millions during his life, sometimes anonymously sending money to those whose misfortunes he read about in the paper.

Frank Sinatra was one in a million. There are few men likely to fill the shoes left by Sinatra in May of 1998 at the age of 82. That year, during my annual charity bocce tournament, many of my friends in Connecticut gathered to celebrate his remarkable life. The Frank Sinatra Post Office is just one of the small ways we can pay proper tribute to a man that shaped and molded the face of popular culture for over 50 years and I ask my colleagues today to join me in supporting this bill.

Mr. DAVIS of Illinois. Mr. Speaker, I urge passage; and I yield back the balance of my time.

Mr. SULLIVAN. Mr. Speaker, I urge the adoption of this measure, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LINDER). The question is on the motion offered by the gentleman from Oklahoma (Mr. SULLIVAN) that the House suspend the rules and pass the bill, H.R. 3034.

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

The yeas and nays were ordered.

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

#### MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the House by Ms. Wanda Evans, one of his secretaries.

#### SECURITIES AND EXCHANGE COMMISSION AUTHORIZATION ACT OF 2002

Mr. OXLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3764) to authorize appropriations for the Securities and Exchange Commission, as amended.

The Clerk read as follows:

H.R. 3764

*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 "Securities and Exchange Commission Authorization Act of 2002".*

#### SEC. 2. AUTHORIZATION OF APPROPRIATIONS OF THE SECURITIES AND EXCHANGE COMMISSION.

*In addition to any other funds authorized to be appropriated to the Securities and Exchange Commission, there are authorized to be appropriated to carry out the functions, powers, and duties of the Commission, \$776,000,000 for fiscal year 2003, of which—*

*(1) not less than \$134,000,000 shall be available for the Division of Corporate Finance and for the Office of Chief Accountant;*

*(2) not less than \$326,000,000 shall be available for the Division of Enforcement; and*

*(3) not less than \$76,000,000 shall be available to implement section 8 of the Investor and Capital Markets Fee Relief Act, relating to pay comparability.*

#### SEC. 3. SENSE OF THE CONGRESS.

*It is the sense of the Congress that the Securities and Exchange Commission should conduct a thorough annual review of the annual financial statements contained in the most recent periodic disclosures filed with the Commission by the largest 500 reporting issuers, as determined by market capitalization and by other factors as the Commission shall determine.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. OXLEY) and the gentleman from New York (Mr. LAFALCE) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

#### GENERAL LEAVE

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

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

There was no objection.

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

Mr. Speaker, the Securities and Exchange Commission Authorization Act of 2002 authorizes important new resources for the Securities and Exchange Commission for fiscal year 2003.

I would like to commend the ranking member of the Committee on Financial Services, the gentleman from New York (Mr. LAFALCE), and the chairman of the Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, the gentleman from Louisiana (Mr. BAKER), for their leadership on this very important and timely issue.

As we know, the SEC is statutorily charged with supervising the Nation's securities markets. This legislation is necessary to reauthorize the work of the SEC to enable it to continue its mission of protecting investors and promoting efficiency, competition, and capital formation.

For quite some time, the U.S. securities markets have been widely regarded as the deepest, most liquid, and fairest markets in the world, in large part due to the fine work of the SEC. Today, however, it is abundantly clear that our markets are in need of reform. Too many people have abused the public trust. In the wake of recent scandals, many have noted a crisis of public confidence in the integrity of our system.

That is why the Committee on Financial Services was first out of the block in analyzing analysts, corporate reporting, and accountants.

The committee drafted comprehensive legislation that overwhelmingly passed the House, and has directed the self-regulatory organizations to promulgate new rules on analysts and corporate governance. Much has been done, with still more to do, in order to ensure investors are protected through full and timely disclosure of financial information.

The bill before us today authorizes the SEC at a level of \$776 million for fiscal year 2003, with \$134 billion earmarked for the division of corporate finance and the office of the chief accountant, and \$326 million earmarked for the division of enforcement.

The bill identifies these particular divisions for increased funding because it is vital that the commission have sufficient resources to review public filings and bring enforcement cases against those who violate the securities laws.

One of the primary findings of our hearings was the need for the commission to pursue wrongdoers in real time.

This bill provides the commission with the resources it needs to do exactly that.

The bill also fully funds the pay parity provisions of the Investor and Capital Markets Fee Relief Act enacted into law this past January. This \$76 million in funding would grant SEC employees pay parity with the banking regulators and help the commission attract and retain the first-rate attorneys, accountants, and economists needed to protect investors.

With modest staff and limited resources, the SEC currently oversees an estimated 8,000 brokerage firms employing nearly 700,000 brokers; 7,500 investment advisors with approximately \$20 trillion in assets under management; 34,000 investment company portfolios; and over 17,000 reporting companies.

The commission also has oversight responsibilities for nine registered securities exchanges, the National Association of Securities Dealers, the National Futures Association, 13 registered clearing agencies, and the Municipal Securities Rulemaking Board.

The funding level authorized in this legislation is significantly higher than the fiscal year 2002 level, but there is ample justification. Much has changed since last year.

The commission needs funding for its e-government and information technology initiatives, telecommunications systems, and security enhancement. The commission has not received a staffing increase in the last 2 years, despite the additional responsibilities put upon it by the enactment of the Commodity Futures Modernization Act and the Gramm-Leach-Bliley Financial Services Modernization Act.

□ 1615

Now, with the tragic events of September 11 in which the SEC's Northeast regional office was destroyed and the deep crisis in confidence facing the markets, the challenges facing the SEC have never been greater. For the U.S. markets to remain the envy of the world, it is absolutely vital for the SEC to have the necessary resources to protect investors and promote capital formation. I urge all of my colleagues to support this important legislation.

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

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

Mr. Speaker, I rise in support of the adoption of the bill. Mr. Speaker, I am pleased to join with the gentleman from Ohio (Mr. OXLEY) in strongly supporting this legislation. Authorizing the resources that the SEC needs to provide meaningful market oversight is one of the most important steps we can take to restore the integrity of our markets, to restore confidence on the part of the public in the integrity of our markets.

Unfortunately, as our securities markets and public companies have skyrocketed in size and complexity, we

have done little to ensure that the SEC had the means to keep up. The SEC has fought a losing battle to keep up with the immense growth of corporate filings.

Transactional filings alone grew by almost 40 percent over the last half of the 1990s, but the resources available for reviewing those filings did not grow. Despite this increase in activity, staffing levels at the SEC remained flat over the same period and, in fact, declined during fiscal year 2002.

While the drop-off in IPOs last year enabled the SEC to review more of the annual financial statements filed by public companies than it had for many years, it was still able to review only 16 percent of those statements. That is grossly inadequate.

We are clearly now reaping the results of this historic neglect, with the number and size of restated financial reports due to financial misstatements and fraudulent accounting practices growing each year. The failure of Enron and the many issues for investors, employees, accountants, auditors and analysts raised by that failure and numerous other failures has further taxed the ability of the SEC to oversee the markets.

If we are to restore the quality and integrity of our financial reporting system, it is crucial that the SEC receive the funding necessary to increase the staff available to perform its market oversight functions, particularly regular reviews of corporate financial statements. Moreover, the SEC must have the additional enforcement staff necessary to bring enforcement actions swiftly when companies misrepresented their financial condition in their financial statements.

H.R. 3764 is a step to providing both authorizing funding for pay parity and doubling the staff of the Division of Corporate Finance, the Office of the Chief Accountant and the Division of Enforcement.

At a time when Americans have become more reliant on the performance of their stock investments for their savings and retirement, we cannot afford to allow the practices we have seen over the last few years continue to taint our markets. I was very disappointed that in the wake of the collapse of Enron and the successive waves of accounting scandals the President did not include a substantial increase in funding for the SEC in his budget request to Congress. The SEC plays a crucial role in the sound functioning of our markets and our economy and that crucial role cannot be ignored.

We in Congress must send a strong signal to the administration and to the world of the importance of a strong and fully functional SEC to restoring confidence in our markets. This bill is an important step towards creating that strong legislative response that might restore confidence in our financial reporting system and our securities markets.

If our capital markets are to retain their position as the most efficient and the most transparent in the world, it is critical that we ensure that our markets are subject to the best possible oversight; and only then will investors both at home and abroad regain their confidence that our markets are indeed the best in the world. Mr. Speaker, I urge the adoption of the bill.

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

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

Mr. LAFALCE. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. LINDER). The gentleman from New York (Mr. LAFALCE) has 15 minutes remaining.

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

Mrs. MALONEY of New York. Mr. Speaker, I rise in support of H.R. 3764, the SEC Reauthorization Act. The past year will go down in history as one of the most scandal ridden in the history of our Nation's capital markets. Enron, Global Crossing, TYCO, and ImClone all raise the clouds of insider corruption, massive financial restatements, and outright fraud on investors.

This bill takes an important step in assigning these episodes to history and ensuring that the SEC has the resources to prevent future problems. This legislation commits significant new resources to the SEC, which I can attest are truly needed based on what we have learned from hearings in the Committee on Financial Services.

The bill authorizes \$776 million for the SEC in fiscal year 2003, \$338 million more than the fiscal year appropriations 2002 level and \$233 million, 43 percent more than the administration requested. At least \$134 million will go to SEC's chief accountant and corporation finance division, \$326 million to the enforcement division, and \$76 million to pay parity.

While these sums are significant and necessary, my colleagues are well aware that the agency is funded through transaction fees and not traditional tax revenue. This pay parity money is especially important given the staff crisis the agency has experienced in recent years.

Having recently visited the SEC field office in the Woolworth Building in lower Manhattan, a facility that was formerly located in the World Trade Center complex, I can tell you that pay parity is truly, truly needed. Pay parity will bring SEC employees up to the pay levels of their colleagues at the Federal banking regulators. I believe the securities regulators should not be treated as a second-class citizen behind the bank regulators. It is bad for investors and industry, and this is a truly worthy investment.

I have already sent a bipartisan letter along with 27 of my colleagues on the Committee on Financial Services requesting funding for pay parity; and

I want to thank the ranking member, the gentleman from New York (Mr. LAFALCE), for pushing for this provision and the gentleman from Ohio (Mr. OXLEY) for holding to his commitment in last year's fee reduction legislation to win pay parity.

Passage of this legislation today is yet another step on the road to winning back public confidence in our financial markets and rebuilding the trust of individual investors in financial reporting. It is my hope we build on it by passing real reform of the accounting industry with this Congress. To that end, I congratulate Senator SARBANES for his overwhelming bipartisan victory by a 17-4 vote for his accounting legislation in the Senate Banking Committee. I look forward to working on this legislation in the conference committee, and I urge passage of this bill.

Mr. OXLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. WOLF).

Mr. LAFALCE. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Speaker, I rise in support of H.R. 3764 and strongly support the additional funding for the Securities and Exchange Commission. However, I would like to point out a concern I have with some of the language in the bill.

This bill requires not less than \$134 million for the Division of Corporate Finance and the Office of Chief Accountant and not less than \$326 million for the Division of Enforcement. These amounts are double the level of funding requested by the President for these activities in fiscal year 2003. Enacting this legislation will require other programs to be cut by \$231 million.

Our allocation of this bill, which has the FBI, DEA, INS, State Department, embassy security, the Karachi bombing last week and all of these other programs, is now down \$393 million below, our allocation right now, \$393 million below what the administration requested. So you add \$393 million and \$231 million, and I think you get a disaster for the Commerce Department, for the State Department, for the Justice Department, for the FBI, for the DEA, for the Bureau of Prisons.

So the Subcommittee on Commerce, Justice, State and Judiciary of the Committee on Appropriations, which has jurisdiction of the SEC, will have to reduce the funding requested for other agencies funded by the committee.

I hope, particularly in this war against terrorism, we really cannot cut the FBI. If you have a loved one working at an embassy around the world, we really cannot cut back embassy security. Anyone who thinks we can cut INS really has not been following the paper.

I would hope we could work on revising this bill language before the bill is conferenced with the Senate, or else I think we will have a major substantive defeat for the war against terrorism.

The administration I think has to do more with regard to the SEC. Pay parity is very important. But as you take these numbers with the allocation we will have a disaster.

Mr. OXLEY. Mr. Speaker, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Speaker, I want to thank my friend from Virginia for yielding.

I point out that since the mid-1990s, as the gentleman knows, the SEC has been funded through section 31 fees and other fee operations.

During our debate on the legislation that reduced the fees, we came to understand that, clearly, those fees in this case would cover the operation of the SEC. As a matter of fact, history would suggest that the fees generate six times currently what it takes to run the SEC.

Mr. WOLF. Reclaiming my time, I know he is a good fellow and a classmate, that 54 group that came in 1980 changed America, but Customs brings in much more money than it costs to run Customs. The INS brings in much more money. I think this has always been a bookkeeping matter, and it does come out of the allocation. If this were to hold true, in addition to the allocation we would have to cut the FBI dramatically in addition to INS and the others.

Mr. OXLEY. Mr. Speaker, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Speaker, I simply point out that I do not think at the end of the day that this is going to be an appropriations issue. It will be an issue that those fees will generate the amount of money necessary to run the SEC. That is what the legislation that passed in 1996 says. I have no reason to think that that will be any different and that the effect on the appropriations process will be minimal if any.

Mr. LAFALCE. Mr. Speaker, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from New York.

Mr. LAFALCE. Mr. Speaker, one of the difficulties I had with the reduction of the securities fees bill were that people were just interested in reducing the fees, whether it was section 31, section 6, 13, 14, et cetera. They were not interested in beefing up the authorization of the SEC. They were not interested, unfortunately, in the earnings manipulations that were taking place.

Most of these fees do go into general revenues, and, therefore, are dependent on both authorization and appropriations; and the gentleman from Virginia (Mr. WOLF) is correct in that respect.

Mr. WOLF. Reclaiming my time, I want to thank the gentleman for his comments, too; and I want to thank both of the gentlemen for the pay parity. I have written the administration, written Mitch Daniels and asked him to send up a supplemental or something with regard to pay parity.

Mr. LAFALCE. The position of the administration on this issue is outrageous.

Mr. WOLF. Mr. Speaker, I agree.

Also, I will tell you, we are getting a little bit off the issue, but what concerns me is this money will come out of the FBI. The FBI today is underfunded.

□ 1630

Mr. LAFALCE. Mr. Speaker, in Buffalo, New York, they have computers that are worse than my laptop at home, and yet they are involved in anti- and counterterrorism with absolutely outdated computers.

Mr. WOLF. The gentleman is exactly right. That is why I am committed to bringing a bill and making sure that we give the FBI, and I know the gentleman from Ohio was a former FBI agent, to give them the resources, because quite frankly the gentleman from New York is right, outdated. That is why I was so concerned that we are in essence taking this away from the other categories in the bill which would be a defeat for the war on terrorism. I know the gentleman from Ohio (Mr. OXLEY) will work this out.

Mr. OXLEY. Mr. Speaker, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Speaker, I would literally be the last person in this Congress to cut FBI funding. In my estimation this does not do that. Those fees, the cost to the SEC comes out of those fees; and I want to make certain that that is the case.

Mr. WOLF. Mr. Speaker, I thank the gentleman for his response.

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

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

Mr. BENTSEN. Mr. Speaker, I thank the gentleman for yielding me the time, and I rise in strong support of the bill. I had not intended to talk about the budget aspects; but since our friend from Virginia brought up the issue of the budget, one, I want to concur with the comments of the chairman and the ranking member of the Committee on Financial Services. And I might say to the gentleman from Virginia, since the capital markets operate on confidence and the fact that there is a malaise over the capital markets now and a great deal of lack of confidence, were we not to provide the Securities and Exchange Commission with the resources that they need to rebuild confidence in the marketplace, I think the chairman of the Subcommittee on Commerce, Justice, State and Judiciary's concern about 302(b) allocations would be far greater in the future because he is going to see a continued deterioration of the general economy, a continued degeneration of our general revenues, and he is going to have a lot bigger problems to deal with than try-

ing to fund the FBI and fund other agencies than worrying about whether or not we are going to provide the SEC with the resources that it needs.

Furthermore, as the gentleman from New York raised and our chairman from Ohio raised, the fact is that for too long the SEC fees have been a way to fund other portions of the government; and at a time when we need to put more resources, particularly in the accounting division, the corporate finance division, the enforcement division of the Securities and Exchange Commission, this is when we need those fees back, and that is what this bill is doing, in addition to the parity issue, in authorizing the funding for it.

So while we can feel the pain of the chairman of the Subcommittee on Commerce, Justice, State and Judiciary's allocation problem, that has nothing to do with the origin of this bill. It has nothing to do with the needs of the Securities and Exchange Commission because they have raised the funds from the investors and the participants in the marketplace. That marketplace is under a cloud right now. Were we not to provide those resources to ensure that there is efficient, sufficient enforcement of the rules of the marketplace, or the rules of the field, then we would suffer across our entire budget; but more importantly, we would be suffering across our general economy. And not a day goes by that there is not another story in the financial press about another earnings restatement, about new indictments of individuals who have been cooking the books of public companies; and now in this last week we have seen the markets go down because foreign investors who heretofore had seen value in investing in U.S. markets had decided that that value may no longer exist and so they are pulling their money out and putting it back in Europe and Asia, exacerbating our current account balance, which again could have profound macroeconomic effects on our general economies.

So I commend the chairman and the ranking member for bringing this bill up. I hope the House will pass it and let us not worry about the budget debates when concerned with this bill.

Mr. OXLEY. Madam Speaker, I am pleased to yield 3 minutes to the gentleman from Louisiana (Mr. BAKER), the chairman of the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises.

Mr. BAKER. Madam Speaker, I thank the chairman for yielding me this time, and I rise to support the adoption of the resolution which he has brought to the House this afternoon and wish to speak to the issues raised by the gentleman from Virginia earlier in the afternoon.

The House did act last year to reduce the fees on transactions relating to stock transfers, and secondly, in the content of this resolution, does make provision for pay parity, both of which do bring about expenditure of Federal



resources. Even after the consideration of both those effects, the adoption of pay parity and the reduction in the fees collected for SEC transactions, the projected budget receipts next year for the SEC from all fees will exceed \$1.5 billion. Even with the pay parity provisions contained in this resolution, the expenditures for the agency, once enhanced at this new operational level, will only equal \$776 million. The difference is still an \$800 million surplus in fees received versus expenditures made.

Obviously, it is the 302(b) allocations which are causing the difficulty for the Subcommittee on Commerce, Justice, State and Judiciary's Chair; but it has nothing to do with there being a lack of revenue coming from SEC activities. I think it was perfectly appropriate through the Congress to reduce fees and certainly essential that we adopt the pay parity provisions which will enable the SEC to keep qualified, professional regulators on the level of compensation of all other financial regulators.

So to that end, I think it is extremely important for the House to act to adopt this resolution and provide the SEC with the important needed resources; and we will address those appropriations concerns as we move into the fall, and hopefully our chairman will be able to reconcile these differences with the Committee on Appropriations members so that the provisions made available to the SEC today will enable them to act appropriately on any and all complaints.

If there is anything significant and important this Congress can do with regard to the current market instability, it is to provide closure with regard to the investigatory capability to get to the bottom of wrongdoing, to hold those accountable responsible; and I think this action today, enabling the SEC to have all the adequate supervisory staff they need, is an essential step in helping bring back confidence and customer confidence in making investments in our capital markets, which are the strongest, deepest, broadest of any in the world; and I think this action is extraordinarily important to bring about that resolution.

I thank the Chair for yielding me the time.

Mr. LAFALCE. Madam Speaker, I yield 4 minutes to the distinguished gentleman from California.

(Mr. SHERMAN asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. SHERMAN. Madam Speaker, I want to join the last speaker in his analysis, showing that the fees paid by individual investors is more than enough to provide for beefed-up SEC enforcement. But what the other party does is they use those fees collected from individual investors as a profit center to then fund tax cuts for the wealthiest 1 percent of Americans, and when we suggest that the fees paid by

individual investors should be used to protect those investors, we are told that takes money away from the war against terrorism. Shame. We ought to be collecting adequate revenues to keep our country safe from terrorism, and the fees paid by individual investors are more than enough to provide every penny this bill authorizes and, frankly, more.

I come to the floor to bring to the Congress' attention one section of this bill, section 3, that says it is the sense of Congress that the SEC should conduct an annual review of the annual financial statements of the 500 largest issuers. Why is this provision necessary? The SEC has two approaches to reviewing financial statements.

If one is a small company trying for the first time to raise 10 or \$20 million, then they file their red herring, their first draft. The SEC reviews it carefully; they issue a comment letter. If there is anything confusing, misleading or incomplete, they have to bring their filing up to specifications and only then do they go to the public; but if they are one of the biggest and richest companies in America, if they are already a publicly traded corporation, if they are raising or responsible on the market for 60 or 80 or \$100 billion in capitalization, if they are Enron, then the SEC just does not read what they file, as they did not read Enron's financial statements for 1997, 1998, 1999. They did not read those statements until the collapse.

What would have happened if they read those statements? They would have seen a number of footnotes in the financial statements that are utter gobbledy gook. I know to the average layperson all of the footnotes are gobbledy gook, but these were incomprehensible to an analyst, the CPAs. If the SEC had bothered to read these footnotes, they would have demanded clarification. Instead, they did not read them at all.

The SEC, however, at least its chairman, is hostile, believe it or not, to the idea of reading the financial statements of the 500 largest companies. That is because there is an element at the SEC that believes that investors need to be protected from Joe Inventor who is trying to raise 5 or \$10 million, but that we do not need any protection from Kenneth Lay because, after all, those in the tallest buildings of the biggest companies are inherently so honest that the SEC does not need to review what they file.

This approach to the SEC's work is wrong, and that is why I am glad that this section is in the bill; but when I asked the SEC to tell us what it would cost so that the appropriators could provide the resources, the response of Chairman Pitt was to say that he was going to refuse to provide that information because he disagreed with the proposal. Now the proposal will be included in legislation passed by the House. The Congress will adopt language saying that it is our sense that the SEC do this work.

The SEC will then probably continue to refuse to tell Congress what it would cost to actually read the most important documents filed with the SEC, to comment on them and to demand clarification.

I would like to enter into the RECORD the letter sent to me on May 21 by Chairman Pitt, in which he refuses to provide information as to what it would cost to read the financial statements of the 500 or 1,000 largest companies, and I would hope that this provision will remain in the bill in conference and that Congress will not allow an SEC chairman to refuse to provide us with even an estimate of what it would cost to do something that we in the House are about to declare ought to be done, but that instead we have an SEC that takes its responsibility to protect those who invest in the biggest companies, takes that responsibility as seriously as they do their responsibility to protect those who invest in the smallest.

The letter referred to follows:

U.S. SECURITIES AND EXCHANGE  
COMMISSION,  
Washington, DC, May 21, 2002.

Hon. BRAD SHERMAN,  
Committee on Financial Services, House of Representatives,  
Longworth House Office Building,  
Washington, DC.

DEAR CONGRESSMAN SHERMAN: During my testimony before the House Financial Services Committee on March 20, 2002, you requested that I submit for the record an estimate of the increase in reviews. You asked that a cost estimate be provided for annual reviews at three levels of effort covering the top 500, 1000 and 2000 firms. As I noted during the hearings, it is impractical for Congress to attempt to provide the Commission with sufficient resources to do a comprehensive review of the top 500, 1000 or 2000 companies. Apart from the enormous cost of such a process, there is ultimately no assurance that the additional expenditures would ensure the quality of audits or financial reporting.

As I noted in my testimony, the Administration's request for fiscal year 2002 supplemental funding includes \$20 million to finance 100 new positions for the Commission. Our plan would be to allocate 30 positions to the Division of Corporation Finance to expand, improve and expedite our review of periodic filings. Our Division of Corporation Finance has undertaken to monitor the annual reports submitted by all Fortune 500 companies that file periodic reports with the Commission in 2002. This new initiative, which we announced in December, significantly expands the Division's review of financial and non-financial disclosures made by public companies. The additional funds would allow the Division to perform full reviews of more public companies' annual filings.

Thank you for your support of the Commission's programs. Should you have additional questions, I would be pleased to be of assistance.

Your truly,

HARVEY L. PITT.

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

Let me simply make a few comments. I think that we should have been much more aware of the problems in our financial markets before the revelation of Enron. There had been

countless earnings restatements that were mandated by the SEC, and this was just on the few cases they were able to review. We should have been clamoring for an increase in the budget of the SEC long before now.

At the very beginning of 2001, when our committee obtained jurisdiction for the first time over securities, I began calling not for a 2 or a 3 or a 4 percent increase in the budget but for a 200, a 300, a 400 percent increase in the budget. I did this in our committee. I did this before the Committee on Rules. I did it on the floor of the House.

After Enron, I was at least hopeful that the President of the United States in his State of the Union address would recognize the gravity of the problem, and he barely mentioned Enron, not by name, but he barely mentioned the nature of the problem. I was then hopeful that in his budget submission to the Congress he would call for a huge significant increase in the resources. He did not. He called for but a 6 percent increase in the resources of the SEC.

That is woefully inadequate, as virtually everyone has come to realize. Certainly the gentleman from Ohio (Mr. OXLEY), the chairman of the Committee on Financial Services, realizes that is woefully inadequate; and that is why he has been promoting this bill.

A few weeks or so ago, I had the pleasure of having dinner with the chief economic adviser to the President of the United States, Mr. Lindsay, and the gentleman from Ohio (Mr. OXLEY), the chairman of the Committee on Financial Services, was present; and I questioned him about the adequacy of that 6 percent increase that the President had called for and he defended it. He defended it.

The position of the administration is absolutely outrageous. They still have their heads in the sand on this issue.

□ 1645

It is time for them to get their head out of the sand, and maybe unanimous passage of this bipartisan bill will help do that. I urge everyone to support it.

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

Mr. OXLEY. Madam Speaker, I yield myself such time as I may consume; and, in conclusion, let me just point out something to the gentleman from California.

The 16 percent figure of review of the top 500 companies is nothing new. I cannot remember ever, in the history of this country, any SEC ever viewing all 500 companies; and I think it is important to point that out for the record. It was not this particular SEC but many previous SECs that were in that same category.

Mr. GILMAN. Madam Speaker, I rise today in support of H.R. 3764 and would like to thank the gentleman from Ohio, my friend and colleague Congressman OXLEY, for introducing this initiative. I urge my colleagues to support this worthy legislation.

This act will appropriate the necessary funds to the Securities and Exchange Com-

missions, in both its Division of Corporate Finance and Division of Enforcement. Moreover, it will allocate the necessary funds to implement sections of past legislation. It will also work to establish an annual review of the annual financial statements filed with the Commission by the largest 500 reporting issuers. This legislation will no doubt work toward increasing the transparency in the business practices of our nation's largest companies.

It is obvious that today our nation's financial regulators must be given the appropriate resources to properly monitor our nation's corporate sector. The Enron saga and more recently the Imclone fiasco have demonstrated the grave situation existing within our financial world. This act is undoubtedly a step in the right direction in our battle against unethical business practices driven by the vices of greed and dishonesty.

It is imperative that we take these steps to further fund the Securities and Exchange Commission. It is clear that these provisions are essential given the recent developments regarding several large American companies and the unethical business practices which have taken place. Accordingly, I urge my colleagues to support these measures.

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

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Ohio (Mr. OXLEY) that the House suspend the rules and pass the bill, H.R. 3764, 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. LAFALCE. Madam 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.

#### SILVER EAGLE COIN CONTINUATION ACT OF 2002

Mr. OXLEY. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4846) to amend title 31, United States Code, to clarify the sources of silver for bullion coins, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4846

*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 "Silver Eagle Coin Continuation Act of 2002".

#### SEC. 2. DELETION OF LIMITATION ON ACQUISITION OF SILVER FOR \$1 COIN FROM ABOLISHED STOCK PILE.

(a) FINDINGS.—The Congress finds that—

(1) the American Eagle silver bullion coin leads the global market, and is the largest and most popular silver coin program in the United States;

(2) established in 1986, the American Eagle silver bullion program is the most successful silver bullion program in the world;

(3) from fiscal year 1995 through fiscal year 2001, the American Eagle silver bullion program generated—

(A) revenues of \$264,100,000; and

(B) sufficient profits to significantly reduce the national debt;

(4) with the depletion of silver reserves in the Defense Logistic Agency's Strategic and Critical Materials Stockpile, it is necessary for the Department of the Treasury to acquire silver from other sources in order to preserve the American Eagle silver bullion program;

(5) with the ability to obtain silver from other sources, the United States Mint can continue the highly successful American Eagle silver bullion program, exercising sound business judgment and market acquisition practices in its approach to the silver market, resulting in continuing profitability of the program;

(6) in 2001, silver was commercially produced in 12 States, including, Alaska, Arizona, California, Colorado, Idaho, Missouri, Montana, Nevada, New Mexico, South Dakota, Utah, and Washington;

(7) Nevada is the largest silver producing State in the Nation, producing—

(A) 17,500,000 ounces of silver in 2001; and

(B) 34 percent of United States silver production in 2000;

(8) the mining industry in Idaho is vital to the economy of the State, and the Silver Valley in northern Idaho leads the world in recorded silver production, with over 1,100,000,000 ounces of silver produced between 1884 and 2001;

(9) the largest, active silver producing mine in the Nation is the McCoy/Cove Mine in Nevada, which produced more than 107,000,000 ounces of silver between 1989 and 2001;

(10) the mining industry in Idaho—

(A) employs more than 3,000 people;

(B) contributes more than \$900,000,000 to the Idaho economy; and

(C) produces \$70,000,000 worth of silver per year;

(11) the silver mines of the Comstock lode, the premier silver producing deposit in Nevada, brought people and wealth to the region, paving the way for statehood in 1864, and giving Nevada its nickname as "the Silver State";

(12) mines in the Silver Valley—

(A) represent an important part of the mining history of Idaho and the United States; and

(B) have served in the past as key components of the United States war effort; and

(13) silver has been mined in Nevada throughout its history, with every significant metal mining camp in Nevada producing some silver.

(b) IN GENERAL.—Section 5116(b)(2) of title 31, United States Code, is amended—

(1) in the 1st sentence, by striking "except silver transferred" and all that follows through the period at the end of such sentence and inserting "or may obtain silver from other sources as appropriate."; and

(2) by striking the 2nd sentence.

(b) STUDY REQUIRED.—

(1) STUDY.—The Secretary of the Treasury shall conduct a study of the impact on the United States silver market of the coins minted and issued under section 5112(e) of title 31, United States Code.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall submit a report of the study conducted under paragraph (1) to the chairman and ranking minority member of—

(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) the Committee on Financial Services of the House of Representatives.

(c) ANNUAL REPORT.—

(1) IN GENERAL.—The Director of the United States Mint shall prepare and submit

to the Congress an annual report on the purchases of silver made by the Secretary of the Treasury under section 5116 of title 31, United States Code, on behalf of the United States Mint.

(2) CONCURRENT SUBMISSION.—The report required by paragraph (1) may be incorporated into the annual report of the Director of the United States Mint on the operations of the mint and assay offices, referred to in section 1329 of title 44, United States Code.

### SEC. 3. CLARIFICATION OF EXISTING LAW.

(a) IN GENERAL.—Section 5134(f)(1) of title 31, United States Code, is amended to read as follows:

“(1) PAYMENT OF SURCHARGES.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, no amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall be paid from the fund to any designated recipient organization unless—

“(i) all numismatic operation and program costs allocable to the program under which such numismatic item is produced and sold have been recovered; and

“(ii) the designated recipient organization submits an audited financial statement that demonstrates, to the satisfaction of the Secretary, the amount of funds the organization has raised from private sources for all projects or purposes for which the proceeds of such surcharge may be used.

“(B) MATCHING FUND REQUIREMENT.—Notwithstanding any other provision of law, the amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item that may otherwise be paid from the fund, under any provision of law relating to such numismatic item, to any designated recipient organization shall not exceed the amount the organization has demonstrated, in accordance with subparagraph (A)(ii), that the organization has raised from private sources for all projects or purposes for which the proceeds of such surcharge may be used.

“(C) UNPAID AMOUNTS.—If any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item that may otherwise be paid from the fund, under any provision of law relating to such numismatic item, to any designated recipient organization remains unpaid to such organization solely by reason of the matching fund requirement contained in subparagraph (B) after the end of the 2-year period beginning on the later of—

“(i) the last day any such numismatic item is issued by the Secretary; or

“(ii) the date of the enactment of the Silver Eagle Coin Continuation Act of 2002,

such unpaid amount shall be deposited in the Treasury as miscellaneous receipts.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as of the date of the enactment of Public Law 104-208.

### SEC. 4. RESTATEMENT AND REORGANIZATION OF SECTION 5136 OF TITLE 31, UNITED STATES CODE.

(a) IN GENERAL.—Section 5136 of title 31, United States Code, is amended to read as follows:

#### “§ 5136. United States Mint Public Enterprise Fund

“(a) ESTABLISHMENT.—There shall be established in the Treasury of the United States, a fund to be known as the United States Mint Public Enterprise Fund.

“(b) OPERATIONS OF THE FUND.—

“(1) DEPOSIT OF RECEIPTS.—All receipts from Mint operations and programs, including the production and sale of numismatic items, the production and sale of circulating coinage, the protection of Government assets, and gifts and bequests of property, real or personal shall be deposited into the Fund

and shall be available without fiscal year limitations.

“(2) PAYMENT OF EXPENSES.—All expenses incurred by the Secretary for operations and programs of the Mint that the Secretary determines, in the Secretary's sole discretion, to be ordinary and reasonable incidents of Mint operations and programs, and any expense incurred pursuant to any obligation or other commitment of Mint operations and programs that was entered into before the establishment of the Fund, shall be paid out of the Fund.

“(3) BORROWING AUTHORITY.—

“(A) IN GENERAL.—The Secretary may borrow such funds from the General Fund as may be necessary to meet existing liabilities and obligations incurred prior to the receipt of revenues into the Fund.

“(B) REPAYMENT WITHIN 1 YEAR.—The General Fund shall be reimbursed by the Fund for the amount of any loan under subparagraph (A) within 1 year of the date of the loan.

“(4) PROCEEDS OF SALE OF CIRCULATING COINS.—The Fund may retain receipts from the Federal Reserve System from the sale of circulating coins at face value for deposit into the Fund (retention of receipts is for the circulating operations and programs).

“(5) EXPENSES OF CITIZENS COMMEMORATIVE COIN ADVISORY COMMITTEE.—For purposes of paragraph (2), any expense incurred by the Secretary in connection with the Citizens Commemorative Coin Advisory Committee established under section 5135 shall be treated as an ordinary and reasonable incident of Mint operations and programs.

“(6) TRANSFER OF EXCESS AMOUNTS TO THE TREASURY.—

“(A) IN GENERAL.—At such times as the Secretary determines appropriate, but not less than annually, any amount in the Fund that is determined to be in excess of the amount required by the Fund shall be transferred to the Treasury for deposit as miscellaneous receipts.

“(B) REPORT TO CONGRESS.—The Secretary shall submit an annual report to the Congress containing—

“(i) a statement of the total amount transferred to the Treasury pursuant to subparagraph (A) during the period covered by the report;

“(ii) a statement of the amount by which the amount on deposit in the Fund at the end of the period covered by the report exceeds the estimated operating costs of the Fund for the 1-year period beginning at the end of such period; and

“(iii) an explanation of the specific purposes for which such excess amounts are being retained in the Fund.

“(c) INITIAL CAPITALIZATION OF FUND.—The Secretary shall transfer to the Fund all assets and liabilities of the Mint operations and programs, including all Numismatic Public Enterprise Fund assets and liabilities, all receivables, unpaid obligations and unobligated balances from the Mint's appropriation, the Coinage Profit Fund, and the Coinage Metal Fund, and the land and buildings of the Philadelphia Mint, Denver Mint, and the Fort Knox Bullion Depository.

“(d) BUDGET TREATMENT.—

“(1) IN GENERAL.—The Secretary shall prepare budgets for the Fund, and estimates and statements of financial condition of the Fund in accordance with the requirements of section 9103 which shall be submitted to the President for inclusion in the budget submitted under section 1105.

“(2) INCLUSION IN ANNUAL REPORT.—Statements of the financial condition of the Fund shall be included in the Secretary's annual report on the operation of the Mint.

“(3) TREATMENT AS WHOLLY OWNED GOVERNMENT CORPORATION FOR CERTAIN PURPOSES.—

Section 9104 shall apply to the Fund to the same extent such section applies to wholly owned Government corporations.

“(e) FINANCIAL STATEMENTS, AUDITS, AND REPORTS.—

“(1) ANNUAL FINANCIAL STATEMENT REQUIRED.—By the end of each calendar year, the Secretary shall prepare an annual financial statement of the Fund for the fiscal year which ends during such calendar year.

“(2) CONTENTS OF FINANCIAL STATEMENT.—Each statement prepared pursuant to paragraph (1) shall, at a minimum, contain—

“(A) the overall financial position (including assets and liabilities) of the Fund as of the end of the fiscal year;

“(B) the results of the numismatic operations and programs of the Fund during the fiscal year;

“(C) the cash flows or the changes in financial position of the Fund;

“(D) a reconciliation of the financial statement to the budget reports of the Fund; and

“(E) a supplemental schedule detailing—

“(i) the costs and expenses for the production, for the marketing, and for the distribution of each denomination of circulating coins produced by the Mint during the fiscal year and the per-unit cost of producing, of marketing, and of distributing each denomination of such coins; and

“(ii) the gross revenue derived from the sales of each such denomination of coins.

“(3) ANNUAL AUDITS.—

“(A) IN GENERAL.—Each annual financial statement prepared under paragraph (1) shall be audited—

“(i) by—

“(I) an independent external auditor; or

“(II) the Inspector General of the Department of the Treasury, as designated by the Secretary; and

“(ii) in accordance with the generally accepted Government auditing standards issued by the Comptroller General of the United States.

“(B) AUDITOR'S REPORT REQUIRED.—The auditor designated to audit any financial statement of the Fund pursuant to subparagraph (A) shall submit a report—

“(i) to the Secretary by March 31 of the year beginning after the end of the fiscal year covered by such financial statement; and

“(ii) containing the auditor's opinion on—

“(I) the financial statement of the Fund;

“(II) the internal accounting and administrative controls and accounting systems of the Fund; and

“(III) the Fund's compliance with applicable laws and regulations.

“(4) ANNUAL REPORT ON FUND.—

“(A) REPORT REQUIRED.—By April 30 of each year, the Secretary shall submit a report on the Fund for the most recently completed fiscal year to the President, the Congress, and the Director of the Office of Management and Budget.

“(B) CONTENTS OF ANNUAL REPORT.—The annual report required under subparagraph (A) for any fiscal year shall include—

“(i) the financial statement prepared under paragraph (1) for such fiscal year;

“(ii) the audit report submitted to the Secretary pursuant to paragraph (3)(B) for such fiscal year;

“(iii) a description of activities carried out during such fiscal year;

“(iv) a summary of information relating to numismatic operations and programs contained in the reports on systems on internal accounting and administrative controls and accounting systems submitted to the President and the Congress under section 3512(c);

“(v) a summary of the corrective actions taken with respect to material weaknesses

relating to numismatic operations and programs identified in the reports prepared under section 3512(c);

“(vi) any other information the Secretary considers appropriate to fully inform the Congress concerning the financial management of the Fund; and

“(vii) a statement of the total amount of excess funds transferred to the Treasury.

“(5) MARKETING REPORT.—

“(A) REPORT REQUIRED FOR 10 YEARS.—For each fiscal year beginning before fiscal year 2003, the Secretary shall submit an annual report on all marketing activities and expenses of the Fund to the Congress before the end of the 3-month period beginning at the end of such fiscal year.

“(B) CONTENTS OF REPORT.—The report submitted pursuant to subparagraph (A) shall contain a detailed description of—

“(i) the sources of income including surcharges; and

“(ii) expenses incurred for manufacturing, materials, overhead, packaging, marketing, and shipping.

“(f) SUPERSESSON OF NUMISMATIC PUBLIC ENTERPRISE FUND, THE COINAGE PROFIT FUND, AND THE COINAGE METAL FUND.—

“(1) IN GENERAL.—The Numismatic Public Enterprise Fund, the Coinage Profit Fund, and the Coinage Metal Fund shall cease to exist as separate funds as the activities and functions of the respective funds are subsumed under and become subject to the Fund.

“(2) REFERENCES IN FEDERAL LAW TO OTHER FUNDS.—Any reference in any Federal law to the Numismatic Public Enterprise Fund, the Coinage Profit Fund, or the Coinage Metal Fund shall be deemed to be a reference to the Fund.

“(3) REFERENCES IN FEDERAL LAW TO SECTION 5134.—Any reference in any Federal law to section 5134 shall be deemed to be a reference to this section.

“(g) DEFINITIONS.—For purposes of this section, the following definitions shall apply.—

“(1) FUND.—The term ‘Fund’ means the United States Mint Public Enterprise Fund established under this section.

“(2) MINT.—The term ‘Mint’ means the United States Mint.

“(3) MINT OPERATIONS AND PROGRAMS.—The term ‘Mint operations and programs’—

“(A) means the activities concerning, and assets utilized in, the production, administration, distribution, marketing, purchase, sale, and management of coinage, numismatic items, the protection and safeguarding of Mint assets and those nonmint assets in the custody of the Mint, and the Fund; and

“(B) includes capital, personnel salaries and compensation, functions relating to operations, marketing, distribution, promotion, advertising, official reception and representation, the acquisition or replacement of equipment, the renovation or modernization of facilities, and the construction or acquisition of new buildings.

“(4) NUMISMATIC ITEM.—The term ‘numismatic item’ includes any medal, proof coin, numismatic collectible, other monetary issuances and products, and accessories related to any such medal or coin.

“(5) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury.

“(h) GENERAL WAIVER.—No provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out Mint programs and operations.”

(b) RULE OF CONSTRUCTION.—The amendment made by subsection (a) to section 5136 of title 31, United States Code—

(1) may not be construed as making any substantive change in the meaning of any provision of such section (as in effect on the

day before the effective date of such amendment); and

(2) shall not affect any regulation prescribed, any order issued, or any action taken before the effective date of such amendment under or pursuant to such section (as in effect on the day before such date).

(c) TECHNICAL CORRECTION.—

(1) IN GENERAL.—Section 522 of Public Law 104-52 (109 Stat. 494) is amended—

(A) by striking the closing quotation marks after “PUBLIC ENTERPRISE FUND.” and inserting “—”; and

(B) by inserting closing quotation marks and a second period after the period at the end.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective as if such amendment had been included in section 522 of Public Law 104-52 as of the date of the enactment of that Act.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TRANSFER OF SUPERSEDED PROVISIONS NOT PREVIOUSLY INCLUDED.—Subsections (f) and (g) of section 5134 of title 31, United States Code (as subsection (f) is amended by section 3 of this Act) are hereby—

(A) transferred to section 5136 of title 31, United States Code (as amended by subsection (a) of this section);

(B) inserted after subsection (h); and

(C) redesignated as subsections (i) and (j), respectively.

(2) REPEAL OF SUPERSEDED PROVISIONS.—

(A) Section 5111 of title 31, United States Code, is amended by striking subsection (b) and inserting the following:

“(b) [Repealed].”

(B) Section 5116(b)(1) of title 31, United States Code, is amended by striking the last sentence.

(C) Section 5120(a) of title 31, United States Code, is amended—

(i) in paragraph (1), by striking “the coinage metal fund under section 5111(b) of this title” and inserting “the United States Mint Public Enterprise Fund”; and

(ii) by striking paragraph (2).

(D) Section 5132(a)(1) of title 31, United States Code, is amended by striking the first 2 sentences.

(E) Section 5134 of title 31, United States Code, is hereby repealed.

(e) CLERICAL AMENDMENTS.—The table of sections for subchapter III of chapter 51, United States Code, is amended—

(1) by striking the item relating to section 5134 and inserting the following new item:

“5134. [Repealed].”

(2) by striking the item relating to section 5135 and inserting the following new item:

“5135. Citizens Commemorative Coin Advisory Committee.”; and

(3) by inserting after the item relating to section 5135 the following new item:

“5136. United States Mint Public Enterprise Fund.”

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. OXLEY) and the gentlewoman from New York (Mrs. MALONEY) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

GENERAL LEAVE

Mr. OXLEY. Madam 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 this legislation, H.R. 4846.

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

There was no objection.

Mr. OXLEY. Madam Speaker, I yield myself 5 minutes.

Madam Speaker, I rise to support H.R. 4846, the Silver Eagle Coin Continuation Act of 2002.

The American Silver Eagle coin is truly a coin for the bullion market. It was authorized by Congress in 1983, spurred partly by the success of the Canadian Maple Leaf \$1 investment grade coin.

The American Silver Eagle has gone on to become the most popular investment coin in the entire world. More than 100 million have been sold, and the Maple Leaf dollar has been pretty much displaced from the market. The Mint sells the coins for an amount that includes the actual silver cost, plus manufacturing, distribution and marketing costs. Right now, the coin sells for about \$6.75 in uncirculated form.

Madam Speaker, when Congress authorized the Silver Eagle coin program, the United States maintained a number of strategic materials stockpiles, and Congress quite naturally mandated that the silver for the new coin come from the strategic silver stockpile. In the last decade, however, recognizing that there was no longer a real need for most of the strategic materials stockpiles, Congress ordered a drawdown of those reserves.

We now have come to the end of the strategic silver stockpile, but to continue the Silver Eagle coin program we must allow the Secretary of the Treasury, through the Mint, to acquire silver from another source. The legislation before us does just that, keeping the program intact and maintaining jobs both at the U.S. Mint facilities where the coin is produced and at the refineries where the bullion for the coins is refined.

This bill was ably drafted by the gentleman from Oklahoma (Mr. LUCAS) and includes language addressing the silver problem introduced separately by the gentleman from Idaho (Mr. OTTER).

Madam Speaker, the legislation before us also has two other sections. One is merely clerical, restating the Mint's authority to operate but not adding or subtracting from that authority. The bulk of the language will be consolidated into a single section of the U.S. Code, and some archaic references to long-defunct Mint operations are removed from law. Also, the bill clarifies language referring to the distribution of surcharges on the sale of U.S. commemorative coins, making it clear that organizations which benefit from the surcharges must raise matching funds from private sources.

Madam Speaker, compared to some of the legislation we will consider in the House this week, this is indeed a minor bill, but to the men and women whose jobs are on the line if we do not allow a new source of silver for the American Silver Eagle coin program or for the beneficiary organizations that would receive surcharge funding from

the sale of commemorative coins, it is most important; and I urge swift passage of the bill.

Madam Speaker, I reserve the balance of my time.

Mrs. MALONEY of New York. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, as ranking member of the Subcommittee on Domestic Monetary Policy, Technology, and Economic Growth, I am pleased to rise in support of H.R. 4846, the Silver Eagle Coin Continuation Act of 2002, a version of which passed the Senate last week by unanimous consent.

Madam Speaker, the United States Mint's most popular Silver Eagle coin program needs the assistance of Congress. Our strategic stockpile of silver, which once held upwards of 730 million ounces, is nearly depleted. In the years after World War II, this silver reserve was developed at such a rate as to eliminate the need for further mining. Since 1986, the U.S. Mint has slowly but surely consumed the stockpile, creating 1-ounce investment coins at the rate of about 10 million ounces per year. By this summer's end, our surplus in silver will be gone. Since the silver Eagle coin program was created, the U.S. Mint has consumed 137 million ounces.

In addition to being popular with our constituents, the program is a boon to the Treasury. The popularity of the Silver Eagle coin continues to rise and, according to press reports, nets more than \$264 million to the Treasury. And it has brought this money in since 1986.

When Congress created the coin, it specified that the source of silver for the coin be the Nation's strategic silver stockpile alone. Congress then failed to note that, at the extinction of the stockpile, the Mint would lack authority to acquire silver for the coin from any other source. This legislation corrects this oversight.

Without silver, the U.S. Mint cannot continue producing these coins. Our major blank coin vendors, which have remained dependent upon our silver stockpile, will face eminent layoffs and possible shutdowns, which could take up to 6 months to recover from. This situation can be avoided if we pass this legislation now.

Madam Speaker, all three sections of this legislation are technical in nature and, to my knowledge, not at all controversial. I believe the House should send this bill, which contains a nearly exact version of the Senate bill, to the Senate quickly for swift passage so that the coin program can stay in operation and workers can stay on the job. The Senate has acted, and we should follow its lead. I urge support of this legislation.

Madam Speaker, I reserve the balance of my time.

Mr. OXLEY. Madam Speaker, I am pleased to yield 5 minutes to the gentleman from Oklahoma (Mr. LUCAS), the author of the legislation.

Mr. LUCAS of Oklahoma. Madam Speaker, I rise in strong support of

H.R. 4846, the Silver Eagle Coin Continuation Act of 2002 and, of course, urge its immediate passage.

The legislation before us is simple yet important. When Congress, as has been noted, authorized the United States Mint to strike and sell investment-grade silver bullion coins, it directed that the silver to make such coins come only from the strategic silver stockpile established under the Strategic and Critical Stockpiling Act. Later, Congress ordered the sell-off of many of these stockpiles, including the silver stockpile, but in an oversight did not allow for a new source of silver for the American Silver Eagle coin program once the stockpile was depleted.

I would like to note for the record that the stockpile is now totally depleted, with the last shipment being made to the silver refiners within the past 2 weeks. However, that means that, without a change in law authorizing a new source of the silver used in the coin, the program will grind to a halt. That would disappoint investors but also have implications for jobs at the Mint and at the silver refiners here in the United States.

Madam Speaker, the Silver Eagle coin program has been an enormous success. Since those first coins were produced in 1986, nearly 115 million of the one-troy-ounce silver coins have been sold. The coin is made from .999 fine silver, much purer than the old traditional cartwheel silver dollars, such as the Morgan dollars, which were 90 percent pure. The obverse, or face, design is from the famous "Walking Liberty" half dollar design, designed by Adolph A. Weinman and produced between 1916 and 1947. The eagle on the reverse is a new design by John Mercanti. The coins are sold for the spot cost of the one ounce of silver, plus manufacturing, marketing, and distribution costs. Currently, an uncirculated coin sells for about \$6.75.

The legislation before us, using legislative language introduced in the House by the gentleman from Idaho (Mr. OTTER), simply strikes a reference to using the silver stockpile as the source for the silver coin program, directing the silver be acquired from appropriate other sources as defined by law.

The bill before us has two other sections also, both minor. One clarifies the congressional intent in the mid-1990 reforms of the commemorative coin programs that were offered by the gentleman from Delaware (Mr. CASTLE). Those reforms directed that organizations that are the beneficiaries of surcharges from the sale of commemorative coins must raise from private sources funds to match the surcharges received. There has been some confusion about how the match would work, and this legislation clarifies that arrangement.

This section also creates a mechanism for the eventual disposal of any surcharge funds not paid out to a beneficiary organization because of a fail-

ure to raise those matching funds. Currently, in Federal law, there is no such mechanism.

Finally, the bill consolidates and restates the United States Mint's main operating authorities, clearing out some obsolete language. No additions or subtractions to the authorities are made. This is strictly a housekeeping effort.

Madam Speaker, while all three sections of this bill are minor in the overall scheme of things, they are important to many. Giving the American Silver Eagle program a new source of silver will ensure those who want investment grade silver coins can continue to buy them and ensure that the jobs of those who so capably make these coins are maintained. Clarifying the matching funds requirement will make the bookkeeping understandable in our commemorative coin program, and consolidating the Mint's operating authorities will make reference to those portions of the U.S. Code much clearer.

Madam Speaker, I urge my colleagues to support this legislation.

Mrs. MALONEY of New York. Madam Speaker, having no further requests for time, I yield back the balance of my time.

Mr. OXLEY. Madam Speaker, I am pleased to yield 3 minutes to the gentleman from Idaho (Mr. OTTER), who has shown great leadership on this issue.

Mr. OTTER. Madam Speaker, I rise today in support of H.R. 4846 offered by my good friend and colleague, the gentleman from Oklahoma (Mr. LUCAS). I also want to take the opportunity to thank the gentleman from Ohio (Mr. OXLEY) for the accommodations he presented to my bill and for the great leadership he has shown in bringing this bill in such a timely manner to the floor.

Madam Speaker, H.R. 4846 will authorize the U.S. Mint to purchase silver for the American Eagle Silver Bullion program, the most popular silver coin in the world. Since its inception in 1986, the American Eagle silver dollar has generated more than \$200 million in deficit reduction for this Nation.

The blanks on the American Eagle silver coins are made at the Sunshine Mint in Coeur D'Alene, Idaho, employing more than 60 of my constituents. Idaho, Madam Speaker, is the premier silver mining region of the world, having produced more than 1.1 billion ounces throughout the mining region since the 1880s and employing more than 3,000 people statewide. Silver-related industries generate more than \$800 million for Idaho and its economy every year.

When the American Eagle program was established, the U.S. Mint depended upon the government's stockpile of silver; and, as has been already related, that stockpile has now been exhausted and the Mint needs to enter the market to purchase the silver it needs. Swift passage of legislation authorizing the Mint to purchase silver

will prevent a shutdown of the American Eagle production and save jobs in Idaho, Nevada, and New York.

The American Eagle coins bear the image of Liberty on the obverse and Eagle on the reverse. The strong sales of this coin around the world help spread the message of American freedom. By selling bullion coins, America provides freedom and hope for people in nations where economic freedom is now denied and where currencies are subject to the whims of the dictators.

□ 1700

American Eagle bullion now allows people to invest in themselves, save for their futures, purchase a timely commodity whose value is unquestioned and indeed, Madam Speaker, create a storehouse of wealth for themselves. Passage of this bill will allow these sales to continue. I wish to thank Senators REID and CRAPO for the passage of the Senate version of this same language, and I especially want to thank the gentleman from Oklahoma (Mr. LUCAS) and the gentleman from Ohio (Mr. OXLEY) for incorporating the language from my bill sponsored by myself, co-sponsored by the gentleman from Nevada (Mr. GIBBONS) and the gentleman from Idaho (Mr. SIMPSON) into the text of this bill. Their cooperation in this effort has been invaluable.

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

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Ohio (Mr. OXLEY) that the House suspend the rules and pass the bill, H.R. 4846, 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. OXLEY. 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.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 8 of rule XX, the Chair will now put the question on two of the remaining motions to suspend the rules on which further proceedings were postponed earlier today, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 4623, by the yeas and nays.

H.R. 4846, by the yeas and nays.

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

Proceedings on the six other postponed questions will resume tomorrow.

#### CHILD OBSCENITY AND PORNOGRAPHY PREVENTION ACT OF 2002

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4623, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4623, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 413, nays 8, answered “present” 1, not voting 12, as follows:

[Roll No. 256]  
YEAS—413

Abercrombie  
Aderholt  
Akin  
Allen  
Andrews  
Armey  
Baca  
Bachus  
Baird  
Baker  
Baldacci  
Baldwin  
Ballenger  
Barcia  
Barr  
Barrett  
Bartlett  
Barton  
Bass  
Becerra  
Bentsen  
Bereuter  
Berkley  
Berry  
Biggert  
Bilirakis  
Bishop  
Blumenauer  
Blunt  
Boehlert  
Boehner  
Bonilla  
Bonior  
Bono  
Boozman  
Borski  
Boswell  
Boucher  
Boyd  
Brady (PA)  
Brady (TX)  
Brown (FL)  
Brown (OH)  
Brown (SC)  
Bryant  
Burr  
Burton  
Buyer  
Calvert  
Camp  
Cannon  
Cantor  
Capito  
Capps  
Capuano  
Cardin  
Carson (IN)  
Carson (OK)  
Castle  
Chabot  
Chambliss  
Clay  
Clayton  
Clement  
Clyburn  
Coble  
Collins

Combest  
Condit  
Cooksey  
Costello  
Cox  
Coyne  
Cramer  
Crane  
Crenshaw  
Crowley  
Cubin  
Culberson  
Cummings  
Cunningham  
Davis (CA)  
Davis (FL)  
Davis (IL)  
Davis, Jo Ann  
Davis, Tom  
Deal  
DeFazio  
DeGette  
Delahunt  
DeLauro  
DeLay  
DeMint  
Deutsch  
Diaz-Balart  
Dicks  
Dingell  
Doggett  
Dooley  
Doolittle  
Doyle  
Dreier  
Duncan  
Dunn  
Edwards  
Ehlers  
Ehrlich  
Emerson  
Engel  
English  
Eshoo  
Etheridge  
Evans  
Everett  
Farr  
Fattah  
Ferguson  
Filner  
Flake  
Fletcher  
Foley  
Forbes  
Ford  
Fossella  
Frelinghuysen  
Frost  
Gallegly  
Ganske  
Gekas  
Gephardt  
Gibbons  
Gilchrest  
Gillmor  
Gilman

Gonzalez  
Goode  
Goodlatte  
Gordon  
Goss  
Graham  
Granger  
Graves  
Green (TX)  
Green (WI)  
Greenwood  
Grucci  
Gutierrez  
Gutknecht  
Hall (OH)  
Hall (TX)  
Hansen  
Harman  
Hart  
Hastings (FL)  
Hastings (WA)  
Hayes  
Hefley  
Herger  
Hill  
Hilleary  
Hinchey  
Hobson  
Hoeffel  
Hoekstra  
Holden  
Holt  
Honda  
Hooley  
Horn  
Hostettler  
Houghton  
Hoyer  
Hulshof  
Hunter  
Hyde  
Inslee  
Isakson  
Israel  
Issa  
Istook  
Jackson (IL)  
Jackson-Lee (TX)  
Jefferson  
John  
Johnson (CT)  
Johnson (IL)  
Johnson, E. B.  
Johnson, Sam  
Jones (NC)  
Jones (OH)  
Kanjorski  
Kaptur  
Keller  
Kelly  
Kennedy (MN)  
Kennedy (RI)  
Kerns  
Kildee  
Kilpatrick  
Kind (WI)

King (NY)  
Kingston  
Kirk  
Klecza  
Knollenberg  
Kolbe  
Kucinich  
LaFalce  
LaHood  
Lampson  
Langevin  
Lantos  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Leach  
Lee  
Levin  
Lewis (CA)  
Lewis (GA)  
Lewis (KY)  
Linder  
Lipinski  
LoBiondo  
Lofgren  
Lowey  
Lucas (KY)  
Lucas (OK)  
Luther  
Lynch  
Maloney (CT)  
Maloney (NY)  
Manzullo  
Markey  
Mascara  
Matheson  
Matsui  
McCarthy (MO)  
McCarthy (NY)  
McCollum  
McCrery  
McDermott  
McGovern  
McHugh  
McInnis  
McIntyre  
McKeon  
McKinney  
McNulty  
Meehan  
Meek (FL)  
Menendez  
Mica  
Millender-McDonald  
Miller, Dan  
Miller, Gary  
Miller, George  
Miller, Jeff  
Mink  
Mollohan  
Moore  
Moran (KS)  
Moran (VA)  
Morella  
Murtha  
Myrick  
Neal  
Nethercutt  
Ney  
Northup

Norwood  
Nussle  
Oberstar  
Obey  
Oliver  
Ortiz  
Osborne  
Ose  
Otter  
Owens  
Oxley  
Pallone  
Pascarell  
Pastor  
Payne  
Pelosi  
Pence  
Peterson (MN)  
Peterson (PA)  
Petri  
Phelps  
Pickering  
Pitts  
Platts  
Pombo  
Pomeroy  
Portman  
Price (NC)  
Pryce (OH)  
Putnam  
Quinn  
Radanovich  
Rahall  
Ramstad  
Rangel  
Regula  
Rehberg  
Reyes  
Reynolds  
Rivers  
Rodriguez  
Roemer  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Ros-Lehtinen  
Ross  
Rothman  
Roukema  
Roybal-Allard  
Royce  
Rush  
Ryan (WI)  
Ryun (KS)  
Sabo  
Sanders  
Sandlin  
Sawyer  
Saxton  
Schaffer  
Schakowsky  
Schiff  
Schrock  
Sensenbrenner  
Serrano  
Sessions  
Shadegg  
Shaw  
Shays  
Sherman  
Sherwood  
Shimkus

Shows  
Shuster  
Simmons  
Simpson  
Skeen  
Skelton  
Slaughter  
Smith (MI)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Solis  
Souder  
Spratt  
Stark  
Stearns  
Stenholm  
Strickland  
Stump  
Stupak  
Sullivan  
Sununu  
Sweeney  
Tancredo  
Tanner  
Tauscher  
Tauzin  
Taylor (MS)  
Taylor (NC)  
Terry  
Thomas  
Thompson (CA)  
Thompson (MS)  
Thornberry  
Thune  
Thurman  
Tiahrt  
Tiberi  
Tierney  
Toomey  
Towns  
Turner  
Udall (CO)  
Udall (NM)  
Upton  
Velazquez  
Vislosky  
Vitter  
Walden  
Walsh  
Wamp  
Waters  
Watkins (OK)  
Watson (CA)  
Weiner  
Weldon (FL)  
Weldon (PA)  
Weller  
Wexler  
Whitfield  
Wicker  
Wilson (NM)  
Wilson (SC)  
Wolf  
Woolsey  
Wu  
Wynn  
Young (AK)  
Young (FL)

NAYS—8

Berman  
Conyers  
Frank  
Nadler  
Paul  
Scott  
Watt (NC)  
Waxman

ANSWERED “PRESENT”—1

Ackerman

NOT VOTING—12

Blagojevich  
Callahan  
Hayworth  
Hilliard  
Hinojosa  
Jenkins  
Meeks (NY)  
Napolitano  
Riley  
Sanchez  
Traficant  
Watts (OK)

□ 1725

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.



ANNOUNCEMENT BY THE SPEAKER  
PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting on the remaining motion to suspend the rules on which the Chair is resuming further proceedings.

SILVER EAGLE COIN  
CONTINUATION ACT OF 2002

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4846, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. OXLEY) that the House suspend the rules and pass the bill, H.R. 4846, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 417, nays 1, not voting 16, as follows:

[Roll No. 257]

YEAS—417

Abercrombie	Castle	Filner
Ackerman	Chabot	Flake
Aderholt	Chambliss	Fletcher
Akin	Clay	Foley
Allen	Clayton	Forbes
Andrews	Clement	Ford
Armey	Clyburn	Fossella
Baca	Coble	Frank
Bachus	Collins	Frelinghuysen
Baird	Combest	Frost
Baker	Condit	Galleghy
Baldacci	Conyers	Ganske
Baldwin	Cooksey	Gephardt
Ballenger	Costello	Gibbons
Barcia	Cox	Gilchrest
Barr	Coyne	Gillmor
Barrett	Cramer	Gilman
Bartlett	Crenshaw	Gonzalez
Barton	Crowley	Goode
Bass	Cubin	Goodlatte
Becerra	Culberson	Gordon
Bentsen	Cummings	Goss
Bereuter	Cunningham	Graham
Berkley	Davis (CA)	Graves
Berman	Davis (FL)	Green (TX)
Berry	Davis (IL)	Green (WI)
Biggert	Davis, Jo Ann	Greenwood
Bilirakis	Davis, Tom	Grucci
Bishop	Deal	Gutierrez
Blumenauer	DeFazio	Gutknecht
Blunt	DeGette	Hall (OH)
Boehler	Delahunt	Hall (TX)
Boehner	DeLauro	Hansen
Bonilla	DeLay	Harman
Bonior	DeMint	Hart
Bono	Deutsch	Hastings (FL)
Boozman	Diaz-Balart	Hastings (WA)
Borski	Dicks	Hayes
Boswell	Dingell	Hefley
Boucher	Doggett	Hergert
Boyd	Dooley	Hill
Brady (PA)	Doolittle	Hilleary
Brady (TX)	Doyle	Hinchey
Brown (FL)	Dreier	Hobson
Brown (OH)	Duncan	Hoefel
Brown (SC)	Dunn	Hoekstra
Bryant	Edwards	Holden
Burr	Ehlers	Holt
Burton	Ehrlich	Honda
Buyer	Emerson	Hooley
Calvert	Engel	Horn
Camp	English	Hostettler
Cannon	Eshoo	Houghton
Cantor	Etheridge	Hoyer
Capito	Evans	Hulshof
Capps	Everett	Hunter
Capuano	Farr	Hyde
Cardin	Fattah	Inslee
Carson (IN)	Ferguson	Isakson

Israel	Miller, Gary	Scott
Issa	Miller, George	Sensenbrenner
Istook	Miller, Jeff	Serrano
Jackson (IL)	Mink	Sessions
Jackson-Lee	Mollohan	Shadegg
(TX)	Moore	Shaw
Jefferson	Moran (KS)	Shays
John	Moran (VA)	Sherman
Johnson (CT)	Morella	Sherwood
Johnson (IL)	Murtha	Shimkus
Johnson, E. B.	Myrick	Shows
Johnson, Sam	Nadler	Shuster
Jones (NC)	Napolitano	Simmons
Jones (OH)	Neal	Simpson
Kanjorski	Nethercutt	Skeen
Kaptur	Ney	Skelton
Keller	Northup	Slaughter
Kelly	Norwood	Smith (NJ)
Kennedy (MN)	Nussle	Smith (TX)
Kennedy (RI)	Oberstar	Smith (WA)
Kerns	Obey	Snyder
Kildee	Oliver	Solis
Kilpatrick	Ortiz	Souder
Kind (WI)	Osborne	Spratt
King (NY)	Ose	Stark
Kingston	Otter	Stearns
Kirk	Owens	Stenholm
Kleczka	Oxley	Strickland
Knollenberg	Pallone	Stump
Kolbe	Pascarell	Stupak
Kucinich	Pastor	Sullivan
LaFalce	Paul	Sununu
LaHood	Payne	Sweeney
Lampson	Pelosi	Tancredo
Langevin	Pence	Tanner
Lantos	Peterson (MN)	Tauscher
Larsen (WA)	Peterson (PA)	Tauzin
Larson (CT)	Petri	Taylor (MS)
Latham	Phelps	Taylor (NC)
LaTourette	Pickering	Terry
Leach	Pitts	Thomas
Lee	Platts	Thompson (CA)
Levin	Pombo	Thompson (MS)
Lewis (CA)	Pomeroy	Thornberry
Lewis (GA)	Portman	Thune
Lewis (KY)	Price (NC)	Thurman
Linder	Pryce (OH)	Tiahrt
Lipinski	Putnam	Tiberi
LoBiondo	Quinn	Tierney
Lofgren	Radanovich	Toomey
Lowey	Rahall	Towns
Lucas (KY)	Ramstad	Turner
Lucas (OK)	Rangel	Udall (CO)
Luther	Regula	Udall (NM)
Lynch	Rehberg	Upton
Maloney (CT)	Reyes	Velazquez
Maloney (NY)	Reynolds	Visclosky
Manzullo	Rivers	Vitter
Markey	Rodriguez	Walden
Mascara	Roemer	Walsh
Matheson	Rogers (KY)	Wamp
Matsui	Rogers (MI)	Waters
McCarthy (MO)	Rohrabacher	Watkins (OK)
McCarthy (NY)	Ros-Lehtinen	Watson (CA)
McCollum	Ross	Watt (NC)
McCrery	Rothman	Waxman
McDermott	Roukema	Weldon (FL)
McGovern	Roybal-Allard	Weldon (PA)
McHugh	Royce	Weller
McInnis	Rush	Wexler
McIntyre	Ryan (WI)	Whitfield
McKeon	Ryun (KS)	Wicker
McKinney	Sabo	Wilson (NM)
McNulty	Sanders	Wilson (SC)
Meehan	Sandlin	Wolf
Meek (FL)	Sawyer	Woolsey
Menendez	Saxton	Wu
Mica	Schaffer	Wynn
Millender	Schakowsky	Young (AK)
McDonald	Schiff	Young (FL)
Miller, Dan	Schrock	

NAYS—1

Granger

NOT VOTING—16

Blagojevich	Hilliard	Smith (MI)
Callahan	Hinojosa	Trafficant
Carson (OK)	Jenkins	Watts (OK)
Crane	Meeks (NY)	Weiner
Gekas	Riley	
Hayworth	Sanchez	

□ 1739

Mr. FRANK and Mr. CONYERS changed their vote from “nay” to “yea.”

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mrs. NAPOLITANO. Madam Speaker, on rollcall No. 256, had I been present, I would have voted “yea.”

## PERSONAL EXPLANATION

Ms. SANCHEZ. Madam Speaker, on Tuesday, June 25, I was unavoidably detained due to a prior obligation at the American Federation of State, Municipal, and County Employees' (AFSME) National Labor Convention.

I request that the CONGRESSIONAL RECORD reflect that had I been present and voting, I would have voted “yes” on rollcall No. 253, “yes” on rollcall No. 254, “yes” on rollcall No. 255, “yes” on rollcall No. 256, and “yes” on rollcall No. 257.

## REPORT ON H.R. 5010, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT FOR FISCAL YEAR 2003

Mr. LEWIS of California, from the Committee on Appropriations, submitted a privileged report (Rept. No. 107-532) on the bill (H.R. 5010) making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to clause I, rule XXI, all points of order are reserved on the bill.

## REPORT ON H.R. 5011, MILITARY CONSTRUCTION APPROPRIATIONS ACT FOR FISCAL YEAR 2003

Mr. HOBSON, from the Committee on Appropriations, submitted a privileged report (Rept. No. 107-533) on the bill (H.R. 5011) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore. Pursuant to clause I, rule XXI, all points of order are reserved on the bill.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4777

Mr. GILMAN. Madam Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 4777.

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

There was no objection.

REPORT ON BOSNIA AND U.S. FORCES IN NATO-LED STABILIZATION FORCE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107-233)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations, the Committee on Armed Services, and the Committee on International Relations and ordered to be printed:

*To the Congress of the United States:*

As required by the Levin Amendment to the 1998 Supplemental Appropriations and Rescissions Act (section 7(b) of Public Law 105-174) and section 1203(a) of the Strom Thurmond National Defense Authorization Act for FY 1999 (Public Law 105-261), I am providing a report prepared by my Administration on progress made toward achieving benchmarks for a sustainable peace process in Bosnia and Herzegovina.

This sixth report, which also includes supplemental reporting as required by section 1203(a) of Public Law 105-261, provides an updated assessment of progress on the benchmarks covering the period March 2001 to December 2001.

GEORGE W. BUSH.  
THE WHITE HOUSE, June 25, 2002.

SECOND PROTOCOL TO THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF THE NETHERLANDS ON SOCIAL SECURITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107-234)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

*To the Congress of the United States:*

Pursuant to section 233(e)(1) of the Social Security Act, as amended by the Social Security Amendments of 1977 (Public Law 95-216, 42 U.S.C. 433(e)(1)), I transmit herewith the Second Protocol to the Agreement Between the United States of America and the Netherlands on Social Security (the "Second Protocol"). The Second Protocol was signed at the Hague on August 30, 2001, and is intended to modify certain provisions of the original U.S.-Netherlands Agreement, signed December 9, 1987, as amended by the Protocol of December 7, 1989 (the "U.S.-Netherlands Agreement").

The U.S.-Netherlands Agreement as amended by the Second Protocol is similar in objective to the social security agreements that are also in force

with Austria, Belgium, Canada, Chile, Finland, France, Germany, Greece, Ireland, Italy, Korea, Luxembourg, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. Such bilateral agreements provide for limited coordination between the United States and foreign social security systems to eliminate dual social security coverage and taxation and to help prevent the loss of benefits that can occur when workers divide their careers between two countries. The U.S.-Netherlands Agreement as amended by the Second Protocol contains all provisions mandated by section 233 and other provisions that I deem appropriate to carry out the purposes of section 233, pursuant to section 233(c)(4).

I also transmit for the information of the Congress a report prepared by the Social Security Administration explaining the key points of the Second Protocol with a paragraph-by-paragraph explanation of the provisions of the Second Protocol (Annex A). Also annexed to this report is the report required by section 233(e)(1) of the Social Security Act, a report on the effect of the Second Protocol on income and expenditures of the U.S. Social Security program and the number of individuals affected by the Second Protocol (Annex B), and a composite text of the U.S.-Netherlands Agreement showing the changes that will be made as a result of the Second Protocol. The Department of State and the Social Security Administration have recommended the Second Protocol and related documents to me.

I commend the Second Protocol to the United States-Netherlands Social Security Agreement and related documents.

GEORGE W. BUSH.  
THE WHITE HOUSE, June 25, 2002.

PERIODIC REPORT ON THE NATIONAL EMERGENCY CAUSED BY THE LAPSE OF THE EXPORT ADMINISTRATION ACT OF 1979 FOR AUGUST 19, 2001 TO FEBRUARY 19, 2002—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107-235)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

*To the Congress of the United States:*

As required by section 204(c) of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), I transmit herewith a 6-month report prepared by my Administration, on the national emergency declared by Executive Order 13222 of August 17, 2001, to deal with the threat to the national security, foreign policy, and economy of the United

States caused by the lapse of the Export Administration Act of 1979.

GEORGE W. BUSH.  
THE WHITE HOUSE, June 25, 2002.

PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO THE 1979 IRANIAN EMERGENCY AND ASSETS BLOCKING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107-236)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

*To the Congress of the United States:*

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report prepared by my Administration on the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979.

GEORGE W. BUSH.  
THE WHITE HOUSE, June 25, 2002.

□ 1745

SPECIAL ORDERS

The SPEAKER pro tempore (Mrs. BIGGERT). Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE THREAT OF CHILD ABDUCTION

The SPEAKER pro tempore (Mr. KERNS). Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

Mr. MORAN of Kansas. Mr. Speaker, today I rise to remind us that, as America is focused on fighting terrorism and providing for homeland security, we have recent headlines that tell the story of another threat, one that causes parents to question the security of their homes and contemplate the safety of their children. That threat is child abduction.

The story is too common. In Kansas, it happened last September, when 4-year-old Jaquilla Scales disappeared from her home. More recently, in Utah, it is 14-year-old Elizabeth Smart who was taken from her bedroom while her sister slept nearby. Both girls are still missing.

This tragedy can strike any family, any community. It is estimated that one in 42 children will become a missing child. Each year, between 200 and 300 children are abducted by strangers, and approximately 115,000 more children are victims of attempted abduction.

These statistics remind us of the magnitude of the problem, but also indicate that the majority of attempted abductions will fail. In many cases, an abduction is prevented by a teacher, a law enforcement officer, or a watchful neighbor. A concerned and engaged community is our best resource in the war against child abduction.

When a child is abducted by a stranger, time is of the essence. Research shows that 74 percent of children abducted and later murdered are killed within the first 3 hours following the abduction. If alerted quickly, a community can help save the life of an endangered child by providing timely and useful information.

Tonight I speak in support of two programs that help strengthen the partnership between local law enforcement and the public to aid in the search for missing children. The AMBER Plan, America's Missing: Broadcast Emergency Response, was created 5 years ago in honor of Amber Hagerman, who was abducted and murdered in Arlington, Texas.

The AMBER Plan relies on voluntary participation of law enforcement agencies and radio and television broadcasters to activate an urgent alert following an abduction. Broadcasters use the emergency alert system to interrupt radio and television programming to provide information concerning the missing child and the possible suspect. This plan is now in place in several communities in my home State of Kansas and other locations across our country. To date, the plan has been credited with saving the lives of 16 children. This life-saving program can and should be expanded across the Nation.

Like the AMBER Plan, the Lost Child Alert Technology Resource, or LOCATER program, works to rapidly circulate information concerning a missing child. This program provides local law enforcement agencies with a computer and the equipment necessary to scan photographs of missing children for distribution to fellow law enforcement agencies and to the public. The equipment provided as part of the LOCATER program is free of charge through the National Center For Missing and Exploited Children.

Few things are more frightening than the abduction of a child. As we work to secure our Nation from terrorists, we must also remember the safety of our children. Kansans, like most Americans, take pride in being good neighbors, people willing to lend a helping hand in time of crisis. This is what makes our community strong, and this is what can make the AMBER Plan and the LOCATER program successful in providing a more secure America for our children.

#### WOMEN AND SOCIAL SECURITY PRIVATIZATION

The SPEAKER pro tempore. Under a previous order of the House, the gentle-

woman from Florida (Mrs. THURMAN) is recognized for 5 minutes.

Mrs. THURMAN. Mr. Speaker, as part of my continuing series on Social Security and women, I would like to focus this evening's comments on the financial risks that I believe are posed by privatizing the Social Security program.

Social Security privatization would expose individual workers and their families to financial risks which they do not face under the current system. Under privatization, Social Security benefits would no longer be determined primarily by a worker's earnings and the payroll tax contributions she made over her career. Rather, benefit levels would be determined by the vagaries of the stock market, by a worker's skill, or just plain luck in making investments, and by the timing of his or her decision to retire.

Social Security today provides a guaranteed lifelong benefit. No matter what the stock market does the day one retires or in the months leading up to retirement, our benefit will be unaffected. Advocates of individual accounts argue that, since fluctuations in the stock market average out over time, individual investment risk is negligible. Averages are misleading. For every person whose investments perform above average, there is another person counting on Social Security whose investments perform below average. Retirees are not just averages; retirees are individual people.

Between March, 2000, and April, 2001, the S&P 500 fell by 424 points, or 28 percent. If Social Security had been privatized, a worker who had his or her individual account invested in a fund that mirrored the S&P 500 and who retired in April of 2001 would have 28 percent less to live on for the rest of his or her life.

There were 15 years in the past century, 1908 to 1912, 1937, 1939, 1965 through 1966, 1968 through 1973, in which the real value of the stock market fell by more than 40 percent over the preceding decade. That is from the CBO, the Congressional Budget Office.

Social Security protects against many risks, including the risk of death or disability, the risk of low lifetime earnings, the risk of unexpectedly long life, and the risk of inflation. Privatization undermines these protections and adds one more risk that workers would have to worry about: individual financial risk.

Because of a number of factors, women are more likely than men to be negatively impacted and affected by these financial risks. Women tend to outlive their husbands by an average of 7 years. Reductions in Social Security payments due to lack of funds would leave stranded many women without their husband's Social Security income. And because they live longer than men, women are at a greater risk of running out of money in their private account.

Women take time out of their work life to care for children and elderly

parents. Under a system of private accounts, they would pay less into their accounts and have less to draw down on when they retire.

Mr. Speaker, privatizing the Social Security program in my estimation poses unneeded financial risks, both on the seniors that have paid into Social Security with their hard work, and those young people just entering the workforce. And women would face the greatest risk of all under a privatized Social Security system.

#### ISSUANCE OF VISAS IS NOW A NATIONAL SECURITY FUNCTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. WELDON) is recognized for 5 minutes.

Mr. WELDON of Florida. Mr. Speaker, tomorrow the Subcommittee on Civil Service, Census and Agency Organization will begin examination of one of the most vital components of the President's homeland security proposal. Our homeland security starts abroad, and nothing is more important than who gets issued a visa.

The issuance of visas can no longer be thought of as a mere diplomatic function. It is now a national security issue, and must be our first line of defense. While the President recognizes the importance of visa issuance and the obvious problems, the current proposed legislation does not go far enough. The entire visa program should be part of the proposed Homeland Security Department.

The State Department views the issuance of visas as a diplomatic tool. The day is past when it should be viewed this way. It is now clearly a national security function. The fragmented approach, where the Secretary of Homeland Security issues regulations regarding visas, but actual operational control remains under the State Department, is not acceptable.

Just as we work hard to prevent biological, chemical, or other weapons of mass destruction from making their way to our shores, so we must keep terrorists, deadly weapons in and of themselves, keep them from coming into our homeland. A strong visa issuance program is essential to achieve that objective.

We are all too aware of the fact that 15 of the 19 September 11 terrorists had obtained "appropriate" visas. This is unacceptable. No longer can the issuing of visas be a diplomatic function; it must be a security function, with proper scrutiny only a trained agent can apply. Diplomats are trained to be diplomats. Visa issuance should not be about speed and service with a smile.

Recent news reports have brought to light a program in Saudi Arabia called "visa express." It allows private Saudi travel agents to process visa paperwork on behalf of Saudi residents. Three of the September 11 terrorists obtained

their visas this way, never being interviewed by anyone in the consular office.

When the program began, it was advertised as helping qualified applicants obtain U.S. visas quickly and easily. Applicants will no longer have to take time off from work, they said, no longer have to wait in long lines or under the hot sun in crowded waiting rooms. I am quoting from State Department documents.

Here are some of the September 11 terrorists who came into this country under the visa express program. Salem Al-Hamzi, age 20, arrived in the United States with a tourist visa obtained through visa express.

Here is another one: Khalid Al-Midhar, a 25-year-old gentleman. He was one of the people on Flight 77 that crashed into the Pentagon.

Here is another one: Abdulaziz Al-Omari, 28, arrived in the U.S. on a tourist visa in June of 2001, a pilot of the American Airlines Flight 111 that crashed into the North Tower of the World Trade Centers.

Now, under this program, the Saudi citizens just go to a Saudi travel agent, and they fill out a two-page form. They paid a fee and went home and waited for their visas to arrive in the mail. There was no interview with any American official. One senior consular affairs official describes the program as an open-door policy for terrorists to come into the United States.

Mr. Speaker, it seems to me that we have our priorities out of order here. This is not customer service; it is national security. Visa issuance must be in the homeland security system from top to bottom. This is the only way the Secretary of Homeland Security will be able to completely and thoroughly protect our borders, by preventing terrorists from ever making it into our homeland.

We must change the culture of the way we issue visas. It is no longer sufficient for this process to be an entry-level position for a person at a college. It is simply too vital to our national security.

Mr. Speaker, security begins abroad. I feel the burden is on the administration to prove to us why the Bureau of Consular Affairs is fragmented and a pseudo part of homeland security. Thus far, they have not convinced me of the need for this fragmentation in this area. I support putting all of consular affairs in homeland security.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. MILLENDER-McDONALD) is recognized for 5 minutes.

(Ms. MILLENDER-McDONALD addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

□ 1800

#### DRUG INDUSTRY NEEDS TO CLEAN UP ITS ACT

The SPEAKER pro tempore (Mr. KERNS). Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, earlier today I heard a Republican member of the Committee on Ways and Means absolutely distort the truth about the Democrats' prescription drug plan, saying that it requires that seniors go into the Democrats' plan whether or not they choose to, whether or not they already have drug coverage. There is no place in this debate for those kinds of fabrications and those kind of lies, and I just want to set the record straight.

Mr. Chairman, the prescription drug industry needs to clean up its act. You know it. I know it. American consumers know it.

The brand name drug industry has no qualms about charging American consumers the highest prices in the world for prescription drugs, even though American tax dollars and American contributions to private foundations fund nearly half their research, even though the prescription drug industry in this country is the most profitable industry in America, even though the prescription drug industry gets tax breaks so huge they have only half the tax liability of any other industry in this country, and even though more than 50 million Americans have no drug coverage, some of whom must choose between food and their medicine.

Prescription drugs are not a luxury item. It is not okay that the drug industry overcharges U.S. consumers for products our own tax dollars helped to produce. The drug industry has tremendous influence over this Congress and especially this White House. Unfortunately, the situation may have to get worse before the Federal Government finally takes a stand against the outrageous pricing schemes of the drug industry. Until that happens, market competition is the only tool we have to bring down prices.

When generics enter the market, the price typically drops as much as 90 percent. Market competition expands access to Americans who cannot afford the monopoly prices that are charged by the brand name companies. It spurs drug companies to earn their profits by developing new drugs, rather than by overcharging for existing products. It is much easier, obviously, to overcharge for existing products than to develop new ones. The brand name drug industry has taken to exploiting loopholes in the FDA drug approval process to block generic competition. So not only do drug companies charge Americans the highest price in the world while those drugs are under patent, these companies then try to charge Americans ridiculous prices after their patents expire by blocking generics from entering the market.

You would think Congress would at least be interested in keeping drug companies from gaming the patent system as a means of cheating American consumers.

Governors from both parties, major businesses like GM and Marriott and Verizon and unions and consumer groups and health insurers have demanded that Congress close these legal loopholes. Closing these loopholes would save American consumers literally hundreds of billions of dollars in the next 10 years. Yet, last week, Republican leadership blocked action on an amendment that would end drug industry abuses. This amendment simply would have prevented drug companies from artificially extending their patents, the drugs' protected patents and stop them from gaming the FDA patent system.

Last week, Republican leadership blocked consideration of this amendment. They would not, in fact, even let the Committee on Energy and Commerce consider the amendment. It may not have been a coincidence that the same week that our committee was marking up the prescription drug bill, that same week that committee adjourned early one afternoon to go to a Republican fund-raiser which was underwritten by the prescription drug industry. The chair of that Republican fund-raiser which netted \$30 million was the CEO of a British drug company, GlaxoWellcome, donated \$250,000 to the Republican cause. The CEO was joined by CEOs of other drug companies which contributed \$50,000, \$100,000, \$200,000, \$250,000 to this Republican fund-raiser.

It should also come as no surprise that the next day after the fund-raiser Republicans returned to the committee and, in regular party line votes, voted against any kind of real reform, any kind of pro-senior prescription drug plan.

The Democratic prescription drug plan written by and for seniors will bring drug costs down. That is what seniors want. The Republican prescription drug plan written by and for the prescription drug industry does nothing to bring prices down. That is what prescription drug companies want.

I ask my colleagues to support the Democratic plan when it comes in front of the House and reject the drug-company-sponsored Republican plan.

#### MEDICARE PRESCRIPTION DRUG COVERAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mrs. CAPPS) is recognized for 5 minutes.

Mrs. CAPPS. Mr. Speaker, in 1965 we established Medicare because the private insurance industry demonstrated that it could not provide affordable access to health care for seniors, at least not at rates that seniors could afford. Now, 37 years later, this Congress will be considering important changes to

improve this most successful government program.

Everyone seems to recognize that we must add prescription drug coverage to the program.

Older Americans fill more than one-third of all the prescriptions that doctors write and will spend \$1.8 trillion over the next decade on these critical medications, much of it from their own pockets. Our parents, our grandparents, the seniors living in our neighborhood need and deserve our help. But I am afraid that some have lost track of the important lessons of 1965, that markets forces are inadequate to this task.

Now I recognize the power of the market. Since arriving in Congress I have voted for tax cuts and supported free trade and generally taken a pro-business stance. But here, when we are trying to provide health care for our senior citizens and those with disabilities, we have seen the markets fall short.

The most recent example is the Medicare+Choice program, created to harness the efficiencies of the marketplace. The hope, indeed, the promise from the program's supporters, was that HMOs would offer seniors quality or better care for less money than it took Medicare.

At first, it seemed to work. We have paid the HMO slightly less than it cost to cover a senior through a fee-for-service program; and seniors enrolled in the program in droves because it had low co-payments and at least a few more benefits.

But then the HMO's said they needed more money, a lot of it. So we gave them more money; and then they started pulling out of a lot of areas, like my district. And where they did not pull out, they cut back on benefits a lot. They raised premiums, they raised co-pays, and they still asked for more money from Congress.

In truth, this program has not been an overwhelming success, to say the least. I am willing to continue to try to fix it, but we should be aware of its problems and shortfalls, and we should not base the rest of Medicare on it, particularly a prescription drug benefit.

Last week, the Committee on Energy and Commerce and the Committee on Ways and Means considered legislation that would do just that and provide a prescription drug benefit through a program similar to Medicare+Choice. Many of my colleagues and I offered amendments to provide a prescription drug benefit through traditional Medicare to these proposals, but the majority defeated each and every attempt to improve this bill. Instead, they have sent legislation to the House floor that would privatize Medicare, impose unfair cost sharing on seniors and not even offer medication coverage that most seniors could count on.

Even the insurance companies, the people who are supposed to administer and offer these plans, these companies are unenthusiastic about the leadership's proposal.

One of HIAA's past presidents, former Representative Bill Gradison, is quoted as being "very skeptical" of this proposal working.

Even if the insurance companies do offer the plans and do provide the benefits the majority describes, it still will not help the seniors who most need it. In fact, their proposal pays less the more seniors needs medication. It offers no help to seniors with drug costs between \$2,000 and \$3,700 or \$4,700 per year. This means that sicker seniors with most health problems, those who most need medications, will not be able to afford them again.

Now, 37 years ago America made a promise to our seniors. We told them they would have health care when they needed it most. We need to follow through on that promise. We need to give our seniors affordable prescription drug coverage.

When this legislation comes to the floor, my colleagues and I will try once again to give seniors a prescription drug benefit they can depend upon. We will offer seniors a reliable, voluntary benefit within the Medicare structure, comparable to the coverage a senior receives for other Medicare services. In fact, unlike the bill that will come before Congress, our plan makes sure seniors get access to the same level of prescription drug coverage that a Member of Congress or another Federal employee receives. This is only fair.

This plan offers seniors real help. It covers 80 percent of the cost of their medication. It will prevent seniors from spending more than \$2,000 a year on their medication. It will not rely on the goodwill or poor business sense of insurance companies; and it will guarantee coverage in all areas, urban, suburban and rural. A senior in California would be able to count on the same benefit that a senior in Kansas or a senior in New York City has and vice versa.

Mr. Speaker, I urge my colleagues to oppose the majority's bill that will give our seniors false hopes that will be dashed on the rocks of reality and to support the alternative for a voluntary, affordable bill that will be offered by the Democratic side.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

(Mr. FILNER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFazio) is recognized for 5 minutes.

(Mr. DEFazio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Ms. EDDIE BERNICE JOHNSON) is recognized for 5 minutes.

(Ms. EDDIE BERNICE JOHNSON of Texas addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

#### GIVE SENIORS AFFORDABLE PRESCRIPTION DRUGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, get the senior tour buses gassed up to travel to Canada, because under the Republican prescription drug plan seniors will not find any relief from the high costs of prescription drugs. In fact, Americans pay three to four times more for their medications than any other people in the world; and the prices of the 50 most commonly prescribed drugs for seniors increased last year nearly three times the rates of inflation.

Yet the Republican bill does not do one thing to reduce the root cause of our Nation's crisis in access to affordable life-saving medications and that is their costs.

Under the Republican plan, seniors would be forced to purchase drugs through private drug policies, another slippery slope to the dangerous path to privatization.

And as if attempting to privatize Medicare were not enough, the Republican bill covers less than a quarter of Medicare beneficiaries' estimated drug costs over the next 10 years.

Frankly, the Republican bill preserves the inflated prices of one of their biggest set of contributors. It is no wonder the pharmaceutical companies showed up in droves last week at the Republican party's \$30 million fund raising bash here in Washington.

In fact, Bob Novak from CNN gave us insight into that fund-raiser. He said, "This is one of the great fund-raisers of all time, because people going to see these things for 20 years had never found them so crowded. It was chair to chair, back to back." And they had to pay \$100,000 to get into the photo session with the President. If you wanted to sit on the platform with the President, that cost a little more. You had to pay \$250,000 in order to do that.

I guess they will try to get the government they are paying for unless the American people pay attention.

Now with all the high rhetoric surrounding the Republican plan one might think it provides a real benefit, but take a closer look. Under the Republican plan you may, and I stress may, be able to choose from a private program that will cost you \$35 a

month. Yes, their bill does not cap the drug premium. In fact, insurers would set the premium cost, and it would vary from plan to plan, place to place.

But let us ignore that flaw for a moment and assume it might be about \$35 a month. So that is \$420 a year for that premium. For the first \$250 you spend on prescription medication, this new plan will pay you exactly nothing. That is right. If you need no more than \$250 worth of medication, this plan will cost you \$670 a year, the \$35 monthly premium plus the \$250 deductible.

Now if you are one of every three Medicare beneficiaries who spend less than \$500 on medication every year, you are in for a treat. What would have cost you \$500 will cost you \$720 under the Republican plan. Yes, you would actually pay almost 50 percent more under their plan than you would pay without it.

□ 1815

Maybe a person spends closer to \$1,000 a year, as half of the Medicare population does. If so, they do fare a bit better. If their medications will cost \$1,000, they will spend \$420 on the program, \$250 for the first batch of drugs and then 20 percent of the next \$750 they owe, or \$150. That adds up to \$820. They will have saved \$160.

But if someone is among the 30 percent of Medicare recipients that spends more than \$2,000 a year for drugs, I am afraid we have some bad news for them. Under the Republican plan, they are on their own for every dollar between \$2,000 and \$3,800. This plan will not pay them a cent.

Their plan is simply a sad attempt to gain political cover by sounding like they are working for and care about seniors while simultaneously draining Social Security and Medicare trust funds to pay for huge breaks for the superrich contributors.

So ignore the Republican rhetoric. We should provide seniors with a real and meaningful prescription drug benefit. We should encourage aggregate buying by groups of seniors, not sending each senior out there with some kind of expensive privatized plan in the rough waters of the marketplace in their very, very small canoes.

The first step to make Medicare and prescription medication available to our seniors at more affordable prices and to make them more available is to vote "no" on the risky Republican Medicare drug plan they intend to bring up this week.

The SPEAKER pro tempore (Mr. KERNS). Under a previous order of the House, the gentlewoman from California (Mrs. NAPOLITANO) is recognized for 5 minutes.

(Mrs. NAPOLITANO addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentle-

woman from Indiana (Ms. CARSON) is recognized for 5 minutes.

(Ms. CARSON of Indiana addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

#### ENSURING CONTINUITY OF LEGISLATIVE OPERATIONS DURING AN EMERGENCY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. LANGEVIN) is recognized for 5 minutes.

Mr. LANGEVIN. Mr. Speaker, today I rise to announce introduction of H.R. 5007, a bill to authorize the National Academy of Sciences and the Librarian of Congress to conduct a study on the feasibility and costs of implementing an emergency electronic communications system for Congress to ensure the continuity of legislative operations during an emergency.

Let me first express my most sincere gratitude to a man who illustrates the power of responsible, effective leadership, a man who made today possible and whom I am so proud to call my close friend, the gentleman from Ohio (Mr. NEY). The Chairman has devoted an immense amount of time to this issue of congressional continuity. He has led this House through one of the most difficult times in our history and has done so with great dignity. I honestly cannot thank him enough for his dedication and hard work in joining me in introducing H.R. 5007.

I also want to thank the gentleman from Maryland (Mr. HOYER), the ranking member of the Committee on House Administration. He has provided the same kind of leadership, wisdom, and guidance in moving this issue through the legislative process. He has worked closely with me ever since I introduced legislation to investigate alternatives in conducting congressional business in the United States Capitol and surrounding areas if there was a future attack or disaster. I would like to thank him for his support and commitment throughout this process.

Mr. Speaker, many of my colleagues know that for months now I have promoted the establishment of an electronic communications system for an emergency situation. When I introduced the Ensuring Congressional Security and Continuity Act last year, I wanted to spur some meaningful dialogue among Members on what we need to do to prepare for what was once an unthinkable but now, according to our own Vice President, is inevitable. I am pleased to report that the dialogue has indeed begun.

On February 28, the House Committee on the Judiciary, Subcommittee on the Constitution began this dialogue with a hearing on how to replace Members if a significant number were killed or incapacitated in an attack. My good friend, the gentleman from Washington (Mr. BAIRD), has introduced some insightful legislation to address this very issue.

On May 1, I was proud to see the Committee on House Administration hold a hearing on my proposal and the various issues surrounding the use of technology to conduct congressional operations in an emergency situation.

On May 16, the gentleman from California (Mr. COX) and the gentleman from Texas (Mr. FROST) brought together chairmen, ranking members, and other leaders in this area to discuss congressional continuity issues. Since then, the Cox-Frost team has continued to study this issue in a bipartisan and thorough fashion.

September 11 and the subsequent anthrax attacks on our congressional offices exposed just how vulnerable we are, particularly because we are centrally located. While none of us wants to think about or face our mortality, especially at the hands of terrorists, we have to recognize that it could happen. It is our duty as Members of Congress to ensure this country remains safe and we leave the American public with a system that ensures our freedom and democracy will prevail over any catastrophe.

Mr. Speaker, today we can do just that by passing H.R. 5007. I urge the leadership to bring this bill to the floor as expediently as possible. I would also like to thank the gentleman from Ohio (Mr. NEY), the chairman; the gentleman from Maryland (Mr. HOYER), the ranking member; and their staffs for working with me to meet this objective.

#### MEDICARE PRESCRIPTION DRUG BENEFIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, the House is confronted with a major decision this week, and that is, whether or not to provide a prescription drug benefit for our senior population, and if we are to provide a benefit, what that benefit will look like.

In my district in southern and southeastern Ohio, I am continuously confronted by seniors who tell me of their difficulty in being able to get the medicines they need at an affordable cost, and so it is incumbent upon this House to take the action necessary to prevent our seniors from choosing between buying food and buying medicine or paying other essential bills. Nearly every Member of this House during the last election process made a commitment to their constituents that they would pass a meaningful, affordable prescription drug benefit; and if we do not do it, then shame on us.

The issues, though, that confront us are not only whether or not to provide the benefit but what kind of benefit. Sadly, the majority party in this House is proposing a benefit that, in my judgment, is worse than no benefit at all. It would be the first step toward the privatization of the Medicare system. It



would rely on the private insurance market to provide the benefit; and coming from a rural area, my fear is that there would be no company that would be willing to provide a drug-only policy for the constituents that I am charged to represent.

In my district, we used to have some Medicare+Choice programs, some HMO Medicare programs. We do not have them anymore because they did not make as much money as they wanted to make; and so they withdrew, leaving literally thousands of my constituents without that coverage. I think the same thing would likely happen with this proposed prescription drug benefit.

What seniors need and want is a benefit that is a part of the Medicare benefit package. They want a program that is as predictable and as reliable as is traditional Medicare; and they want a program that provides them with the benefit that is affordable, that has a defined package of benefits, which they know about and can depend upon; and they want a prescription drug benefit that gives them choice. And that is what the Democratic proposal will do.

There are differences between the Democrat and Republican proposals, and I would like to mention just a few of them. Our proposal would have a \$25-per-month premium. The Republican proposal would have a \$35-per-month premium, with no guarantee that that premium would not escalate, \$65 or \$85 or even more. So there is no predictability to the Republican premium as to affordability.

The program that I and my colleagues on this side of the aisle support has a \$100 deductible. The Republican proposal has a \$250 deductible. My side, the Democratic side, has a copayment of 20 percent, meaning that Medicare would pay 80 percent, and that is the same as the Republican side. However, on our side, we have a <sup>20</sup>/<sub>100</sub> copay for all of the drugs that a senior may need; and on the Republican side, there is an 80 percent copay for the first \$1,000 in medication. Only 50 percent would be paid by Medicare for the second \$1,000; and then there would be a huge gap and until a senior paid over \$3,700 out of their own pocket would the catastrophic plan kick in and then all the drugs would be paid for.

What is especially problematic is the fact that a charitable group or a friend, a church, would not be able to voluntarily contribute to that senior's medication costs to enable them to reach the catastrophic coverage; and in my district, many times local churches will recognize seniors who are having a difficult time getting the medicines they need and will voluntarily take up a collection or in other ways provide needed assistance.

So I hope the American people are watching because this is the defining issue of this session of the House of Representatives, and I hope they pay attention because there are vast differences between the two bills that will be considered on the floor this week.

#### PROTECTING OUR NATIONAL PARKS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Oregon (Mr. BLUMENAUER) is recognized for 60 minutes as the designee of the majority leader.

Mr. BLUMENAUER. Mr. Speaker, I appreciate the opportunity to spend a few minutes this evening with some of my colleagues discussing the situation that we face as Americans across the country prepare to enjoy the July 4 holiday. For many people, it is an opportunity not just to reflect on the Declaration of Independence, the patriotic history of our country, but it is also an opportunity for families to come together to use this opportunity to join for family recreation, to vacation; and it sort of marks the first serious week of heavy utilization of our outstanding national park system.

These are an area that have proven to touch the hearts of many Americans. It dates back to the tenure of President Teddy Roosevelt, who was such an outstanding leader in terms of the park system and conservation; but sadly, Mr. Speaker, today more and more Americans as they turn to the park system are going to be looking at a state of our national parks and public lands that, frankly, is going to disappoint them. They are going to be assaulted in areas where there should not be allowed motorized vehicles.

There are problems of poor air quality that plague these jewels of our national park system. Air quality is a problem in the Grand Canyon, in Yosemite, in Yellowstone.

We have serious problems in terms of what has happened with the extraction of our country's mineral resources, where sadly our policies of today have not kept pace with the demands that have been placed upon them and what we now know about protection of the environment. Sadly, the Mining Act of 1872 continues on the books exactly, exactly as it was signed into law by President Ulysses S. Grant 130 years ago.

During his Presidential campaign, George W. Bush spoke of protecting national parks as an ongoing responsibility and a shared commitment of the American people and their government.

□ 1830

Mr. Speaker, I was one of the Americans who was cheered by these words by then Governor Bush because, frankly, although I disagreed with him about a number of his environmental policies and his stewardship in the State of Texas and while I was frankly dismayed as I saw the stewardship that occurred with the State park system in Texas, I was heartened by his words that were optimistic as far as what may occur with our national treasures.

However, Mr. Speaker, I am sad to say that since President Bush has assumed office I do not think any objective observer would suggest that he has

followed in the footsteps of Teddy Roosevelt, who President Bush called America's first environmental President.

My colleagues and I are here today to talk about the various threats to the serenity and wildlife of our national parks and to look at the unfortunate record that has been developed by the administration, although it is not too late to reverse course, and on behalf of the American public, we hope that they will.

The administration, as we speak, is moving to undo a national park service plan to phase out snowmobiles in Yellowstone in the Grand Teton National Parks, despite strong scientific evidence and overwhelming public support for a ban. This week, the gentleman from New Jersey (Mr. HOLT) and the gentleman from Connecticut (Mr. SHAYS) will be introducing legislation to require as a matter of law the ban that was put in place by the Clinton Administration. I am proud that there are over 100 of us already in Congress who will be original co-sponsors of that legislation.

The administration has yet to argue forcefully and provide in its budgets new money to address the maintenance backlog in the national parks system. We have seen the administration propose a rollback of the Clean Air Act provisions which will actually increase air pollution in national parks from nearby power plants; and the President has claimed that he does not want to create any new parks, although he did sign a bill, in fairness, in February to create the Ronald Reagan Boyhood Home National Historic Site.

Meanwhile, there are bills for a number of important park sites that are not moving forward; and in the 2003 budget, the President has in his proposal eliminated funding for the Urban Parks and Recreation Recovery Program, an unfortunate development which I am hopeful Congress will be able to step up and countermand.

I am pleased to be joined this evening by the gentlewoman from California (Ms. SOLIS), and I yield to the gentlewoman if she has some observations that she wishes to offer up at this point.

Ms. SOLIS. Mr. Speaker, I really appreciate this opportunity to have this special hour dedicated to our parks. Because as we go into our holiday season preparing for the 4th of July, there is going to be over 60 million people that will visit our Nation's national parks; and national parks create a place for families to recreate, to enjoy each other, to enjoy natural resources and learn about the world around us. All of our parks to me are national treasures and I know to many people.

Some of our most used parks are ones that I represent in my own district in the San Gabriel Valley in East Los Angeles out in California, and it is surprising, but the studies that I have seen regarding park space is despicable when it comes to low-income communities and where individuals do not

have the opportunity to have open space. In fact, according to a study by the University of California Sustainable Cities Program, three to four acres of open space or green space are needed per 1,000 people to be considered a healthy environment. But in my own district in Los Angeles, there is less than a half acre per 1,000 people. Imagine that. Packed in like sardines.

Communities like mine are in need of park opportunities, and they are waiting for this release now. In the 2003 budget, the President has eliminated funding for the Urban Parks and Recreation Recovery Program, a program that provides \$29 million annually to urban communities to preserve park land and develop recreational opportunities in their communities. Oddly enough, this administration recently touted the urban park grants for 2002 as one of their accomplishments, despite their intention to defund it.

The President claims that it is time to tighten our financial belts and merely maintain parks that we have now. The administration says they do not want to add any new parks, but, in fact, as my colleague, the gentleman from Oregon (Mr. BLUMENAUER), said, back in February President Bush signed a bill creating the Ronald Reagan Boyhood Home National Historic Site. Meanwhile, other bills are lingering in committee waiting to be heard.

I happen to have a bill that is waiting to be heard. It is H.R. 2966; and it would create a study to find out if we could create a national park for Cesar Chavez, a leading figure in the Latino community who fought on behalf of farm workers, fought against the use of pesticides for farm workers, and looking for equal justice for all people, for all workers. Would it not be wonderful to have the first national park to recognize a Latino leader in the United States?

I ask that question because it is time. Our communities are diverse, and it turns out that recent polling that I have seen indicates that the Latino community or Hispanic community is indeed in favor of open space and open parks and more space so that they can have the ability to recreate. And what is happening? We are going in the opposite direction. We are not doing enough to diversify and even allow for urban parks to be established.

I have another bill that will be heard shortly in the Committee on Resources to establish, hopefully, a study for one of the largest urban parks in California. Currently, a state conservancy exists in our community known as the River Mountain Conservancy where over 7 million people live alongside this river that covers over 31 miles.

I would hope that the administration and our colleagues on the other side will work with us in a bipartisan manner so that more funding will go into parks and recreation. Our communities need it, urban America needs it, and the diversity of our country desires that.

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentlewoman's strong

voice for a balanced approach to parks and recreation and making sure that it meets the needs of all our citizens.

I think the gentlewoman touched on an important point, because we have so many people who have limited opportunities for travel. There are people for whom, even if they have opportunities to travel, the day-to-day existence needs to be softened by opportunities for urban park and recreation programs.

I look forward to working with the gentlewoman on her legislation and appreciate her strong voice for making sure Congress has a broad view of that responsibility.

Mr. Speaker, we have also been joined this evening by the gentleman from the State of Washington (Mr. INSLEE), who, among other things, is the ranking member of the Subcommittee on Forests and Forest Health of the Committee on Resources, a person who has been a strong champion in the Pacific Northwest for issues that relate to livability.

I have had the opportunity of watching him in action in the Arctic wilderness a year ago, surveying and listening to his observations about the issues that would deal with drilling in the Arctic Wildlife Refuge, and I appreciate his strong environmental voice of leadership not just in the Pacific Northwest but around the country. So I am happy to yield to the gentleman to join in this discussion this evening.

Mr. INSLEE. Mr. Speaker, I thank the gentleman so much. I am glad the gentleman has brought us together to talk about these issues.

I want to add two messages to talk about our incredible public lands that we have in this country that we ought to think about. The first is the area in our Forest Service lands, which is such a treasure. People all around the world come to see our forest areas, but they run a risk now because the Bush administration has threatened to essentially reduce the protections for our Forest Service lands and our pristine unroaded, uncut forests.

I wanted to alert people to the potential of protecting these pristine forests and ask my colleagues to join us as cosponsors in the Roadless Area Conservation Act, which the gentleman from New York (Mr. BOEHLERT), a Republican, and myself are prime sponsors of. We now have 175 cosponsors. The reason this act is so important is that it would codify the existing area, roadless area rule, a rule that was adopted with the positive comments of over 1.2 million Americans who basically asked the Federal Government to protect the parts of the United States forest areas that have not been subject to having roads built on them yet. We think this is a very common-sense approach, because Americans value their pristine unroaded areas in our U.S. Forest Service lands.

What this bill would do is essentially just put into law the rule that was previously adopted under the previous administration that would protect the areas in our Forest Service that have been designated as unroaded areas.

The reason this is so important, and a lot of people think just from an environmental perspective, of protecting our unroaded areas from an environmental perspective, but it is important for a fiscal reason as well. That is because we already have 350,000 miles of roads that Uncle Sam has built in our Forest Service areas. Those roads, many of them, are now falling apart. They are literally washing out into streambeds and contaminating the gravels and ruining the fish habitat in our streams.

In fact, we have an \$8 billion backlog, an \$8 billion backlog of maintenance needs on our existing 350,000 miles of roads in our Forest Service lands. So we think it makes a lot of sense to use maintenance money in the Forest Service to maintain what we have of these roads, because we have this epidemic of roads that are washing out. So we think we should protect what we have before we go punch new roads into unroaded areas.

From an environmental perspective, Americans have spoken. When this rule was under consideration in the previous administration, we had the largest outpouring of citizen input of any rule under any agency in American history. In over 600 public meetings, 1.2 million Americans gave their input that said they want a strong roadless area rule. They want to protect the roads we already have and not build additional ones in our roaded areas. If my colleagues can show a bigger outpouring of public support for anything, I have not seen it in this country.

The difficulty now is that the administration, even though the Attorney General of the United States during his confirmation was asked by the U.S. Senate whether he would preserve and protect and defend this rule and he said he would do so, unfortunately, he has not done so. And in litigation in an Idaho court, the best thing we could charitably say is that the U.S. Attorney took a dive and did not defend this rule and let the court run over the rule.

The administration has now made threats to try to impinge on the rule, to cut it down in various ways and has refused to honor the rule.

So we need to act in the U.S. House. We need to pass a law, we need to codify this, and we hope that more colleagues will join us. We hope the majority party allows a vote on this bill, because we think the majority of the House will support this bill. A very important issue.

Second issue, if I can, and this is a big issue, one for, I suppose, several hours discussion, but I think it is important to talk about. When we think about our national parks and our national forest lands, they are under the threat of an invisible foe right now. There is an invisible threat to our national parks, and that is the threat of global warming.

Our park system today runs the risk of very significant changes as a result of unchecked global warming. We can already see changes in our national

parks today of this phenomena which is occurring. As we know, 8 of the last 10 years we have had the hottest years in the last thousand years, and as a result of this trend we are already seeing changes in our national forests and our national parks.

In Glacier National Park, glaciers are melting dramatically. Scores of glaciers are on the cusp of disappearing. If this trend continues, which it will unless we change some of our national policies, someday it will be the park formerly known as Glacier. Maybe we will name it after presidents who did nothing about global warming. It is one way to get a national park named after you, I suppose, but that would not be the direction we want to go.

In Denali National Park, I was there last summer while looking at the Arctic Refuge, I talked to forest rangers who have been working there for about 20 years and who had seen the tree line move north several miles just during their very brief tenure. What is happening is that the types of trees that we have, the vegetation, is essentially moving because the atmosphere and the environment is changing.

The Alpine meadows that we now enjoy in the Rocky Mountains, and I know John Denver could sing Rocky Mountain High, but those Alpine meadows may not be there in 100 years because the environment is changing enough that the biosphere changes and then there is no more mountain left to go to once we reach certain elevations.

□ 1845

So the fact is that we, because of our lack of an energy policy, are causing significant changes to our national parks. We can see it right in our homes, and today with the sweltering heat in D.C., it should be obvious, but over the long term, we are changing the substantive environment of our park system in a way that perhaps we do not fully understand.

I would like to note, too, that the administration issued a report. We had a debate for some period of time about whether global warming was taking place and if it was, were humans causing it. Well, that debate is done. The Bush administration issued a report a week ago which was the cumulation of scientific knowledge from various Federal agencies, and they concluded several things. President Bush's White House issued a report saying global warming is occurring, and this is an accepted global fact.

Number two, a significant portion of that is caused by human conduct. But despite the fact that the administration of the President of the United States concluded that global warming is occurring and humans are responsible for it, the President's response was just get used to it because I am not going to deal with the problem.

As a Member who feels strongly about the national parks, that is not an acceptable position because what

the President said was, I am not going to act as a result of this report. That is unacceptable to the American people. It should be unacceptable because our national logo, if you will, is the eagle, not the ostrich. This ostrich approach by the President of the United States is not going to solve this problem. We need leadership from the President of the United States, which he is capable of providing. He has provided the country leadership in the war against terrorism, and we need the President to provide leadership on the war against global warming.

His response to date has been a volunteer program. He will ask major corporations in America to volunteer to reduce their emissions. Well, voluntary programs may work for PTA bake sales, but they are not going to work to change the course of global warming on this planet. We are urging the President to become engaged in dealing with this issue. It is vital that he do so, and it is vital for us in Congress to take steps as well, first by adopting a meaningful United States energy policy which is important not only for environmental concerns but for our security concerns so we do not have to remain addicted to whatever the political situation is in Saudi Arabia. We are hopeful the energy conferees will adopt a plan to move us toward a more sustainable energy policy to reduce our dependence on Saudi Arabia and whatever peculiar politics are happening there.

Mr. Speaker, I thank the gentleman from Oregon (Mr. BLUMENAUER) for this opportunity to talk about two very important issues, adoption of the roadless area bill so we can protect our pristine areas in the national forests, and this overarching problem of global warming which is going to significantly reduce the character of our national forests and our national parks if we do not act. I thank the gentleman for this opportunity to add my two cents' worth on these issues.

Mr. BLUMENAUER. Mr. Speaker, as always, the gentleman's two cents are worth a great deal to us. I thank the gentleman for putting in context, as we watch some of the most massive forest fires raging across four States now, one thinks of the consequences of continued global climate change, tinderbox forest lands, the problems that we can face across the country with wild fires, forest fires, that we could be involved in a vicious cycle; and I think the gentleman's message is a timely one this evening.

Mr. INSLEE. Mr. Speaker, if the gentleman would continue to yield, the report that I made reference to from the White House specifically said that a likely result of global warming are these prolonged drought conditions in the western United States, and what we are seeing now is what we can expect to see in the future in spades.

To comment on the fires, some Members who are not of an environmental lilt have tried to blame these fires on

environmental laws and people who care about the environment who enforce environmental laws. That is really, to be charitable, poppycock about this issue.

We had the chief of the forest service, Mr. Bosworth, before the Committee on Resources; and some Members on the other side of the aisle were arguing that the reason Colorado was on fire was because an environmental group had filed an appeal of a proposal to do logging in a relatively small area, and they were arguing that was the reason that these fires had been cataclysmic. I asked Mr. Bosworth is that the reason these fires have become so huge. And he said no, there is no way that that caused these fires. He said these projects, some of which we do need to do to reduce the fuel load that has built up over decades, some of these projects we need to do; but those projects are going to take 10 years. There was an appeal that delayed a project 5 months and the chief, Mr. Bosworth, a Bush appointee, said those delays were not, repeat, not the reason for the fires in Colorado. The other thing is this is such a tiny measure, something like only 300,000 acres. It is the drought conditions which are so dangerous.

Mr. BLUMENAUER. Mr. Speaker, my recollection is that we had some of the people when we had the horrible cycle of fires that the gentleman and I are aware of in the Pacific Northwest, we heard the same drum beat; that somehow this was the problem, that we did not aggressively log the forest. My recollection is that during that period of time the forests that had the greatest loss were the ones that were the more intensely logged.

Mr. INSLEE. Because of drought and dryness conditions, it is going to burn through anything even if you have done preventive thinning in these extremely dry forests. The sad fact is, yes, there is some work that we can do to remove fuel loads in some of these forests; but when they are this dry, they are going to burn. Yes, Democrats and Republicans for decades suppressed fires so much that we allowed fuel to build up. But if they are going to be this dry for the next 200 years, we are not going to have national forests if we do not do something about global warming. The White House has the study, and we just need for them to act.

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's leadership on this set of issues.

Mr. Speaker, I am touched by the range of issues that are involved here in terms of the protection of our public lands. I appreciate what the gentleman from Washington (Mr. INSLEE) was talking about. The gentleman referenced the roadless area rule in the Pacific Northwest. I think it is important to note that we had so many of these roads that are not properly maintained that are actually posing a threat to habitat. I like the philosophy

of being able to take advantage of the opportunity to manage what we have. It is very, very important to move forward with the codification of these measures. I am proud to join the gentleman in the cosponsorship of his legislation that would put into law the protection for those roadless areas.

A moment ago we had our colleague, the gentleman from New Jersey (Mr. HOLT), on the floor; but, unfortunately, the gentleman had a commitment and we were unable to recognize him in a timely fashion. But he is moving forward to introduce his Yellowstone-specific legislation this Thursday that I mentioned earlier. It is particularly timely that the gentleman from New Jersey (Mr. HOLT) moves forward because earlier today officials from the National Park Service announced that they were going to overrule the January 2001 rule that phased out snowmobile use in Yellowstone and Grand Teton National Parks.

While many of the specifics of their new rule are not known, the park service officials indicated that their preferred alternative will be a combination of the alternatives that appeared in the supplemental environmental impact statement, the SEIS, issued last March, a combination of alternative of two and three. What is known is that it will force snowmobile use in this environmentally sensitive area.

It will mean increased use and significant impacts on the park and wildlife. It could allow for increased number of snowmobiles in the park while also opening up additional miles for trail use. Under this plan, it is likely that the Clean Air Act and other National Park Service air-quality regulations will be violated. It is clear there will be an increase in health risks to the public and the employees over the original rule which would have banned snowmobiles.

I find a certain irony with today's rollback that will jeopardize the environmental integrity of Yellowstone National Park, ignoring as it does science, law, and public opinion. I am pleased that the gentleman from New Jersey (Mr. HOLT), the gentleman from Connecticut (Mr. SHAYS), and over 100 of us who are already cosponsoring this legislation are going to fight it.

I find no small amount of irony that the President in his campaign for office referred to the national parks as "silent places, unworn by man." Yet the President seems determined to allow man to wear down these lands with loud and damaging vehicles.

I was impressed under the previous administration with the leadership of the superintendent of Yellowstone Park, Michael Finley, where the National Park Service opposed a phase-out of snowmobiles in Yellowstone and the Grand Teton National Park. They made this decision following 13 years of scientific study and 3 years of nationwide public comment. Let me repeat that. Thirteen years of study.

I had several meetings with Superintendent Finley, and I must say with

a little bit of chauvinistic pride as an Oregonian, he revealed to me that over 80 percent of the public comments that were received in the process of this rule were in favor of banning snowmobiles.

Finally, the Environmental Protection Agency joined in this effort recommending the banning of snowmobiles because of the carbon monoxide emissions which were threatening the health of not only the park's ecosystem but, candidly, it was a risk to the health of the park employees. Yet the Bush administration has decided to undercut the National Park Service, the Environmental Protection Agency, and ignore the American public.

□ 1900

I hope that it is not too late for this Congress to step forward, to listen to the science, the will of the American public and legislate a ban on these vehicles in Yellowstone and the Grand Teton National Parks.

It is, Mr. Speaker, an amazing volume of activity. This is not just an occasional recreational vehicle user going through an otherwise pristine environment. We are talking about 80,000 people using snowmobiles; and they are producing, in one of the ecological treasures of this country, more air pollution each year than all the cars and the trucks that carry 3 million other visitors into the park. Think about it for a moment. By overturning this phaseout, it has the effect of doubling the air pollution from the 3 million visitors. It is like having that population double to 6 million.

We have found, Mr. Speaker, that the pollution from the snowmobiles impairs the visibility in the park. It contributes to pollution levels that are higher than allowed in a national park, and these are violations of the Clean Air Act. The noise from the snowmobiles is audible as much as 95 percent of the time in popular sites, interfering with the enjoyment of other visitors.

But it is not just the human visitors that are harassed, because these 80,000 visitors regularly harass wildlife. They are chasing bison back and forth between the roadside snow banks, forcing them to expend energy they need to make it through the harsh winter conditions.

Based on the science, the Park Service concluded that snowmobile use is impairing the resources in the parks in violation of the Organic Act's mandate that the Service-managed parks, to leave them unimpaired for the enjoyment of future generations.

The Service also found that the snowmobile use is inconsistent with the requirements of the Clean Air Act, Executive Orders 11644 and 11989 by Presidents Nixon and Carter relating to offroad vehicle use in public lands, that the National Park Service general snowmobile regulations and management objectives for the park are also violated.

All these requirements are based on long-standing bipartisan commitment

for our national parks be given the highest standard in applying the highest level of protection. The strictest and most detailed government standards applying to snowmobile use in the parks were adopted by President Nixon and during the Reagan administrations. The irony is that this important environmental work, bipartisan in nature, strong congressional input, would be thrown out the window by a President who claimed during his campaign to be a friend of the National Park Service.

Mr. Speaker, I have more material that I wish to offer up and that the gentleman from New Jersey (Mr. HOLT) would have done in my stead, but I notice that we have been joined this evening by the gentleman from New York (Mr. HINCHEY), a gentleman who has been tireless in his support of these national treasures, a gentleman who I am pleased to note serves on the critical Interior Subcommittee of Appropriations where he has spent a huge amount of time visiting these resources, fighting in Congress and with the general public. I am honored that he is here this evening and would see if he would like to enter into this discussion.

Mr. HINCHEY. Mr. Speaker, I thank the gentleman for giving me the opportunity to enter into this discussion.

I was particularly interested in his remarks a few moments ago about the Nation's national parks. These national parks were set aside initially under the administration of Theodore Roosevelt, that is when they first began, a very respected Republican President who was one of the most environmentally sensitive and far-seeing Presidents in our history. It is unfortunate that this present administration, another Republican President, has sought to degrade the national parks in the ways in which we have just heard.

One of the most serious elements of that degradation has to do with air quality. The national parks were set aside initially in the first instance during the administration of Theodore Roosevelt; and when he initiated the first national parks, he talked about the need for Americans, for people, to have a quiet place, a place where they could go and be in touch with the natural elements and get back to a sense of real nature, a place that is pristine, quiet, a place for reflection and a place for us to understand our own relationships with the natural world. That was really the foundation for the national parks.

I am paraphrasing the words of President Theodore Roosevelt, but that was one of the essential aspects of the message that he laid out when he first began to form our series of national parks.

Under this administration, the degradation of air quality and also the proliferation of noise as a result of the extraordinary use of snowmobiles in the winter months is causing serious harm to the national parks themselves

and, of course, to the natural setting and is absolutely destroying the sense of quiet, the sense where people can go to get a deeper understanding of the natural world and of themselves. And, of course, the effect on air quality by these snowmobiles is such that the air quality on the western end of Yellowstone, for example, at times is worse than it is, and this is frequently occurring, at frequent times, in major urban areas as a result of the burning of the fossil fuels to propel the snowmobiles.

Of course, the parks are there for everyone. We all want an opportunity to enjoy them, and they are there for recreational use. But there needs to be a realization that one particular aspect of use cannot destroy the joy and the experience that other people have who want to use the national parks in other ways, for hiking, for cross-country skiing, things of that nature. So I am very distressed, along with everyone who has a deep care about our national treasures, Yellowstone, Yosemite, the other wonderful national parks that make up this unique array of park systems in our country and how it is being degraded and in some sense actually destroyed by the unlimited use of snowmobiles.

I also noticed that earlier there was a discussion with regard to clean air. It also ought to be brought to people's attention how the administration's proposal, in effect gutting serious elements of the Clean Air Act, is having on air quality in many places around the country, not just on national parks but all across the country. The Clean Air Act has been one of the most effective tools to provide a cleaner and healthier environment for all Americans that we have seen in the history of the country. Over the course of now more than 30 years, since 1970, the effect of the Clean Air Act has been to reduce air pollution on average across the country by about 30 percent. That effect will continue. Except that the administration now has said that they are going to remove an important part of the Clean Air Act, known as new source review.

I think that everyone knows, Mr. Speaker, that a major source of air pollution in this country is the generation of electricity through the burning of fossil fuels and the fact that when the Clean Air Act went into effect, many of these old power plants were, in effect, grandfathered. In other words, they did not have to put on the modern cleaning technology which scrubs out the pollutants before they get into the air.

But a provision of the Clean Air Act stipulated that whenever the owner of one of these power plants upgraded the plant in some way to increase the amount of electricity that was being produced or in some other significant way to gain some economic benefit, additional economic benefit from the plant, that at that point new source review kicks in and that the owner of the power plant would then have to install equipment to clean the air coming out

of those plants. The administration is now eliminating new source review through the Environmental Protection Agency.

That is going to have a debilitating effect on air quality in many places around the country but especially in the Northeast. In New York, for example, where the Adirondack Mountains suffer from the pollutants that come from these power plants in the form of acid precipitation, acid rain, snow, sleet, hail that falls on the growth in these mountains and also on the lakes, the effect of that has been to completely eliminate all life forms in more than 300 lakes and ponds in the Adirondack Mountains of New York. A similar effect is being experienced in Vermont, in New Hampshire, Maine and other places.

So the effectiveness of the Clean Air Act, which has been an enormously successful instrument to provide a cleaner, healthier environment for Americans, is being subverted by this administration by the elimination of this provision known as new source review.

This is important not just from an aesthetic point of view, not just from the point of view of all of us, I believe all of us who appreciate the quality of a natural environment, to go into a wooded area, to climb a mountain, to go into some back country and breathe the clean air, not only that loss and the loss of the life forms in those more than 300 lakes and ponds in the Adirondacks and similarly in other States, but by gutting the Clean Air Act in this way, by eliminating new source review, by putting more pollutants into the atmosphere, it also degrades the quality of our lives in a very material way. We will see increased incidence of asthma and other lung ailments as a result of the poor quality of air. It is, in fact, a genuine and real health problem.

For all of these reasons, we are deeply concerned about the attitude that has been expressed by the majority of the Members in this House, particularly over the course of the last several years that they have been in the majority, and also the attitude that is apparently being expressed by the administration recently in removing new source review from the Clean Air Act and thereby causing substantial additional pollutants to go into the air and also by degrading the national parks by the unlimited, unregulated use of snowmobiles in those national parks.

I thank the gentleman from Oregon (Mr. BLUMENAUER) for setting aside this time for us, Mr. Speaker, so that we could have the opportunity to discuss in some detail these important environmental issues which are also important public health issues.

Mr. BLUMENAUER. I appreciate the gentleman joining us and rounding out the discussion to take on the dimensions of public health.

He made an observation that I thought was important, and I would

like to pursue one slight distinction. I, too, have been concerned that our Republican colleagues in the leadership have been pursuing an environmental agenda that I think is very much out of sync with what is practiced by most of the American public, the views and attitudes. But the irony is that their limited approach in cutting off debate and not allowing a full range of options to be discussed, actually, they have denied a majority of the House an opportunity to be heard and move important protective legislation forward. I think it is sad, because I know that there are some of our friends on the other side of the aisle who feel uncomfortable with these environmental initiatives.

There is a majority of the House, when we get clean votes for air quality, when we get clean votes for clean water, more often than not the majority will of the House is such that it is in keeping with what the majority will of the American public is in terms of its environmental ethic. But, sadly, we are not permitted to have these straight up or down votes and this full and honest debate.

Mr. HINCHEY. Of course, what the gentleman from Oregon is pointing out here is an undermining, even an abrogation of the basic democratic system under which this Congress is supposed to function. This Congress is set up as a place where the issues that are of most importance and of deepest concern to the American people can be debated freely and openly.

□ 1915

Certainly, this environmental issue in all of its aspects, its aesthetic aspects, its environmental quality aspects, its public health aspects, is an issue that ought to be debated fully. We ought not to be here in the evening, during the period of Special Orders, although it is a good thing to do, we really ought to have the opportunity to exchange these views with Members on the other side of the aisle, the Republican Party who is in charge of this House and sets the rules in this House. We ought to be able to engage them in substantive debate on these issues so that people can see the differences that exist between them and us, and so that they can then make a decision as to what kind of representation they want.

The gentleman reminding us of the way in which basic democratic principles have been undermined here and the way the House is governed also points out to me the fact that the most important vote that we cast here at the beginning of each Congress every 2 years is the vote that establish the leadership of the House, because it is the leadership of the House that determines the agenda of the House and determines the way in which this House of Representatives is not just organized, but the way it conducts its business day in and day out. It is supposed to be done in an orderly and progressive way; but unfortunately, we have not seen that to be the rule here over the course of the last several years.

So it would be much better if we had an opportunity to discuss the environmental issue, just as it would be much better if we had the opportunity to discuss the energy issue, which I know the gentleman touched on earlier this evening and the fact that our energy policy is one that is devoted almost entirely, almost exclusively, to exploitation of natural resources, and the burning of fossil fuels, rather than focusing, in part, on significant energy conservation and the production of energy through alternative means that are nonpolluting.

That debate is one that we ought to have as well, because I believe the American people want us to develop an energy policy which is multifaceted, which is broad-based, which conserves our natural resources, and which improves the quality of the environment just as they want us to have an open and full environmental debate on these issues as well.

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's comments. I come from a background, Mr. Speaker, in a State where there are nominally partisan politics; but when I got started in the political process, the issues of protecting the environmental heritage of the State of Oregon was something that Republicans and Democrats could often come together on. There was a great Republican environmental leader, Tom McCall, that actually gave me my very first governmental assignment when I was still a college student to be on Oregon's livable community, it was a livable community commission. I worked with some key Republicans when we were doing legislative protections of the environment when I was a State legislator in the 1970s.

The protection of our environmental heritage should not be partisan, and I am sorry that it has reached that point today. It is interesting, however, that the men and women who run for national office and increasingly, even on the State level, embrace the rhetoric of environmental protection, hence some of the quotations that I gave earlier this evening from candidate Governor Bush when he was running and how he was going to respect and honor the environment.

It is interesting that through the manipulation of the political process that there are acts that are undertaken, criticism of the last administration, for example, for using the antiquities act to protect some great national monuments in this country. But now, all of the smoke and fury has subsided. There is a Republican in the White House, there is a Republican leadership, but are they introducing leadership to repeal President Clinton's monument designations? No. There is not a single bill that is coming forward to repeal them. Instead, what we see is that there is actually legislation that some of our Republican colleagues are proposing that would tie the hands of President Bush and future Presidents

to designate monuments as sort of I guess a signal to some of their antienvironmental supporters, but not stepping forth to try and roll anything back because we know the American public will not stand for it.

Mr. Speaker, I think our challenge here is to make sure that the American public understands what is happening with the rollback that we talked about earlier in terms of the rule that would have phased out the use of snowmobiles, that we are having the Padre Island National Seashore, Gulf Shore Islands National Seashore, Cape Lookout National Seashore where there was a national park superintendent of those areas had proposed that there be a ban on jet ski use in those waters. But now, these proposed bans which had broad public support and to deal with the massive environmental damage, it is not just the noise of the jet skis. Most of these, for 4 gallons of gasoline that is burned, one goes into the water.

Well, now the administration and some of our Republican House Members are pressuring the National Park Service to override the superintendents. Now these parks must do a new environmental assessment and rulemaking to allow jet ski use to continue, despite the environmental damage, despite the public opposition. It is unfortunate that we are seeing example after example.

The gentleman referenced the situation of the National Park Service and our illustrious President Teddy Roosevelt. It is frustrating to see the actual purpose, the Organic Act, under which the National Park Service was organized that called for the conservation of scenery, the natural and historic objects and the wildlife therein, and to provide for the enjoyment of the same in such a manner and by such means as will leave them unimpaired for the enjoyment of future generations. Nothing, nothing could be further from obtaining, enforcing, celebrating the requirement of that original act and what we see is being inflicted upon the American public as we speak.

Mr. HINCHEY. Mr. Speaker, I am sure if Teddy Roosevelt were President today, the approach to environmental issues would be much different. It is really a shame in a way, because we have had a number of Republican Presidents who developed and nurtured very sound policies with regard to the environment. If they were in office today, one of the first things that they would turn their attention to is probably the most serious environmental problem of all, most serious because it is global in nature, most serious because it has the potential to alter the environment in very basic and fundamental ways all around the Earth, and we are seeing the effects of that already.

What I am speaking of, of course, is the phenomenon of global warming and the fact that so much of the warming

that we have been experiencing in recent decades comes about as a result of the activities of our species on this planet, and it is the burning of fossil fuels and the placing in the atmosphere of these gases, particularly carbon dioxide.

Last year was the second warmest year on record. Two years earlier, it was the warmest year on record. The decade of the 1990s was the warmest decade on record. The one before that was the decade of the 1980s. I mean it does not take a genius to see what is going on here. Not long ago, a part of the Arctic ice cap, the Antarctic Ice Sheet, in fact, dropped off, a size of the State of Rhode Island. That came about as a result of rising temperatures and the melting of the ice.

There was an amazing story on the front page of the New York Times just about a week ago which talked about the effect of global warming in Alaska, how in one situation, an island which had been inhabited for a long, long time, I do not think anyone knows precisely how long, but very, very long, as being inundated because of the fact that the polar ice caps are melting and the sea level around the world is rising. An island such as this one in Alaska is being inundated and people are going to have to move off of that island to live somewhere else. Roads are buckling because of the warming in Alaska. That is happening because the permafrost is no longer perma.

In other words, it is no longer permanent. The frost there is melting; and as a result of that, we are getting heaves of the Earth and the roads are buckling as a consequence of that. I think it was spoken of earlier that global warming is, in some measure, causing the dryness that is contributing to the fires that we are seeing around the country, and it is also contributing to the changes in weather patterns that we are experiencing, drier climates in some areas, and a whole host of things that are becoming more and more evident with each passing day, each passing week, month and year.

Mr. Speaker, we need to do something about it. We need to focus our attention on it. Every other industrial country in the world is taking a responsible position on global warming, cutting back their emissions. This administration has decided to turn its back on the issue, and I can remember it was just a few years ago when in debating an Interior Appropriations, Republican members of that committee wanted to strike from the bill the phrase "global warming" because they contended that it did not exist, that it was fanciful and there was no point in having such a phrase in legislation because they contended it was a complete fix.

Mr. Speaker, it is shocking that this level of ignorance exists, but there it is for everyone to see. This is a problem that we need to pay attention to.

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman taking us



back into the global scope of things. I would just conclude by turning our attention back to where we began this evening in terms of the public lands and the President's promise when he was candidate Governor Bush to deal with improving the stewardship. Not only are they rolling back protections for motorized vehicles, dealing with just the nuts and bolts that the gentleman from New York is going to have to deal with on the Interior committee in terms of the budget where we are going to eliminate a \$5 billion budget cap. This year I note that the gentleman has been given a Presidential appropriation request, \$2 million above last year's enactment.

#### RECESS

The SPEAKER pro tempore (Mr. KERNS). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 7 o'clock and 28 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2038

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SESSIONS) at 8 o'clock and 38 minutes p.m.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4598, HOMELAND SECURITY INFORMATION SHARING ACT

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 107-535) on the resolution (H. Res. 458) providing for consideration of the bill (H.R. 4598) to provide for the sharing of homeland security information by Federal intelligence and law enforcement agencies with State and local entities, which was referred to the House Calendar and ordered to be printed.

#### 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. McNULTY) to revise and extend their remarks and include extraneous material:)

Mrs. THURMAN, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mrs. CAPPS, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. EDDIE BERNICE JOHNSON of Texas, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mrs. NAPOLITANO, for 5 minutes, today.

Ms. CARSON of Indiana, for 5 minutes, today.

Mr. LANGEVIN, for 5 minutes, today.

(The following Members (at the request of Mr. MORAN of Kansas) to revise and extend their remarks and include extraneous material:)

Mr. MORAN of Kansas, for 5 minutes, June 26 and 27.

#### ADJOURNMENT

Mr. GOSS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 39 minutes p.m.), the House adjourned until tomorrow, Wednesday, June 26, 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:

7608. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Triflurizole; Pesticide Tolerance [OPP-2002-0063; FRL-7180-5] received June 10, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7609. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Spinosad; Time-Limited Pesticide Tolerance [OPP-2002-0099; FRL-7182-1] (RIN: 2070-AB78) received June 10, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7610. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Carfentrazone-ethyl; Pesticide Tolerances for Emergency Exemptions [OPP-2002-0072; FRL-7178-1] received June 10, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7611. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Carboxin; Pesticide Tolerance [OPP-2002-0028; FRL-7180-6] received June 10, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7612. A letter from the Director, Office of Legislative Affairs, FDIC, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule — Technical Amendments to FDIC Regulation Relating to Forms, Instructions, and Reports (RIN: 3064-AC52) received June 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7613. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-D-7515] received June 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7614. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-P-7606] received June 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7615. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Final Flood Elevation Determinations — received June 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7616. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Changes in Flood Elevation Determinations — received June 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7617. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Underground Injection Control Program — Notice of Final Determination for Class V Wells [FRL-7225-8] (RIN: 2040-AD63) received June 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7618. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Municipal Solid Waste Landfill Location Restrictions for Airport Safety [FRL-7227-9] (RIN: 2050-AE91) received June 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7619. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval of an Air Quality Implementation Plan Revision; South Dakota; Rapid City Street Sanding Regulations to protect the National Ambient Air Quality Standards for PM-10 [SIP NO. SD-001-0012a; FRL-7216-1] received June 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7620. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Plans For Designated Facilities and Pollutants; Maine; Negative Declaration [ME 067-7016a; FRL-7227-1] received June 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7621. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions to the Air Resource Regulations [PA159-4189a; FRL-7211-7] received June 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7622. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Motor Vehicle Inspection and Maintenance Program — Request for Delay in the Incorporation of On-board Diagnostics Testing [PA 182-4196a; FRL-7224-8] received June 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7623. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Nevada; Final Authorization of State Hazardous Waste Management Program Revisions [FRL-7228-1] received June 10, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7624. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants and Phosphate Fertilizers Production Plants [FRL-7229-5] (RIN: 2060-AE44) received June 10, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7625. A letter from the Principal Deputy Associate Administrator, Environmental

Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production [FRL-7225-6] (RIN: 2060-AE77) received June 10, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7626. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants and Phosphate Fertilizers Production Plants [FRL-7229-4] (RIN: 2060-AE44) received June 10, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7627. A letter from the Secretary of the Commission, Federal Trade Commission, transmitting the Commission's final rule — Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule") — received June 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7628. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Final Decision Related to the U.S. Department of Energy's General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories (10 CFR Part 960) and its YUCCA Mountain Site Suitability Guidelines — received June 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7629. A letter from the Director, Office of Government Ethics, transmitting the Office's final rule — Testimony by OGE Employees Relating to Official Information and Production of Official Records in Legal Proceedings (RIN: 3209-AA23) received June 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

7630. A letter from the Assistant Secretary, Department of the Interior, transmitting the Department's final rule — Injurious Wildlife Species; Brushtail Possum (*Trichosurus vulpecula*) (RIN: 1018-AE34) received June 6, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7631. A letter from the Deputy Assistant Administrator for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Financial Assistance for Research and Development Projects to Assess the Potential Suitability of Non-native Oysters in Chesapeake Bay [Docket No. 020418090-2090-01; I.D. 041202B] (RIN: 0648-ZB19) received June 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7632. A letter from the Regulations Officer, FMCSA, Department of Transportation, transmitting the Department's final rule — Parts and Accessories Necessary for Safe Operation; Manufactured Home Tires [Docket No. FMCSA-97-2341] received June 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7633. A letter from the Trial Attorney, Department of Transportation, transmitting the Department's final rule — Railroad Workplace Safety [Docket No. FRA-2001-10426] (RIN: 2130-AA48) received June 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7634. A letter from the Acting Director, Office of Regulatory Law, Department of Veterans Affairs, transmitting the Department's final rule — Medical Benefits Package; Copayments for Extended Care Services (RIN: 2900-AK32) received June 7, 2002, pursuant to

5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

7635. A letter from the Chief, Regulations Branch, Department of the Treasury, transmitting the Department's final rule — Extension of Import Restrictions Imposed on Archaeological and Ethnological Materials from Peru [T.D. 02-30] (RIN: 1515-AD12) received June 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7636. A letter from the Chief, Regulations Branch, Department of the Treasury, transmitting the Department's final rule — Civil Aircraft [T.D. 02-31] (RIN: 1515-AC59) received June 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7637. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Determination of Interest Rate (Rev. Rul. 2002-13) received June 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7638. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Debt Instruments with Original Issue Discount; Annuity Contracts [TD 8993] (RIN: 1545-AY60) received June 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7639. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Determination of Interest Rate (Rev. Rul. 2002-33) received June 7, 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. YOUNG of Florida: Committee on Appropriations. Report on the Suballocation of Budget Allocations for Fiscal Year 2003 (Rept. 107-529). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOEHLERT: Committee on Science. H.R. 4687. A bill to provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life; with an amendment (Rept. 107-530). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 4481. A bill to amend title 49, United States Code, relating to airport project streamlining, and for other purposes; with an amendment (Rept. 107-531). Referred to the Committee of the Whole House on the State of the Union.

Mr. LEWIS of California: Committee on Appropriations. H.R. 5010. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes (Rept. 107-532). Referred to the Committee of the Whole House on the State of the Union.

Mr. HOBSON: Committee on Appropriations. H.R. 5011. A bill making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes (Rept. 107-533). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 4598. A bill to provide for the sharing of homeland security information by

Federal intelligence and law enforcement agencies with State and local entities; with an amendment (Rept. 107-534 Pt. 1). Ordered to be printed.

Mr. GOSS: Committee on Rules. House Resolution 458. Resolution providing for consideration of the bill (H.R. 4598) to provide for the sharing of homeland security information by Federal intelligence and law enforcement agencies with State and local entities (Rept. 107-535). Referred to the House Calendar.

#### PUBLIC BILLS AND RESOLUTIONS

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

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. LATOURETTE, Mr. KOLBE, Mr. KENNEDY of Rhode Island, and Mr. COSTELLO):

H.R. 5012. A bill to amend the John F. Kennedy Center Act to authorize the Secretary of Transportation to carry out a project for construction of a plaza adjacent to the John F. Kennedy Center for the Performing Arts, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. GEKAS (for himself, Mr. BARTLETT of Maryland, Mr. CULBERSON, Mr. DEAL of Georgia, Mr. GOODE, Mr. SAM JOHNSON of Texas, Mr. NORWOOD, Mr. SESSIONS, Mr. SMITH of Texas, Mr. STUMP, Mr. TANCREDO, and Mr. WELDON of Florida):

H.R. 5013. A bill to amend the Immigration and Nationality Act to bar the admission, and facilitate the removal, of alien terrorists and their supporters and fundraisers, to secure our borders against terrorists, drug traffickers, and other illegal aliens, to facilitate the removal of illegal aliens and aliens who are criminals or human rights abusers, to reduce visa, document, employment, and voting fraud, to reform the legal immigration system, and for other purposes; to the Committee on the Judiciary.

By Mr. ANDREWS:

H.R. 5014. A bill to amend title 49, United States Code, to provide a credit toward the non-Federal share of projects carried out under the airport improvement program to an owner or operator of an airport that is utilized to respond to a disaster or emergency; to the Committee on Transportation and Infrastructure.

By Mrs. CLAYTON:

H.R. 5015. A bill to promote workforce development in rural areas and assist low income residents of rural communities in moving from welfare to work; to the Committee on Education and the Workforce.

By Mr. ISSA (for himself, Mr. SAXTON, Mr. CALVERT, and Mr. PITTS):

H.R. 5016. A bill to express the appreciation of Congress for the outstanding contribution that all military chaplains make to the members of the Armed Forces and their families; to the Committee on Armed Services.

By Mr. ROHRBACHER:

H.J. Res. 101. A joint resolution disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam; to the Committee on Ways and Means.

By Mrs. CUBIN (for herself, Mr. HANSEN, Mr. RAHALL, Mr. GEKAS, Mr. SHUSTER, Mr. HILLIARD, Mr. KANJORSKI, Mr. STRICKLAND, Mr. UDALL of Colorado, Mr. HOLDEN, Ms. HART, Mr. SCHAFER, and Mr. GREENWOOD):

H. Con. Res. 425. Concurrent resolution calling for the full appropriation of the State and tribal shares of the Abandoned Mine

Reclamation Fund; to the Committee on Resources.

By Mr. CUMMINGS:

H. Con. Res. 426. Concurrent resolution expressing the sense of Congress regarding the awareness of and treatment for kidney disease; to the Committee on Energy and Commerce.

By Mr. PALLONE:

H. Res. 457. A resolution paying tribute to the Visiting Nurse Association of Central Jersey on the occasion of the association's 90th anniversary, and for other purposes; to the Committee on Energy and Commerce.

## MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

298. The SPEAKER presented a memorial of the Legislature of the State of Tennessee, relative to Senate Joint Resolution No. 584 memorializing the United States Congress to fully fund the facilities modernization of the Y-12 Plant in the Fiscal Year 2003 federal budget; to the Committee on Armed Services.

299. Also, a memorial of the Legislature of the State of Maine, relative to H.P. 1744 Joint Resolution memorializing the Congress of the United States, the President of the United States and the United States Environmental Protection Agency Administrator to maintain the existing regulations on new source review; to the Committee on Energy and Commerce.

300. Also, a memorial of the Legislature of the State of Michigan, relative to House Concurrent Resolution No. 36 memorializing the United States Congress and the President to work to implement United Nations resolutions to bring peace and security to Cyprus; to the Committee on International Relations.

301. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 534 memorializing the United States Congress to urge the National Park Service to honor the great sacrifices endured by the men of the Second Regiment United States Sharpshooters, Company C, during the Civil War; to the Committee on Resources.

302. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 354 memorializing the United States Congress to enact legislation to ban all human cloning; to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

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

H.R. 134: Mr. PLATTS.  
H.R. 168: Mrs. ROUKEMA, Mr. BEREUTER, and Mr. BROWN of South Carolina.  
H.R. 267: Mr. SIMMONS.  
H.R. 320: Mr. GEKAS.  
H.R. 360: Mr. STARK.  
H.R. 425: Mr. LYNCH.  
H.R. 488: Mr. STRICKLAND.  
H.R. 609: Mr. GEKAS.  
H.R. 633: Mr. DAVIS of Illinois, Mr. BAIRD, and Ms. ESHOO.  
H.R. 674: Mr. PRICE of North Carolina.  
H.R. 792: Ms. DELAULO.  
H.R. 1296: Mr. GILMAN.  
H.R. 1361: Mr. MALONEY of Connecticut.  
H.R. 1405: Mr. SABO.  
H.R. 1490: Mr. WILSON of South Carolina and Mr. BRYANT.  
H.R. 1520: Mr. TRAFICANT.  
H.R. 1556: Mr. LATHAM.

H.R. 1581: Mr. SIMMONS and Mr. PETERSON of Pennsylvania.

H.R. 1671: Mrs. MINK of Hawaii.  
H.R. 1723: Ms. WATERS.  
H.R. 1724: Ms. LOFGREN.  
H.R. 1908: Mr. BAKER.  
H.R. 1990: Mr. ORTIZ.  
H.R. 2012: Mr. MCHUGH.  
H.R. 2035: Mr. COYNE.  
H.R. 2055: Mr. BOOZMAN.  
H.R. 2073: Mr. KANJORSKI.  
H.R. 2117: Mr. DELAHUNT and Mr. TERRY.  
H.R. 2200: Mr. LATHAM.  
H.R. 2349: Mr. BARCIA.  
H.R. 2466: Mr. HUNTER.  
H.R. 2690: Mr. GEKAS.  
H.R. 2723: Mr. DINGELL and Mr. ENGLISH.  
H.R. 2799: Ms. DELAULO.  
H.R. 2874: Mr. WU, Mr. STRICKLAND, and Mr. DICKS.  
H.R. 3006: Mr. OWENS, Mr. GREEN of Wisconsin, and Mr. GOODE.  
H.R. 3131: Mr. VISCLOSKEY.  
H.R. 3139: Mr. COSTELLO.  
H.R. 3207: Ms. BROWN of Florida.  
H.R. 3223: Mr. GALLEGLY.  
H.R. 3238: Mr. HOFFFEL.  
H.R. 3320: Mr. CAMP and Ms. DUNN.  
H.R. 3324: Ms. MCKINNEY.  
H.R. 3342: Mr. WU.  
H.R. 3351: Mr. DOGGETT, Mr. MOLLOHAN, Mr. CANNON, Mr. FORD, Mr. KUCINICH, Ms. HARMAN, Mr. WATKINS, Mr. REHBERG, Mr. HOEKSTRA, Mr. KERNS, and Mr. UNDERWOOD.  
H.R. 3360: Mr. WILSON of South Carolina.  
H.R. 3388: Mr. TRAFICANT.  
H.R. 3431: Mr. ROTHMAN and Mr. CRENSHAW.  
H.R. 3464: Mr. BLAGOJEVICH, Mr. CARDIN, and Mr. WYNN.  
H.R. 3486: Ms. HOOLEY of Oregon and Mr. SHAYS.  
H.R. 3569: Mr. BARRETT.  
H.R. 3661: Mr. WATT of North Carolina and Mr. EVANS.  
H.R. 3695: Mr. STARK.  
H.R. 3710: Ms. KAPTUR.  
H.R. 3781: Mr. EVANS, Mr. ABERCROMBIE, and Mr. SHERMAN.  
H.R. 3782: Mr. CRAMER, Ms. WOOLSEY, Mr. OTTER, Mr. HILLEARY, and Mr. WOLF.  
H.R. 3802: Mr. DEAL of Georgia.  
H.R. 3831: Mr. VITTER, Mr. BROWN of Ohio, Mr. ETHERIDGE, and Mr. BRADY of Pennsylvania.  
H.R. 3834: Mr. SABO.  
H.R. 3880: Mr. MCHUGH and Mr. REYNOLDS.  
H.R. 3884: Mr. DINGELL.  
H.R. 3897: Mr. SHIMKUS and Ms. SCHAKOWSKY.  
H.R. 3940: Mr. BOYD.  
H.R. 4014: Mr. WATT of North Carolina.  
H.R. 4026: Ms. WATSON.  
H.R. 4032: Mr. COSTELLO, Mr. UNDERWOOD, Mr. CAPUANO, and Mrs. JONES of Ohio.  
H.R. 4037: Ms. WOOLSEY.  
H.R. 4066: Mr. ORTIZ and Mr. KOLBE.  
H.R. 4070: Mr. RODRIGUEZ.  
H.R. 4113: Ms. SCHAKOWSKY, Mr. DEUTSCH, Mr. EVANS, Ms. VELAZQUEZ, Mr. GEORGE MILLER of California, Mr. LEVIN, Mr. MCDERMOTT, and Mr. OWENS.  
H.R. 4169: Mr. SIMPSON.  
H.R. 4205: Ms. MCKINNEY, Mr. TOWNS, and Ms. MILLENDER-MCDONALD.  
H.R. 4483: Mr. EVERETT, Mr. BARTLETT of Maryland, Mr. WELLER, Mr. SHADEGG, Mr. BONILLA, Mr. PHELPS, Mr. FORD, and Ms. MCCOLLUM.  
H.R. 4551: Mr. GONZALEZ.  
H.R. 4582: Mr. FORD and Mr. MARKEY.  
H.R. 4600: Mr. JEFF MILLER of Florida, Mr. BASS, and Mr. GALLEGLY.  
H.R. 4614: Mr. BROWN of Ohio.  
H.R. 4635: Mr. STRICKLAND.  
H.R. 4642: Mr. WILSON of South Carolina.  
H.R. 4665: Ms. NORTON and Ms. MILLENDER-MCDONALD.  
H.R. 4691: Mr. CHABOT and Mr. SAM JOHNSON of Texas.

H.R. 4693: Mr. KINGSTON, Mr. PHELPS, Mr. BRYANT, Mr. WELLER, Mrs. MORELLA, Mr. JOHNSON of Illinois, and Mr. LANTOS.

H.R. 4706: Mrs. KELLY.  
H.R. 4730: Ms. CARSON of Indiana.  
H.R. 4743: Mr. FILNER, Ms. SCHAKOWSKY, and Mr. MCDERMOTT.  
H.R. 4753: Mr. LEWIS of Kentucky.  
H.R. 4754: Mr. BOYD and Mr. HALL of Ohio.  
H.R. 4756: Mr. HOUGHTON.  
H.R. 4777: Ms. NORTON.  
H.R. 4810: Mr. SHAW and Mr. KLECZKA.  
H.R. 4821: Mr. DAVIS of Illinois, Mr. KUCINICH, Ms. RIVERS, Mr. DEFazio, and Mr. CROWLEY.  
H.R. 4840: Mr. GALLEGLY.  
H.R. 4866: Mr. PLATTS, Mr. SWEENEY, Mr. GOODE, Mr. ETHERIDGE, Mr. BALDACCI, Ms. WATSON, and Mr. RODRIGUEZ.  
H.R. 4887: Mr. KILDEE, Mr. CAMP, and Mr. HASTINGS of Florida.  
H.R. 4907: Mr. SESSIONS.  
H.R. 4916: Mr. COSTELLO, Mr. UNDERWOOD, Mr. STARK, Mr. FRANK, Mr. DAVIS of Illinois, and Mr. CAPUANO.  
H.R. 4920: Mr. GEORGE MILLER of California, and Mr. FARR of California.  
H.R. 4937: Ms. MILLENDER-MCDONALD and Mrs. CHRISTENSEN.  
H.R. 4951: Mr. MENENDEZ, Mr. MCDERMOTT, Mr. CARSON of Oklahoma, Mr. SCHIFF, Ms. NORTON, Ms. KAPTUR, Mr. OWENS, Mr. BROWN of Ohio, Mr. FROST, Mr. UNDERWOOD, Mr. LIPINSKI, Mr. STENHOLM, Ms. MILLENDER-MCDONALD, and Mr. SERRANO.  
H.R. 4954: Mr. LEWIS of Kentucky, Mr. VITTER, and Mr. HOUGHTON.  
H.R. 4955: Mr. DEAL of Georgia.  
H.R. 4964: Mr. FALEOMAVAEGA.  
H.R. 4965: Ms. ROS-LEHTINEN, Mrs. NORTUP, Mr. LUCAS of Oklahoma, Mr. STEARNS, Mr. WATKINS, Mr. THUNE, Mr. JONES of North Carolina, Mr. HUNTER, Mr. TOOMEY, Mr. SCHROCK, Mr. CRANE, and Mr. WATTS of Oklahoma.  
H.R. 4981: Mr. HALL of Ohio, Mr. SPRATT, Mr. TAYLOR of North Carolina, Mr. CONDIT, and Mr. CLYBURN.  
H.R. 5002: Mr. RANGEL and Ms. GRANGER.  
H.R. 5003: Mr. DOOLITTLE.  
H.R. 5005: Mr. HYDE.  
H.J. Res. 23: Mr. TIBERI.  
H.J. Res. 59: Mr. DEAL of Georgia, Mr. PAUL, and Mr. GOODE.  
H. Con. Res. 238: Mr. BACHUS.  
H. Con. Res. 341: Mr. KENNEDY of Rhode Island, Ms. JACKSON-LEE of Texas, Mr. SANDERS, and Ms. MCKINNEY.  
H. Con. Res. 350: Mr. COLLINS.  
H. Con. Res. 351: Mr. OBERSTAR, Mr. EVANS, and Ms. SLAUGHTER.  
H. Con. Res. 367: Mr. SOUDER and Mr. SCHAFER.  
H. Con. Res. 382: Mr. INSLEE.  
H. Con. Res. 404: Ms. NORTON.  
H. Con. Res. 413: Mr. MCHUGH and Mr. BOEHLERT.  
H. Con. Res. 424: Mr. NUSSLE.  
H. Res. 393: Mr. OWENS, Mr. HOFFFEL, Mr. FARR of California, Mr. GUTIERREZ, Mr. SCHROCK, Mr. CRANE, and Mr. JONES of Ohio.  
H. Res. 410: Mr. COYNE.  
H. Res. 445: Mr. UDALL of Colorado, Mrs. BONO, and Mr. WALSH.  
H. Res. 448: Mr. ISAKSON, Mr. CASTLE, Mr. PLATTS, and Mr. SAM JOHNSON of Texas.

## PETITIONS, ETC.

Under clause 3 of rule XII,

64. The SPEAKER presented a petition of the Town Board, East Hampton, New York, relative to Resolution No. 648 petitioning the United States Congress that the Town Board of East Hampton supports the passage of the Nuclear Security Act of 2001; which was referred to the Committee on Energy and Commerce.

## AMENDMENTS

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

H.R. 4954

OFFERED BY MR. MANZULLO

AMENDMENT No. 1: Amend section 1860C of the Social Security Act (as proposed to be inserted by section 101(a)(2))—

(1) in subsection (c)(1)(A), to read as follows:

“(A) IN GENERAL.—The PDP sponsor of the prescription drug plan shall enter into contracts with a sufficient number of pharmacies that dispense drugs directly to patients (in addition to any pharmacies that dispense drugs by mail order) to ensure convenient access for enrolled beneficiaries under standards established by regulations promulgated by the Administrator”;

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

“(C) UNIFORM TERMS AND CONDITIONS.—The terms and conditions of the contracts entered into between PDP sponsors and each dispensing pharmacy described in this subsection must be identical.”;

(3) in subsection (d)(2)(D), by striking “shall” and all that follows and inserting “shall establish fees, pursuant to standards established by regulations promulgated by the Administrator, for pharmacists and others providing services under this section on a fee-for-service basis taking into account the resources expended in providing the service.”; and

(4) by adding at the end the following new subsection:

“(h) PROHIBITION ON PRICE DISCRIMINATION WITHIN NETWORKS.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, including under this title, all terms and conditions of sales, including wholesale lot prices and rebates (if any), between pharmaceutical manufacturers and dispensing pharmacies within the network established by each PDP sponsor under this section shall be identical.

“(2) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit a pharmaceutical manufacturer from establishing different terms and conditions for different networks.

“(3) REGULATIONS.—The Administrator shall promulgate regulations to implement this subsection.”.

At the end of title I, add the following new section:

**SEC. 106. PROMULGATION AND JUDICIAL REVIEW OF RULES.**

(a) PROMULGATION OF RULES.—Notwithstanding any other provision of law, within one year after the date of the enactment of this Act, the Medicare Benefits Administrator shall publish final rules in the Federal Register to implement this title in accordance with the notice and comment requirements of paragraphs (1), (2), and (3) of section 553(b) of title 5, United States Code, except that the Secretary shall promulgate regulations implementing subsections (c)(1)(A), (c)(1)(C) and (d)(2)(D) of section 1860C, as added by section 101(a)(2) within 120 days after enactment.

(b) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—The Secretary, or the Medicare Benefits Administrator, shall prepare an initial regulatory flexibility analysis pursuant to section 603 of title 5, United States Code consistent with the following:

(1) Prior to the publication of the initial regulatory flexibility analysis, the Administrator shall notify the Chief Counsel for Advocacy of the Small Business Administration and provide the Chief Counsel with information on the potential impacts of the proposed rule on small entities and the type of small entities that might be affected.

(2) Not later than 15 days after the date of receipt of the information described in paragraph (1), the Chief Counsel shall identify individuals representative of affected small entities, but need not themselves be small entities, for the purposes of obtaining advice and recommendations from those individuals about the potential impacts of the proposed rule.

(3) The Medicare Benefits Administrator shall convene a review panel for such rule consisting wholly of full time Federal employees of the Small Business Administration, the Office of Information and Regulatory Affairs within the Office of Management and Budget, and the Chief Counsel.

(4) The panel created by paragraph (3) shall review any material the agency has prepared in preparation of the proposed rule, the draft proposed rule, and the initial regulatory flexibility analysis, collect advice and rec-

ommendations from the small entity representatives identified in paragraph (2) on issues related to the requirements of the initial regulatory flexibility analysis set forth in subsections (b) and (c) of section 603 of title 5, United States Code.

(5) Not later than 60 days after the date the Medicare Benefits Administrator convenes a review panel pursuant to paragraph (3), the reviewing panel shall report on the comments of the small entity representatives and its findings as to issues related to the initial regulatory flexibility analysis prepared pursuant to section 603 of title 5, United States Code, provided that such report shall be made public as part of the rule-making record.

(6) Where appropriate, the Medicare Benefits Administrator shall modify the proposed rule, the initial regulatory flexibility analysis.

(7) After receipt of comments pursuant to paragraphs (1), (2), and (3) of section 553(b) of title 5, United States Code, the Medicare Benefits Administrator shall issue a final rule and shall prepare a final regulatory flexibility analysis pursuant to section 604 of title 5, United States Code.

(c) LIMITATION ON CHANGES TO RULES.—Notwithstanding any other provision of law, any amendment to the rules promulgated pursuant to this section and implementing this title shall only be issued after the opportunity for notice and comment as mandated by paragraphs (1), (2), and (3) of section 553(b) of title 5, United States Code.

(d) JUDICIAL REVIEW.—Notwithstanding any other provision of law, regulations promulgated under this shall be subject to review in the manner set forth in chapter of title 28, United States Code except that any party aggrieved shall file a petition for review within 30 days after publication of the final rule in the Federal Register. Any challenge, pursuant to section 610 of title 5, United States Code shall be consolidated with the petition for review set forth in this subsection.

H.R. 5010

OFFERED BY MR. BLUMENAUER

AMENDMENT No. 1: In the item relating to “RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE”, after the dollar amount, insert the following: “(increased by \$5,000,000)(reduced by \$5,000,000)”.



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# Congressional Record

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No. 86

## Senate

The Senate met at 10 a.m. and was called to order by the Honorable MARY L. LANDRIEU, a Senator from the State of Louisiana.

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Liberating Lord, as we look forward to our celebration of Independence Day, we renew our dedication to You. We praise You for the gallant and heroic women and men who were the heroes and heroines of the birth of our Nation. They were people who put their trust in You, followed Your guidance in the quest of life, liberty, and the pursuit of happiness, and fought for freedom for all.

Thank You for the sense of destiny they had, that this was to be a unique nation in the family of nations, a nation under You as only Sovereign. Yet when we look back over the 226 years of our history, we realize that each generation must rediscover true patriotism, live out the American dream, and battle for freedom of opportunity for all people, regardless of race or creed.

Lord, we depend on You as we seek to be worthy of the independence we celebrate. You are our Lord and Saviour. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable MARY L. LANDRIEU 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 assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, June 25, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARY L. LANDRIEU, a Senator from the State of Louisiana, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Ms. LANDRIEU thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

### SCHEDULE

Mr. REID. The Chair will shortly announce we will be in a period of morning business until 10:30 today. That period of time is under the control of the majority leader or his designee. At 10:30, we resume consideration of the Department of Defense authorization bill, and from 12:30 to 2:15 we will have our weekly party conferences.

### 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, the Senate will proceed to a period of morning business not to extend beyond the hour of 10:30, with Senators permitted to speak for up to 10 minutes each, with the time under the control of the majority leader or his designee.

### WOMEN IN THE SENATE

Mr. REID. Madam President, I was here yesterday morning when the Senate convened. The Presiding Officer at that time was the Senator from Arkansas, Mrs. LINCOLN. This morning, the Senate is opened by the Senator from Louisiana, Ms. LANDRIEU. I mention that because I came here when we did not have many women Senators. It adds such a bright light to the Senate to have these strong, good, women serving the country. One out of every five Democrats in the Senate is a woman. That is going to increase. It will be one in four, one in three, then it will be even, and, who knows, maybe one day women will be in the majority.

I applaud the people of Louisiana for sending to the Senate MARY LANDRIEU, who has added so much in her 6 years here.

### MEASURE PLACED ON THE CALENDAR—S. 4931

Mr. REID. Madam President, it is my understanding H.R. 4931 is at the desk and is due for its second reading.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. REID. I ask H.R. 4931 be read for the second time.

The ACTING PRESIDENT pro tempore. The clerk will read the title for the second time.

The assistant legislative clerk read as follows:

A bill (H.R. 4931) to provide that the pension and individual retirement arrangement provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be permanent.

Mr. REID. I object to further proceedings on this bill at this time.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

The Senator from New Mexico is recognized.

Mr. BINGAMAN. I have asked permission to speak for up to 10 minutes as in morning business.

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



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S5969

The ACTING PRESIDENT pro tempore. The Senate is in morning business.

Mr. BINGAMAN. Madam President, I will speak on two subjects. First, the pension issue that I have talked about several times on the Senate floor in recent weeks. We have some information that I will share with Members about the extent of that problem. We hope before the end of this week we will have some legislation to propose to begin addressing that problem.

The other subject is the U.N. population fund. I ask that the Chair please advise me when 5 of my 10 minutes have been consumed.

The ACTING PRESIDENT pro tempore. The Chair will do so.

#### PENSION REFORM

Mr. BINGAMAN. Madam President, the retirement system in this country leaves a great deal to be desired. We have many people who do not have adequate income when they reach the age of retirement. We have some charts that make that case. These charts are based on the 1999 U.S. census current population survey. They make the case fairly strongly.

This first chart is titled "Private Workers Who Participate in an Employer Sponsored Plan," and breaks down the population by race and ethnicity. When we look at all workers as of 1999, there were 44 percent of the private workers who participated in the employer-sponsored plan, looking at the entire population. Among white, non-Hispanic workers, there were 47 percent or nearly half of the population that had some sort of employer-sponsored plan. That means a little over half did not. This chart does not include the public-sector employees or the self-employed workers.

For other minority groups the numbers are substantially less. For black, non-Hispanic, it is 41 percent; for Asian Pacific islanders and other non-Hispanic, 38 percent; for other minority non-Hispanic, 35 percent; and among Hispanic workers, it is 27 percent. Therefore, 27 percent, slightly more than one fourth of the private-sector Hispanic workers in the country, have an employer-sponsored plan.

That is important in my State because we have a large Hispanic population. When you look around the country and ask, where is the problem the worst as far as inadequate retirement coverage, my State is No. 1 in the Nation for the number of private-sector workers that do not have coverage.

The second chart demonstrates the percentage of private-sector workers who work at companies that provide after retirement or a pension plan. This chart talks of the companies employing these workers.

Madam President, 58 percent of all employees work for employers that provide some kind of plan. But then the numbers decline. Among white non-Hispanic, it is higher, and 62 per-

cent of those employees work for companies that provide some kind of retirement plan; among Hispanic workers, only 40 percent of Hispanic workers nationwide work for companies that provide some kind of retirement plan. So this is a significant concern and a significant part of the problem as well.

The third chart illustrates the percentage of employees who participate in an employer-sponsored plan when the employer actually offers the plan. This is an assessment of how many people actually take advantage of this plan, in these different groups, once they have the opportunity. Among all workers, 75 percent nationwide will participate and have participated in an employer-sponsored plan if it is offered. Again, it is a little higher for white, non-Hispanic workers—up to 77 percent. Among Hispanics, it is 68 percent.

The interesting aspect about this is it is much less of a spread between the average, the "all worker" category, 75 percent, and the Hispanic, which is 68 percent, which makes the obvious case that Hispanic participation is not significantly different from that of the rest of the population when they are offered a plan.

The final chart pulls all this data together, puts it all in one place so we can understand it.

The ACTING PRESIDENT pro tempore. The Senator has consumed 5 minutes.

Mr. BINGAMAN. I appreciate the Chair's information.

While it is not conclusive, it does indicate that if Hispanic workers do have jobs where the employers offer some type of plan, they tend to participate. Unfortunately, the data indicates that Hispanics tend to work for employers who do not offer retirement plans. What we need to do is get more employers to offer retirement plans, particularly small employers. That is what the legislation we are developing right now is intended to do. I will be proposing that later.

I urge my colleagues to look at this issue seriously. I hope we can introduce a bill before the week is out.

#### UNITED NATIONS POPULATION FUND

Mr. BINGAMAN. Madam President, now I will focus on the U.N. population fund. Last year I voted for the Foreign Operations conference report. I thought the funds provided there were inadequate to meet our pressing needs as we talked about them, but I recognized that the roughly \$15 billion would provide help to millions of desperately poor people around the world and at the same time help improve the short-term and long-term security of our own country. I voted for that bill.

Here we are 7 months later and some of the most important funding provided in that bill, the \$34 million provided for the U.N. population fund, is still sit-

ting at the Department of Treasury. It is not helping poor people. It is not helping to make America more secure. It is just sitting at the Treasury Department.

The United Nations population fund works in over 150 countries, where it helps give women around the world access to reproductive health care and family planning services as well as services to ensure safe pregnancy and delivery. This population fund, the U.N. population fund, plays a critical role in helping prevent the further spread of AIDS. The withholding of U.S. funds, which is what we as a country are engaged in right now, only exacerbates the general inadequate health of poor women worldwide. It leads to more unwanted pregnancies and to deaths of more and more women during childbirth.

Last fall, the Bush administration provided an extra \$600,000 to the U.N. population fund to help women in Afghanistan, and these funds were very welcome and were certainly used, substantially to provide safe birthing kits, which are very important. They were also used to open and upgrade maternity hospitals, which is very important.

I want to make clear that the population fund does not perform abortions. It does not support the performing of abortions in any way. Anyone who suggests that they do has not studied the situation in depth.

The House of Representatives passed a conference report on the fiscal year Foreign Operations bill which included \$34 million for this purpose. It was an overwhelming vote. The Senate approved \$40 million for this purpose, also with a lopsided vote. But now, because of hearsay, because of unsubstantiated allegations that have been disproved many times, the administration is holding up this critically important funding.

It is the most desperate women in the world who are adversely affected by this action; it is not the United Nations itself. The women who would benefit from this funding are the most adversely affected.

I believe very strongly that the administration has been willing to follow the law and speed the appropriation of funds for these purposes in the past. I cannot understand why we are not moving ahead this year. The emergency supplemental appropriations bill that is presently being conferenced provides an excellent opportunity for us to resolve this issue.

I urge the Senate conferees to ensure that language included in the supplemental passed in the Senate be included in the conference report. That language requires that this money, the \$34 million that was appropriated last December, be released unless the President certifies by July 10 that doing so would violate U.S. law.

This is fair. More important, it is the intent of Congress. It is the law of the land. I urge the administration to follow through in the conference.



I will be glad to yield to my colleague, but I believe my time has expired.

Mr. REID. I say to the Chair, this half hour is under the control of the Democrats. It is the minority's time this morning so we have whatever time we need, I say to my friend from New Mexico.

I ask my friend two questions. The first is on pension reform. The Senator is the leader of a task force appointed by the majority leader. I acknowledge the fine job he has done.

Would the Senator indicate if it is true that a lot of attention has been focused on pensions and how employees are treated as a result of the Enron debacle?

Mr. BINGAMAN. Madam President, in response to the question of my friend from Nevada, that is exactly right. I think the entire country was appalled to see what happened to the pension savings, the retirement savings of various Enron employees when that company collapsed. Accordingly, we have spent a lot of time discussing how to ensure that these funds that are in a pension fund for a worker can be safeguarded so we can avoid this situation in the future. That part of the problem has gotten a lot of rhetorical attention, at least. We have still not taken the necessary actions to solve it. I hope we are able to do that in the next few weeks as we consider the legislation that has come out of the Health, Education, Labor, and Pensions Committee, and also legislation that is, I understand, going to be marked up in the Finance Committee.

Mr. REID. Would the Senator also acknowledge what people are saying, that it seems so unfair that people who were working at Enron, who weren't so-called bosses, wound up with very little, whereas the bosses, the corporate leaders, ended up with millions and millions of dollars? Isn't that something they are talking about in New Mexico?

Mr. BINGAMAN. Madam President, in response to the question, it certainly is something that is a great concern in my State. I think people tend to lump all these issues together, understandably, because they are all part of a very much larger problem. One is the inadequate protection of the retirement savings of workers. Another issue is the inequity in compensation between the top officials of some of these corporations and the average worker. A third is the very unfair severance package arrangements that are made when some of these companies go bankrupt.

How does it happen that the top officials wind up getting severance packages, in spite of the financial difficulties of the company, while the people at the very bottom get virtually nothing?

Mr. REID. Madam President, let me ask the Senator from New Mexico, the chairman of the task force, it is true, is it not, that one of the things you are working on is legislation in conjunc-

tion with the committees of jurisdiction to make sure that in the future when this takes place there will be equity as far as employees are concerned?

Mr. BINGAMAN. Madam President, in response to that, we are trying to figure out what can be done in this regard. We essentially do not think Government should be dictating at what level companies compensate workers. But we do think the various laws we pass in Congress should be written in such a way that we don't provide additional benefits for extremely lavish compensation to high officials and inadequate compensation to people who are working every day in the bowels of these companies.

Mr. REID. I also say to the Senator, based on the second part of the statement he made, I congratulate, commend, and applaud the Senator from New Mexico for bringing to the Senate's attention something that has been going on now for several years; that is, the inability of the United Nations to help poor women around the world with just basic information and educational opportunities as to why they get pregnant, and as to why they are not taken care of when they are pregnant. But does the Senator acknowledge that this has turned into some abortion issue that has nothing to do with family planning on the international scene? Is that true?

Mr. BINGAMAN. Madam President, my response to that question is the Senator from Nevada is exactly right. I think there is important assistance that the overwhelming majority of the House and Senate would like to see provided worldwide to these poor women who need assistance to deal with their very real issues of giving birth and planning their families for the future. We have appropriated money. That money has been appropriated now for 7 or 8 months, and it is sitting at the Department of the Treasury. I don't understand why they can't go ahead and spend that money as it was intended. I hope very much that happens in the very near future.

Mr. REID. I say to my friend from New Mexico, if someone is really concerned about abortion, it would seem to me they should consider ways to help women be educated so there are less unintended pregnancies. Isn't that one of the main goals of international family planning?

Mr. BINGAMAN. Madam President, in response to that question, that is clearly my understanding of the main goal of international family planning. It is a worthwhile goal. I think clearly we do not want desperately poor families and desperately poor women to find themselves with unwanted pregnancies because of lack of information. What we are trying to do is get assistance to this population fund so that we can provide good information and assistance to these desperately poor women.

Mr. REID. Will the Senator also acknowledge that where we have had

international family planning in the past healthier babies are born and less babies are born? Is that a fair statement?

Mr. BINGAMAN. Madam President, again, in response to the question, I believe there is a record of success with many of these programs, and with many of the efforts that have been made to this population fund. I think it makes good sense for the United States as the largest, most prosperous country in the world to participate with other countries—with our friends and allies around the world—in supporting this effort. That is all we are trying to do. Our support is not overwhelming as compared to a lot of countries. But it is important, and we should provide it.

Mr. REID. I also ask my friend, is it not true that the Congress, in good faith, has appropriated these moneys, and now they are being held up by the administration?

Mr. BINGAMAN. Madam President, in response, that is certainly my information. My information is that the money was appropriated, and that it was appropriated last December when we passed the foreign operations appropriations bill. There is no reason that money should not be released for the intended use. That is what the law requires. I hope very much that the administration will move ahead. We are fast approaching the date when we are going to do another foreign operations appropriations bill. I don't think we serve the intended purpose by just delaying and delaying the use of these funds.

Mr. REID. It is fair to say, is it not, that each day that goes by there are more people around the world and more women around the world who have this lack of information and unintended pregnancies and complicated pregnancies that could be helped by virtue of these moneys if, in fact, they were coming forward.

Mr. BINGAMAN. Madam President, again, in response to the question, I think it is easy for us to believe, when we are sitting here in a nice air-conditioned Senate Chamber, that there is no urgency and think these are all sort of theoretical problems out there and there is no urgency in getting about trying to deal with them. I think the reality is very different for a lot of the women to whom my friend in Nevada is referring.

The reality is they have to either have assistance now or live with the consequences of not having the assistance. For that reason, I think it is very important we move ahead immediately.

Mr. REID. Madam President, I yield the remainder of our time to the Senator from Montana, Mr. BAUCUS.

The ACTING PRESIDENT pro tempore. The Senator is recognized for 4 minutes.

Mrs. HUTCHISON. Madam President, parliamentary inquiry: I wanted to know how much time there is in morning business, and if there is any time

for the Republican side in morning business time.

The ACTING PRESIDENT pro tempore. There are 4 minutes remaining. There is no time reserved for the minority side.

Mr. WARNER. Madam President, parliamentary inquiry: I would like to request of our leader—I am endeavoring to reach Senator LEVIN. I understand he will soon be available to give me some guidance as to what he desires as Chair. We are anxious to move ahead on this bill. I realize certain of our colleagues have extremely sensitive matters to speak to—the tragic wildfires experienced out West and the Amtrak situation. I am not sure what my good friend from Montana is going to address. But, at the same time, I am hopeful that with the support of our leadership, we can outline a course of action today so the Kennedy amendment—I spoke to Senator KENNEDY late last night—can be voted on at a time that is convenient, preceded by, say, maybe 30 minutes of final remarks by Senator KENNEDY and our side; that we are able to go to the missile defense amendment, which I shared with the chairman last night; and, that we have today at least, say, 4 hours of debate on that with the hope we will vote this afternoon somewhere around 5 o'clock.

Mr. REID. Madam President, I would say to my friend, the comanager of this bill, that Senator LEVIN isn't due here until 10:30. We are supposed to take up the Defense bill at 10:30.

Mr. WARNER. Madam President, I am not hearing the Senator.

Mr. REID. That is when we are supposed to take up the Defense bill. He will be here at or about 10:30. We, through staff, asked last night if the Republicans wanted any time for morning business. They said they didn't want any; they have a conference this morning. That is why the one-half hour was devoted to the Democrats. Had they wanted more time, we would have come in one-half hour earlier.

I ask unanimous consent that—we used all of Senator BAUCUS' time in this colloquy—Senator BAUCUS will be recognized for up to 5 minutes to speak as if in morning business.

I say to my friend from Virginia if Senator HUTCHISON and Senator CRAIG wish time, I am sure Senator LEVIN would have no problem giving them 5 minutes each. Is that fair enough?

Mr. WARNER. I think that is fair enough.

Mr. REID. Following the statement of the Senator from Montana, I ask unanimous consent that the Senator from Texas be recognized for 5 minutes, and following her the Senator from Idaho be recognized for 5 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. WARNER. Reserving the right to object, I think that is a very good reconciliation in the interest of time. But let us say we would return to the bill at 10 minutes to—

Mr. REID. Why don't we return when we finish the morning business, which would be about a quarter till?

Mr. WARNER. That is fine.

Mr. BAUCUS. Madam President, reserving the right to object—I ask the indulgence of my friend—if I could have about 7½ minutes.

#### EXTENSION OF MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent—we are extending the time anyway—Senator BAUCUS be recognized for 10 minutes—Senator HUTCHISON, is 5 still satisfactory?—and Senator CRAIG, 5?

Mr. CRAIG. Five plus two.

Mr. REID. Seven for the Senator from Idaho, and following that, we would resume the Defense authorization bill.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator from Montana shall proceed.

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 2678 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BAUCUS. Madam President, I yield the floor and thank my friends from Texas and Idaho for their indulgence.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Texas is recognized for 5 minutes.

#### AMTRAK

Mrs. HUTCHISON. Madam President, I rise today to talk about Amtrak. Our Amtrak national rail passenger system is teetering on the brink of bankruptcy. They have said they need \$200 million in operating cash or the entire system will grind to a halt very soon. The effect of such a shutdown would be devastating.

With the Independence Day weekend approaching, and the number of airline flights slashed since September 11, families throughout the Nation are counting on Amtrak to get them to their destinations. If Amtrak is not running, those families will add to the millions of cars already expected to crowd our Nation's highways.

Amtrak has already received more than 100,000 reservations for the holiday weekend. Reservations account for about half of Amtrak's expected passenger load.

I have noticed from articles in the paper that people are already beginning to question whether Amtrak service is going to be there, so they are already suffering cancellations, which adds to the deficits we already have.

I have always been a supporter of Amtrak, but sometimes it has been hard because Amtrak has not really come to grips with the inefficiencies in the system. I hope Mr. Gunn, the new CEO of Amtrak—and I appreciate so much his willingness to come in and take over this railroad operation at

this time—will make a difference. He has already fired mid-level managers. Certainly, I think anybody looking at the labor situation in Amtrak would realize that the rail unions really are out of line with other workers in our country. Amtrak has never engaged in tough negotiations with its unions, even 4 years ago, when we were trying to reauthorize Amtrak. As a result, labor costs are out of line with other workers in our country. A 5-year severance package for Amtrak employees, as in other rail unions, is way beyond the norm for most union workers or other workers in our country.

I do hope the unions will work with us to try to bring efficiency in both management, administration, contracting out, and overall severance packages that are in an alarming condition and have put us in such a precarious situation.

Amtrak has not come forward with its true financial condition in many instances. Mortgaging Penn Station last year was quite irresponsible. I didn't like it at all. I think we should have met this head on.

On the other hand, there are some Members of Congress who have been so recalcitrant about Amtrak; I can understand Amtrak's unwillingness to come and bare its financial soul to Members of Congress when they know they are going to get their heads chopped off.

We need to step back and take a responsible approach. We need a passenger rail system. It is part of a multimodal system that will serve the needs of all of the people. A skeleton that would go across the top of our country, down the west coast, across the bottom/southern part of the country, up to the east coast with one line right down the middle would give us a solid national rail system where States could then form compacts and feed into those systems. In my State of Texas, the DART, the Dallas Area Rapid Transit, is feeding its train into the Amtrak system.

Those are the possibilities we have if we know we have a dependable national rail passenger system. This means a whole system. It does not mean just the Northeast corridor.

One of the problems we have had is the rest of the system has been starved year after year while the Northeast corridor has gotten the lion's share of funding. We must acknowledge once and for all this is going to be a national system. We are all going to be in this together.

All of us who believe in a national rail system should say: This is not going to be a piece of a system that is subsidized heavily and another piece that isn't. We need to consider it as a system. We need to fund it well.

Some people have said: We have to subsidize Amtrak too much. We have been subsidizing Amtrak to the tune of \$520 million annually; whereas we have subsidized highways to the tune of \$30 billion, and \$10 billion per year on aviation.

I ask unanimous consent for an additional 2 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. HUTCHISON. We have seen the subsidies. Some are user fees but some are not. We just bailed out the airline industry because we knew it was essential for our economy. In Texas, we send billions of dollars to the highway trust fund. We get 88 cents on the dollar back. We are subsidizing other States' highways.

I don't mean that I want Texas to have to get 100 percent. Our National Highway System is built on a national system concept. That is what we need for Amtrak. We need to say: Yes, some States are getting more than others. Maybe States should step to the plate more. I would be willing to say that my State should step to the plate and help in these subsidies, just as I think every State that receives service should. That would be a worthy reform.

The bottom line is, this should be a national system that we support as part of our national security, our homeland security, a multimodal system that provides transportation for all the people of our country in a convenient way and in a way that is most necessary.

We have aviation; we have highways. Rail is an important third part of our overall transportation system.

I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Idaho is recognized.

#### WESTERN WILDFIRES

Mr. CRAIG. Madam President, I rise this morning—and I will return tomorrow and the next day—to talk about a story and a saga playing its way across the western landscape that you and I watched yesterday and on the morning news. We saw the headlines in all of the papers that said, Monstrous Wildfires Near Arizona Town; Show Low, Arizona, and The Thousands of Citizens Who Live There at Risk.

What I want to do for a brief period is stage this as the great John Wayne movie "Rio Bravo," where John Wayne captures the outlaw Joe Bernadette and sticks him in jail waiting for the judge to get the town to try the outlaw. It is the saga of the white hats and the black hats.

For two decades we have been playing the white hat and the black hat game when it comes to the management of our western public lands and especially the timber lands of the West.

In the early 1990s, scientists came together and said: "If we don't begin a concerted effort of active management and fuel reduction on the floor of western great basin forests, they will burn in wildfire." That is an exact quote, well over a decade ago, when the experts saw that the lack of management and the shutdown of our public lands would some day spur us into wildfires.

Not only did it spur us into wildfires, the scenario those scientists did not plug in was that during the decade when we shut the public lands down, all in the name of the environment, we began to inhabit them. Every little piece of land that was nonpublic got a beautiful home built on it, as people wanted to retreat into what we called the urban-wildland interface, to have their little piece of that wild west that was left staged in the movie of "Rio Bravo."

The great tragedy is, there is no wild west today. It is an urbanizing West with thousands of people in it wanting to live in those lands that have built up fuel loads on the floor of the forests that are equivalent to tens of thousands of gallons of gasoline per acre.

You and I have seen on the television the last few days the monster fire of Arizona that consumed Heber, AZ, that now has taken over 325 homes, that may take Show Low, AZ, today, rolling on across the landscape, burning up those thousands of gallons of equivalent fuel per acre on the ground. This is so dramatic, the President flies out today to view the carnage.

It isn't just the homes that are gone. It is the landscape that is gone. It is the wildlife habitat. It is the watershed—all gone, not for 5 years, not 10 years, but in the arid Southwest gone for 100 years. Why? Because man in his infinite wisdom said, two or three decades ago, all in the name of the environment, that we would no longer enter the forests. We would no longer thin the forests. We would no longer clean the floors, all in the name of leaving the land alone.

Now we go to Colorado, Durango, CO, where a fire is just a few miles from that beautiful mining town. Between Colorado and Arizona and New Mexico, we have lost over 507 homes this year, this spring. It isn't even summer yet. It isn't even late summer. It isn't the late July and August of the hot weather of the Great Basin timeframe in which most of these lands normally burn.

If this were a tornado, if this were in Louisiana or across Florida, it would have wiped out an entire landscape and thousands of homes or hundreds of homes would be gone and we would have a national disaster. We would have all kinds of focus on it, how tragic it is. But somehow this has gotten less attention, even though the West is filled with smoke today.

It should never have become a white hat/black hat issue. But for two decades, it became that. Right here on the floor of the Senate that very issue got debated. It was them versus us, the chain saw versus Bambi. Bambi won. Now Bambi is losing. Bambi's home is gone. The place she sleeps is gone. The place she drinks her water is gone. The wildlife are in danger—in an area in Arizona where two fires came together, over 300,000 acres. That is an area that is 500 miles square, as big as the whole L.A. Basin. If that is not a national disaster,

I don't know what is. That is just Arizona.

Madam President, 1.5 million acres have all burned in the Great Basin West this year, and here we are just in the last days of June. At this time in 2000, 7.3 million acres burned in the West, and we have already forgotten about it; we had only burned 1.2 million acres.

Well, the story will be continued. Let's call this "Rio Bravo." Let's call this a time when America comes together to refocus its intent on public land policy. I am going to be back with charts and maps tomorrow to visit with my colleagues about this national crisis that burns its way across the landscape of Arizona, New Mexico, and Colorado because what I am fearful of is, come late August, it will be in my home State of Idaho, which lost a million acres of land in 2000, and nobody talked about it because it was in the back country and with no homes burned. There was no national television coverage to watch a smoldering home. But Bambi lost her home, and Bambi's cousins lost their homes, and a million acres in Idaho today will be decades in coming back.

So why don't we get real and recognize that in managing our public lands there must be a balance. It cannot be either/or or all or nothing because when that happens, Mother Nature is not always the best steward of the land. Today in Arizona, Mother Nature is making headlines and she is calling herself Monster Wildfire. That is Mother Nature, but not in her finest hour.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2514, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2514) to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

Kennedy amendment No. 3918, to provide for equal competition in contracting.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. CARNAHAN). Without objection, it is so ordered.

Mr. REID. Madam President, the two managers of the bill have asked that I propound a unanimous consent request.

I ask unanimous consent that the pending Kennedy amendment be temporarily set aside and that the Senate resume its consideration at 12 today and that at that time there be 30 minutes of debate equally divided on the Kennedy amendment. That would terminate at 12:30 when we recess for the party conferences. The time would be equally divided in the usual form prior to a vote in relation to the amendment at 2:30 today. The time from 2:15 to 2:30 would also be equally divided in the usual form. Further, there would be no amendments in order prior to the Kennedy amendment at 2:30 with the exception that Senator WARNER be recognized for a motion to table the Kennedy amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. There will now be general debate on the bill. From 12 to 12:30, the time will be spent on the Kennedy amendment equally divided. When we come back from the party conference at 2:15, there will be an additional 15 minutes equally divided, with the vote occurring at 2:30 on the Warner motion to table the Kennedy amendment.

Mr. WARNER. No objection on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

Mr. LEVIN. Madam President, very briefly, we are making progress on the national Defense authorization bill. We have the pending amendment of Senator KENNEDY which will now be voted upon with a motion to table at 2:30. We expect we will at that point begin a debate on missile defense, but the process is not yet worked out for the amendments relative to that as to the order and how they will be offered. There will be some discussion on that matter between now and then. We are working with Senators on the amendments to see if we can act on amendments later today and possibly clear amendments. I continue to be optimistic, with our leader's assistance, with the cooperation of all Senators, that we can complete action on this bill in a timely manner this week.

My good friend from Virginia, the ranking member of our committee, is working hard to achieve that same result.

Mr. WARNER. I have worked with my leader with regard to the unanimous consent that was adopted. I will not send my amendment to the desk, but I intend to initiate debate.

As I understand from the chairman, there will be a rejoinder on the other side and we will proceed on this issue until the hour of 12 o'clock. It is also my expectation that the chairman and I, with our respective leaders, Senators DASCHLE and LOTT, will meet prior to the caucuses for the purpose of establishing a procedure by which my

amendment is to be sent to the desk and considered by the Senate. Am I correct?

Mr. LEVIN. There is an intention, as I have shared with my colleague from Virginia, to offer a second-degree amendment to that amendment. That is what we will be discussing with the leaders between now and 12 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I don't know that that was in the form of a unanimous consent request.

Mr. LEVIN. No.

The PRESIDING OFFICER. It was not a unanimous consent request.

Mr. WARNER. I simply stated for the convenience of the Senate the procedure we will follow between now and the hour of 2:30, at which time I will be recognized for the purpose of tabling the Kennedy amendment.

I encourage colleagues on my side to come forward. I know Senator ALLEN is anxious to speak to the Kennedy amendment, as are Senator BOND and Senator FRED THOMPSON. There will be concluding remarks by our distinguished colleague from Wyoming. That will take place from 12 to 12:30 and again from 2:15 to 2:30.

At this point in time, I will address the question of missile defense in the amendment I intend to submit to the Senate. Since I will not now send it to the desk, I will read it. This is an amendment proposed by myself, Mr. LOTT, Mr. STEVENS, Mr. COCHRAN, Mr. ALLARD, Mr. KYL, Mr. SMITH of New Hampshire, Mr. INHOFE, Mr. THURMOND, Mr. SESSIONS, Mr. ROBERTS, Mr. HUTCHINSON, Mr. BUNNING, Mr. HELMS, Mr. MCCAIN, and Mr. NICKLES.

I read the amendment as follows:

On page 217, between lines 13 and 14, insert the following:

**SEC. 1010. ADDITIONAL AMOUNT FOR BALLISTIC MISSILE DEFENSE OR COMBATING TERRORISM IN ACCORDANCE WITH NATIONAL SECURITY PRIORITIES OF THE PRESIDENT.**

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to other amounts authorized to be appropriated by other provisions of this division, there is hereby authorized to be appropriated for the Department of Defense for fiscal year 2003, \$814,300,000 for whichever of the following purposes the President determines that the additional amount is necessary in the national security interests of the United States:

(1) Research, development, test, and evaluation for ballistic missile defense programs of the Department of Defense.

(2) Activities of the Department of Defense for combating terrorism at home and abroad.

(b) OFFSET.—The total amount authorized to be appropriated under the other provisions of this division is hereby reduced by \$814,300,000 to reflect the amounts that the Secretary determines unnecessary by reason of a revision of assumptions regarding inflation that are applied as a result of the midsession review of the budget conducted by the Office of Management and Budget during the spring and early summer of 2002.

In simple language, it is annually the function of the Department of Defense to make certain assumptions with regard to those moneys that they require

for purposes of, for example, pay, and other large cash expenditures in a fiscal year, the amount that inflation may erode the ability to pay those sums.

In this case, fortunately, this country has experienced a low inflation rate, lower than anticipated, and therefore there is remaining within the 2002 budget sufficient cash, in my judgment and the judgment of others working in the Department of Defense, to cover this amendment. Therefore, this amendment will not dislodge any of the programs or authorizations as now exist in the bill before the Senate. I make that clear. No Senator should think his or her programs which they have fought hard for as part of this bill will be reduced in amount as a consequence of this amendment.

The amendment I will submit, hopefully this afternoon, with the concurrence of the leadership, on behalf of myself and other Members whom I enumerated, is an important step to work directly on problems in the Defense authorization bill for fiscal year 2003 as reported out of the committee which have led many Republican committee members, including this one, to have no other possibility than to vote against a bill on which we had worked for the better part of a year.

That is a very difficult decision, when members of a committee, large numbers of members in our committee, working in a bipartisan fashion, chairman and ranking member together, formulate a bill, and then when it is brought to a markup session, we are faced with a realization that an element of that bill is so totally in opposition to what the Commander in Chief of the United States, namely the President, has sent to the Congress for the purposes of fulfilling his rights as Commander in Chief in the defense of this country. That decision faced by us, and a significant number of Members, forced members to vote against that bill that we worked on for a year. We did so because of the drastic cuts and the restrictions made to missile defense by a narrow margin of the majority in the markup session.

I recognize the importance of passing a Defense authorization bill during times of war with broad bipartisan support. It sends a clear signal of support to our men and women in uniform and expresses the commitment of the Senate to fighting the global war against terrorism in defending our homeland.

In order to have such broad bipartisan support, we have to pass a bill that supports our President—again, our Commander in Chief—and his fundamental priorities for defense. In its current form, this bill fails that test. The Secretary of Defense confirmed by a letter to the chairman that he will advise the President to veto the Defense authorization bill if the missile defense provision contained in our bill is adopted by the Congress.

This view is strongly reiterated in the statement of administration policy on our bill which notes that:

The administration's missile defense program is a carefully balanced effort to defend the American people, our deployed forces, and our friends and allies, against a growing missile threat. The provision of S. 2514 would undermine this critical defense effort.

What a tragedy for our Nation, what a tragedy for the Armed Forces, to see this precisely at this time, with our Nation at war, when we need to demonstrate consensus and support. Now is not the time to send a signal that we are lessening our resolve in defending this Nation from all known and recognized threats. We must be prepared as a nation. History will be our judge.

The amendment I will offer would restore the funding reductions to missile defense made during the committee's consideration of the bill. This amendment would provide an additional \$814 million-plus to restore the funding taken from the President's request for missile defense during markup and allow the President the flexibility to spend the money for missile defense and activities of the Department of Defense to counter terrorism both at home and abroad.

That is very important. This is basically parallel to what we did last year on the Defense authorization bill. I will address that in greater detail momentarily, but it gives the flexibility to the President of the United States and his Secretary of Defense to allocate the \$814 million-plus in accordance with those two objectives.

This is a reasonable compromise, I believe, to the position taken by the majority during the course of the markup. Again, it is identical in form to the compromise we reached last year on this issue.

At the outset of this discussion, I want to remind Senators present of a measure we passed in 1999 by a vote of 97 to 3, a measure that was subsequently signed into law by President Clinton, the National Missile Defense Act of 1999, referred to as the Cochran Act, as he was the principal drafter and sponsor of that very important law. The act is short and not very complicated. It does two things very clearly.

First, the Cochran Act establishes a policy of deploying, "as soon as is technologically possible," an effective defense of the territory of the United States—that is all 50 States and the U.S. territories—from limited ballistic missile attack.

Madam President, 97 Senators are on record supporting that policy.

A second part of that law reiterates a longstanding policy that the United States will seek further reduction in Russian nuclear forces.

During the debate on this act, some contended that its two policy declarations have equal stature and status. Equal or not, I think all would agree both are important statements of policy. The amendment to include a statement of policy on arms reduction was offered because some Senators feared that deployment of a missile defense

could lead to a new offensive arms race. But President Bush did not see any inconsistency in these two goals and has pursued both vigorously. He has made missile defense one of his top national security priorities, and he has dramatically—and, I would add, appropriately—expanded funding to expedite the development and deployment of those important defenses.

At the same time, he sought to restructure this Nation's relationship with Russia. He outlined this policy in a landmark speech at the National Defense University in May of 2001:

Today's Russia is not yesterday's Soviet Union. We need a new framework that allows us to build missile defenses, and that encourage still further cuts in nuclear weapons.

President Bush has since engaged Russian President Putin on a regular and intensive basis to move the Russian-American relationship beyond cold war hostility to one built on openness, shared goals, and shared responsibility. President Bush has been extraordinarily successful in this effort.

Last December, the President announced his intent to withdraw from the 1972 Anti-Ballistic Missile Treaty. This is a treaty which specifically prevented both Russia and the United States from developing and deploying effective missile defenses. Critics feared that President Bush's action would lead to a harsh Russian denunciation. In fact, Russia reacted hardly at all.

President Putin announced that the U.S. move was a mistake, but it would not affect the improved United States-Russian relationship.

Many missile defense critics feared that withdrawing from the Anti-Ballistic Missile Treaty would trigger a new arms race. Yet on May 24, at the summit in Moscow, President Bush and President Putin signed a landmark arms control agreement.

This breakthrough treaty, negotiated in a period of just several months, will reduce nuclear arsenals from their present levels of about 6,000 strategic warheads to 1,700 to 2,200 strategic warheads over the next decade. This is the most dramatic reduction in strategic weapons history.

Far from disrupting the United States-Russian relationship, withdrawing from the ABM Treaty and developing missile defenses have allowed us to develop defenses for the United States, its allies and friends, and its deployed troops, against the real and increasing threat of missile attack, while at the same time our relationship with Russia appears to grow in a positive manner.

So President Bush has taken to heart both policy statements in the National Missile Defense Act of 1999. He has made missile defense a high priority and is doing all he can to expedite the development and deployment of missile defenses. And he has achieved the goal of further reductions in Russian nuclear forces.

Now it is up to us, the Senate and the Congress, to do our part. The President

has made a reasonable and balanced request for missile defense this year. The request of \$7.6 billion is smaller than last year's request and smaller than last year's appropriated level.

The House of Representatives fully funded this request level. In fact, they have increased it slightly. Yet the bill of the Senate Armed Services Committee cuts over \$800 million from the effort to develop and deploy missile defenses. Yes, against that background, our committee went ahead and cut \$800-plus million.

This bill would impose reductions that impede progress, increase program risk, and undermine the effort to provide for the rapid development and deployment of missile defenses for our Nation, our allies and friends, and our soldiers, sailors, marines, and airmen deployed overseas. The administration asserts quite accurately, in my view, that the committee bill undercuts missile defense efforts:

... by severely reducing the program's workforce, significantly impairing DOD's ability to effectively integrate components currently under deployment, delaying boost-phase defense efforts, hindering early deployment contingent capability, undermining efforts to address countermeasures, and slowing key sensor programs.

That is the assessment of the Secretary of Defense.

The bill before the Senate would cut hundreds of millions of dollars from theater missile defense, programs to defend against short-, medium- and intermediate-range missiles.

That is the threat that is most identified as impairing the ability of our forward-deployed forces to pursue their missions without the threat of missile attack. These are the very missiles our troops faced in the Persian Gulf war over a decade ago, and we know well of the casualties that our forces, U.S. forces and indeed those of our allies, took as a consequence of the short-range Scud missiles fired indiscriminately by Saddam Hussein.

Today we have some improved defenses but not adequate defenses against these short-range weapons.

Last September we suffered a grievous attack on our Nation. Many lives and much property were lost in that attack. On that terrible day we also lost our uniquely American feeling of invulnerability. Homeland security is now, without a doubt, our top priority. Missile defense is an integral part of homeland defense.

The most recent national intelligence estimate on missile threats—that is January of this year—states:

The probability that a missile with a weapon of mass destruction will be used against U.S. forces or interests is higher today than during most of the cold war, and will continue to grow as the capabilities of potential adversaries mature.

George Tenet, head of the CIA, during his testimony to the Armed Services Committee earlier this year, made the point that missile threats have sometimes evolved much faster than

predicted and confirm the view expressed in the national intelligence estimate that I just quoted that both terrorism and missile threats must be taken very seriously.

I understand and respectfully disagree with those who argue that every dollar we spend on missile defense is one dollar we don't spend protecting our shores and harbors.

That is precisely what the defense of our Nation against missile attack does—protects our shores. It protects our harbors, our cities, our towns, our villages, and our people from the world's most terrible weapons.

As we did last year, this amendment would provide flexibility for the President to use the additional funds as he sees fit to defend this Nation from missile defense and the Department of Defense activities in counterterrorism. It is a discretion that is very much needed by the President and the Secretary of Defense. And it parallels exactly what we did last year.

I say to my colleagues that this amendment offers a reasonable compromise on an issue that has divided the Armed Services Committee for the past 2 years, and continues, regrettably, to divide the Senate. This is the same formula that we used last year to heal a serious rift in the committee and the Senate, and thereby bring the bill to the floor on a bipartisan basis.

I note that this amendment differs in one important aspect from the one we passed last year. Last year, we simply added \$1.3 billion to the defense top line. This year, the amendment does not increase the administration's budget request. It does not put money on top. Rather, it takes advantage of the fact that the administration will conduct its annual midyear review of inflation assumptions, including those used to craft the defense budget request.

I have been assured that the new inflation savings that will result from this abuse will be more than adequate to cover this added amount for homeland defense. The amendment provides an offset based on these anticipated inflation savings.

I commend Chairman LEVIN for the statesmanship he displayed on the issue last year at the time I brought the amendment up which closed the rift between the aisles. Our bill came to the floor last September. The Pentagon and the World Trade Center were still burning, and we were about to embark on a war against the forces of international terrorism. Our distinguished chairman, Mr. LEVIN, used these eloquent words during the debate last year on this amendment:

As important as the funding that we provide is, there is something else that is critically important. That is the unity of purpose that we showed as we entered into the current struggle. Debate on a bill such as this is an inherent part of our democracy. But, in one regard, we operate differently in times of national emergency. We set aside those differences we cannot reach.

I think the spirit of that very important statement by our chairman pre-

vails today, and should be the guideline—the guiding factor—when each Senator eventually votes on this measure. Today, we remain at war, and that unity is just as important today as it was last September.

I urge my colleagues to vote for this amendment. It is a fair, balanced compromise offered in the same spirit of unity that moved us forward last year, and which can be the basis for moving us forward again today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I wonder if my friend from Virginia would clarify a few factual parts of his proposed amendment.

The Senator from Virginia said that he has been assured that the inflation savings which will result from the midterm review will be sufficient to cover \$814 million. I am wondering where that assurance came from, because whichever approach we adopt, that is an important part. Where was that assurance? Who gave the Senator that assurance?

Mr. WARNER. Mr. President, I thank the distinguished chairman. I went to the Department of Defense early one morning around 7:30 or quarter to 8 and spent the better part of an hour with the Secretary of Defense and his top budget people. I wanted to make certain that if I were to formulate this amendment along those lines—I concede to the chairman that it was my idea, and it caught them a little bit by surprise—the Secretary said he would like to consider it. That he did. He went back in his own internal system and eventually he conveyed to me the message that the amendment as I have given him in draft form would be acceptable to him and the administration.

I did concur that the calculations to be performed by the President's Office of Management and Budget would enable this amendment to authorize those funds.

Mr. LEVIN. The \$814 million that the Senator assumes in his amendment may or may not materialize, if the midterm review is not completed. But has the Senator from Virginia, as I understand it, been assured at this point prior to the midterm review that those savings will be forthcoming in inflation review?

Mr. WARNER. Mr. President, these are very good questions. I want to answer them very precisely.

The midyear review to which the Senator referred conducted by OMB is in progress. He is correct. While the review is not formally complete, we have been assured—that is, this Senator has been assured by the administration—that the revision of the inflation assumptions will—I repeat “will”—provide ample funds to cover the additional allocation for missile defense and DOD activities to combat terrorism as framed in the amendment.

Mr. LEVIN. One further clarification: That came directly from the Secretary of Defense.

Mr. WARNER. That is correct.

Mr. LEVIN. If it turns out otherwise when the midterm review is completed, despite that best estimate on the part of the Secretary of Defense, will the amendment still authorize the expenditure of that \$814 million in the ways specified? In other words, if it turns out to be inaccurate and there is only \$600 million in savings, am I not correct that the amendment would nonetheless authorize the \$814 million?

Mr. WARNER. Yes. On its face, it would do so. In the interim, I say to the chairman, the appropriations process will have a chance to review the midterm OMB analysis.

Mr. LEVIN. But the Senator's amendment, as I understand it, is not contingent on that amount of inflation savings being available. Is that correct?

Mr. WARNER. It is not contingent; that is correct.

Mr. LEVIN. And if the net savings turned out to be \$400 million instead of \$814 million, then would the Secretary be required to make cuts in other programs?

Mr. WARNER. Madam President, that is a question that I would reserve for the moment. But I am confident that option will not occur. If I may—

Mr. LEVIN. Because the Senator from Virginia is confident?

Mr. WARNER. That is correct.

Mr. LEVIN. The savings—

Mr. WARNER. Are going to be sufficient.

Mr. LEVIN. But my question is—if it turns out otherwise, there have to be cuts made somewhere, under the Senator's amendment, as he has just responded. He is not adding any money, so there must be cuts made somewhere. And those cuts, of course, could then come in areas that we have tried to protect, including operations and maintenance, readiness, and a number of other areas of which this committee has been very protective.

One of my concerns about the language of this amendment is that it is not contingent upon savings being available. It assumes those savings are available. And whether or not they are forthcoming, this money is authorized, as I understand it. So that is one of the concerns I have about this amendment.

Mr. WARNER. Madam President, I want to be extremely careful in my response. I will be meeting with the Secretary of Defense in about an hour's time. I want to clarify the chairman's question by asking it directly to him and providing the Senate, this afternoon, as this debate continues, a clear response to the chairman's question.

If I might add a bit here about this process, the administration uses certain inflation assumptions in building its budget, including its defense budget, to assure that the Government can buy the goods and services it needs. If inflation is lower than anticipated, the budget request is a little higher than needed to buy the required goods and services.



When a midyear review determines the inflation rate is lower than anticipated, the Secretary of Defense identifies budgeted funds that are no longer required as a result of the inflation—they refer to it as a bonus. Since they are deemed to be excess, there is no programmatic impact resulting from the inflation savings being used.

What happens if the new inflation assumptions are wrong and savings do not materialize? This borders on the Senator's question. Won't programs be affected then? Inflation assumptions are just that: assumptions made based on the best information available at the time. The information used during the midyear review is more recent and provides a better basis for inflation assessments than those made almost a year ago when the 2003 budget was being built.

The same question can be asked about any budget at this time. What happens to programs if inflation is higher than expected? I would note that the Department of Defense routinely takes advantage of inflation savings, as do the authorization and Appropriations Committees in both the markup and conference process. So this is not a new source of funds.

I would also note that the path taken by the House on missile defense is quite different than that of the Senate. The use of this source will be debated and resolved in the context of our conference, if adopted by the Senate.

Mr. LEVIN. I thank my friend and I yield the floor.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from Rhode Island.

Mr. REED. Madam President, as the chairman of the Subcommittee on Strategic Systems, I have had the opportunity, over the course of many hearings and many briefings, to look closely at our missile defense program, and also to recommend to the committee that we make these reductions.

All of these recommendations were based upon careful scrutiny of the programs. They were based upon an evaluation of the effectiveness of the programs going forward, and, in addition, a sense of trying to avoid duplicative costs, ill-defined programs, those areas in which money might be spent but there is no clear indication of the product that was going to be purchased. In fact, some purchases seem to be premature because the testing of the products had not been accomplished. So this process has been a long one, and it has resulted in specific recommendations that today we are considering on the floor of the Senate.

I will make some general points about what is in this bill because it represents a significant commitment to missile defense, both theater missile defense and national missile defense, which now have been amalgamated in the administration's approach which they describe as a layered defense: the boost phase, midcourse phase, and terminal phase.

We have made a significant commitment of dollars in this bill to missile defense, and those points should be made.

First, the Department of Defense estimates that in this year they will spend about \$4.2 billion. They expect to spend that for missile defense, leaving \$4 billion of funds to be carried over to the next fiscal year, 2003.

We recommend, in this bill before us today, \$6.8 billion of new funding for fiscal year 2003, giving the Department of Defense more than \$10 billion available for spending next year on missile defense. That is a significant commitment to missile defense, and one that is supported by this Senator and, I am sure, by others. It is probably twice what will be spent this year.

To characterize \$10 billion of available resources for missile defense next year as deep and damaging cuts to missile defense is somewhat inaccurate.

I should say at this juncture, the proposed amendment by my colleague from Virginia suggests that we add about \$800 million and give the President the option of spending it on missile defense or antiterrorism activities. But it seems clear to me this debate is about missile defense and not about terrorism. Terrorism is something we are concerned about, but I think the impetus for this amendment is the overarching concern of the administration for missile defense.

So I think, first, we have, in fact, included within this bill before us robust funding for missile defense. We also have to respond to the reality that today we are engaged in a war on terror.

In fact, the National Intelligence Estimate for December 2001 stated:

U.S. territory is more likely to be attacked with [weapons of mass destruction] . . . from nonmissile delivery means—most likely from terrorists—than by missiles, primarily because nonmissile delivery means are less costly, easier to acquire, and more reliable and accurate. They can also be used without attribution.

That is the National Intelligence Estimate for December 2001. So we do recognize there are threats to us from weapons of mass destruction, but we have to put it in context that the most immediate threats are either short-term theater missile threats by nation states or clandestine operations of terrorists entering the United States.

So with that recognition, I think this proposal we bring to the floor makes a great deal of sense. We have looked hard at individual programs. We are cognizant of the threats, particularly the theater missile threats. And we are also trying to do what we can to ensure that we protect this country from terrorist threats. So we have deliberated carefully and thoroughly on all of these issues.

Let me talk for a moment about the threats because they should be often mentioned because our strategy has to respond to these threats.

First, I think we should point out how we are going forward with the

PAC-3 system which is a theater missile defense system. It is in operational testing. It is strongly supported in this bill. It counters those threats that are often mentioned here on the floor.

I know colleagues have talked about the potential access to short-range missiles by terrorist groups in the Middle East. I think they have also talked about the developments which are ongoing in countries such as Iran and Iraq and North Korea for missile systems, short-range tactical systems.

We have a system that is in operational testing, the PAC-3 system that counters those threats. We support that system. It is supported in this budget. We hope it is fielded at the first possible moment, deployed with troops in the field. There are other systems, too, that we support.

We continue to develop the THAAD system, which is another theater missile system. That is supported in this budget. We are supporting the Navy theater-wide system. We are considering, and very carefully supporting, a whole range of missile systems that are important to our defense. So to suggest that this legislation is not supportive of missile defense is to miss the details of the legislation.

We are also looking very carefully, as I mentioned, at specific adjustments to the systems that are being considered today.

That is our role, our responsibility. We are not here simply to say whatever the Defense Department sends over is something we will support without any question or scrutiny. Our job is to look carefully at systems and to make critical decisions about scarce resources, and we have done that.

Let me suggest some of the recommendations we have made in the context of the missile systems I mentioned. First, the sea-based midcourse, which was formerly Navy theater-wide. We fully fund the development and test program, \$374 million. In fact, we add \$40 million for new shipboard radar for robust theater missile defense. We are adding money to these programs because we believe it is important, and we believe this type of additional expenditure should be included within the budget.

We do, however, look at the program carefully, and we have made the recommendation that \$52 million should be reduced because it is for a very vaguely defined concept development study. We believe that study is unjustified, undefined, but we are supporting vigorously the Navy midcourse program, sea-based midcourse, as we should.

From what I have seen of the Navy theater-wide system, the sea-based midcourse, the Missile Defense Agency is engaged in something which might be described as an ad hoc approach. Let me suggest why.

In our authorization bill last year, we asked the Secretary of Defense to submit a report to the congressional defense committees no later than April

30, 2002, on the Department's ultimate plans for the Navy theater-wide system. That was last year's language. We asked them: Give us your plan.

We received a letter back from General Kadish which essentially said: Here is some information, but we can't give you any of the definitive information, particularly the life cycle costs of the system. What he said was, basically, while the questions posed in this request are relevant, a response will not be available until the SMD element of the BMDS is defined, and he suggested that the SMD definition will be completed by December 2003.

That is interesting. Then just a few weeks ago—approximately 10 days ago—I read in the Wall Street Journal where General Kadish was saying there will likely be a contingent deployment of this system in the year 2004. So the program will be defined by December 2003, and then we will have contingency deployment in 2004. That suggests to me a lack of a clear-cut plan, a lack of meaningful communication to this committee and to this Senate.

That shaped a lot of our deliberations in the sense of these ill-defined programs and the significant requests for money.

One area which is most relevant in this regard is the request for systems engineering money. Systems engineering money is generally the hiring of engineers, contractors, and software engineers to talk about designing and integrating systems. It is a very important part of the development of any system, particularly one as complicated and technologically challenging as national missile defense. We had included within this budget \$500 million in systems engineering and other Government support and operations funding in individual missile program accounts: More than \$170 million in systems engineering for the midcourse program element; the sea-based and the ground-based, the Navy system and the system in Alaska; more than \$100 million for program management operations funding in individual program lines in the midcourse element; more than \$70 million of Government support in the boost program element; more than \$20 million in the sensor program element; and more than \$80 million in the THAAD program element.

These are all systems engineering or program management costs. It adds up to a half a billion dollars. There is another category of systems engineering which has been developed in the last 2 years called the BMD system, the system of systems.

First, let me suggest that there are some practical time problems in spending all this money. The presumption for BMD systems engineering is that you are going to integrate all these systems that are being deployed. The reality is, it is very unclear at this juncture what systems will be deployed, what radars will be used, what types of sensors, what combinations of missiles and sensors. It is very unclear.

But still the request was for a significant amount of money for systems engineering for the entire BMD system.

We looked carefully at this. We concluded that \$736 million for this category was more than sufficient, together with the \$500 million that is already embedded in each of the program elements of the existing BMD program.

As a result, we were able to reduce this request for BMD system money by \$330 million. But let me also point out that as of this juncture, it appears that BMD will only spend \$400 million of last year's money, and this will leave about \$400 million for the next fiscal year. Together with the \$736 million and the \$400 million carryover, BMD systems engineering has over \$1 billion, hardly a draconian, drastic cut in their ability to continue to do these programs of integration and systems engineering.

Again, we looked carefully. We determined what they were doing. We determined that they would have more than enough resources to continue their efforts into the next fiscal year, and we were able to move some of this money into the shipbuilding accounts which everyone in this Chamber, I would say without hesitation, will support enthusiastically, an immediate need for our Navy for additional ships.

In addition, we were able to move some of this money into programs for the protection of Department of Energy nuclear facilities. We did that in response to published reports, which we have all seen, that the Office of Management and Budget turned down the Department of Energy for a significant increase in security funds at a time when the threat—at least if you believe the last few weeks from the media—is not the long-range missile, the threat is the terrorists coming in here on an airplane, landing in Chicago with a plan or at least an idea to seize radiological material someplace in the United States, construct a "dirty" bomb here, and detonate it. Yet the administration said: No, DOE, you don't need this extra money to secure the nuclear facilities.

We think DOE needs this money, and it is a higher priority than excessive systems engineering money for the ballistic missile defense program.

So as we have looked at all of these programs, we have tried to take a very careful, considerate look, tried to make tough decisions, and they are tough decisions because we don't have unlimited, infinite resources. As the Senator from Michigan said, I question sincerely the availability next year of the inflation savings assumed in the proposed Warner amendment. This seems to be one of those fudge factors that is put in, an estimate. You might realize it, you might not realize it. I await, as the Senator from Michigan does, eagerly, Senator WARNER's response from the Secretary of Defense with respect to these questions.

The reality is that these resources may not be realized through inflation

savings. If we authorize the spending, which, for political reasons, the administration seems to be absolutely committed to, we may end up using operational maintenance money to fund missile defense, to fund these ill-defined areas of systems engineering and other programs.

We will find ourselves, in that case, coming back here and wondering why our flying hours are down for the Air Force and Navy pilots, why we can't provide the sort of resources we need for ongoing operations maintenance at a time when we have forces in the field engaged today, trying to destroy these terror networks, and succeeding in many cases because of their skill and courage and the support they are receiving.

We have brought to the floor a bill that robustly supports missile defense but asks very tough questions about specific programs that are not adequately justified or are redundant. Let me give an example of that. The THAAD missile system is well on the way toward the engineering phase to get to a point where it can be part of our theater missile defense system in the next several years, we hope. They are asking for \$40 million to purchase 10 unproven missiles.

Our concept is fairly straightforward and simple. We provide that \$895 million for the test development and for the first flight test of the missile in this budget. A simple proposition: Let's fly one of these missiles first before we buy 10 missiles. Maybe we can save resources. The THAAD Missile Program is a good example of a program that was once forced to accelerate beyond its technical means. It was, as General Welch described it, rushing to failure, and it failed—program course out of sight, product not adequate, not meeting the requirement set out for the system. It was a program in such distress that it was virtually on the chopping block. General Welch's report said: Listen, you have to go back to a careful, deliberate, thorough development process. The program is back on track. And now our sense is they are trying to get off track again—let's just buy these 10 extra missiles today.

That is an example, I believe, of the robust support—\$895 million. But the very careful and appropriate question is: Why do you need to buy 10 missiles today when your first flight test is going to be in fiscal year 2005? Due to time constraints, I must yield the floor but will take time later to continue this discussion.

AMENDMENT NO. 3918

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the amendment by the Senator from Massachusetts, and the time until 12:30 will be equally divided. Who yields time?

Mr. LEVIN. Madam President, with apologies to our friend from Rhode Island, that was the unanimous consent request. I can assure him that there is no time limit on the missile defense

amendment that Senator WARNER will be offering. So we can return to him at that time. The time was to be divided. Senator KENNEDY has returned.

Let me ask the Chair a question. Is the time divided, under the unanimous consent agreement, until 2:30?

The PRESIDING OFFICER. Yes, the time is divided equally.

Mr. LEVIN. Is there anybody in control of the time here?

The PRESIDING OFFICER. Senator KENNEDY controls 14 minutes and Senator LEVIN controls 14 minutes.

Mr. LEVIN. I yield my time to Senator WARNER so that there is equal division between the proponents and opponents.

Mr. WARNER. It seems to me it was Senator KENNEDY and myself. I have delegated that to my colleague from Wyoming.

Mr. LEVIN. I ask unanimous consent that it be divided in that way.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. I yield myself 7 minutes.

Madam President, the record is clear. When there is real competition, public workers will show their strength. According to the DOD's numbers, when Government agencies have competed for contracts, they have won the bid 60 percent of the time fair and square. When public workers win these competitions, the taxpayers save money and good workers keep their jobs.

This amendment is about competition—competition for the Defense Department.

Our amendment will ensure that a framework is established for competition for various goods and services in the Defense Department. We provide a framework, where if there are national security items, they can be exempt. If there are requirements for emergency, they can be exempt. If there are certain needs in terms of the high-tech areas, they are exempt. But for the broad range of different contracts, this amendment will ensure that the American taxpayers' interests are going to be preserved. But, more importantly, we are going to get the best in terms of performance for the DOD.

The public-private competitions that have taken place have saved, on average, over 30 percent, according to the Defense Department.

The Republicans claim that this amendment is in conflict with the GAO Panel on Commercial Activities. In fact, this amendment is based on the principle unanimously articulated by that panel, which calls for greater public-private competition, which gives DOD the power to design the framework for that competition consistent with the sourcing principles laid out by the GAO panel.

The Republicans claim this amendment takes away flexibility from the Department of Defense. Nothing could be further from the truth. When na-

tional security so demands, DOD is given the power to waive public-private competition. The amendment exempts many categories of work, including almost all high-tech work, from public-private competition. The amendment even provides a waiver to DOD for functions that must be performed urgently.

It remains in the discretion of DOD to determine how many jobs should be subject to the public-private competition and which jobs are subject to this competition. The DOD retains enormous flexibility under this amendment.

The Republicans claim this amendment will cost money. That is a sign of their shortsightedness when it comes to the value of competition. The DOD recognizes that public-private competition consistently yields savings of over 30 percent on contracts. Any short-term transition costs, which the CBO has estimated at one-tenth of what they are claiming for the substance of this amendment, will be more than made up for in long-term savings to the taxpayers.

The Republicans claim that we are moving too quickly with this amendment and that the Senate should not act now to promote expanded competition. I only ask that my Republican opponents listen to the advice of Mitch Daniels, the Director of the Office of Management and Budget, when it comes to these matters. Earlier this month, he said:

We cannot afford to wait. . . . The objective is to get the taxpayers the best deal.

While we wait, the administration is moving ahead with shifting 15 percent of all eligible jobs to the private sector without any adequate competition.

The passage of this amendment will lead to a smarter and more efficient procurement policy for the Department of Defense. Just as no private company would reasonably outsource jobs without a hard-headed analysis showing cost savings, Government procurement should be based on what is best for taxpayers and our national defense. The consequences will be savings for taxpayers and improved dependability for our courageous men and women in uniform.

We are surely facing great challenges in terms of our Nation's security in this new era. More than ever, we are relying on the Department of Defense and its dedicated employees. As we expand our Nation's military budget, we must ensure that taxpayers and our men and women in uniform are reaping all of the benefits possible. True competition is more critical today than ever before.

Only if we give public workers the opportunity to compete in public-private competition will we have true competition.

This is what the GAO has said on the question of the Commercial Activities Panel, which has been quoted yesterday:

Competitions, including public-private competition, have shown to produce signifi-

cant cost savings for the Government, regardless of whether a public or a private entity is selected.

Angela Styles, senior officer at OMB, a procurement official, testified on the House Armed Services Military Readiness Subcommittee on March 13 2002:

No one in this administration cares who wins a public-private competition. But we very much care that Government service is provided by those best able to do so. Every study on public-private competition that I have seen concludes that these competitions generate significant cost savings.

What is it about our friends on the other side that they refuse to permit the competition to take place?

Now, we heard estimates just yesterday that, according to DOD, the amendment will cost \$200 million. The years of experience and the statements of the administration's officials clearly demonstrate that public-private competitions save money rather than cost. The Deputy Under Secretary of Defense for Acquisition Technology and Logistics testified that the public-private competitions save the Government \$11.2 billion, a savings of \$11.2 billion. The administrator of OMB's Office of Federal Procurement Policy said the use of the public-private competition consistently reduces the cost of public performance by more than that. Even in the short term, the core of this amendment would cost about a tenth of what the critics and DOD claim.

Those opposed to it say the amendment would prevent the implementation of the GAO panel recommendation. The amendment is based on the unanimous principles of the GAO panel that call for public-private competition. The GAO recommended:

A process that, for activities that may be performed by either the public or private, would permit public-private sources to participate in competitions for work currently performed in house, work currently contracted in the private sector, and new work consistent with these guiding principles.

That was a quote.

The amendment also provides for a pilot program to test the effectiveness of the best value approach that is endorsed by the opponents of this amendment. Furthermore, arguments are made by the opponents that the amendment goes against the principle held for 50 years: The Government should not compete for noninherently Government functions. For the first time, the amendment would mandate that the Government compete with the private sector.

The proponents of that statement left out a key clause in the long-standing U.S. procurement policy. According to OMB, "the Government shall not start or carry on any activity and provide a commercial product or service if the product or service can be procured more economically from a commercial source."

We are not asking that work be given to the private sector if indeed the Federal Government agency can do it more efficiently. The Government personnel system is not nimble enough to accommodate this amendment and move on

short notice. That is an argument that is made against this amendment.

There is no reason to believe the Government cannot adequately accommodate the need for qualified personnel. In the face of pending base closures, OMB outsourcing quotas, the DOD civilian workforce will continue to downsize. As a result of this process, over 300,000 DOD civilian personnel have lost their jobs due to outsourcing in recent years. There is an excess of potential qualified personnel.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. THOMAS. I yield 5 minutes to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Madam President, I rise today in opposition to the Kennedy amendment, which would arbitrarily require Federal Government agencies, particularly the Department of Defense, to compete with the private sector for the performance of inherently nongovernmental services within the Department of Defense. As chairman of the Republican Senate High Tech task force, I believe that contracting with the private business entities helps drive innovation and indeed save the taxpayers money.

This amendment would reverse the progress that has already been made in this area and obviously create damage to important initiatives such as e-government. In fact, many of the information technology companies across this country believe they would no longer seek Federal contracts with DOD under the provisions of this amendment, thereby, unfortunately, creating job losses in the private sector.

This view has been shared by my colleagues, Senators ENSIGN, WARNER, GRAMM, SMITH, COLLINS, HUTCHISON, BURNS, BENNETT, HATCH, and BROWNBACK.

This amendment would mandate that every new Department of Defense contract, modification, task order, or contract renewal undergo a so-called public-private competition, whether or not the Government even has the requisite skill, competence, or personnel to perform the work.

The changes in this current process by this amendment will: (1) weaken and delay Government performance; (2) could devastate small business; and (3) have a harmful effect on our important, creative, high-technology industry.

First, the anti-private-enterprise exercise that would be caused by this bill would result in delays in performance of Government contracts. The Department of Defense would lack the capacity to quickly procure and adopt innovative solutions to enhance safety, security, and effectiveness. It would be an undesirable bureaucratic impediment that could harm the ability of

the Defense Department to perform its duties, especially now during a national crisis.

Secondly, the added costs associated with the A-76 program, in comparison to competitive procurement practices, traditionally would exclude most small businesses from participating in service contracting. This would have a particularly detrimental impact on women, minority, and veteran-owned companies.

Finally, the amendment will have a devastating impact on the high-tech industry, an industry that is so important to the competitive vitality of the American economy. This amendment is opposed by the high-tech industry, including the Information Technology Association of America (ITAA). The exemptions for technology are ambiguous and do not cover the full range of activities conducted by the exempted industry. Moreover, ITAA notes the information technology exemption herein covers only 3 percent of total IT service contracting. This is also opposed by the Chamber of Commerce and various unions.

I will close with the views of the Secretary of Defense, who says:

We have made a top priority of finding efficiencies and savings within the Department of Defense to enable us to improve our tool-to-tail ratio. An important element of that effort is to adapt business and financial practices to make the best warfighting use of the resources the American taxpayers provide us. The draft Kennedy amendment would increase Department cost by requiring public-private competitions for new functions and for previously contracted work already subjected to market competition. It would also adversely impact mission effectiveness by delaying contract awards for needed services.

The Secretary of Defense, Mr. Rumsfeld, closes:

The proposed amendment would increase Department costs and dull our warfighting edge.

I suggest that no Member of this body should support legislation that dulls our warfighting edge. I therefore urge my colleagues to vote against this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Madam President, I yield myself 30 seconds to respond.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I am still waiting to hear the reason from the other side that competition does not work. We are told that we cannot have competition in the Defense Department because it is going to take time to set up a process and procedure; we cannot have it because it is going to work against small business.

We have a million-dollar exemption so that anybody below a million dollars, a small business, can compete. Perhaps someone on the other side can tell us why competition cannot work. We have not heard the answer to that. What we have heard is all of the accountants, Mitch Daniels, the GAO,

say that competition can work, and when it does work, we get the best in terms of our fighting men and women and we get the best in terms of taxpayers.

I cannot understand the opponents saying we cannot set up a process and procedure in order to deal with this; it is going to be too complicated and costly. That is baloney. Competition can work, and I am so surprised, from the party that allegedly is for more competition, that they cannot support this amendment.

I yield 3 minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I rise in strong support of the amendment offered by the Senator from Massachusetts, Mr. KENNEDY, of which I am an original cosponsor.

I have long been concerned about the costs and benefits associated with the process by which the Federal Government contracts out work. In particular, I am concerned about the lack of data on whether these contracts actually achieve real savings for the taxpayers, and about the effects of outsourcing on the pay and benefits of Federal workers.

I do not automatically oppose contracting out. Such a process is often appropriate. I am concerned, however, that the Department of Defense is currently able to circumvent the public-private competition process for contracting out work that is employed by other Federal agencies. Contracting out affects the jobs of thousands of dedicated Government employees each year. These men and women deserve the chance to compete for this work, as the Senator from Massachusetts was pointing out. They deserve the right to compete for their jobs, and they have a right to do it on a level playing field. The Kennedy amendment would help to provide a level playing field by ensuring that true public-private competition actually occurs.

This amendment does not prohibit the Department of Defense from contracting out. It does not stipulate which categories of jobs may or may not be subject to public-private competitions. In fact, a number of job categories are exempted. This amendment is broadly worded to give DOD flexibility on which and how many positions to subject to competitions. The amendment also includes a national security waiver.

Some have argued that this amendment would spell the end of contracting out by the Department of Defense. Again, that is not true. This amendment simply requires DOD to comply with four broad goals aimed at bringing a measure of fairness and equity to the contracting out process.

First, the amendment would ensure that public-private competition actually occurs before work currently performed by Federal employees is contracted out. The DOD would be able to

use any cost-based process to carry out this competition, including the Circular A-76 process. This process would give DOD employees the opportunity to present their best bid and to compete on a level playing field with bids from contractors. The goal of contracting out is to get the highest quality work at the best price for the taxpayers. We should not continue to shut the civilian DOD workforce out of this process.

Second, this amendment would help to ensure that Federal civilian employees are given the opportunity to compete for a fraction of what is called "new work" to be performed at DOD. This provision would be phased in over several years.

Third, this amendment would require DOD to use "contracting in" as well as "contracting out" to make sure that Federal taxpayers are getting the best deal. It only makes sense to periodically compete work that has been awarded to contractors to ensure that the Federal taxpayers are continuing to get their money's worth. Work being performed by contractors should be subject to the same scrutiny as work being performed by Government employees. In the interest of fairness, the amendment requires that DOD opens to competition similar numbers of contractor and civilian employee jobs.

Finally, the amendment would require DOD to establish an inventory to track the cost and size of its contractor workforce. This inventory would be compiled using the same procedures that the Department of the Army recently adopted to track its own contractor workforce. I share the concerns of some of my constituents, who have told me that they believe that contracting out simply shifts jobs from the Federal Government to the private sector without any real savings. I also share their concern that part of any savings that is achieved may actually come from reduced salaries and benefits that are paid to contractor employees. It is important that DOD and Congress have an accurate picture of the true size and cost of the contractor workforce.

In sum, this amendment does not prohibit the Department of Defense from contracting out. It would ensure basic public-private competition that will allow DOD employees to compete with contractor bids on a more level playing field. It will also help to ensure that the DOD contracting process is achieving the best result for taxpayers.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. THOMAS. I yield 5 minutes for the Senator from Missouri.

Mr. BOND. Madam President, I appreciate the time.

I am very much concerned that the Kennedy amendment takes us backward. Under the Federal Activities Inventory Reform Act of 1998, the FAIR Act, agencies are examining activities to find what they do that duplicates

activities done in the private sector. This would be done to see if these activities can be contracted out, to do those activities more cheaply and effectively. This would prevent the Federal Government from competing with the private marketplace. When the job is done in the private marketplace, not only do we avoid having to carry an additional Federal bureaucracy, we get to tax them if they make a profit and we get the benefits of the competition, the innovation, that small business brings.

As the ranking member of the Senate Small Business Committee, I focused a lot of time and attention on what small businesses are able to do. We find there are some tremendous innovations and new ideas coming from small business. Whenever some action can be done effectively in the private sector, I believe the private sector should have the opportunity to do it. Functions that are inherently governmental, clearly no one disagrees, should be done by Federal employees. We are not talking about those. We are talking about functions that are commercial in nature.

The current process for evaluating these functions for a possible contracting out is the so-called A-76 process. OMB Circular A-76 calls for competition to take place wherever commercial activity currently performed by a Government agency is proposed to be contracted out. The Federal employees of that agency describe how they would organize themselves into the most efficient organization and compete against the proposals submitted by private contractors.

The Kennedy amendment would bar contracting out of these functions, unless the private contractor's proposal to provide cost savings of at least 10 percent over the Federal employee's MEO. This is intended to make contracting out as difficult as possible. This is a direct shot at small businesses. This is meant to cripple the ability of small businesses which are now providing vital products and services in our Defense Department.

The Kennedy amendment purports to implement the recommendation of the Commercial Activities Panel convened by Comptroller General David Walker. However, the sole emphasis on cost savings—also, the Kennedy amendment puts in a 10-percent additional savings—the sole emphasis of the sponsor of this measure is saying that the deciding criteria in that should be cost actually conflicts with the Walker panel recommendations. The Walker panels calls for the standard of best value, what generates the overall best value to the taxpayer.

Cost savings is clearly one factor being considered. But best value contracting also includes other factors, such as higher quality, faster delivery, innovative processes, reliable past performance, or other criteria that might justify a higher cost.

Best value contracting is what most of us do every day when we go out to

buy goods and services. When you buy lunch, you do not always buy the lowest price item on the menu every day. When you go to the department store, you do not always purchase the cheapest item on the shelf. You may deliberately buy an item that is more expensive because you expect the quality to be better. The best value approach puts Government contracting on par with how average, intelligent, informed consumers make their purchases in the marketplace.

That is one reason the Government is increasingly relying on best value contracting and why the Walker panel recommends it for analyzing contracting out proposals. The Kennedy amendment's exclusive emphasis on costs savings, and the additional unworkable requirement the savings must be more than 10 percent, is a step backward from the Walker recommendations.

The sponsor of the amendment has cited OMB and other statements made by this administration, when, in fact, the President, speaking for this administration on March 19, emphasized the vitally important role that small business plays in meeting the needs of the Federal Government. He talked about taking a major effort, launching a major effort, to stop the bundling of contracts to prevent their being awarded to small businesses.

There is currently underway a study in OMB under Angela Styles on how to get more contracts unbundled so small business can provide a workable and economic role.

I urge my colleagues to oppose the Kennedy amendment.

Mr. THOMAS. I yield our final 5 minutes to the Senator from Tennessee.

Mr. THOMPSON. Madam President, there has been a lot of discussion concerning the Commercial Activities Panel. As has already been stated, this is a panel that was set up with the distinguished citizens to consider this complex problem. One of their recommendations, No. 9, is to ensure that competitions involve a process that considers both quality and cost factors.

My understanding is that the amendment of the Senator from Massachusetts addresses only the cost factors in determining the best value to the Government. On that, in and of itself, we clearly have a deviation, to say the least, from the Commercial Activities Panel.

That is not as significant a point as the one following, and that is the Armed Services Committee simply has not reviewed the panel's recommendations, and we on the Governmental Affairs Committee have not had the opportunity to review and consider the panel's recommendations. This is certainly an area of some complexity and controversy that should go through the committee process.

We have a bill before the Senate now on the Governmental Affairs Committee similar to the Kennedy amendment but it applies to all agencies in the Federal Government. We have had

one hearing on that bill to date. We are in the middle of that process. This amendment will clearly increase the costs to the Government and distract the Department of Defense from its war fighting mission.

The Senator asked, why are we against competition? The answer is, we are not. We have plenty of competition. What we have is competition in the private sector competing for the jobs. The Senator would interject the Federal unions into the middle of that competition where there has been no such injection in times past. The Department of Defense points out it will cost more money and it will delay contracts at a time when we neither need higher costs nor delays in the issuing of contracts.

The DOD and the OMB Director opposes this amendment, as well as small and minority-owned businesses and major labor unions. This is no time to be shifting massive jobs from the private sector to the public sector labor unions. Private labor unions have been losing membership over the past several years while membership in the public labor unions have been rising. Many labor unions oppose this amendment as well as taxpayer groups.

I urge my colleagues to vote against the Kennedy amendment.

I yield the floor.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. Three minutes.

Mr. KENNEDY. I yield a minute and a half.

Mr. DURBIN. I am happy to be a cosponsor of this amendment.

I rise today to speak in support of the Kennedy amendment, which will help ensure real competition between the public and the private sectors for the work performed by the Department of Defense. I am pleased to join my colleagues, Senator JACK REED, DANIEL AKAKA, and RUSS FEINGOLD as a cosponsor of this important amendment.

Let me review what this amendment does. This amendment addresses the need for more competition and more information by requiring an analysis of the costs of maintaining work in the public sector. The amendment defines broad and flexible principles to guide a public-private competition process. It allows the Defense Department wide flexibility in setting up a competition consistent with these broad principles. The amendment provides discretion to the Defense Department to waive the public-private competition requirements when national security demands and exempts a number of activities from the requirements. It also permits DOD the discretion to determine which jobs and how many jobs should be subject to public-private competition.

The amendment will also provide Congress the information it needs to exercise important oversight by watching the level of managed competitions, since there is currently no requirement that agencies conduct them. And by granting DOD "pilot program" author-

ity to explore alternatives to the OMB Circular A-76 process that will yield the same projected cost savings, we can gain some practical experience with some of the reforms recommended in the recently published report of the Commercial Activities Panel.

Nine months ago, our Nation's collective consciousness was jolted when heinous acts of terrorism were committed on American soil. As a result of those horrific acts, we are not—and never will be—the same. We are stronger in our response, more steeled in our resolve, more vigilant about identifying and eliminating our vulnerabilities. Overnight, that life-altering experience forced us to seriously evaluate the workings of our Government from a new and different perspective. We now view "homeland security" in completely different ways. Protecting our borders, our ports, nuclear power plants, chemical plants, water supplies, and other critical infrastructure has taken on a new and urgent imperative. The Department of Defense is reorganizing itself for homeland security, and functions that may not have seemed essential to DOD's mission may now, in fact, be essential; and conversely, there may be functions that could be better performed in the private sector, allowing DOD to focus on its mission.

I would like to share an example to illustrate this point. After September 11, I asked that my staff to secure a briefing on the security of a chemical munitions storage depot that sits 30 miles from the Illinois border. The United States is in the process of destroying these deadly munitions, which could kill hundreds of thousands of people, pursuant to the Chemical Weapons Convention. I learned that the depot had only one uniformed military officer—the commander—to protect it, because security was provided by private contractors. About a week after that, National Guard troops joined the private contractors in protecting this site.

Historically, DOD has set the pace as the lead Federal agency in using competitive sourcing. But when we talk about "setting the pace"—what we know is that fewer than 1 percent of DOD service contracts are subject to public-private competition. Work is outsourced without any opportunity for public sector employees to compete for the jobs. And DOD is considered the leader—few civilian agencies have utilized the process; in fact, in Fiscal Year 1997, not one civilian agency reported conducted a cost comparison study.

The Department of Defense spends tens of billions of dollars annually on service contracts—ranging from services for repairing and maintaining equipment to services for medical care to advisory assistance services such as providing management support, performing studies, and delivering technical assistance.

In fiscal year 1999, DOD reportedly spent \$96.5 billion for contract services—more than it spent on supplies

and equipment. GAO has repeatedly reported that inadequate and inaccurate information provided by DOD on service contract spending hampers congressional decisionmaking and limits congressional use of information reported in the budget.

Not only is reliable cost information scarce, there is too little competition for contracts to provide services to and for Federal agencies. As I indicated, fewer than 1 percent of DOD service contracts are subject to public-private competition. Because there is such a small fraction competed, there is a paucity of information and a host of unknowns about whether outsourcing to the private sector is really saving money for the taxpayers. Outsourcing has evolved as one of the principal mechanisms used to reduce the size, scope, and costs of the Federal government. However, we have few clues about whether outsourcing has in fact reduced government costs, size, and scope.

A GAO study of savings obtained from competitive sourcing published in August 2000 reflected that DOD did realize savings from seven of the nine competitive sourcing cases reviewed, although less than the \$290 million DOD initially projected. And savings occurred regardless of whether governmental organizations or private contractors won the competition. Last year, the General Accounting Office elevated strategic human capital management to its list of "high-risk" government-wide challenges. In testimony in February 2001 before the Governmental Affairs oversight subcommittee which I now chair, Comptroller General David Walker made it abundantly clear that Federal employees are not the problem. As Mr. Walker emphasized, to view Federal employees as costs to be cut rather than assets to be valued would be to take a narrow and short-sighted view, one that is obsolete and must be changed. I was heartened by his perspective.

Yet right on the heels of this acknowledgement of the severe human capital crisis facing the Federal workforce, the administration launched a major initiative requiring Federal agencies to compete or directly convert to the private sector at least 5 percent of the full-time equivalent jobs listed on their Federal Activities Inventories. An additional 10 percent of the jobs are to be competed or converted by the end of Fiscal Year 2003, 85,000 jobs, for an aggregate of 15 percent of all Federal jobs considered commercial in nature.

It strikes me that it will be about as formidable as the perils of Sisyphus to make any headway in recruiting and retaining the best and brightest in the Federal workforce when in the same breath you are telling them that over the next few years one out of every four jobs is potentially slated to disappear into the private sector. We really don't have a trove of solid, reliable agency-by-agency information about



the costs and performance of work that is being performed for the government under contract. This amendment will begin to gather it—by and for the Department of Defense.

I have long been interested in whether we have a system to measure and account for these costs, determine if there is savings, and oversee the work that is being done with Federal funds. It has been my impression that some of my colleagues have been just hide-bound to outsource, without regard to the price tag or performance. Their motivation was to reduce the size of the Federal workforce—at any cost. When I suggested amendments—arguing that we had to save money, they rejected them. They told me that is not the point—we have to turn some lights out in some federal buildings. I would like to know whether that's still driving the outsourcing fervor.

I want to be perfectly clear: I am not opposed to all outsourcing. What I am concerned about is ensuring that decisions to shift work to the private sector are made fairly, not arbitrarily; that public-private competition is fostered; and that we have a reliable system in place to have information about the costs and performance of work being performed with Federal funds by the private sector under these contracts, in essence, accountability.

You can outsource and save money for taxpayers, and I think you should do that. If you decide you will outsource, privatize, and contract out, whether you save money for taxpayers or not, you are not serving either taxpayers or the needs of our Nation.

It is interesting to me that the Senators on the other side of the aisle are fearful of the word "competition." The thought that the private sector might have to compete for providing services to the Federal Government with the public sector is unacceptable to them.

When you look at the Department of Defense, they spend over \$96 billion a year on contracts per services. How many of those are competitively bid? Less than \$1 billion. Ninety-five billion out of \$96 billion in these contracts for services go without competitive bid. It has created cozy, sweetheart, comfortable arrangements with companies and the Pentagon. They do not want to compete. They do not want to stand up against those who say we can do it for you more professionally, more cheaply, more effectively. They can't stand the idea of competition. That is why they are opposing the Kennedy amendment.

Should we not at this point in time of our history, with limited resources, fighting a war on terrorism, insist the taxpayers get every dollar of service for every dollar of taxpayers' money they put into our national defense? That is what the Kennedy amendment says. That is why I am happy to co-sponsor it.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. KENNEDY. How much time remains to the other side?

The PRESIDING OFFICER. They have 1 minute 25 seconds.

Mr. KENNEDY. On either side, then? The PRESIDING OFFICER. There remain 1 minute 25 seconds for both.

Mr. THOMAS. I just want to respond to the comments made with respect to OMB. I want to read from a letter from the Director.

DEAR SENATOR WARNER, I am writing to express deep concern over the possible Kennedy amendment [proposal]. While packaged in good-government clothing, this amendment will severely limit the Department of Defense's ability to acquire services necessary to help the Department meet current threats. The Department of Defense must have the flexibility. . . .

While agencies are embracing competition, focusing on core mission, and eliminating barriers to entering the marketplace, this amendment does the opposite.

The Senator was talking about support from this Department, and this is not what is there.

It would require the Government to consider reforming non-core activities that it doesn't have the skills to do when entrepreneurs and their employees are ready, willing and able to perform.

We most focus our agencies on performance and accountability. Now—when our nation is at war against terrorism of global reach—is not time for the Secretary of Defense to have fewer options, for the sake of moving more functions into government hands.

I yield the floor.

Mr. KENNEDY. Madam President, I yield myself the remaining time.

We should not have to get into a discussion about the value of competition. But a year ago one of our colleagues offered a very similar amendment and then Senator WARNER said: Let's wait until we have the Commercial Activities Panel report. That was to guide the Defense Department.

In this report, on page 47, it says:

Establishing a process that, for activities that may be performed by either the public or the private, would permit public and private sources to participate in competitions for work currently performed in-house, work currently contracted to the private sector, and new work, consistent with these guiding principles.

Unanimous recommendation. That is what this amendment does. That is why we believe it is important. It will be in the interests of our national security, the Department of Defense, and the taxpayers. That is why we believe this amendment should be accepted.

I believe all time has expired.

#### RECESS

The PRESIDING OFFICER. The hour of 12:30 p.m. having arrived, under the previous order, the Senate will stand in recess until the hour of 2:16 p.m.

Thereupon, the Senate, at 12:36 p.m., recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. REED).

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003—Continued

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, parliamentary inquiry: It is the understanding of the Senator from Virginia that the time between 2:15 and 2:30 is to be equally divided between the distinguished Senator from Massachusetts, the distinguished Senator from Wyoming, and myself.

The PRESIDING OFFICER. The Senator is correct.

Who yields time?

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

Mr. President, under our amendment, the public workers and private contractors alike will have a chance to compete for Department of Defense contracts. It will represent approximately \$100 billion. Only about \$1 billion of that is competed for. We believe competition is good. We believe competition will get the best product at the best price, which will reflect the unanimous recommendations of the recent study. Fewer than 1 percent of these Department of Defense service contracts are done in that way at this particular time.

I don't understand for the life of me why there should be resistance or reluctance to these various proposals. This kind of proposal was considered by the Commercial Activities Panel on improving the sourcing division of the Government, which was chaired by the Comptroller of the United States.

In this particular proposal, one of the recommendations, which was 12 to 0, was the amendment we are offering today. If our Republican friends have trouble with that, why wasn't there some opposition to that in this report? There was none. It is a unanimously favorable report. This wasn't Democrat and this wasn't Republican. These were contractors, representatives of the public, employees, and accountants, talking about how the U.S. Department of Defense could get the best buy for its money. It was said for years that we couldn't go ahead with competition until we finally got the Commercial Activities Panel report. That took a year and half and 11 different hearings with public comments from all over.

This was unanimous. It was not 8 to 4; this proposal was unanimous. They believe as a result of their proposal that DOD is going to get the best services—the American taxpayers are going to get the best buy, the best service, and the men and women of the military are going to be best served.

Why in the world the resistance to that argument?

I withhold the remainder of my time. The PRESIDING OFFICER (Mr. CORZINE). The Senator from Wyoming.

Mr. THOMAS. Mr. President, I yield myself 5 minutes of our time. We have 7½ minutes. I yield myself 5 minutes out of our 7½ minutes.

I want to respond to the Senator. He asks, who opposes this? Let me give you some idea of who and why.

One, the amendment will increase costs to DOD by \$200 million a year. Secondly, he talks about the report of

the General Accounting Office. There were 10 recommendations that were put out. His deals with one. That is a reason to oppose this.

The amendment would adversely affect DOD's mission. It would mandate, for the first time, that the Federal Government compete with the private sector for work not concurrently performed.

It has problems with the A-76 issue. The Secretary of Defense opposes the Kennedy amendment. The administration has indicated that his proposal goes against the President's governmental performance tasks.

Let me share with you, very briefly, a couple of other comments. This is from the Executive Office of the President, from Mitchell Daniels, who was quoted yesterday as supporting it. He says:

I am writing to express deep concern over the possible Kennedy Amendment.

He goes on to say:

We must focus our agencies on performance and accountability. Now—when our nation is at war against terrorists of global reach—is not the time for the Secretary of Defense to have fewer options, for the sake of moving more functions into government hands.

That is why people are opposed to it. The Secretary of Defense, in a letter, says:

I am writing to express my strong opposition to the draft amendment proposed by Senator Edward Kennedy.

Then he closes the letter by saying:

The proposed amendment would increase Department costs and dull our warfighting edge.

Then, just in numbers, we all mentioned the Secretary of Defense and OMB. We also have organized labor. The Seafarers International Union, the Industrial Technological Professional Employees, International Union of Operating Engineers, the International Brotherhood of Boilermakers—these are some of the folks who have found that this will not help implement what we are seeking to do; that is, to be able to utilize the members of the military and the things they do at a time when it is more difficult to fulfill those responsibilities. To shift some of those responsibilities back to the military away from the private sector seems to be absolutely contrary to what we are seeking to do.

I urge all Members of the Senate to oppose this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield myself another 2 minutes.

I have listened to my friend and colleague. He says they are opposed because of cost. The fact is, how do they say it is going to cost more when we are going to get competition? We are going to get competition.

The fact remains we have the unanimous recommendation of the group that studied this issue, and they believed the taxpayer would be best served, and DOD would be best served as well with that recommendation.

What is the current situation? Under the current situation, I understand if you are able to get the contracts, you do not want to change the system. That is what is going on on the floor of the Senate. They do not want competition. They have their contracts. They have the sweetheart contracts, and they are saying no.

Listen to this: The GAO found that the costs of nearly 3,000 spare parts purchased by the military increased by 1,000 percent or more in just 1 year. If you have that kind of contract, why do you want competition?

There it is. Taxpayers are the ones losing out. One small part, a hub, estimated to cost \$35, was sold to the Government at the contractor's price for \$14,000. If you have that kind of deal, why do you want competition? That is the issue, plain and simple.

It is not just the belief of the Senator from Massachusetts, that is the unanimous recommendation of those who have studied it, contractors, workers, and all. Most of us believe that competition does improve the services and the quality of the products. So you find out that is the result.

We have heard time in and time out about the various kinds of products that have been produced, and the costs and the escalation of those costs. I have a sheet right in my hand. This is the GAO oversight. These are the costs on it.

Hub, body, estimated to cost \$35, sold for \$14,000; transformer, radio, \$683 was the unit price, but they charged \$11,700; The list goes on and on.

The PRESIDING OFFICER. The Senator has used 2 minutes.

Mr. KENNEDY. Mr. President, I yield myself another minute.

I have not heard from the other side the answer to these questions. Why don't we have something other than just reading a letter from some people who are serving the interests of those contractors and explain to me why they cannot do it? We have not heard it. It is going to be difficult. It is going to be awkward. Yet we have the very important statements that have been made by people, even within the current administration, who say this can result in competition that can result in important savings.

That is what we want to do. That is what this amendment is about.

I reserve the remainder of my time.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. One minute 20 seconds.

Mr. KENNEDY. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. KENNEDY. Mr. President, how much time does the other side have?

The PRESIDING OFFICER. The opposition has 3 minutes 52 seconds.

Mr. KENNEDY. Mr. President, I yield myself my remaining time.

Mr. President, on September 11, the brave men and women who work in the

Pentagon faced a great tragedy. When that airplane plowed into the Department of Defense, our fellow citizens working there lost coworkers and joined in the valiant effort to save the injured and tend to the Defense Department families shaken by this act of terrorism.

This amendment is about giving these Americans a chance, a chance to show they can do a good job and deserve the work, if they can do it better and more efficiently than a defense contractor, a chance to embrace the American spirit of competition and free enterprise by competing for Government contracts on the same basis as private-sector companies.

And this amendment is about our values as Americans. Our country was built upon our ingenuity, fueled by the spirit of free enterprise. If you can make a better product at a lower cost than the other guy, then you deserve the business. That is the American way. And it is that spirit of entrepreneurship that makes America the envy of the world.

My amendment lets that American spirit thrive. It puts real competition into defense contracting and, in the process, gives a real boost to the taxpayers and to our own values as Americans.

I urge the Senate to support my amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Virginia.

Mr. WARNER. Mr. President, have the yeas and nays been order?

The PRESIDING OFFICER. They have not.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. WARNER. And I would simply say to my good friend from Massachusetts, what has been omitted from this discussion is the tens upon tens of thousands of Government employees doing superb work in the public shipyards, in the rework centers in several States. Somehow we have looked at a very narrow segment of the overall business of the Department of Defense without referring to the magnificent contributions by hundreds and hundreds of thousands of Government employees.

So, Mr. President, at this time I move to table.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. WARNER. All time is yielded back on this side.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield the remainder of his time?

Mr. KENNEDY. I believe my time has expired.

I believe we need to ask for the yeas and nays on the motion to table; am I correct?

The PRESIDING OFFICER. Is there a sufficient second?

Mr. KENNEDY. On the motion to table.

The PRESIDING OFFICER. There is 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. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 49, as follows:

[Rollcall Vote No. 162 Leg.]

#### YEAS—50

Allard	Ensign	Murkowski
Allen	Enzi	Nickles
Baucus	Fitzgerald	Roberts
Bennett	Frist	Santorum
Bond	Gramm	Sessions
Breaux	Grassley	Shelby
Brownback	Gregg	Smith (NH)
Bunning	Hagel	Smith (OR)
Burns	Hatch	Snowe
Campbell	Hutchinson	Specter
Chafee	Hutchison	Stevens
Cochran	Inhofe	Thomas
Collins	Kyl	Thompson
Craig	Lott	Thurmond
Crapo	Lugar	Voinovich
DeWine	McCaIn	Warner
Domenici	McConnell	

#### NAYS—49

Akaka	Durbin	Lincoln
Bayh	Edwards	Mikulski
Biden	Feingold	Miller
Bingaman	Feinstein	Murray
Boxer	Graham	Nelson (FL)
Byrd	Harkin	Nelson (NE)
Cantwell	Hollings	Reed
Carnahan	Inouye	Reid
Carper	Jeffords	Rockefeller
Cleland	Johnson	Sarbanes
Clinton	Kennedy	Schumer
Conrad	Kerry	Stabenow
Corzine	Kohl	Torricelli
Daschle	Landrieu	Wellstone
Dayton	Leahy	Wyden
Dodd	Levin	
Dorgan	Lieberman	

#### NOT VOTING—1

Helms

The motion was agreed to.

Mr. DASCHLE. 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. LOTT. 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 Mississippi.

Mr. LOTT. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### UNANIMOUS CONSENT REQUEST—S.J. RES. 34

Mr. LOTT. Mr. President, I know we have a lot of work to do on the Defense authorization bill. I believe we are making good progress. I know Senator DASCHLE is going to have to make a call sometime today about whether or not we are going to be able to get a lockdown list or whether he files cloture. I am interested in discussing that with him before he makes a final deci-

sion because we want to be helpful in getting the work done.

I had indicated earlier also that we hoped we could get a time agreement and understanding and all Senators would be on notice as to when we would proceed on the issue involving the Yucca Mountain disposal site. I ask, notwithstanding legislative or executive business or the provisions of rule XXII, immediately following completion of the Defense authorization bill but no later than July 9, the majority leader or the chairman of the Energy Committee be recognized in order to proceed to Calendar No. 412, S.J. Res. 34, and in accordance with the provisions of section 115 of the Nuclear Waste Policy Act, the Senate then vote on the motion, with no further intervening action or debate.

I further ask that the motions be agreed to, the Senate consider the joint resolution under the statutory procedure set forth in the Nuclear Waste Policy Act; further, that once pending, the resolution remain before the Senate to the exclusion of any other legislative or executive business; and finally, upon conclusion of floor debate and a quorum call, if requested, as provided by the statute, the Senate vote on H.J. Res. 87 without further intervening motion, point of order, or appeal.

Mr. DASCHLE. I object.

Let me simply say, I reiterate what I have said on several occasions. As the Republican leader knows, a unanimous consent request in this case is not necessary. The statute allows any Senator to bring the bill to the floor and make a motion to proceed. It is not debatable. The vote occurs. If it is successful, the debate, under the statute, is required for a period no longer than 10 hours. Any Senator is capable of doing that.

I object today simply because, of course, we have to finish our work on the Defense authorization bill. We are not sure yet what the circumstances will be with regard to the supplemental. I hate to have this legislation supplant an emergency supplemental dealing with our Armed Forces and dealing with the emergency needs of counterterrorism. That is exactly what this proposal would do. It would supplant it if that were the pending business. We are hopeful we can accommodate the priorities of the country and the Senate in a way that recognizes the importance of proper sequencing of legislation including the supplemental. As I say, it certainly also recognizes any Senator's right to bring it to the floor.

I am personally very opposed to the Yucca Mountain legislation as is presented. I oppose it and urge my colleagues to oppose it as well. We have a large majority of our colleagues on this side of the aisle who oppose it. However, for that reason as well as for the procedural reasons I have just described, I do object.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. If I could use leader time to comment further, I understand why the Senator would object at this time. However, I make it clear to all the Senators on both sides of the aisle and both sides of the issue, we will make every effort to make Senators aware of when this issue might come up, give them maximum opportunity for the majority leader or the chairman of the Energy Committee to call up this issue, and also so that Members know when we are actually going to get to the issue itself.

The way this is set up under expedited procedures, once we go to it, once the motion to proceed is agreed to, there will be 10 hours of debate and we will go to the final vote. I think that is the right scenario. However, I caution Senators, there is a deadline. Under the law there was a certain amount of time this legislation could be pending in the Energy and Natural Resources Committee and there was a certain specified period of time during which it could be available for the Senate to act. If we do not act by July 27, the veto of this issue by the Governor of the State involved will hold. The worst of all worlds would be not to act in a responsible way with a clear vote in the prescribed amount of time we have available. By going to this issue the first week we are back, everybody will know when to expect it to come up, and it will be assured that we get it done before the expiration date of July 27.

We will continue to speak about the importance of this issue. We have been working on it many years, and we have spent an awful lot of taxpayers' money. It is time we make a decision and move forward with this repository.

I am happy to yield to Senator MURKOWSKI.

Mr. MURKOWSKI. I certainly urge the two leaders to proceed and recognize the obligation we have to bring this matter to a vote. It would be a grave reflection on the Senate to not take up this matter prior to July 27. The House has done its work and spoken with an overwhelming vote in support of proceeding with Yucca. To allow this matter simply to die through inaction is a grave reflection on what was intended to be a balanced procedure, giving the Governor of the State of Nevada an opportunity to present the opinion of the State of Nevada, yet allowing for both the House and Senate to vote on the issue.

I encourage the two leaders to give us the assurance that we would have an up-or-down vote, that it would simply not be allowed to die in the course of events that clearly are going to take a great deal of time and effort as we proceed with the calendar.

July 27 is the drop dead date for the procedure, as the minority leader indicated. He will be forced to vote on the motion to proceed followed by 10 hours of debate and then the final disposition. I remind my colleagues of the fiscal responsibility we have in light of

the realization that the Federal Government entered into a contract, a contract with the utility companies that develop nuclear power in this country, to take that waste in 1998. The ratepayers have paid in the area of \$16 billion to \$17 billion to the Federal Government. The Federal Government is derelict in not being responsive to contractual commitments or contractual agreements, with the possibility of potential litigation, to the taxpayers of this country, somewhere between \$40 billion and \$70 billion for the failure of the Federal Government to honor the terms of that contract.

The longer we delay this process—when I say “delay,” I am talking about just that: Proceeding with the process that would basically lead to a time sequence that would not allow us to dispose of this issue is irresponsible. As a consequence, I encourage the two leaders to give us the assurance that we will have an up-or-down vote, we will be allowed to have 10 hours of debate, prior to July 27. To not do that, indeed, would be a very grave and negative reflection of this body—simply ducking its responsibility.

Mr. LOTT. Mr. President, it will be better if I yield the floor and allow the Senator to get time on his own so he will not have to think he is being inconsiderate of me by the time he takes. I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Nevada.

Mr. ENSIGN. Mr. President, I thank the majority leader for objecting today, and I appreciate his opposition to this project.

The junior Senator from Alaska talked about an obligation to move this legislation. I think there is never an obligation to do the wrong thing.

I believe that proceeding on the issue of Yucca Mountain would be the wrong thing for this country for several reasons. There are a lot of misconceptions when it comes to Yucca Mountain. It is said we have a contract with the utility companies. That is simply because this Congress decided to enact a law based on politics and not based on what the country actually needed.

Over the time of studying Yucca Mountain, we have a process that has become extraordinarily expensive, so much so that during the 1980s they dropped two of the sites they were studying because the costs were out of sight. Now, in the late 1990s or early 2000, the costs are going out of sight again. The latest cost estimate for Yucca Mountain is close to \$60 billion. That is as much money as the cost of all 12 of our aircraft carriers.

The stated purpose is so we can make nuclear power more viable in the future, if we have a solution for the waste. I submit to my colleagues that Yucca Mountain will not make nuclear power more viable because of the expense.

We talk about the trust fund, that the ratepayers are paying into this trust fund. They paid in approximately

\$11 billion. When you count interest on that money in these phony trust funds that we have set up the trust fund is somewhere around \$17 billion. We have spent about \$8 billion of that so far, \$4 billion on Yucca Mountain, constructing Yucca Mountain.

People have no idea. Because they go out there and see this very impressive hole in the ground, they think we are almost done. We have hardly even scratched the surface. It is a huge project, hugely expensive. It is going to come out of the general revenues. That means taxpayers across the country who do not have nuclear power in their States are going to be paying for Yucca Mountain for years and years into the future.

I will close. It is talked about that any Senator can bring this legislation to the floor. That is true. It says right in the act that any Senator can bring this legislation to the floor. Under the rules of the Senate, any Senator can bring any legislation to the floor, but the precedent and the history and the tradition of the Senate is that only the majority leader brings legislation to the floor of the Senate. There have been five pieces of legislation that had similar language to the Nuclear Waste Policy Act, where it specifically stated that any Senator could bring the legislation to the floor. However, in that history of those five pieces of legislation, three of them were brought to the floor by the majority leader, and regarding two of them, the majority leader actually got them not brought forward to be considered in the Senate.

If somebody besides the majority leader brings this legislation to the floor, we are breaking with the traditions of the Senate. Because we do not have a Rules Committee that says how legislation will come to the floor in the Senate, the same way the House has a Rules Committee, I believe we are setting a very dangerous precedent for the majority.

On this side of the aisle we happen to be in the minority right now. Someday we would like to be in the majority. I think it sets a dangerous precedent for us on this side of the aisle, if we are going to be in the majority someday, for this type of legislation to go forward without the majority leader bringing the bill to the floor. He has announced his opposition, and we appreciate that. But I remind my colleagues it is said, because this legislation is so important, that we need to set this kind of precedent; that people do not believe, because of the importance of this legislation, that we are setting that precedent.

I say, to the contrary, there are a lot of pieces of legislation that we look at around here that we say are very important. If a majority of Senators get together, regardless of which side of the aisle they are on, and offer a motion to proceed, they can control the floor of the Senate and thereby become the majority in and of themselves.

I thank the majority leader for the work he is doing in trying to defeat

this legislation. My colleague from the State of Nevada, the senior Senator, has done yeoman work over the years, and I appreciate all his efforts. We are going to continue to fight this legislation, not just because we believe it is bad for our State but, more importantly, we believe this legislation is wrongheaded for the United States of America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I wanted to speak to the Defense authorization bill and was curious as to whether we are back to regular order on the Defense authorization. We are back to regular order?

The PRESIDING OFFICER. That is pending.

Mr. ALLARD. Mr. President, I thank my subcommittee chairman on the Strategic Subcommittee on Armed Services for his leadership. On this particular subcommittee, we do not always see eye to eye, and I appreciate his willingness to reach out and work with us. I value our working relationship with my chairman on the subcommittee.

There is certainly much in the committee bill I am able to support. One of my particular interests for several years has been the use of commercial imagery to help meet the Nation's geospatial and imagery requirements. I do not believe the Department of Defense has been aggressive enough either in crafting a strategy or in providing funding for this purpose.

I am gratified that the committee bill includes a substantial increase for commercial imagery acquisition and some very helpful words in report language that I suspect will drive the Department toward establishing a sound relationship with the commercial imagery industry.

I also appreciate the support of the new Department of Energy environmental cleanup reform initiative that will incentivize cleanup sites to do their important work faster and more efficiently. The accelerated cleanup initiative will reduce risk to the workers, communities, and the environment, shorten the cleanup schedule by decades, and save tens of billions of dollars over the life of the cleanup. The bill adds \$200 million to this initiative, and I expect the Department of Energy will make tremendous strides.

In both of these areas, I believe the bill makes excellent progress. However, early in the process of crafting this bill, I made it very clear that one of my top priorities was to assure that ballistic missile defense programs are adequately funded. I am deeply disappointed that the committee bill, by the margin of one single vote, reduces missile defense programs by more than \$800 million. This represents an 11-percent decrease to the missile defense request for fiscal year 2003, a request, I might add, that was already less than what was appropriated for fiscal year 2002, by some \$200 million.

I believe reductions of this magnitude are unjustified and will do deep and fundamental harm to the effort to develop and deploy effective missile defenses as efficiently as we can.

In the wake of the events of September 11, I believe missile defense is more important than ever. As the Director of Central Intelligence George Tenet testified before our subcommittee, we don't have the luxury of choosing the threats to which we respond. Missile threats have a way of developing faster than we expect.

I opposed the bill in committee because of these reductions, and I intend to support, as vigorously as I can, efforts on the floor to restore the funding. I am disappointed we could not find an acceptable compromise on this issue in committee, and I look forward to working with my chairman in a continuing effort to find an acceptable resolution to this disagreement.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I rise to speak about the soon to be laid down amendment by Senator WARNER on missile defense. This is a major topic for the body to consider. It is a major topic for the country. I want to address it from a number of different perspectives but primarily from the perspective of the threat we are facing in the international community today.

We are seeing now what is taking place in Iran. I wish to draw special notice to what is occurring there. We are seeing terrorism being supported greatly from that country. We are seeing them supporting terrorist threats and terrorist efforts and funding and even providing arms to terrorists in a number of countries throughout the region. They are supporting it in Lebanon. They are supporting it in central Asia. They are developing the missile capacity in Iran.

Iranian missile capacity has developed substantially now. They are expanding their sphere of influence to the extent of how far the delivery of their weaponry is that they can go with the missiles they have.

Iran, as the President identified, is one of the countries comprising the axis of evil. They seek to do away with the Israeli State, they seek to expand substantially their threat in the region, and they are no friend of the United States. They also have no reservation whatsoever about using the weapons of mass destruction that they have, even targeted toward the United States.

Here is a country that clearly means us harm. Here is a country that is developing and expanding its missile capacity. Here is a country that has some capacity for weapons of mass destruction already and is trying to obtain nuclear capacity, nuclear weapon capacity, which some countries believe they will have in the next several years. That is Iran.

We see what is taking place in North Korea. North Korea has developed and

has missile capacity. They have a missile with a substantial range of influence and threat. They share those with a number of other rogue regimes around the world. North Korea has weapons of mass destruction. We don't know about their nuclear capacity and development. They are probably trying to pursue it. That is a country that also means us harm. This is a nation that is a failed state.

Our estimate is that over the last 5 to 7 years at least 1 million North Koreans have died of starvation. At the same time they are developing this massive missile and weapons capacity, there are people fleeing North Korea today. In the last week, we saw that there were 27 people, I believe, from North Korea seeking refuge in the embassies in China to get out of the repressive regime in North Korea. The state has failed. Buildings are collapsing in that state. When people are caught in that building, they get crushed. North Koreans are fleeing from that failed state. They are trying to get out.

This country is maintaining a missile capacity that threatens a number of U.S. allies and could potentially in the near future threaten the United States.

With both of these known examples in Iran and North Korea, why on Earth would not the United States develop a missile defense system when we know these threats are there?

These are state sponsors of terror. By our own account, they are one of the seven countries that are state sponsors of terror. They are doing this financially, with weaponry, and by some accounts with their own officers. They are selling these missiles around the world, as we know is the case with North Korea.

Why wouldn't the United States as rapidly as possible develop our missile defense capacity when we know this is taking place?

The first order for our defense is to provide for the common defense. That is the reason we created the Federal Government.

When we know these things are being developed by two countries that mean to do us harm, why would we not as rapidly as possible use our efforts to develop a missile defense system? Clearly, we should be doing this. This should be of the highest order for us. If one of these could reach U.S. shores—and they may be able to do so in the near future with the development of what is taking place in these two countries, and where they are offering to sell their missile capacity—it could cause enormous harm and death in America.

They currently threaten a number of our allies. They would cause enormous death in those nations.

We should be developing a missile defense system as fast as possible. Unfortunately, the Senate Defense authorization bill is hindering the effort with what is currently in the bill. That is why I am supporting Senator WARNER'S

effort to amend this bill so we can move forward with a missile defense system on a very rapid basis.

The bill which passed out of the Senate Armed Services Committee includes a \$814.3 million reduction to the budget requested for ballistic missile defense. The Warner amendment would provide the authority to transfer up to \$814 million within the request to be used for ballistic missile defense and DOD activities to combat terrorism, as the President determined. The administration supports this budget request and opposes the reductions put forward in the committee bill for the Missile Defense Program. This is a reasonable position for the administration to take given the needs that we have for missile defense. It is one we should support, and it is one for which we should be having a robust missile defense program moving forward.

For my own State's perspective, this Warner amendment would restore \$30 million to save a spot on the production lines for the second airborne laser aircraft. The acquisition of the second ABL aircraft is essential to the continuation of the program. The first aircraft, which I have seen, is a very impressive aircraft that I think is going to be used in not only missile defense but in other capacities as well.

The Senate Armed Services Committee's version of the bill is not amended to include additional missile defense funding. Secretary Rumsfeld has stated that he will recommend to the President that he veto the fiscal year 2003 National Defense Authorization Act. That is from the Secretary of Defense—a recommendation to veto.

The Missile Defense Program that was developed is a balanced effort to explore a range of technologies that will allow the United States to defend against the growing missile threat facing this country and our forces, friends, and allies.

I just articulate two countries that we know of that are problematic.

What if things occur in other countries? For instance, we are developing and should grow in our alliance and work with Pakistan. This is a very difficult country. What if President Musharraf is not successful and more radical elements take over in Pakistan? That is a country with both nuclear and missile capacity. This is not one of those far-flung possibilities. This is a very real possibility that could take place. We hope we are working against it. I support President Musharraf. This country is very supportive of him. He has done a lot of excellent work. Recently, he helped in reducing tensions between India and Pakistan.

It is a very real possibility for which we should be preparing. If that eventuality happened, and the United States said, OK, now we need to build a missile defense system to offset what is taking place in someplace such as Pakistan, it is too late.

According to Secretary Rumsfeld, the \$814 million shortfall in funding

would impose a number of burdensome statutory restrictions that would undermine our ability to manage the Missile Defense Program effectively.

The amendment provides the President flexibility to determine which use of the funds is within the national interest. The funds could be corrected to meet any new terrorism threat that may evolve.

The ballistic missile defense reductions in the bill are considerable and will impair the ability of the Department of Defense to move forward in its effort to develop and deploy effective missile defenses.

The Warner amendment is consistent with the National Missile Defense Act of 1999, which passed the Senate, I remind the body, by a vote of 97 to 3—virtually unanimous—that set out a goal of deploying an effective missile defense for the territory of the United States as soon as technologically possible.

That was the standard we put forward. With the Warner amendment, we could meet that. Without it, we will not. We will not have the funding necessary to meet what we can do technologically. There will be restrictions of what we can do.

In addition, the National Missile Defense Act of 1999 set a goal of further negotiated reductions in nuclear weapons programs from Russia.

The amendment provides the opportunity to make more rapid progress in developing and deploying effective missile defenses, a goal endorsed by 97 of our colleagues.

The Warner amendment provides an offset based on anticipated inflation savings and will have no impact on other programs.

Even though the Warner amendment would boost the bottom line of the bill, it is protected from a budget point of order because it would authorize discretionary spending—not mandatory spending.

The amendment will keep the defense budget within the amount requested by DOD.

We have a number of possibilities for harm that could come to the United States—possibilities of nuclear, radiological, chemical, or biological weapons capability. And we have possibilities that would be enormous disasters.

We know the al-Qaida network is pursuing these means of destruction on the United States. U.S. intelligence uncovered rudimentary diagrams of nuclear weapons in an al-Qaida safehouse in Kabul. This year, the CIA reported that several of the 30 foreign terrorist groups and other nonstate actors around the world “have expressed interest” in obtaining biological, chemical, and nuclear arms. Such weapons of mass destruction can be delivered on ballistic missiles aimed at U.S. forces and our friends. We cannot let this happen.

Today, our security environment is profoundly different than it was before September 11. Perhaps I should say it

is not profoundly different, but we realize how incredibly vulnerable the United States is, and we should have realized that prior to September 11.

The challenges facing the United States have changed from threat of a global war with the Soviet Union to the threat posed by emerging adversaries in regions around the world, including terrorism. In the wake of the attacks on the World Trade Center and the Pentagon, we need to look at the threat posed to us as a nation and how we should best utilize resources, which certainly includes an effective Missile Defense Program.

For those reasons, I strongly support the amendment soon to be laid down by the Senator from Virginia, Mr. WARNER.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I have been listening to the Senator from Kansas. He makes eminent sense. He demonstrates a frustration that we have been living through now for certainly the last 10 years.

He mentioned the Missile Defense Act of 1999. There was an act that was passed. It was passed by a huge margin, and certainly was a veto-proof margin, so the President did sign it. But then, after that, we did not comply with the act. We have been living since—that was signed in 1999—outside the law in terms of taking the action to deploy “as soon as technologically possible.” I think the excuse that was used at that time was the ABM Treaty. I am very thankful that finally we have crossed that bridge and we have gotten that behind us.

I have often looked back to 1972—and of course that was a Republican administration, and I am a Republican—when we had Henry Kissinger. And at that time they said: There are two superpowers, the Soviet Union and the United States of America. The whole thrust of that was mutually assured destruction. You won’t protect yourself; we won’t protect ourselves. You shoot us, we will shoot you, and everybody dies, and everybody is happy.

That was a philosophy that everybody believed at that time. That was not the world of today. Sometimes I look wistfully back to the cold war. We had two superpowers. At least there was predictability. We knew what they thought and what their capabilities were. That is not true today. We have a totally different world.

Even Henry Kissinger, who was the architect of that plan, in 1996, said it is nuts to make a virtue out of our vulnerability. That is exactly what we have been doing.

I regretted each time President Clinton vetoed the Defense authorization bill. I remember the veto message. It said: I will continue to veto any authorization bill or any bill that has money in it for a threat that does not exist—implying, of course, that the threat did not exist: A nuclear weapon,

a warhead being carried by missile, hitting the United States of America. That was in 1995, his first veto.

Yet when we tried to get our intelligence to come up with some accuracy as to when the threat would exist, the National Intelligence Estimate of 1995 was highly politicized and said we were not going to have this threat for another 15 years. At that very time our American cities were targeted by Chinese missiles. At that time, of course, that was classified. It is not classified anymore. The threat, nonetheless, was there.

I share the frustration of my friend from Kansas. I have 4 kids and 11 grandkids. I look at the threat that is out there. I was very pleased when the Rumsfeld commission established, in 1997, that the threat was very real, the threat was imminent, and the long-range threat could emerge without warning.

I was, as the years went by, trying to get some information to shock this institution and other institutions into the reality that the threat was imminent.

I recall writing a letter to General Henry Shelton, Chairman of the Joint Chiefs of Staff, and asking him if he agreed with the Rumsfeld recommendations. He said the rogue state threat was unlikely, and he was confident the intelligence would give us at least 3 years’ warning. This was at a time when we also included in this letter: Would you tell us when you think North Korea would have the capability of having a multiple-stage rocket? He said that that would be in the years to come. That was August 24, 1998. Seven days later, on August 31, 1998, North Korea launched a three-stage rocket that had the capability of reaching the United States of America.

So all of that is going on right now. All of that has been happening. We are finally at the point where we are going to vote on something—the missile defense capability was taken out of the Defense authorization bill, and now we have an opportunity to put it back. Singularly, this is the most important vote of this entire year, giving us this capability to meet this threat that is out there.

When I talk to groups, I quite often say—particularly when there are young people in the audience—I would like to see a show of hands as to how many of you saw the movie “Thirteen Days.” Of course, most of them saw it. I saw it. It was about the Cuban missile crisis in the early 1960s, how the Kennedy administration was able to get us out of that mess. All of a sudden we woke up one morning and found out cities were targeted by missiles, and we had no missile defense.

In a way, the threat that faces us today is far greater than it was back in the 1960s because at least that was all from one island that you could take out, I believe, in 22 minutes. Now we are talking about missiles that are halfway around the world that, if deployed, would take some 35 minutes to



get here. And we do not have anything in our arsenal—we are naked—to knock them down. That is the threat we are faced with today. It is out there, and it is a very real threat.

I often think about September 11 and the tragedy of the skyline of New York City when the planes came into the World Trade Center. It was a very sad day in our country's history. But I thought, what if that had been, instead of two airplanes in New York City, the weapon of choice of terrorists—in other words, a nuclear warhead on a missile. If that had been the case, then there would be nothing left in that picture of the skyline but a piece of charcoal, and we would not be talking about 2,000 lives; we would be talking about 2 million lives. It sounds extreme to talk this way, but that is the situation we are faced with right now.

When you say, well, of course China is not going to do this, North Korea is not going to do this, and Russia is not going to do this—they are the ones that have a missile that can reach us—let's stop and realize—and it is not even classified—that China today is trading technology and trading systems with countries such as Iran, Iraq, Syria, and Lebanon, so it does not have to be indigenous to be a threat. The threat is there whether they buy a system from someone else or whether they make it themselves.

After the Persian Gulf war, Saddam Hussein said: If we had waited 10 years to go into Kuwait, the Americans would not have come to their aid because we would have had a missile to reach the United States of America.

I suggest to you here it is, 10 years later. The threat is imminent. We are way past due in doing something about it. Today is a significant day when we can set out to do that, something that would defend America. That is the primary function of what Government is supposed to be doing. We have an opportunity to do that today.

So I encourage all my colleagues, for the sake of all of their people whom they represent back home, and for the sake of my 4 kids and my 11 grandkids, let's get this thing started and pass the Warner amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, this morning I had the opportunity to address the issue of missile defense from my perspective as the chairman of the Strategic Subcommittee of the Armed Services Committee.

In the course of our deliberations over many months, with many hearings, hours of testimony, and more hours of briefings and staff contacts, we looked very closely at the proposed budget for missile defense this year by the Department of Defense. We supported many of their initiatives.

We are recommending \$6.8 billion of new funding for fiscal year 2003. But let me put that in a larger context. For fiscal year 2002, the Department of De-

fense estimates they have only spent \$4.2 billion of previously authorized money, leaving approximately \$4 billion of carryover funds for fiscal year 2003. So our recommendation, together with carryover funds, will give the Department of Defense more than \$10 billion of available funding for fiscal year 2003.

That is a staggering amount of money. It is the largest 1-year funding source for missile defense I think we have ever had in our history. It is the combination of not only what we authorize this year for fiscal year 2003, but what has been authorized and not spent for fiscal year 2002.

Mr. ALLARD. Will the Senator from Rhode Island yield on that point?

Mr. REED. I am happy to yield.

Mr. ALLARD. My understanding is they actually did not get into the spending, because we were in session late last year, until the second quarter. So when you get into second-quarter spending on a full year's allocation, obviously you are not going to have the opportunity to spend all the dollars. It is not because the need is not there, it is just because we were in session so late last year, in December, and that is the reason those dollars that were budgeted did not get spent. I have all the confidence in the world we probably will catch up with that.

Mr. REED. I thank the Senator, my colleague, the ranking member from Colorado, for that point. I do not disagree with that point, but I am making a different point, which I will make again; which is, regardless of what caused them not to spend the money last year, that money seems to be entirely available this year, together with our proposed funding level, and gives the Missile Defense Agency over \$10 billion to spend on missile defense in fiscal year 2003. That is robust funding by any definition. The suggestion that we are cutting out the heart of funding for missile defense is, I think, erroneous.

We are supporting very strongly a missile defense program, but we are not supporting it without looking carefully at its components and making tough choices about priorities of spending.

That is why, as a result of our proposed reductions, we were able to move significant amounts of money into shipbuilding, which every Member of this body strongly recommends, commends, and supports. In addition, we were able to move some money into Department of Energy security for their nuclear facilities, which is very important. We also have, in fact, provided a bill that robustly supports missile defense.

We did reduce the overall recommendation of the Department of Defense for missile defense, but we also added funds into specific missile defense programs which we believed were underfunded. For example, we added an additional \$30 million for test and evaluation of missile defenses. One of the

persistent criticisms of our missile development program is that they have not had realistic testing, that they have had tests but they didn't really represent in any meaningful way the type of actual environment in which the missiles must operate. We added additional resources. This is one of the recommendations of everyone who has looked at the Missile Defense Program.

We have added \$40 million for a new, powerful, sea-based radar for the Navy theater-wide system. Again, this is a system which General Kadish, director of the Missile Defense Agency, announced 10 days ago or so was a likely candidate for contingency deployment in the year 2004.

That was not suggested or recommended by the administration, but we believed very strongly that an additional \$40 million to develop this radar was key to developing the Navy theater-wide system which could be the major element of the sea-based system.

We have also added \$40 million for the Arrow missile defense system. That is a joint United States-Israeli program to develop and field—and it is far into the development phase—a theater missile system that will protect not only Israel but United States forces, too, because we hope we will emphasize interoperability as we go forward with the development of that system.

Many colleagues have said the danger of terrorists obtaining missiles is acute in the Middle East, and we are putting more money into the system than was requested by the Department of Defense to ensure that our allies and our forces in that region have an effective missile screen. That is a plus—not a minus—that we added, that the administration did not request.

We have also included \$22 million for an airborne infrared system which could be used as a near-term, highly accurate detection and tracking system for national or theater missile defense. Again, this was not requested by the administration but supported and included by our deliberations at the committee level because we do in fact want to see an effective missile defense system fielded at an early time.

Let me talk about some of the reductions we made. Before I get into details, we asked some basic questions: What are you going to spend the money for? What is the product? What do you want to buy? When do you plan on deploying such-and-such a system? Frankly, the answers we got were very vague, very ambiguous. The Missile Defense Agency seems to be in the process of redefining their role, which is incumbent upon this new agency. But in that phase of redefinition, they were not able to provide the kind of specific data we requested. In fact, in some cases they just plain refused to provide any really adequate information.

One example is that in last year's authorization, we requested, required by law in the report language, that they report to us on the life-cycle costs of any system going into the engineering

phase. THAAD was in that engineering phase, and THAAD is a theater ballistic missile being developed right now. Rather than reporting to us the life-cycle costs, they simply administratively took THAAD out of that engineering phase, which suggests to me that either they don't have these life-cycle costs or they were unwilling to share them with the Congress.

We have to know these things. We have to make judgments about critical systems, not just missile systems, shipbuilding, the operational readiness of our land forces, our air forces. All of these are tough choices with scarce resources. At a minimum, we have to know how much these proposed systems will cost. In the case of missile defense, it is very difficult, if not sometimes impossible, to get that information.

We looked at programs and expected they would be justified and detailed in concrete ways. Frankly, we found many programs that appeared to be duplicative, ill-defined, and conceptual in nature. And these programs were not inconsequential. We are not talking about a couple of million dollars to do a study, we are talking about hundreds of millions of dollars; in the case of the Navy theater-wide, \$52 million to do a study of concepts for sea-based mid-course naval defense.

So that was the approach we took: Look hard at all of these programs, with the purpose of trying to ensure that missile defense development goes forward but also to ensure we had resources for other critical needs of the Department of Defense.

One of the areas that appeared to us to be the least well justified was the area of the BMD system cost—approximately \$800 million—used, as they say, to integrate the multilayered BMD system. First, there are a couple of timing issues. The various components of this BMD system have not yet been decided. As a result, they have an awesome challenge to integrate components that have not been decided upon. That is just an obvious starting point. Again, there was not the clear-cut definition of what they were doing, and \$800 million is a great deal of money to spend on simply contracting for consultants, engineers, and systems reviews, particularly when the architecture of the components is not yet established.

We also found out, as we looked back at last year's authorization, which included a significant amount of money for this BMD system, that the Department of Defense, as of midway through the year, had only spent about \$50 million. We were informed that throughout the course of the year they are expected to spend about \$400 million, leaving about \$400 million of resources in this one particular element, BMD systems, that is available for fiscal year 2003 spending. So even with our reduction in BMD systems, they will still have a significant amount of money, upwards of \$1 billion, for fiscal year 2003, in this one category of BMD systems.

Again, if you ask them what are they doing: We are integrating systems. We are planning, and we are thinking.

All of that is very fair, but is that a sufficient justification for \$1 billion when we have other pressing needs for national defense in this budget?

As we go forward, we looked, again, very carefully, at all the different elements. We made adjustments that we thought were justified by the lack of clear program goals, by duplicative funding, poorly justified funding, and then we looked at other issues.

For example, the THAAD Program. THAAD is a theater missile defense program that has been under development for several years. It had its problems years ago. It was, frankly, off course. One of the conclusions of the Welch panel that looked at the THAAD Program was that they were rushing to failure. They were trying to do too much too fast. They were abandoning the basic principles of developing a system, good requirements, moving forward deliberately, testing carefully. As a result, the program was in danger of being canceled. The program is back on track now, with better engineering, commitment by the contractors. They are moving forward.

But what the administration would like to do now is to go ahead and purchase 10 extra missiles for the THAAD Program. The problem is that the first flight test for the THAAD is in fiscal year 2005. We fully fund this flight test, \$895 million for the THAAD for developing the missile, for flight testing in 2005. But ask yourself, why would we buy 10 unproven missiles several years before the first flight test?

The administration talks about a contingency deployment. That is nice, but the first real flight test is several years from now. And in a scarce, tough budgeting climate, why are you buying 10 extra missiles that appear to be unnecessary before they follow through with the first test flight. So we made a reduction of approximately \$40 million for those extra missiles.

Now, we also looked at some of the funding for what they described as boost phase experiments—\$85 million. We found these very ill defined and conceptual. That is a lot of money for "experiments," without other explanation.

Then we looked at the proposal to buy a second airborne laser aircraft, \$135 million. The airborne laser is an interesting system, designed to mount a laser in a 747 and use that to knock down a missile as it leaves the launch phase in its boost phase. It is very complicated technology, challenging just in the simple physics, let alone the hardware that you have to construct. I am told that the prototype laser is twice the size of a system that can fit on a 747. I am also told that the 747 that they are outfitting has yet to have been flown operationally in this capacity in a test.

So you ask yourself, when you have not developed a laser, when you have

not used it on the aircraft to actually engage targets, when you are working on basic optics problems and physics problems, why do we have to buy a second airplane in this year? When, for example, you have people complaining that the real chokepoint in our airplane fleet are tanker aircraft to support our ongoing operations. This is an example of expenditure we thought was unjustified. As a result, we suggested and recommended that there be reductions in this program.

Now, I wish to mention one other point in conjunction with the airborne laser because I think it is important. One of the things we discovered in our deliberation was that the Department of Defense has not only totally revamped the Missile Defense Agency, but it is trying to give it an autonomy that exists for few, if any, other defense programs. It has effectively eliminated review of its activities by the JROC, which is chaired by the Chairman of Joint Chiefs of Staff, the warfighters who eventually will use all this equipment. We believe, as with most other programs, that it is required for these people to have a say whether and how missile defense is being developed.

We found out that the Joint Chiefs of Staff were not consulted about this budget that was submitted from the National Missile Agency for missile defense in general; that they did not have an opportunity to say you are spending too little or too much. They were frozen out. Those are the senior uniform leaders of our Armed Forces and they didn't get a say in determining what should be spent on missile defense.

As we develop these systems, we have to think, even at this point, how are we going to use these systems? The airborne laser has real potential in a tactical situation where you are going against theater missiles. If it is going to be used in a national missile situation, where we are trying to back down an aggressor that threatens us with an intercontinental missile launch, a couple issues should be considered: first, this is a 747 doing circles close to the airspace of a hostile nation. If we believe they have the capacity and the will to shoot an intercontinental missile at us, we have to assume they have the capacity and the will to knock down a 747 as it circles in the air waiting for the blastoff. So our first reaction militarily, I think, would be that we would have to dominate the airspace, send our fighters in to preempt the attack so they won't have to send the 747. Why don't we preempt the launch by attacking?

These are some of the operational issues that are being addressed. All we are speaking about here is technological possibilities, but until they are integrated in with the coherent advice of the Joint Chiefs of Staff and JROC, the weight of that advice and of these proposals, I think, has to be questioned. That is our job.

Now, we spent a great deal of careful time reviewing all of these systems. As

I said, we support robust deployment of systems. The PAC-3 system is a theater system that is well on the way to operational readiness. It is being tested right now. We have made some substantial and robust expenditures for the THAAD Program. Navy theater-wide is a program we are supporting in terms of its testing and evaluation. We support the ABL concept. We are funding it but the question before us is, Is it time to buy a second airplane now? I think the answer is no.

The midcourse, the land-based national defense system in Alaska, has been robustly funded. A few days ago the administration announced that a test bed has been started in Alaska for five missiles. That is fully supported in this legislation that we bring to the floor—even though there are real questions about its utility for anything more than a test bed, or even for a test bed.

A contingency deployment would be likely directed against those nations identified as the “evil empire.” It turns out that the radar that the system being used in Alaska, the COBRA DANE radar, does not face in the direction of Iraq and Iran. It would be impossible to track those missiles. It has partial coverage of North Korea, but it would be difficult to cover with that radar. The administration has rejected a proposal supported under the Clinton administration to build an X-band radar in conjunction with the Alaska test bed. One of the reasons that the X-band radar was so important was indicated by General Kadish and others in their testimony.

One of the real challenges for a midcourse interception is to identify the warhead from all of the clutter, including decoys that would likely be launched. To do that, you have to have a finely discriminating radar. The X-band is much more finely discriminating than the L band, which is COBRA DANE. The administration says forget that, we are not doing that. Yet we have funded this proposal fully because we recognize that the X-band radar is an important aspect of defending the country. Yet we also recognize we don't have a blank check. We have to make tough judgments about what we spend.

So the idea that we are sort of blithely cutting programs and eviscerating missile defense is, I think, wrong on its face. There is \$6.8 billion in this year, coupled with almost \$4 billion of funds, that can be used from this year, meaning the fiscal year 2003 budget, coupled with almost \$4 billion still available from the fiscal year 2002 budget, is robust funding for missile defense.

My last point is something that I think is important to emphasize in the context of not just this program, but the overall challenge we have. When Secretary Rumsfeld came up to the Appropriations Committee to argue for the cancellation of the Crusader system, he made the point—which I think in his mind was very clear—that we

face a defense bow wave of epic proportions as we go forward. If we fund all the programs that we are proposing right now, we are going to have some very hard choices. One of the problems with Secretary Rumsfeld's evaluation is it doesn't go as far as I think it should because, as far as I know, he is not including the cost of the deployment or operation of any missile defense system in the bow wave.

As we consider the long-term implications, we must consider that we cannot just add funds. We have to be careful about it, and we have to be very careful about what these funds will be used for. We have done a very thorough, detailed review of these programs. We have made suggestions based upon the review. There are other pressing needs. The most glaring to me is homeland defense and antiterrorism expenditures.

There, the possibility for extra spending probably exists. Here I think we have made sound choices about priorities that will help enhance the defense of the country. I urge my colleagues to consider carefully the proposals that Senator LEVIN might make but ultimately to, I hope, agree that the bill we brought to the floor contains robust spending that will enhance our defense through wise expenditures with respect to missile defense.

I yield the floor.

The PRESIDING OFFICER. The majority whip.

Mr. REID. Mr. President, the two managers of the bill are two of the most experienced legislators we have on Capitol Hill, and so I have absolute confidence in both of them. They certainly know how to handle legislation. I have to say, though, it is 4 o'clock. It is Tuesday. We have the July recess coming up soon. I do not know what the leader will do, but I suggest to the leader that he should file cloture on this bill because it is obvious to me we are not going to be finished with this bill tomorrow, and I think we are going to have trouble finishing the bill on Thursday.

The decision is that of the majority leader, but I say to my two dear friends, the senior Senator from Michigan and the senior Senator from Virginia, the manager and ranking member of this most important committee, that would be my recommendation to the leader, that he file a cloture motion sometime this afternoon. It seems to me that is the only way we are going to finish this bill.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, last night I provided Chairman LEVIN with a draft of my missile defense amendment and then we discussed it at length this morning. At approximately 2:35 or 2:40, the Senator provided me with a proposal the Senator from Michigan had. So he had my amendment for a number of hours. I have only had his for about an hour and 30 minutes.

I have a lot of people with strong beliefs over on my side, and it seems to me it is not unreasonable given the amount of time that I was able to provide for the chairman and the leadership on his side, that I would require just a bit more time to resolve good, honest differences of opinion on my side.

Mr. REID. I am wondering if I could ask my friend from Virginia and my friend from Michigan, maybe we should go to some other amendment then?

Mr. WARNER. I ask the indulgence of my good friend to enable me to work a bit and see whether or not we can proceed to a clear understanding for a procedure such that the Senate can address the views of the chairman and the views of the ranking member.

Mr. REID. As I said when I started this statement this afternoon, I have the greatest confidence in the two managers of this bill. That being the case, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. ALLARD. 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 Colorado.

Mr. ALLARD. Mr. President, I want to make a few comments in response to my colleague's comments earlier about trying to justify the cuts they had in various parts of the Missile Defense Program.

I rise in support of the amendment that is going to be offered by the ranking Republican in the Armed Services Committee, Senator WARNER, and myself, where we are restoring \$814 million for missile defense and activities of the Department of Defense to combat terrorism at home and abroad. This is an important amendment. It will allow the bill to move forward on a bipartisan basis, and I believe it deserves the support of every Member of this body.

The committee bill dramatically reduces the President's funding request for missile defense. This bill actually makes a billion dollars in reduction and then adds back to the ballistic missile defense budget in areas where the funding was not requested. I confess that I am baffled and deeply disappointed that the committee majority insisted on these reductions.

The missile defense request this year was both reasonable and modest, in my view. At \$7.6 billion, it was less than the request for fiscal year 2002 by about \$700 million and less than what was appropriated in fiscal year 2002 by \$200 million. If the committee bill is enacted, missile defense will be funded a billion dollars below last year's funding level.

Many of my colleagues on the other side of the aisle can accept this because they look at missile defense as a

drain on resources that can be better spent on other priorities. This point of view says a missile attack is the least likely threat the Nation must face and that every dollar spent on missile defense is a dollar we cannot spend on more likely threats.

Let us examine this point of view. The contention that a missile attack is the least likely threat the Nation will face is simply false on the face of it. Ballistic missiles pose the most likely threat that we must face. Indeed, we face it today and every day. Missiles and weapons of mass destruction are meant to deter. I know our colleagues on the other side of the aisle believe this. They have often argued that our own nuclear force levels are too high and that effective deterrence does not require that many weapons.

According to the latest national intelligence estimate on missile threats, our Nation faces a likely intercontinental ballistic missile threat from Iran and North Korea and a possible threat from Iraq. Dozens of nations have short- and medium-range ballistic missiles already in the field that threaten U.S. interests, military forces, and our allies. The clear trend in ballistic missile technology is toward longer range and greater sophistication. Once deployed, these missiles threaten the United States, its allies, its friends, and deployed troops. No one has to fire them to be effective. They are effective by their mere presence.

The most recent national intelligence estimate concludes that nations hostile to U.S. interests are developing these capabilities precisely to deter the United States. We already know that our adversaries believe we can be deterred from pursuing our interests. Earlier this year, the Emerging Threats and Capabilities Subcommittee received some remarkable testimony from Mr. Charles Duelfer in his capacity as the Deputy Executive Chairman of the U.N. Special Commission on Iraq. He had the opportunity to interview senior Iraqi Ministers about Saddam Hussein's perception of the gulf war. Many of us are aware that the United States threatened Iraq with extraordinary regime-ending consequences should that nation use chemical or biological weapons against coalition forces during the conflict. The use of this threat has been seen as a triumph of deterrence, but according to Mr. Duelfer, Iraq loaded chemical and biological warheads on ballistic missiles.

Authority to launch those missiles was delegated to local commanders with no further intervention or control by higher Iraqi authorities with orders to launch if the United States moved on Baghdad.

We never attacked Baghdad. The Iraqi regime survived and survives this day, and they attribute that survival to the deterrent effect of missiles and weapons of mass destruction.

Furthermore, the national intelligence estimate also concludes that

the likelihood that a missile with a weapon of mass destruction will be used against U.S. forces or interests is higher today than during most of the cold war and will continue to grow as the capabilities of potential adversaries mature.

We have had testimony from many witnesses this year attesting to the seriousness of the threat. General Thomas Schwartz, then the Commander in Chief of U.S. Forces Korea, told the Armed Services Committee:

As a result of their specific actions, North Korea continues to pose a dangerous and complex threat to the peninsula and the WMD and missile programs constitute a growing threat to the region and the world.

And Admiral Dennis Blair, the Commander in Chief of Pacific Command, testified that he is "worried about the missiles that China builds . . . which threaten Taiwan and . . . about the missiles which North Korea builds . . . to threaten South Korea and Japan." General Richard Meyers, the Chairman of the Joint Chiefs of Staff, in a letter to me dated May 7, 2002, wrote that "the missile threat facing the United States and deployed forces is growing more serious . . . Missiles carrying nuclear, biological or chemical weapons could inflict damage far worse than was experienced on September 11."

In light of the consistency of views expressed by our intelligence community and our military commanders, I just cannot fathom the point of view that disregards the missile threat. And yet we hear that other priorities, such as homeland security, are so much higher than missile defense that deep reductions to funding for missile defense are justified. Let us put this view in perspective as well.

First of all, I would note that missile defense is, quintessentially, homeland defense. Defenses against long-range missiles will protect our people and our national territory, our shores and harbors, our cities, factories, and farmlands from the world most destructive weapons. Defenses against shorter range missiles will protect our allies and our deployed forces that are fighting for our freedom.

Secondly, approving the missile defense budget request will not impair military readiness. General Meyers recently wrote to me he fully endorsed the President's missile defense request, and stated unequivocally that "military readiness will not be hurt if Congress approves the . . . President's budget."

Third, I would note that the missile defense program is not a single program activity. The \$7.6 billion request funds about 20 sizable projects in the Missile Defense Agency and the Army.

Finally, the missile defense request is a modest one when you realize the magnitude of other defense efforts. The missile defense request for fiscal year 2003 is \$7.6 billion. This is a mission we have never done before. In essence, we have almost no legacy capability. Contrast that with the more than \$11 bil-

lion we will spend on three tactical aircraft programs in 2003. We will probably spend about \$350 billion on these three programs over their lifetime. And we have tremendous legacy capabilities in this area. Our tactical aircraft are today the best in the world. Another example: We will spend close to \$40 billion in 2003 on other homeland security programs. These are all important programs and address vital national security needs. But in light of the size of these programs, the view that the missile defense request is wildly excessive or out of line is misleading at best.

Consequently, I believe, as does the President, the Secretary of Defense, the Chairman of the Joint Chiefs, and the theater commander in chief, that the missile defense budget request is fair and reasonable. In combination, these reductions represent a frank and potentially devastating challenge to the administration's missile defense goals and how the Department has organized itself to achieve those goals.

The administration established the Missile Defense Agency and expedited oversight processes. The committee bill would cut literally hundreds of government and contractors employees that work at the Agency's headquarters and for the military services that serve as executive agents for missile defense programs. These are the people who provide information technology, services, security, contract management and oversight for missile defense projects, and they are vital to good management.

The administration seeks early deployment of missile defense capabilities. The committee bill eliminates funds that could provide capabilities for contingency deployment.

The Missile Defense Agency established a goal of developing multi-layered defense capable of intercepting missiles of all ranges in all phases of flight. The committee bill reduces or eliminates funding for boost phase intercept systems and cuts funding for defenses against short, medium, and intermediate range missiles by more than \$500 million.

The Missile Defense Agency established a goal of developing a single integrated missile defense system. MDA established a government-industry National Team to select the best and brightest from industry to determine the best overall architecture and perform system engineering and integration and battle management and command control work for the integrated missile defense system. The committee bill reduces by two-thirds funding for BMD system SE&I and BM/C2 and virtually eliminates funding for the National Team.

The amendment offered by Senators WARNER, LOTT, STEVENS, and I could potentially restore the \$814 million net reduction to missile defense and reverse these unjustified committee actions. We all recognize, however, that missile defense is part of the larger picture of homeland defense. This amendment provides the flexibility to the

President to direct this funding, as he see fit, to research and development for missile defense and for activities of the Department of Defense to counter terrorism.

I personally believe that the President would be completely justified in using the funding for missile defense. But to comfortably with the idea that President can direct these funds according to the Nation's needs as he sees them. If the terrorist threat should take an unexpected turn, these funds could be valuable in the effort to assure that a new threat can be contained. If such is not the case, he can direct the funds to missile defense.

I believe that this is a reasonable and fair compromise that will allow the bill to move forward on a bipartisan basis. The gap between the two sides on the missile defense issue is substantial. I recognize that. This amendment is an honest and fair attempt to bridge that gap in a manner that can satisfy both sides. I urge my colleagues to support this important amendment.

The PRESIDING OFFICER (Mr. JOHNSON). The Senator from Mississippi.

Mr. COCHRAN. I compliment the distinguished Senator from Colorado for his statement. He is a member of the Armed Services Committee which reported this bill to the Senate. He has been a leader in the effort to develop and deploy an effective national missile defense system.

I strongly support the effort being made by Senator WARNER, the ranking Republican on this committee, to amend the bill, to authorize appropriations as requested by the President, for missile defense. It is clear to me that the reductions to that program contained in this bill are designed to prevent the successful development of effective missile defenses. The reductions proposed in the committee bill obviously have been carefully selected to do the maximum amount of damage to the President's plan to modernize these programs. These reductions do not trim fat. They cut the heart out of our missile defense effort.

The President has embarked on a fundamental transformation of these programs which was made possible by the withdrawal from the ABM Treaty. That treaty had led to restrictions on our efforts to develop technologies to conduct tests and to develop effective missile defense capabilities. The treaty outlawed promising basing modes, and it imposed stringent curbs on the types of technologies we could use to defend ourselves against missile attack.

The President plans to transform the separate missile defense programs into an integrated missile defense system which makes the most of the progress we have already made but which is supplemented with new capabilities and new technologies such as the ability to destroy missiles in their boost phase and to base missile defenses at sea. The President's budget request begins to make this transformation a reality.

The committee bill, on the other hand, cuts \$362 million from the request for the ballistic missile defense system, under which fundamental engineering that is necessary to achieve this goal will be undertaken. This cut will eliminate two-thirds of the funding for system engineering and integration, and virtually eliminate the national team which would integrate the various system elements.

The report accompanying the bill erroneously claims that these efforts are redundant with system engineering performed in the individual programs. This is not the case. The engineering work this bill would eliminate is both distinct and vital.

The bill also cuts \$108 million from program operations, again on the erroneous assumption that this effort is redundant. In fact, according to the Missile Defense Agency, if this cut stands, 70 percent of the civilian workforce at the Agency would be eliminated.

The bill also guts the efforts to exploit new technologies and basing modes which previously were prohibited, as I said, in the ABM Treaty, but which we may now pursue. For example, \$52 million is cut from the sea-based midcourse program. That program had a successful intercept just last week, its second in two attempts. But this bill would reduce funds for testing and delay our ability to build on the recent successes.

The airborne laser program, which will provide the United States not only its first airborne missile defense system but the first to use a directed energy weapon, it is reduced by \$135 million in this committee bill, leaving the program with only one aircraft.

And the cuts go on: \$55 million from the sea-based boost phase work; \$30 million from space-based boost; \$10 million from the space-based laser. All of these cuts would severely hamper or eliminate work on promising new basing modes or new technologies, just as we have been freed by the withdrawal from the ABM Treaty to fully undertake our research and investigations.

The bill also cuts efforts for which even longtime defenders of the ABM Treaty and missile defense critics have always professed support. For example, critics have said that our missile defenses need more testing, and outside experts have agreed with that.

So what have they done in this bill? Eliminated 10 test missiles from the THAAD Program—not named for me. This is the THAAD—Theater High Altitude Air Defense is what it stands for—Program.

Year after year, the generals in charge of our Missile Defense Program have testified that their testing has been "hardware poor." They did not have enough of the missiles that they needed, the test missiles. They have had so little test hardware that when something goes wrong, as inevitably and occasionally is going to happen in a test program, they are forced to bring the program to a stop while they

look for other hardware or try to deal with the problem in some other way.

Congress has been asked by this administration to provide more hardware so that testing can continue when problems develop so that these problems can be corrected. General Kadish has called this "flying through failure." You have to keep testing to find out how to solve the problems, and many of our efforts along this line have been successful and problems have been solved.

We have seen test after successful test in not only the THAAD Program that we mentioned, but in the longer range higher velocity missile test programs.

But this bill cuts from the THAAD Program 10 flight test missiles that will help ensure our ability to fly through failure and keep the program on track.

In the past, opponents have also criticized the program generally as being too risky—which means there is a lot of chance for failure. It doesn't mean that it is risky in that it will not work, it is that you will have failures along the line. But if you go back in the history of our Defense Department and look at new product development—the Polaris Missile is an example or the Sidewinder Missile is an example—they had more failures by far in those early days of testing than these missile defense programs have had. So failures are expected.

But the good news is that we are making very impressive progress. Now, right on the brink of the transformation of the programs into a modernized, fully authorized program, this committee goes through and cuts out just enough—and in some cases more than enough—of certain activities that are involved in the integrated Missile Defense Program to guarantee its failure, to guarantee that we will not be able to succeed in deploying an effective missile defense to protect the security of Americans here at home.

While applauding homeland defense as a necessity, we are, on the one hand, saying it is a good idea and saying we are going to work with the President to make that be an effective way to defend ourselves more effectively than we have in the past, and then, on the other hand, eliminating authorization for funds that are absolutely essential for an effective missile defense program.

They cut \$147 million from the midcourse defense segments. The committee eliminated funding for the complementary exoatmospheric kill vehicle, which would reduce the risk of relying on the single design now being tested.

Opponents have claimed that missile defenses will be vulnerable to countermeasures. But guess what. This bill takes the funding away from testing against countermeasures. Can you believe that? I have read article after article in papers, the Union of Concerned Scientists saying: Well, missiles can hit a missile in full flight. But if there

were an extra balloon or a decoy or two, they would not be able to differentiate the difference between the decoy and the actual missile that is attacking us.

We have proven in tests over the Pacific that it can be done, that the intercept missile has differentiated between the missile and the decoy. Then the scientists say: Oh, but that was just one decoy. It was not sophisticated. What if a potential enemy deploys a lot of decoys?

Here the administration plans to do just that as it gets more sophisticated and proves that one thing can work, and how complicated can an enemy be—we will find out whether we can defend against that. But they cut the money so we can't do that. The opponents of the missile defense effort are playing right into the hands of the critics. I guess next they will say there is no money for the additional decoys and the countermeasures. Of course there isn't. They took the money out of the bill.

I am hopeful Senators will look at the details and not just assume, OK, the Democrats think the President is spending too much on missile defense, the Republicans want to spend more.

We are trying to support the President. At a time when our country is under threat from terrorists, we are confronted with nation states building more sophisticated intercontinental ballistic missile capability, testing those missiles, as North Korea did and as other nation states are doing. And you can get the intelligence reports. We get them routinely, on a regular basis. And we have public hearings on those that can be discussed publicly.

In those hearings it has become abundantly clear that there is a proliferation of missile technology in the world today and a lot of nation states that say they are out to destroy us and to kill Americans wherever they can be found are building these systems and testing these systems.

We need to proceed to support our President in this legislation. Of all times to start nitpicking a request for missile defense and go about it in the way that is undertaken in this bill and say: We have left a lot of money here for missile defense. The President has asked for billions—for \$7 billion. We just have taken out less than a billion, \$800 million.

But look where the money is coming from. The money that is being taken away from the programs is designed to prevent the full-scale development of a modern missile defense capability. That is the result if the Senate does not adopt an amendment to change these reductions, to eliminate these reductions and give the President what he is asking for. And that is a capability to integrate all of the systems into one engineering and development program, for efficiency sake—for efficiency, to save money in the long run so we will not have to have redundant engineering programs. We won't have

to have engineering contracts to the private sector. We will not have to have redundant contracts with the private sector. We can bring it all together and have a layered system that would be a lot more efficient and a lot more effective.

There is more to this than politics. We are talking about a threat to our Nation's security, to the livelihood and well-being of American citizens, to American troops in the field, and to the ships at sea in dangerous waters and in dangerous areas of this world today.

Is this Senate about to take away the opportunity to defend those assets, those resources, our own citizens, our own troops, and our own sailors? I am not going to be a part of that.

This Senate needs to hear the truth. The truth is looking at the details of the proposal that this committee is making to the Senate. Don't let them do this. We will pay dearly for it in the years ahead by having to appropriate more money than we should for individual programs or in catastrophes that could have been avoided.

As I said, opponents have claimed that missile defenses will be vulnerable to countermeasures, yet the reductions in this bill eliminate funding for counter-countermeasure work that would address this problem.

One could be forgiven for concluding that the goal here is not to improve the missile defense system, but to ensure it is continually vulnerable to criticism.

In the past, disagreements about missile defense in the Senate have been largely over whether to defend the territory of the United States, and then mostly because such defenses were prohibited by the ABM Treaty. At the same time, there has been near unanimous support for missile defense capabilities that will protect our troops deployed overseas. Yet, this bill would take hundreds of millions of dollars from our theater missile defense programs, even as our troops are deployed in what we all acknowledge will be a long military effort in a part of the world that is saturated with ballistic missiles. It is both baffling and troubling that the Armed Services Committee would so severely reduce funding for these programs—at any time, but especially now.

For example, the revolutionary Airborne Laser Program is reduced by \$135 million, restricting the capability to just one aircraft. Having two or more aircraft means that one can be grounded for service or upgrading without losing the capability altogether. But with a single aircraft, this important theater defense capability will be unnecessarily constrained.

The THAAD Program will provide the first ground-based defense against longer-range theater missiles like North Korea's No Dong and its derivatives, such as Iran's Shahab-3. The No Dong is already deployed—our troops in Korea and Japan are threatened by

it today, but this bill cuts funding for THAAD by \$40 million.

The Medium Extended Air Defense System—or MEADS—is a cooperative effort with Italy and Germany to field a mobile theater missile defense system; it is reduced by \$48 million.

The sea-based midcourse program—formerly known as Navy Theater Wide—will provide the first sea-based capability to shoot down missiles like the No Dong. The program had its second successful intercept attempt just last week, but this bill would cut the program by \$52 million.

The Space-Based Infrared—or SBIRS-Low—Program will provide midcourse tracking of both theater and intercontinental missiles. The program has just been restructuring by the administration, but this bill's reduction of \$55 million will force it to be restructured again, further delaying this essential capability.

The arbitrary cuts to the systems engineering efforts and the program operations of the Missile Defense Agency will fall just as heavily on theater missile defense programs as on our efforts to defend against long-range missiles. Altogether, some \$524 million of the missile defense reductions contained in this bill fall on our efforts to defend against the thousands of theater ballistic missiles our deployed troops face today. This is irresponsible and unconscionable.

This bill isn't just micromanagement of the missile defense program, it is micro-mismanagement. The reductions contained in this bill have been carefully tailored to undermine the missile defense program and compromise its effectiveness. If the general in charge of the program tried to manage it the way this bill does, he would be fired.

President Bush's courageous act of withdrawing from the ABM Treaty has freed our Nation—for the first time in over three decades—to pursue the best possible technologies to protect our citizens and deployed troops from missile attack. If allowed to stand, the reductions contained in this bill would squander that opportunity by crippling the efforts to transform our missile defense program in ways impossible until now. The Senate should reject these irresponsible cuts and give the President a chance to make this program work. I urge Senators to support the Warner amendment.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, the United States completed its withdrawal from the Anti-Ballistic Missile Treaty on June, 13, 2002, and the Pentagon has shifted into high gear its efforts to deploy a rudimentary anti-missile system by 2004. The drivers of this missile defense hot-rod are doing their best to make it look as good as possible, and they are spreading the word of its latest successes on the test track.

But I am not alone in wondering what this vehicle, with its \$100 billion purchase price, really has under the



hood. Does it have the souped-up engine that we are being promised, or is this another dressed-up jalopy? And, more importantly, as this missile defense hot-rod charges down the road with its throttle wide open and the Anti-Ballistic Missile Treaty in the rear-view mirror, is the scrutiny of Congress and the American people being left in the dust?

As part of its normal oversight duties, the Armed Services Committee has requested from the Department of Defense information relating to cost estimates and performance measures for various components of the missile defense research program that is underway. This kind of information is essential to allowing Congress to render its own assessment of whether these programs are on-budget and meeting expectations.

As the Armed Services Committee began hearings on the fiscal year 2003 Defense budget request in February 2002, we requested basic information from the Department of Defense on its proposed missile defense program. We asked for cost estimates, development schedules, and performance milestones. But the committee has not received the information. It is as though the Department of Defense does not want Congress to know what we are getting for the \$7.8 billion in missile defense funds that were appropriated last year.

On March 7, 2002, at an Armed Services Committee hearing, I questioned the Pentagon's chief of acquisition, Under Secretary Pete Aldridge, about the delays in providing this information to Congress. He answered my questions with what I believed was an unequivocal statement that he would make sure that Congress gets the information it needs.

Three and a half months later, we still have not received the information that we requested. It also seems that the Pentagon is developing a new aspect of its strategy in its consultations with Congress and the American people. On June 9, 2002, The Los Angeles Times ran an article entitled, "Missile Data To Be Kept Secret." The Washington Post ran a similar story on June 12, "Secrecy On Missile Defense Grows." The two articles detail a decision to begin classifying as "secret" certain types of basic information about missile defense tests.

These missile defense tests use decoys to challenge our anti-missile system to pick out and destroy the right target, which would be a warhead hurtling toward the United States at thousands of miles per hour. According to the newspaper articles, the Pentagon will no longer release to the public descriptions of what types of decoys are used in a missile defense test to fool our anti-missile radars. This information will be classified.

Independent engineers and scientists who lack security clearances will have no means to form an opinion on the rigor of this aspect of missile defense tests. No longer will the experts out-

side the government be able to make informed comments on whether a missile defense test is a realistic challenge to a developmental system, or a stacked deck on which a bet in favor of our rudimentary anti-missile system is a sure winner.

I do not think that it is a coincidence that independent scientists have criticized the realism of past missile defense tests because the decoys used were not realistic. I cannot help but be left with the impression that the sole reason for classifying this kind of basic information is to squelch criticism about the missile defense program.

Should this basic information about our missile defense program be protected by the cloak of government secrecy? If the tests are rigorous and our anti-missile system is meeting our expectations, would it not be to our advantage to let our adversaries know how effective this system will be?

But perhaps this national missile defense system is not progressing as rapidly as hoped. Then would it not be to our advantage to encourage constructive criticism in order to improve the system? In either case, I cannot see how these secrecy edicts will promote the development of a missile defense system that actually works.

The bottom line is that Congress and the American people must know whether the huge sums that are being spent on missile defense will increase our national security. Since September 11, we have been consumed with debates about homeland security. What is this system intended to be but a protection of our homeland?

Do we believe that American people can be entrusted with information about their own security? I certainly think so. Without a doubt, we need to carefully guard information that would compromise our national defense, but public scrutiny of our missile defense program is not an inherent threat to our security.

In April, the Appropriations Committee heard testimony from a number of people with expertise in homeland security. We heard many warnings about the peril of losing public trust in our Government. No matter if the threat is terrorists with biological weapons or rogue states with missiles, we must not jeopardize the trust of the American people in their Government. If the missile defense system does not work as it is supposed to do, and we hide its shortcomings inside "top secret" folders and other red tape, we will be setting ourselves up for a sure fall. We ought to have more, not fewer, independent reviews of our antimissile system.

So I oppose the amendment to increase missile defense funding in this bill by \$812 million. The Department of Defense has shown it is more than willing to delay and obfuscate details about what it is doing on missile defense, and I cannot understand the logic of increasing funds for an anti-

missile system that is the subject of greater and greater secrecy. It does not make sense to devote more money to a system of questionable utility before there is a consensus of independent views that an antimissile system is technologically feasible. The missile defense system that we are developing needs more scrutiny, not more secrecy, more assessment, not more money.

In the next few days, the Senate will vote on this bill and authorize billions of dollars in missile defense funds. While the Pentagon will continue to portray these programs as a hot rod that is speeding toward success, one thing is certain: this hot rod is running on almost \$8 billion in taxpayer money this year. Talk about a gas guzzler! If Congress is not allowed to kick the tires, check the oil and look under the hood, this rig could fall apart and leave us all stranded.

#### IMMEDIATE ACTION FOR AMTRAK

Mr. BYRD. Mr. President, the Nation faces a transportation crisis. Amtrak, the country's passenger rail service, is running out of dough—D-O-U-G-H—money, that green stuff, funds, what makes the cash registers ring, funds, and its passengers are running out of time. Without an infusion of funding quickly, Amtrak will stop all operations within the next very few days.

If Amtrak closes, the Nation's transportation system will be thrown into chaos. All of Amtrak's 68,000 daily riders will be without service. Thousands of vacation passengers who have already paid money for Amtrak tickets will be left stranded at the station. Commuter railroads from East to West will be completely shut down.

For example, Washington's Union Station is just a few blocks from this Capitol. None of the Maryland or Virginia commuter rail trains will be able to access Union Station. Why? Because Amtrak owns the station. The Virginia trains will not operate at all because Amtrak runs the trains.

The commuter rail authorities in Philadelphia, New York City, and in many parts of New Jersey will stop running. Why? Why will they stop running? Because Amtrak provides the electricity for those trains to operate.

Access to Penn Station in New York City the single busiest rail station in the country will be limited. Why? Because Amtrak already has mortgaged away parts of that station.

In Boston, tens of thousands of commuters daily rely on Amtrak because it operates commuter lines under contract with the State of Massachusetts. Those commuters will have to find a new way to get to work. Why? Because their trains will not be running.

Out West, in California, all "Caltrains" service will be halted. Why? Why, I ask? Because Amtrak operates those trains. That is why. The same can be said for the "Sounder Commuter Rail Service" in Seattle.

Without Amtrak service, these passengers will take to the highways and

the airways. The traffic jams that are already difficult to navigate will grow by thousands, tens of thousands of cars. How would you like that? The airways between Boston, New York, and Washington already comprise the most congested airspace in the entire country. The air traffic control system cannot simply absorb dozens of additional flights during peak business travel times.

Mr. President, the July 4th holiday is almost upon us. As the celebrations approach, the warnings for potential terrorist attacks grow louder. We should heed those warnings and ensure that Amtrak stays open. Amtrak has a vital homeland security role. The railroad is a viable transportation alternative to highways and airways. To allow Amtrak to close its doors now, when the terrorist threats and the attack warnings come almost daily, would be irresponsible, wouldn't it? It seems to me it would be. To take away the safety net for the traveling public would be foolhardy, wouldn't it? Wouldn't it be? I would think so.

We also must consider the ramifications to the Nation's economy if Amtrak is allowed to file for bankruptcy. Immediately, more than 20,000 Amtrak employees would lose their jobs. That is 20,000 families without paychecks, 20,000 families without health care benefits. Thousands more jobs at commuter lines, suppliers, and vendors would be in jeopardy. In the blink of an eye, the Nation's economy would be dealt a devastating blow in States from coast to coast. With the economy in a precarious state as it is, with the markets fluctuating by the day, it makes no sense—none—to allow Amtrak to close.

With the support of the ranking member of the Senate Appropriations Committee, Senator STEVENS of Alaska, I have proposed, in our discussions with House conferees on the supplemental appropriations bill, that the supplemental appropriations bill, currently pending in conference, include at least \$205 million for Amtrak to keep trains running through the end of the fiscal year. With the looming crisis facing the Nation's passenger rail service, we should insist that this funding for Amtrak be part of the final version of the bill, hopefully to be considered by Congress this week.

The Senate included \$55 million for Amtrak emergency repairs in its version of the supplemental bill which passed on June 7 by an overwhelming margin of 71 to 22. The House did not include any funds for Amtrak in its bill. The conference report on the supplemental bill would build on the package already approved by the Senate and provide sufficient funding to keep Amtrak on track through the end of this fiscal year.

Last week, Amtrak's new president, David Gunn, testified before the Senate Appropriations Transportation Subcommittee. At that hearing, Mr. Gunn said:

The urgency of this is enormous. We are very near the point of no return.

Those are not ROBERT BYRD's words. They are the words of Mr. David Gunn, new president of Amtrak. Let me repeat them:

The urgency of this is enormous. We are very near the point of no return.

In the days since that hearing, there has been no news that I know about to change Mr. Gunn's assessment of the situation. Amtrak's board of directors has been involved in discussions with Transportation Secretary Norman Mineta and the Federal Railroad Administration. But the national administration, instead of stepping up to the plate and providing Amtrak with the funding that it needs, has pushed for a half-way approach that only delays the crisis.

I have spoken with Secretary Mineta. I have spoken with President Gunn. Following those conversations, it is clear that the best alternative is an emergency appropriation of \$205 million. That is cash on the barrel head. There is no time for creative accounting. There is no time for posturing. There is no time for so-called reforms. We can talk about reforms and improvements later, but we cannot reform a dead railroad. Amtrak needs help. It needs help now.

Last September, when the nation's airline industry was shut down, to whom did Americans turn for transportation? To Amtrak. Since then, Amtrak's ridership has continued to increase, with record numbers of Americans turning to passenger rail service. At a time when the Nation is turning to Amtrak, the Federal Government should not turn its back.

On September 21, after just a few hours of debate, Senators approved \$15 billion for the airline industry. Of those funds, \$10 billion was made available in loan guarantees and \$5 billion in cash for emergency grants. Few questions were asked. The airlines needed this infusion; the airlines got it. Congress acted; the administration acted. We should do the same now.

We did not blink when the airline industry faced a financial crisis. The administration did not urge grand reforms of the airline industry in order to qualify for these funds. Congress did not urge grand reforms of the airline industry in order to qualify for these funds. When asked for help, when the need was clear, Congress and the administration provided help to the airlines. We ought to show the same leadership for the Nation's rail passengers and employees.

The truth of the matter is that none of this has to happen. We can provide a short-term immediate solution for Amtrak to carry it through the fiscal year by enacting the proposal I have made, with the support of Senator STEVENS, in the supplemental appropriations conference, for \$205 million in the supplemental appropriations bill.

I have joined with more than 40 Senators to urge President Bush to support the \$205 million supplemental appro-

priation. As the letter states: The Nation's economy and the Nation's morale have suffered enough since September 11. Allowing the Nation's passenger rail service to shut down would idle more than 20,000 employees and throw the lives of tens of thousands of passengers into disarray. The administration and Congress must not allow this to happen.

Quite simply, Amtrak is vital. It is vital to those Americans who rely on Amtrak for their daily commute to and from work. It is vital to those Americans who use Amtrak for their vacation travel. It is vital to thousands of rail employees. It is vital to our Nation's homeland security. Congress should move ahead with an emergency appropriation for Amtrak and stave off the bankruptcy that would result in absolute chaos for the Nation's transportation network and would give certitude and assurance to Amtrak that the Federal Government, Congress, and the administration do not intend to let it happen to Amtrak; that the Federal Government, that Congress and the administration, stand ready to act, and act quickly. The administration and the congressional leadership should support the addition of \$205 million in the supplemental appropriations bill for Amtrak.

I yield the floor.

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003—Continued

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, we have in many ways a good Defense authorization bill. I am sorry we are debating again this year over national missile defense.

Last year, the same debate occurred. It was about the only major disagreement we had over the Defense authorization bill, but it is a very important issue. It is important to the people of the United States. It is important to the President and the Secretary of Defense who are charged with defending our homeland against attack. We have to debate it again this year. That is healthy. That is what this body is all about.

In 1999, it is important to recall, the Senate voted 97 to 3 to "deploy as soon as technologically feasible a national missile defense system." That represented the overwhelming consensus of opinion in this body. President Clinton signed that bill. President Clinton stated that he favored the deployment of a national missile defense system.

During the 2000 campaign, Vice President Gore said he was for it. President Bush made quite clear in his campaign for the Presidency that he considered the deployment of a national missile defense system a high priority for America.

We should not fail to note that Vice President Gore's candidate for Vice President, Senator JOE LIEBERMAN, was

a cosponsor with Senator COCHRAN of the National Missile Defense Act of 1999 and a supporter of national missile defense. He quite clearly stated that position during the campaign for the Presidency.

It is a bipartisan issue. There is no doubt about it. President Bush had it somewhat higher on his priority than President Clinton, but everybody was on board about the issue in general.

When President Bush became President, he proposed last year for the 2002 budget a \$7.8 billion national missile defense budget.

President Clinton had proposed a \$5.3 billion national defense budget, so he was a little over \$2 billion above what President Clinton proposed. We voted on it in committee. On a party-line vote, the Democratic majority struck that increase—or a significant portion of it—from the bill. We took it to the floor last year and, after full debate, that money was restored.

Again this year the President asked for missile defense funds. It is not correct, however, to say he asked for an increase. He actually asked for less this year for national missile defense. He asked for, I believe, \$7.6 billion this year as opposed to \$7.8 billion last year, all of which was necessary to complete the research and development and testing that is necessary to bring this system online. Let me note, people say that is billions and billions of dollars. It is a lot of money, no doubt about it; but we have a \$376.2 billion defense budget. The \$7.6 billion needed to deploy and bring online a national missile defense system to protect us from missile attack is not too much, in my opinion, and is a rather small part of the overall defense budget.

So, again, we had in committee a 13 to 12 party-line vote on a motion that cut the President's request by over \$814.3 million this year. And the way those cuts were made—as Senator COCHRAN and others have noted, those cuts took parts of programs and undermined the brain trust or the capabilities of many of the systems—some of the testing capabilities that the people who have been a critic of the system say we ought to do. It undermined our ability to do that.

It is an unwise act, in my view. We need a continual, steady funding source that the Defense Department can count on so that they can develop, over a period of years, an effective national missile defense system. We would be very unwise if every year we cut a little bit and try to fight to put that back and go up and down in the budget. That costs more money in the long run and is not healthy. It was one of the President's top priorities when he took office. It is a top priority, I believe, of all Americans. I believe we should go forward with it.

Well, people say: Why do we need this budget? Why do we need a national missile defense? There are a lot of threats to America, but we don't believe we are threatened by intercontinental ballistic missiles—or words to that effect.

Several years ago, when President Clinton was President, he appointed a bipartisan commission, or one was selected and put together. The chairman turned out to be the now Secretary of Defense, Donald Rumsfeld. That commission, after studying the intelligence situation, the threats facing America—Republicans and Democrats of both parties—unanimously agreed that we were facing an increased threat; that we would, indeed, be facing a ballistic missile threat to this country sooner than had been projected; and that we needed to prepare ourselves.

So I would like people to know how these things occur. We don't just, out of the blue, come up with ideas that we need to have a national missile defense. We deal with some of the best experts. We listen to their testimony in the Senate Armed Services Committee and, based on that testimony under oath, recognizing that what witnesses say has great import, they help us decide how to spend our resources.

Admiral Wilson, the Director of the Defense Intelligence Agency, told us this recently, on March 19 of this year, about Iran: Iran continues “the development and acquisition of longer range missiles and weapons of mass destruction to deter the United States and to intimidate Iran's neighbors.” He added about Iran, “It is buying and developing longer range missiles.”

He notes that Iran already has chemical weapons and is “pursuing biological and nuclear capabilities,” both of which can be placed inside an intercontinental ballistic missile. He concludes on Iran that Iran will “likely acquire a full range of weapons of mass destruction capability, field substantial numbers of ballistic and cruise missiles, including perhaps an ICBM, that will be capable of hitting the United States.”

Admiral Wilson on Iraq: “Baghdad continues to work on short-range—150 kilometer—missiles and can use this expertise for future long-range missile development.” He adds, “Iraq may also have begun to reconstitute chemical and biological weapons programs,” as we have heard so much concern expressed about, all of which can be delivered by missile. Wilson concludes that “it is possible that Iraq can develop and test an ICBM capable of reaching the United States by 2015.”

Admiral Wilson on North Korea: “Korea continues to place heavy emphasis on the improvement of its military capability and North Korea continues its robust efforts to develop more capable ballistic missiles.”

We know North Korea has been doing that for some time and testing those missiles. Admiral Wilson said this specifically as to North Korea: It is “developing an ICBM capability with its Taepo Dong 2 missile, judged capable of delivering a several hundred kilogram payload to Alaska and Hawaii, and a lighter payload to the western half of the United States.” They have that capability in North Korea now.

The President of the United States has to deal with these issues. He has to

consider what might happen as he deals with these countries.

Admiral Wilson, further on North Korea, added this: “It probably has the capability to field”—that means put into place right now—“an ICBM within the next couple of years.” That is a frightening thought. “North Korea continues,” he added, “to proliferate”—that is to sell or distribute—“weapons of mass destruction, and especially weapons technology.”

CIA Director George Tenet, in March of this year before the Armed Services Committee, said this about the Chinese military buildup:

Earlier this month, Beijing announced a 17.6 increase in defense spending, replicating last year's increase of 17.7 percent. If this trend continues, China could double its announced defense spending between 2000 and 2005.

Tenet added further on China:

China continues to make progress toward fielding its first generation of road-mobile strategic missiles, the DF-31, a longer range version, capable of reaching targets in the United States, which will become operational later this decade.

In the CIA's unclassified report of January 10 of this year, entitled “Foreign Missile Development,” they wrote this:

China has about 20 liquid propellant missiles, silo based, that could reach targets in the United States.

The report also said China continues “a long-running modernizational program and expects within 15 years to have 75 to 100 ICBM's deployed primarily against the United States.”

Admiral Wilson, testifying about the China situation, noted:

One of Beijing's top military priorities is to strengthen and modernize its small daily strategic nuclear deterrent force.

He continues:

The number, reliability, survivability, and accuracy of Chinese strategic missiles, capable of hitting the United States, will increase during the next 10 years.

There are about 15 to 16 countries now that have these kinds of missiles. I shared those from some recent testimonies we have had before our committee. This is not a myth. We are not talking about an abstract idea. We are talking about a different world. In the previous world, the Soviet Union had missiles, we had missiles, and we entered into a treaty to bar the deployment of a national missile defense system. We agreed to that, and it worked for some time.

Unfortunately—or fortunately in some ways—the country we had a treaty with, the Soviet Union, no longer exists, but Russia exists. The treaty was with the Soviet Union. During that same period of time, all these other countries were developing the capabilities to threaten us. So we now had a treaty with a country that used to be our enemy, and it no longer is, that was barring us from deploying and producing a defensive system for our country. That did not make sense, and the

President had the gumption, the courage, and the wisdom to say we did not need to be in this treaty any longer, that it did not serve our interests. He worked with the Russians, and we had Members of this body about to have a conniption fit that if we violated or took steps to get out of this treaty, as the treaty gave us the right to do, somehow this would cause another cold war, an arms race with Russia, and do all kinds of damage to our relationship.

President Bush worked on this, and the Russians knew this was not critical to their defense. We knew it was not critical to the Russian defense. What was important about it was it was complicating our ability to develop a missile system that made sense. Under that treaty, we were trying to build a system that could have only one location for the missiles. It has to cover the entire United States from that one system. The treaty explicitly prohibited mobile systems such as ship-based; it kept us from developing a system that would take out missiles in the launch phase; it would have kept us from doing space-based defense systems, all of which were prohibited by the treaty.

President Bush was serious about national missile defense, and he took the steps to eliminate that. Indeed, Phil Coyle, who has been a big critic of the national missile defense system, in a recent quote in the newspaper said, with grudging admiration—I think he said, well, they are serious about it. And that is correct. This President is serious about producing a layered defense system for America.

We are doing it for the \$7.6 billion in this year's budget. If we do this over a period of years, we are going to be able to successfully implement a system that can protect us from limited missile attack. It cannot protect us from the kind of attack the Russians could have launched, but it can protect us against limited attack, accidental attack, or rogue nation attack. We have that capability, and we should do it. We do not need President Bush sitting down eyeball to eyeball with Saddam Hussein, knowing Saddam Hussein can push a button and a nuclear weapon or a chemical or biological weapon that he has can hit New York City or some other American city. We do not need him in that position. He does not need to be there, and we can avoid that.

Great nations do not allow themselves to be in a situation where the ability to act in their national interest will be compromised by these kinds of threats by nations that have not shown themselves to have a commitment to civilized behavior. That is simply where we are.

So I believe this country needs to deploy this national missile defense system. I am sorry there are some who do not agree, and they have been consistent in opposing it in every way possible. I have to respect that, but we voted 97 to 3 to deploy it. Both Presidential candidates said they wanted it.

We funded it last year at \$7.8 billion, after a full floor debate, and we did not do it thinking that was going to be the only year we funded national missile defense. When we voted last year to fund national missile defense, we contemplated and considered that we would be funding it on a steady basis to complete a program as the President envisioned. We have to start now. They say these missiles are not able to reach us today. Well, it takes a number of years to develop, get the bugs out, and study this system so we have the best system.

The President has been tough about this. He cancelled the Navy theater-wide program that many people believed in, but it was behind schedule, over budget, and not performing, so he cancelled it. He said that is not getting us to where we need to go. He has shown he is willing to make tough calls, but the ultimate goal is to reach a situation in which we can deploy a system by the time our enemies have the capability of reaching us.

This Senate is at its best when we talk about important issues. I believe in many ways this one has been settled. The American people voted for two candidates who favored it in the last election. The President has pushed it forward. We funded it last year at the President's request; we should not come in now to take a big whack out of it and target programs that really are pretty key. These cuts have the unfortunate impact of undermining some of the work that would be done.

For example, it eliminates 10 THAAD missiles. Those are the theater missiles. When we have troops out on the battlefield in the theater of operations, if Saddam Hussein has a missile that will go 150 kilometers, then he can hit them if he cannot hit the United States. So we cannot deploy our people and leave them vulnerable to being annihilated by an enemy attack if we have the capability to defend it, and we do. The THAAD is going to be a highly successful program, but this bill, as it was voted out of committee over my objection, would eliminate 10 THAAD missiles that would be used for future testing and it would put the success of the program in jeopardy by not allowing it to fly through failures.

In other words, these programs have to be tested, robust tested. Some of the critics are probably correct in saying we did not have enough testing in the system. The President's budget will enhance testing.

The bill, as proposed on the floor today, delays or eliminates planning for promising boost phase programs. In other words, one of the best ways to knock down an incoming missile is when it is coming off the ground in the foreign country. So if it falls back, it falls back on their country. If it is missed, there still may be an ABM system in the United States that can knock it down later. If those systems could be knocked down through absolute communications capabilities in

the region, sea-based capabilities, that would be ideal. All of that was prohibited in the treaty. That is one of the reasons the President got rid of it.

This bill, as it is today, would eliminate planning for promising boost phase programs. It eliminates sea- and space-based kinetic kill experiments in the field. It imposes serious risk to the airborne laser program by eliminating funding for a second aircraft testing program. It will not allow the airborne laser program to fly through failure, to figure out what will really work and make it successful. It imposes numerous tests and evaluation restrictions and duplicative oversight requirements on the Missile Defense Agency.

We have been very fortunate that General Kadish is head of this program. He is a man of ability, integrity, and steadfastness. He has nurtured it through good and ill. He has seen it hit successfully time and again in recent months, and he is leading it on through quite a successful program. It has been well managed. He is very concerned about these cuts. It will complicate his strategic vision of how to produce and deploy this system as we have told him we want him to do.

It is important to know that we have a man in charge who is capable and knows how to get the job done, and he is very troubled that we are cutting back in this fashion.

In sum, I note these cuts will expose the United States to unnecessary risks if we enact them. I do not believe they will be enacted. I believe we will vote to restore the cuts. I know the bill passed in the House of Representatives has this funding in it, and they will insist on it. I am not sure the President will accept the bill that has these large cuts in our national missile defense.

It is time to move ahead. I believe we can deploy a system that is layered in nature, that will have a shot at knocking down an attacking missile in a boost phase, that can hit in midcourse and defend again with a layer system on the land of the United States. Then we will not be in the bizarre situation of several years ago when we were trying to maneuver our national missile defense system to fit the ABM Treaty, to allow just one site to produce, that would limit testing and development in a lot of different areas.

We are on the right track. Let's stay the course. Let's not back up now. Let's not manipulate this program and endanger it. This is a small part, \$800 million out of a \$386 billion budget. Let's not gimmick around with it. Let's get on with it. Let's stay committed. We will save money in the long run and have a system that will protect the people of the United States from rogue attack, from nations that are desperately attempting to have an ICBM system such as Korea and Iraq.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MILLER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. 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. HARKIN. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TRIBUTE TO JUSTIN DART, JR.

Mr. HARKIN. Mr. President, Saturday was a sad day for America and for all who have fought so hard for the rights of people with disabilities in our society. On Saturday, our Nation lost one of its great heroes: My good friend, Justin Dart, Jr.

Justin Dart was the godfather of the disability rights movement. For 30 years he fought to end prejudice against people with disabilities, to strengthen the disabilities right movement, to protect the rights of people with disabilities. Millions of Americans with disabilities never knew his name but they owe him so much.

Justin was born August 28, 1930. His grandfather was the founder of the Walgreen Drug store chain. His father was also a very successful businessman. Justin was the son of privilege and wealth, but he became the brother of the forgotten and the downtrodden, those whom society left on the roadside of life. From the time that polio left him a wheelchair user in 1948, to this past Saturday when he passed away, Justin lived a life dedicated to social justice for people with disabilities and for all people regardless of race or gender or sexual orientation. He is, of course, best known as the godfather of the disabilities rights movement and the father of the Americans With Disabilities Act.

Justin was both a close personal friend of mine and a mentor for me on disability policy. When I first came to the Senate—after having worked in the House on a couple of disability issues because I had a brother who was disabled; I came to the Senate in 1985—at that time there was a big movement on to pass a Civil Rights Act for Americans with disabilities. I got caught up in that.

I wondered, is it possible we could ever pass a civil rights bill for people with disabilities? Through a set of circumstances and fate, I became the chairman of the Disability Policy Subcommittee and then became the lead sponsor of the Americans With Disabilities Act. It was under my sponsorship on that committee, and with the guiding hand of Senator KENNEDY of Massachusetts, who was the chairman of the full committee, that we were able to get the bill through both the House and the Senate, signed into law July 26, 1990, by President George Bush.

When I first got here and became involved with the disability rights movement and with the jelling, the pulling together of all these people to get the

Americans With Disabilities Act passed, it did not take me long to realize it was Justin Dart who was pulling the pieces together. For so many years, the disability community has been segregated and segmented—the deaf community, the blind community, those who used wheelchairs, those with mental disabilities, those who had illnesses and diseases. Various forms of disability had their own segments but no one brought them together under an umbrella. It was the power and the force, the magnetism of Justin Dart that brought it together, that made it into a movement whereby we could actually get the Americans With Disabilities Act passed.

It was fitting that on July 26, 1990, we all gathered on the White House lawn for the biggest gathering for a bill signing on the White House lawn in the history of this country. It was a gorgeous, sunny day. We were all there. Senator Dole had been a great companion in helping get the bill passed on the Senate side; so many people from the House side, including Tony Coelho, STENY HOYER, but there on the platform was President Bush and Justin Dart. It was right that he was there on that platform.

When President Bush signed the Americans With Disabilities Act, he gave the first pen to Justin Dart. He truly was the one who brought us together and gave the inspiration and guidance to get this wonderful, magnificent bill through.

The rest, as they say, is history. Go anywhere in America today and you will see people with disabilities in workplaces, in schools, traveling with their families to restaurants, going to theaters, going to sports arenas. All new buildings have wide doorways, ramps everywhere. No building being built today is not accessible—because of the Americans With Disabilities Act, because of Justin Dart.

What a tremendous legacy. Justin was a recipient of five Presidential appointments, numerous honors, including the Hubert Humphrey Award of the Leadership Conference on Civil Rights. In 1998, Justin Dart received a Presidential Medal of Freedom, the Nation's highest civilian award. Before he passed away on Saturday, Justin left a letter. I don't know exactly when it was written. But I think Justin knew that his time on Earth was not going to be much longer. He had a series of setbacks. He lost his leg just about 3 years ago. We thought we lost him then, but, man, he came back strong and continued to lead. He wrote this letter, which is just so profound.

I ask unanimous consent to have this last letter from Justin Dart printed in the RECORD.

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

JUSTIN DART, JR.  
Washington, DC.

I am with you. I love you. Lead on.

DEARLY BELOVED: Listen to the heart of this old soldier. As with all of us the time

comes when body and mind are battered and weary. But I do not go quietly into the night. I do not give up struggling to be a responsible contributor to the sacred continuum of human life. I do not give up struggling to overcome my weakness, to conform my life—and that part of my life called death—to the great values of the human dream.

Death is not a tragedy. It is not an evil from which we must escape. Death is as natural as birth. Like childbirth death is often a time of fear and pain, but also of profound beauty, of celebration of the mystery and majesty which is life pushing its horizons toward oneness with the truth of mother universe. The days of dying carry a special responsibility. There is a great potential to communicate values in a uniquely powerful way—the person who dies demonstrating for civil rights.

Let my final actions thunder of love solidarity, protest—of empowerment.

I adamantly protest the richest culture in the history of the world, a culture which has the obvious potential to create a golden age of science and democracy dedicated to maximizing the quality of life of every person, but which still squanders the majority of its human and physical capital on modern versions of primitive symbols of power and prestige.

I adamantly protest the richest culture in the history of the world which still incarcerates millions of humans with and without disabilities in barbaric institutions, backrooms and worse, windowless cells of oppressive perceptions, for the lack of the most elementary empowerment supports.

I call for solidarity among all who love justice all who love life, to create a revolution that will empower every single human being to govern his or her life, to govern the society and to be fully productive of life quality for self and for all.

I do so love all the patriots of this and every nation who have fought and sacrificed to bring us to the threshold of this beautiful human dream. I do so love America the beautiful and our wild, creative beautiful people. I do so love you, my beautiful colleagues in the disability and civil rights movement.

My relationship with Yoshiko Dart includes, but also transcends, love as the word is normally defined. She is my wife, my partner, my mentor, my leader and my inspiration to believe that the human dream can live. She is the greatest human being I have ever known.

Yoshiko, beloved colleagues, I am the luckiest man in the world to have been associated with you. Thanks to you, I die free. Thanks to you, I die in the joy of struggle. Thanks to you, I die in the beautiful belief that the revolution of empowerment will go on. I love you so much. I'm with you always. Lead on! Lead on!

JUSTIN DART

Mr. HARKIN. I will not read the whole thing but I feel constrained to read parts. He said:

I am with you. I love you. Lead on.

DEARLY BELOVED: Listen to the heart of this old soldier. As with all of us the time comes when body and mind are battered and weary. But I do not go quietly into the night. I do not give up struggling to be a responsible contributor to the sacred continuum of human life. I do not give up struggling to overcome my weakness, to conform my life—and that part of my life called death—to the great values of the human dream.

Death is not a tragedy. It is not an evil from which we must escape. Death is as natural as birth. Like childbirth, death is often

a time of fear and pain, but also of profound beauty, of the celebration of the mystery and the majesty which is life pushing its horizons towards oneness with the truth of mother universe. The days of dying carry a special responsibility. There is a great potential to communicate values in a uniquely powerful way—the person who dies demonstrating for civil rights.

Let my final actions thunder of love, solidarity, protest—of empowerment.

I call for solidarity among all who love justice, all who love life, to create a revolution that will empower every single human being to govern his or her life, to govern the society and to be fully productive of life quality for self and for all.

That was written by a man who knew he was dying.

Justin continues:

I do so love all the patriots of this and every nation who have fought and sacrificed to bring us to the threshold of this beautiful human dream. I do so love America the beautiful and our wild, creative, beautiful people. I do so love you, my beautiful colleagues in the disability and civil rights movement.

My relationship with Yoshiko Dart includes, but also transcends, love as the word is normally defined. She is my wife, my partner, my mentor, my leader and my inspiration to believe that the human dream can live. She is the greatest human being I have ever known.

Continuing to speak about his wife he said:

Yoshiko, beloved colleagues, I am the luckiest man in the world to have been associated with you. Thanks to you, I die free. Thanks to you, I die in the joy of struggle. Thanks to you, I die in the beautiful belief that the revolution of empowerment will go on. I love you so much. I am with you always. Lead on. Lead on.

He was truly one of the most beautiful humans with whom I have ever been privileged to associate. We shared many memorable moments together. I was proud to be at his side when he received the Medal of Freedom from President Clinton. But I always remember best, and forever in my mind's eye will be embedded, him sitting there, next to President Bush when President Bush signed the Americans with Disabilities Act.

Not many people know it, but Justin Dart, with that wheelchair and his wonderful wife Yoshiko, visited every one of the 50 States in order to lay the groundwork for the passage of the Americans with Disabilities Act. And Justin knew that our work did not end with the ADA. He knew it was just the beginning. Even just a few short weeks ago he attended a rally I was at for MiCASSA, the Medicaid Community-based Attendant Services and Supports Act, a bill that Senator SPECTER and I are cosponsoring.

I was surprised that Justin was there but very pleased to see him leading, as usual, even though I knew that his health had not been good. He had to curtail many of his activities. But we had a couple of hundred people there from the disabled community and, I am telling you, his voice was as strong and as powerful and as persuasive as I have ever heard, and that was just a couple of weeks ago. To the very end he had

that fire in his eyes and that strong voice.

In the final week before he passed away, Justin personally attended four events to push for more civil rights for people with disabilities. He never hesitated to emphasize the assistance he received from those working with him—as you can tell from the letter I just read, most especially his wife of more than 30 years, Yoshiko Saji. She was, as he often said, quite simply the most magnificent human being. As in life, Yoshiko was at his side when Justin passed away this weekend. He is survived not only by Yoshiko and their extended family of foster children, many friends, colleagues and relatives, but also by millions of disability and human rights activists all over the world.

The average American may not ever have heard of Justin Dart. They may go through their lives never having heard of him. But I will tell you this, any person with a disability in this country who has struggled and fought, gone to school, moving ahead in life, they will know who Justin Dart was and they will know what he did for them and for our country to make our country more inclusive, to bring us all together.

So I will personally miss Justin Dart: that strong voice, the cowboy hat and the cowboy boots, that piercing gaze of his that sort of stripped away all the phoniness of life. When he rolled up in that wheelchair and he got in front of a microphone and started to speak, it was power, passion, commitment. It will not be the same in the struggle for civil rights for people with disabilities. It will not be the same in our struggle for MiCASSA, which we have to pass.

People with disabilities are about the only ones left in our society where the Government decides what they are going to do with you rather than what you do with the money. MiCASSA says that, basically the money should follow the person—not the person following the money.

Quite frankly, it was a Georgia case in which the Supreme Court decided that people with disabilities had to first be able to live in the most open setting, in a community-based setting in their homes and in their communities rather than institutions. It was a great case in the State of Georgia.

This legislation is proposing what Justin worked so hard for—basically to say let the person decide, let that individual decide whether they want to live in their home and not in a nursing home.

That is what this fight for MiCASSA is all about. I am sorry we didn't get it passed before he passed away. But I can assure you that the fight will continue. We will not rest until people with disabilities have all the rights that people without disabilities have in our society.

Justin will be remembered as a person who removed all these barriers. We will miss his passion, his sense of jus-

tice, his unwavering leadership, and, as I said, his strong and clear voice. Justin Dart will continue to inspire us to carry on. His message will continue to speak for the next generation of leaders. I always said to Justin: Hang in there.

We almost lost him a couple of years ago when his leg was removed. I said: Justin, you have to hang in there. He always said: There are more behind me. And there are. A whole new generation of young people is coming up under the Americans with Disabilities Act. They have been able to go to school, they have gotten an education, and they are moving on. They are not going to let the clock be turned back.

I am convinced that sooner, rather than later, we will get the MiCASSA bill passed and permit people with disabilities to live in their own homes. We will do it in the name of Justin Dart. In his name, we will remove the last remaining barriers.

Mr. JEFFORDS. Mr. President, I rise today to honor the memory and the spirit of Justin W. Dart Jr., a tireless advocate for the rights of disabled persons, who passed away on June 22 at his Washington home at the age of 71.

I feel so privileged to have had the honor of knowing and working with Justin. Many on Capitol Hill may remember him, in his cowboy hat, offering critical input as we worked to draft the Americans With Disabilities Act.

On July 26, 1990, Justin was at the side of President George Bush when the President signed the bill into law. Justin referred to that event as "a landmark date in the evolution of human culture," and we all have Justin to thank for his immeasurable gift to that evolution.

Justin was tireless in his travels, visiting all 50 States, not once but at least four times, to promote the ADA legislation. He also traveled around he world to advocate for full civil rights protection for people with disabilities.

In 1998, he once again found himself at the side of a President, this time Bill Clinton, who presented Justin with the Medal of Freedom, the Nation's highest civilian honor.

It would be impossible in this short tribute to list the awards and accomplishments that marked his life, but it is fair to say that Justin Dart, who used a wheelchair from the age of 18 after contracting polio, found his calling in life. And we are all much richer for the experience.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the role.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.



NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003—Continued

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHLE. Mr. President, I have been following the proceedings over the last day or so with increasing concern. As we said last week, we all know that this legislation has to be completed this week. I had hoped, because of the agreement we were able to reach among leadership last week, that we would table nonrelevant amendments, that we would be able to move expeditiously with amendments on those issues for which there was an interest, and that we would accommodate these amendments in a way that would allow us to move the consideration of this bill along successfully. I guess I was overly optimistic.

Frankly, I am very disappointed, in spite of that agreement, in spite of the efforts we have made to encourage Senators to come to the floor, and in spite of the fact that we know there is so much that still needs to be done, that we are at a procedural impasse.

I, frankly, know of no other recourse but to file cloture. That is the only way we can be absolutely certain we will complete our work before the end of this week. I have indicated that lament to the Republican leader.

I have noted with some concern to our managers that unless we do, I see no really practical way we can complete our work and perhaps accommodate other issues and other needs legislatively before the end of this week and before the Fourth of July recess.

Frankly, I don't know what the impasse is now. I thought we had reached an agreement on one of the amendments. At the very last minute, it appeared that in spite of that agreement there was opposition on the other side. And that precluded the opportunity to move forward on at least one of these issues.

CLOTURE MOTION

Mr. DASCHLE. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion have been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on S. 2514, the Defense authorization bill:

Harry Reid, Jon Corzine, Richard Durbin, Tom Harkin, Carl Levin, Mary Landrieu, Tom Carper, Ben Nelson, Ron Wyden, Daniel Akaka, Debbie Stabenow, Evan Bayh, Maria Cantwell, Herb Kohl, John Edwards, Jeff Bingaman, Joseph Lieberman.

Mr. DASCHLE. Mr. President, I will indicate to all colleagues that we will not leave this week until this bill has been voted on and final passage. I hope that won't be the last piece of legislative work we do. I hope we will even be

able to work on a couple of the nominations. There are a number of issues on the Executive Calendar that could be addressed. But we can't do anything until we have completed our work here.

Senators should be aware that there will be a cloture vote on Thursday morning. That will then trigger a 30-hour period within which this work must be completed so that we have a guarantee that at least before Friday afternoon the legislative time will have run out and we will have an opportunity to vote on final passage. I regret that I have to do this, but I see no other recourse.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. 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. LOTT. Mr. President, I yield myself time under leader time to respond to the action just taken by Senator DASCHLE. Having been in his position, I certainly understand why he is doing that. I think it is the right thing to do in this case.

We clearly need to move this Defense authorization bill forward, as we did the supplemental. We need to get an agreement on that and provide additional funds for defense and homeland security.

We also need to get completion of the Defense authorization bill before we leave for the Fourth of July recess. How could we celebrate the freedom of the country without having done our work on the Defense bill in view of all that we are dealing with at home and abroad?

So I think the majority leader was in his rights, and I would plan to support his cloture motion unless we can come up with some agreement that would allow us to save time by vitiating that. But I pledge my continued support to try to get this bill done in an orderly fashion at a reasonable hour, hopefully Thursday afternoon or early or late Thursday evening.

I just want to be on record that I understand why he is doing it, and I think it is the right thing, all things considered, at this time.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, in light of this development, it is safe to announce there will be no more rollcall votes for the remainder of the day.

I yield the floor. And if no none is seeking the floor, 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. SESSIONS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I will give a few remarks. If anyone needs the floor, I will be glad to yield.

I think it is important for us to recognize, as we go forward with this new national missile defense system, that we are moving into a new era.

We had the ABM Treaty in 1972 that was the cornerstone of a mutual assured destruction strategy between the United States and the Soviet Union. We both agreed we would not launch missiles against one another and we would not, under the treaty, explicitly build an antimissile defense system. Not one of us would, leaving each other vulnerable to one another.

The treaty only has six or seven pages. It is in the appendix of this book that I have in the Chamber. The reason I want to share it is because a lot of people wondered why, 6 months ago, President Bush chose to get out of the treaty. And that took effect just a few days ago when the 6 months ran from the notice he gave in December.

This treaty really kept us from defending ourselves. In the first article it says:

Each Party undertakes not to deploy ABM systems for a defense of the territory of its country and not to provide a base for such a defense, and not to deploy ABM systems for defense of an individual region. . . .

We basically said we could not deploy one. It says that again in several places here.

Article V says—and this was the conflict we were having, the problems we were having:

Each Party undertakes not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based.

Much of our new scientific development in recent years indicates that sea-based, air-based, space-based has the capacity to help us protect our homeland from missile attack.

Earlier this afternoon I read some quotes from the vice admiral in charge of the Defense Intelligence Agency in which he said China was developing a mobile-based ABM system. China was not party to the treaty; neither was Korea, neither was Iran, Iraq, and North Korea. They were not a party to the treaty. All those countries are striving to develop a missile system.

China, according to the intelligence report, is, in fact, developing a mobile land-based system. According to this treaty we had with the Soviet Union—a country that no longer exists—that treaty prohibited us from doing that or having a sea-based or an air-based system. This was getting really out of

control. In other words, we had a treaty in 1972 that made sense, when we had no other nations, virtually, except the Soviet Union with a ballistic missile system.

We are moving into an age where 16 countries have a missile system. Some of those are virulent rogue nations that desire us harm. We had this treaty that kept us from preparing a defense to that.

Some people forgot, also, that under the treaty there were some exceptions. We chose one route and the Soviet Union chose another one, which was to build a national missile defense around Moscow. They, in fact, deployed a missile defense system, under their option, around Moscow. But we were prohibited from doing that.

President Bush took a lot of grief. You remember it. They said he was acting unilaterally. And the Socialist left in Europe went up in arms that the United States should not get out of this treaty. Some in Russia said it was a mistake, and they objected. But the truth is, I think they were just negotiating with us for a good deal.

President Bush was steadfast. He stayed the course. The National Security Adviser, Condoleezza Rice, was consistent; she never backed off. They made clear that at this point in history the mutual assured destruction that existed between us and the Soviet Union was out of date. We now hope to have in Russia a friend, not an enemy. It was an entirely different nation. What our threat was—and we learned on September 11 just how real this was—was from rogue nations. And we ought to be able to begin to prepare as to how to defend ourselves from that.

In 1999, Secretary of Defense Rumsfeld chaired a commission to study the threat posed to the United States from ballistic missile attack. That was a bipartisan commission. And they studied the issue intensely. The commission unanimously voted that the United States was facing a threat from missile attack by other nations. They unanimously agreed that the threat was coming much quicker than had been predicted earlier, and that by the year 2005 we could be subject to missile attack from other nations.

So that is why the Nation decided, in 1999, to go forward. It was a dramatic vote in this Senate when we voted 97 to 3, with Senator THAD COCHRAN, who spoke earlier this afternoon, being the prime proponent of the legislation. But in addition to Senator COCHRAN, one of his prime cosponsors was Senator LIEBERMAN, the Democratic Vice Presidential candidate last year, and one of the leading senior members of the Armed Services Committee. They proposed the language that, in 1999, stated we would deploy a national missile defense system as soon as technologically feasible.

We made that decision. We funded it. President Clinton proposed a \$5.3 billion budget for national missile defense to carry out that objective.

President Bush, during the campaign, said he believed we ought to be moving more aggressively, that the threat was more real than some thought. He wanted to step up the pace, and he did do that. He proposed an increase when he became President of about \$2.5 billion over the \$5.3 billion, making it a \$7.7 billion national missile defense budget. That was passed by this body. We had a dispute in committee, and on a party-line vote the increase was not backed in the committee. But when we got to the floor, the full amount was affirmed on voting.

So this year the President asked for a little bit less. He asked for a \$7.6 billion or so expenditure for national missile defense. He did not ask for an increase over last year but actually asked for a small reduction as compared to last year's expenditure. But, again, that was one issue that we disputed in the Armed Services Committee, and on a straight—unfortunately, I thought—party-line vote, \$800 million was taken out of the national missile defense fund.

It was taken out in a way that General Kadish, who has managed this program with integrity and skill and determination, said would damage the program significantly.

I don't believe we ought to allow that to stand. I believe the full Senate needs to review it and replace that money. Let's do what the President asked. Let's give him the money he requested. Let's keep this plan to build a national missile defense that will include sea-based, mobile land-based, multiple land-based, and space-based, if appropriate, capabilities that will allow us to hit the incoming missiles in their launch phase, midphase, and in the terminal phase, all of which we have the capability to do.

The tests that have been running have been successful. We have been able to have head-to-head collision, bullet-hitting-bullet, high-over-the-ocean, smashing and destroying missiles. We are going to continue to test it under the most rigorous conditions. I believe this process we are undergoing will be successful, and we will prove that we have the capability to destroy incoming missiles even with decoys, even under the most hostile conditions. That is what we ought to do.

The total price of it, the \$7.6 billion the President asked, out of a \$386 billion defense budget that we are putting up this year, is reasonable and appropriate. It represents not a step to cold war but a step to a new, positive relationship, away from mutually assured destruction, away from the hostility we had with the Soviet Union for so long, to a new open day in which we are actively engaged in the world, but a day in which we don't have rogue nations being able to intimidate us, being able to intimidate the President, being able to threaten our country with attack that would have to cause him to pause. It would have to affect our de-

fense policy, if that were to be the case.

I believe this will move us away from it, give us freedom to act in our just national interest. I urge the Senate to move forward with approval of our President's budget and the Warner amendment.

I yield the floor.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Nevada.

Mr. REID. Madam President, I know my friend from Nebraska, the distinguished Senator, is here. I ask unanimous consent that the Senator from Nebraska, Mr. HAGEL, be allowed to make a statement on the underlying bill, that during that period of time there would be no amendments offered to the bill; following the statement of the Senator from Nebraska, the Senate then proceed to a period of morning business for the rest of the evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska.

Mr. HAGEL. I thank my distinguished colleague and friend, the senior Senator from Nevada.

I rise today in support of the Warner amendment, an amendment that will restore the \$814 million cut from the President's request for missile defense funding. Last December, President Bush made the decision to withdraw the United States from the constraints of the Anti-Ballistic Missile Treaty of 1972, the ABM Treaty. That treaty went out of existence on June 13. The United States is no longer constrained by cold-war-era treaty requirements.

I supported President Bush's actions to withdraw the United States from the ABM Treaty, which I believe demonstrates his commitment to America's defense. The ABM Treaty was an important treaty. It defined the strategic policy of our Nation and defined the strategic nuclear policy of an era because at that time in 1972, the ABM Treaty was signed by two countries: the Soviet Union and the United States, the only two countries that had the capacity to launch all out nuclear war.

The world has changed—the world is dynamic—since the ABM Treaty was signed, and the policy of mutually assured destruction that formed the cornerstone of our nuclear deterrent policy is gone.

Now, as September 11 has made brutally clear, we face varied threats from terrorists, individuals, nations, organizations, and those that support them. These threats, these challenges come in many forms. Currently, 12 nations have nuclear weapons programs; 28 nations have ballistic missiles; 13 nations have biological weapons; and 16 nations have chemical weapons.

These new realities mean we must place a greater emphasis on defense—all forms of defense. Unfortunately, the defense authorization bill reported out of the Senate Armed Services Committee takes a step backwards with regard to missile defense.

The \$814 million cut will have a profound effect on U.S. efforts to continue research and important development and eventually deploy an effective missile defense system.

In addition to the proposed cuts in research and testing, nearly 70 percent of the Missile Defense Agency's civilian jobs and related costs could be eliminated if the current legislation we are debating is enacted. These cuts would severely hamper the Missile Defense Agency's ability to conduct day-to-day business. That means tests. That means research. That means development. That means a better understanding of the integration of these new defense capabilities into our overall national security system.

This is very important. It isn't one test. It is not one program. It is not one system. It is an integration of all these strategic balances that now become the dynamic of our national security system: Offensive weapons, now defensive capabilities to guard against not just ballistic missiles but tactical missiles, nuclear, biological, weapons that can be delivered and delivered anywhere in this country.

We seek a broad array of research, development, and testing activities to yield a system as soon as feasible, not any system but a relevant, realistic system that in fact has the capability to defend this country and our allies. This is not one monolithic umbrella over just this country. Our deployed forces overseas, large groupings of our deployed forces all over the globe, must be protected. Our friends and allies rely on the United States. This is a large, profound, critically important project. It cannot be accomplished, defined in a year or 2 years. But in the interest of our country and its future security, it is quite clear that we need a national missile defense system.

The Armed Services Committee's actions in the bill they reported out of committee would hamper this objective. If the current Senate version of the missile defense budget were to stand, Secretary Rumsfeld would recommend that the President veto this legislation.

It is important to note how missile defense interconnects with our broader security and strategic policies. In February, I visited the U.S. Strategic Command in Bellevue, NB, the headquarters of our military nuclear strategy.

At 1 o'clock tomorrow afternoon, Secretary Rumsfeld will announce that Offutt Air Force Base in Nebraska will become the new headquarters for a merged SPACECOM and STRATCOM facility with new responsibilities to face the new challenges and threats of our day.

Missile defense will be part of that new merged command and will bring Space Command and Strategic Command together. When I was at Offutt Air Force Base earlier this year, I was briefed on how defense policy was moving beyond the cold war nuclear triad of missiles, bombers, and submarines.

One leg of the new triad would consist of our old nuclear capability, but it would be supplemented with both conventional military superiority and an effective missile defense system—integrating the systems. In forging this new triad, the United States could significantly reduce our nuclear arsenal, while at the same time protecting our country, our troops abroad, and our allies from limited missile threats and possible missile blackmail from rogue regimes, terrorists, and other nations.

Today's New York Times ran a story discussing a course that this transformation could take. It described a possible new Unified Combatant Command that could "combine the military network that warns of missile attacks with its force that can fire nuclear and nonnuclear weapons at suspected nuclear, chemical, and biological weapons sites around the world."

We are in the process of making this new strategic framework a reality. It is our highest responsibility—the security of this Nation, the security of our men and women around the world, whose only objective is the security of this Nation. We have a responsibility to our allies. We must recognize that the threats facing our Nation are changing, and we must restructure, reorganize, and adapt to these new dangerous threats.

Missile defense will play a significant role in protecting our country, our allies, and our deployed forces. I might say, isn't it interesting that under President Putin, the Russians are working closely with our defense establishment to work through these new mutually beneficial strategies and finding ways to cooperate in both of our interests.

The threats to the United States are not unique to the United States. These threats are threats to Russia and to nations all over the world. A missile defense system for the United States and our allies is not mutually exclusive from the interests and benefits of Russia. With President Bush's recent trip to Russia, that was formalized in two very important documents that were signed by Presidents Bush and Putin.

So it is not a matter of a unilateral course of action for the United States to pursue missile defense. It is in the interest across the globe of all peoples who wish to make the world safer, more secure, more prosperous, more peaceful. And why is that? It is as much about defining opportunities and hope for the world as any one part of this equation or this debate. What we are facing in the Middle East, Afghanistan, Central Asia, Indonesia, the Philippines, and South Asia cannot be disconnected from this total development of policy that makes the world safer and more secure and more stable for the benefit of all people. These are factors that are not often pointed out in this debate about missile defense.

Madam President, I urge my colleagues to take a close look at Senator WARNER's amendment to put this fund-

ing into this Defense authorization bill—maybe as important a Defense authorization bill as we have seen in this country in many years. I hope my colleagues will read through what the amendment does. It is very simple: putting the money back in.

I want my colleagues to take it the next few steps and ask themselves the consequences for slowing down missile defense development in this country.

We, too often, get disconnected from the objective of the debate in Congress because we get snagged in the underbrush of the nuance, or the amendment at the time, or the argument at the time, or the newspaper headline tomorrow, or defending an amendment to an amendment; and we lose sight of the horizon, where do we go, why, and what is the point, and what is the bigger picture, the wider lens that is required? This is such an amendment. This is a wider lens amendment.

I hope Senator WARNER, when he introduces his amendment, will get a vote on that amendment. I hope this Senate will come forward with the votes to support Senator WARNER's amendment because it is not just about how much damage we would do to the security interests of this country; it is about more than just that strategic and military dynamic. It is about the future course of our foreign policy, the enhancement of our relationships, and the ability to help bring peace and stability and prosperity to the world. This is what we debate.

Defense is not just defense. Defense is about allowing a nation not just to defend itself but to prosper and reach out to help other nations and make the world safer. That is the big picture. That is what we pray for—not the amendment.

So, again, I urge my colleagues to take some time to understand what this is about and the consequences of their vote. I am a cosponsor of Senator WARNER's amendment. I have believed for some time that it is a responsible and relevant approach as part of our larger framework of interests and, certainly, strategic defense policy for our future.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Madam President, I rise in opposition to the Warner amendment, and I wish to take as much time as I may consume.

The PRESIDING OFFICER. The Senator may proceed.

Ms. LANDRIEU. I thank the Chair.

Madam President, I rise, as I said, in opposition to the Warner amendment. The Warner amendment calls for the elimination of about \$814 million in the

underlying bill that has been directed to much-needed investments in the Department of Defense to ward off the many threats that are facing our Nation today in a very responsible manner, I wish to add.

I thank Chairman LEVIN, the Senator from Michigan, for his outstanding work on pulling together this underlying bill. I particularly thank our subcommittee chairman, Senator JACK REED, who has worked very hard on this particular provision. I acknowledge their good work in this area.

I rise in opposition to this amendment as a supporter of missile defense—not as one of its critics, not as a detractor for the missile defense system.

The Warner amendment is unwise and unnecessary for two reasons, and I wish to comment about both reasons.

First, the thrust of the amendment rests on very shaky fiscal parameters. Senator CONRAD has spoken very well and clearly on this subject, but one of the problems—not substantive but technical problems—with this amendment is that it basically taps into revenues that do not exist. There is no “real offset” for this amendment. There is a claim of an offset, but it is going to be very difficult, if not impossible, to materialize that offset because of the thrust of this amendment.

It says basically that this money is going to be found by anticipating fluctuations in the inflation rate, assuming that the inflation rate is going down when it is probably rising. Nonetheless, this money is not a real offset. It is based on very shaky fiscal principles, and that is one of the reasons I do not think we should support this amendment.

The second reason, however, is a stronger argument, and it is more important, although the first argument is something to consider because if we do not consider it, then any Member of the Senate could offer any amendment to add \$100 million, \$50 million, \$400 million, \$600 million and say we are going to find an offset because we think inflation is going to move one way or the other, and so we are going to guess that the money may be available. It is a very bad precedent when we are talking about this much money in a time of tightening budgets and greater demands on the Federal budget, both domestic spending as well as military spending. I think it is a strong argument.

The stronger argument is that it is wholly unnecessary to restore this amendment and claim that it in any way enhances or pushes forward and strengthens missile defense, because it does not. I would argue in some ways it will weaken our overall Defense bill, which is why I oppose it.

Why do I say that? In the underlying bill, without the Warner amendment, we are spending 25 percent more for missile defense than we did 2 years ago, up to \$6.8 billion, up from \$5.1 billion when President Clinton was in his last

year in office. Let me repeat, in the underlying bill, without the Warner amendment, there is a 25-percent increase in the Missile Defense Program.

Democrats and Republicans on the committee, and Democrats in particular on this amendment, have supported a robust development of missile defense. We want to support the President in a strong Defense bill. We have met and exceeded the dollars he has asked for, but what we are saying and what I am suggesting is that the committee work has rewarded success in this program of missile defense. It acknowledges that it is important to develop a missile defense program for the United States, not undermining it, not cutting it, not trying to bury it, but to support it. That is what the underlying bill does: It rewards success, cutting out its redundancies and demanding the appropriate oversight that the American taxpayers deserve.

This, after all, is a \$7 billion program—not million; \$7 billion. I have observed in my time in Congress—Madam President, perhaps you have observed this, too—that sometimes we give more scrutiny to a \$164 welfare check or a \$1,000 credit card charge or a \$2,000 rebate that a small business might get from a subsidy, and we go over that with a fine-tooth comb to make sure that welfare mother, that small business owner, or that person just “doesn’t get away with murder” with spending or mishandling \$164 or the \$2,000. Yet with a \$7 billion program, we want to say: Let’s not look at the details; this is what the President asked for; let’s just do it that way exactly; they couldn’t possibly be wrong even by a percentage point; they couldn’t be off 1 penny. I think that is very hard, if not impossible, to accept as realistic.

This bill looks carefully at the \$7 billion program—and we did this in every program in the Defense bill—again, not undercutting it at all, matching the President’s dollars, but shifting things around to make sure we can have a very good missile defense program.

We could also address some immediate threats that everyone now in America, if they did not know it before September 11, knows now, and we all know as each week unfolds more and more clearly the other immediate threats, chemical, biological, nuclear threats, weapons of mass destruction, potentially poised against our Nation.

The challenge is before our military to invest in their readiness, in their equipment, in their mobility, and in their restructuring. We know that we are not fighting the cold war anymore and we will not fight the cold war ever again, but we will be fighting this asymmetrical threat and so we want to have a strong military budget, a robust military budget, and allocate these funds accordingly.

The underlying bill did that. It took a very small percentage of the overall missile defense, and as Senator REED has so eloquently pointed out and let

me restate, we reward success in the underlying bill. The Patriot Advanced Capability-3 system has tested well against multiple targets. That is part of the Missile Defense Program. It does not pass every test.

Sometimes the critics of missile defense will point out, no, we cannot have it; this test failed. Well, in every success there are failures. We will fail a time or two, but if we continue to invest, continue to be wise and spend our money well, watching our budgets carefully but not undercutting this program, we can develop an effective missile defense system not only for ourselves but our allies and protect America in the future.

The Patriot Advanced Capability-3 system has not passed every test, but its future to protect our allies and soldiers looks bright. Accordingly, the committee fully funds this part of the missile defense system, bringing it closer to deployment.

Another part of the missile defense is the research program that we are doing in conjunction with Israel and others, but primarily Israel, the Arab program. It is a theater-wide missile defense system that we are developing. It has fared very well to date. Threats against Israel and U.S. forces in the Mideast certainly are real. Our committee increased funding for this project, again rewarding success, identifying what parts of the Missile Defense Program are successful and moving forward, using the money wisely and having success. We are supporting that.

The subcommittee made some very smart recommendations. It looked at the whole \$7 billion and it found in one instance—this is only one example—that the administration had asked for \$371 million versus \$202 million last year for systems engineering and integration. The request is more than the Pentagon can spend on system engineering. In committee, in a public hearing, DOD was unable to justify the request. Still, the committee added \$29 million for a 13-percent increase to systems engineering and design, giving the benefit of the doubt but thought that would be a good place to move some money into some other important things in defense, which is our job as Members of Congress.

I am proud we met the President’s target on defense. I argued, let us not give one dollar less. If we can, let us give more. Some people have a different view, but I believe we need to support our defense in every way possible.

I think moving this money to fund other activities in the Defense bill is not only wise, it sharpens our Missile Defense Program and sharpens our overall Defense bill and our budget. There are numerous examples like the one I gave about engineering and integration, which is what this committee did.

The Warner amendment is unwise in a fiscal way. It is irresponsible to claim revenues that do not exist, to hope

they materialize, and then, if they do not, the budget situation is made much worse.

But on a deeper level and a more important level, the amendment is unwarranted and unjustified because there is a robust budget for missile defense in this Defense bill. We have shifted some of the money, and I will talk about why we have tried to shift the \$814 million that we identified as unnecessary, redundant, or unjustified to other programs in the military because there are, in addition to the threat from a missile that might come to this country from Iran or Iraq or North Korea or one of the other rogue nations, there are real and immediate threats and, I would argue, more present threats.

Not that I do not believe missile defense is a threat. I do. Not everyone in Congress does, but I do believe it could be a threat and we need to deploy a system that will be cost effective to the taxpayer as well as technologically effective.

In moving the \$814 million to sharpen our Missile Defense Program and to sharpen our overall budget, we invested \$124 million into hardening nuclear facilities against terrorist attacks. We have many nuclear facilities in this Nation. We have labs committed to the development and exploration of nuclear materials. DOE asked for it in the budget submission, but it was turned down.

We have all seen reports of threats against our nuclear facilities. We know that whether one is in New York, in Louisiana, in Arkansas, or in some other place where nuclear facilities are present, the community is concerned, as they should be.

Is our Government doing everything it can to protect us, to harden these facilities against attack? I think every Member of this Senate would like to be able to say we have added over \$120 million to our nuclear facilities to provide tougher perimeters and systems that will protect from a terror attack.

We have heard testimony not just before my Emerging Threats Subcommittee but many of our subcommittees about the importance of that. We took part of the savings that we identified and redirected it to shipbuilding. Shipbuilding is important to Louisiana. It is not just important to Mississippi because Ingall's Shipyard is there. It is not just important to Maine because of our colleagues, Senator SNOWE and Senator COLLINS. Shipbuilding, ship procurement, and the sustaining and maintenance of at least a 310-ship Navy is very important to our military strategy. There has not been one committee that I have attended since I have been on the Armed Services Committee, whether we are talking about the Pacific, the Atlantic, the Caribbean, or other places in the world, that the admirals and the generals, the men and women in uniform, representing and protecting our Nation, have testified to anything other

than a 310-ship Navy as an absolute minimum.

There was a point in our history we had 900 ships. Now maybe we cannot afford 900 ships. Maybe we do not need 900 ships, but in this new world of asymmetrical threats, where we cannot wait for the enemy to come to us; we need to go to them, there are only two ways basically to get there: either by water or by air. We have to have both. We cannot rely only on our Air Force capabilities. We have to have a strong, robust Navy to fight on these battlefields wherever they might be, to transport our troops, to do it effectively, to do it safely.

There is not a Member, I do not think, and particularly Senator WARNER from Virginia, who comes from a huge Navy State, to argue that this was a poor or not thought-through reallocation of this money. Without it, we cannot build and continue to carry out our LPD-17s and other important shipbuilding and procurement that is underway right now with the Navy.

Four thousand sorties have been flown from Navy ships in the Arabian Gulf. Our surveillance airplanes, our fighters, and our bombers get a lot of attention, but many of those sorties begin by lifting off from our aircraft carriers and from places that are bringing this equipment and these platforms and giving them a place to take off, refuel and take off again, to protect us from the threats of terrorism and other threats around the world.

As we have seen in Afghanistan, we are in an age of war, fighting where we cannot forward-deploy our Armed Forces land-based near the theater. We are blocked by unfriendly nations from being able to fly over or to land at bases. Our Navy provides those places of security, those places for our armed men and women, our forces to regroup to get ready and take off for battle.

At a time when the Navy is so vital to our war effort, the Navy could in this budget fall below 300 ships. This \$690 million readjustment, or additional investment, taken from a program, while important, is not in the least bit delayed or undermined and will go a long way to strengthen our Navy.

We add money for other counterterrorism priorities in this budget. We have moved some money—a good bit of money, but a very small percentage of the overall funding—from missiles to other parts of the budget that are crying out to be addressed: Our shortage of ships in the Navy, our need to secure our nuclear facilities, and there have been several other investments in counterterrorism.

That was a wise decision. I was proud to support it in the committee. I urge my colleagues to reject the Warner amendment and to support Senator LEVIN and Senator REID in this effort.

I quote Gen. Henry Shelton, former Chairman of the Joint Chiefs of Staff, on his view of threats posed by military ballistic missiles and weapons of

mass destruction. General Shelton is a very decorated leader of our armed services. His reputation is without question. He said within this last year there are other serious threats out there in addition to that posed by ballistic missiles. We know, for example, there are adversaries with chemical and biological weapons that can attack the United States today. They can do it with a briefcase, by infiltrating our territory across our shores or through our airports.

This underlying bill is attempting to address this real, broad, and asymmetrical effect. It can come from missiles, it can come from a briefcase, it can come from a container through one of our ports, it can come through a bomb planted in the back of a U-haul pickup truck, against any number of targets. This city, Washington, DC, our Capital, is rich with targets, but so are all the cities, including the home State of Washington of the Presiding Officer and my State of Louisiana.

The taxpayers want us to make sure we are not just spending a lot of money on defense but we are spending it wisely, in the right places, and we are not overspending in one area and leaving ourselves vulnerable in another. Protecting our nuclear powerplants and supporting missile defense we can do. Investing in counterterrorism and supporting missile defense we can do. Building a strong Navy and supporting missile defense we can do. But we have to be smart about it and not just with some political slogan that looks good at election time. I am afraid that is what this is all about.

Let's have a strong Defense bill, a smart Defense bill, a bill that matches the President more than dollar for dollar but makes good and wise choices about how we are spending those dollars.

As a supporter of missile defense, I argue strongly against the Warner amendment and urge my colleagues to support what the committee did. This will be a very important vote, along with some other tough votes we will have to take regarding transportation and setting good priorities in our Defense bill.

As the article on the secrecy shield in the Washington Post suggests, if we are going to spend \$7 billion—and I support building the program—let's do it in the right way and make sure there is full public disclosure. There could be some aspects we do not want on the front page of every newspaper, but give the taxpayers the best missile defense system. Spend their money wisely. By putting up a secrecy shield, which is what this article based on a recent report that has come out is claiming, I believe as we move forward with our missile defense system, it needs to be done with full disclosure, without jeopardizing those features that might have to be kept in a classified position, so the taxpayers can be sure we are spending their money wisely.

In the words of General Shelton, there are many threats facing our Nation. The bill we are debating today is about preparing ourselves for all of those threats, allocating our resources wisely by making very good decisions. Lives depend on it. The strength of this Nation depends on it. Our future and the future of our allies depend on the decisions we make in the next few days on this very important bill. This is one of those decisions.

Let's say we are going to shift money, strengthen missile defense, sharpen it, but also strengthen our other defenses so we can protect the people. They sent us here to do no less.

Mr. MCCAIN. Madam President, less than 2 weeks ago America marked the historic demise of the ABM Treaty. We did so in accordance with the treaty's terms, and with the consent of Russia, acknowledging that the strategic rivalry that dominated our relationship for three decades is a thing of the past, in word and in deed. I find it remarkable that removal of the legal and diplomatic constraints formerly placed on the development of America's missile defenses has been replaced by political constraints imposed by members of the Armed Services Committee.

As my colleagues know, the committee bill slashed the President's budget request for missile defense programs by \$812 million. I appreciate that missile defense was a controversial issue when it was viewed by some as a threat to United States-Russia relations. These critics argued that the strategic stability we enjoyed from the cold war-era "balance of terror" would be put at grave risk by President Bush's support for missile defense development unconstrained by treaty limitations.

These critics were wrong. I did not then agree with them, but I understood their position. Today, however, we live in a post-ABM Treaty world, forged with the cooperation and explicit consent of the Russian Government.

No longer does this arms control agreement regulate our development of anti-missile systems. No longer does America's diplomatic relationship with Russia require us to pay allegiance to an arms control relic of an adversarial past. The President has consistently stated that the development of effective missile defenses is a priority of his administration, and a requirement in an age of proliferation. Most Americans support the construction of missile defenses, especially if it is done in a way that doesn't violate our treaty commitments. Rather than alienate our friends overseas, America's missile defense development, some of which will be coordinated with the Russians and our allies, will one day help protect allies in Europe and Asia from missile assault. If properly managed, our international alliances will be strengthened, not weakened, by these systems. I believe they will enhance, not undermine, strategic stability.

It is troubling that the committee bill would deny the administration the

resources and flexibility to aggressively pursue a range of missile defense programs, at a time when diplomatic and treaty constraints on that development no longer restrict our freedom of action. One motivation of missile defense critics is their belief that effective missile defenses are no more than a Reagan-era fantasy, a political project that disregards daunting technological obstacles to achievement. But by slashing nearly a billion dollars from missile defense development in the coming fiscal year alone, critics create a self-fulfilling prophecy. By definition, their denial of requested resources makes it nearly impossible for the administration to meet its objective to deploy missile defenses as soon as possible. I would remind my colleagues that only 3 years ago, 97 United States Senators voted to deploy "as soon as technologically possible an effective National Missile Defense System capable of defending the territory of the United States against limited ballistic missile attack."

Expert studies show that political and funding constraints have in fact impeded progress on developing and deploying missile defenses. Of the many missile defense programs, one of the most cost-effective and, if properly executed, most readily deployable would be a sea-based program using the Navy's existing Aegis fleet air defense assets. If accorded the proper priority and resources, populated areas along America's coasts, forward-deployed U.S. forces, and U.S. allies could begin to come under a limited missile defense umbrella before the end of the President's first term. Indeed, had the advice of many defense experts been followed since 1995, when a blue-ribbon commission first called for withdrawal from the ABM Treaty and pursuit of Aegis-evolved missile defenses, such protection would likely have been put into place before now.

We are a nation at war. The administration is seriously contemplating a military campaign against Iraq, a nation armed with short-range ballistic missiles that took their toll on American troops and Israeli civilians during the Persian Gulf war. Saddam Hussein is also known to be pursuing more sophisticated missile systems. In any military campaign, our forces and our allies would be at risk from Iraqi warheads containing biological or chemical agents. Iran is pursuing an ICBM program and could test it within 3 years, according to our intelligence community's consensus estimate. Iran is also aggressively pursuing a nuclear capability. Our intelligence community assesses that North Korea today possesses the capability to hit the United States with a nuclear weapon-sized payload. Many experts believe the North Koreans already possess enough weapons-grade plutonium for several nuclear weapons.

America faces the risk of strategic blackmail from nations such as these whose possession of sophisticated mis-

sile technology puts them in a position to restrict our flexibility to deploy military forces where and when they are needed. Much of the missile defense debate has focused on defense of the U.S. homeland, and this is important. But development of effective missile defenses is critical not only to protect America, but to preserve our military options overseas, by allowing us to meet threats to our interests around the world. Effective missile defenses will allow American forces the flexibility to operate in regions where the presence of a dangerous regime armed with ballistic missiles would otherwise unacceptably constrain American military operations.

America's defenselessness to missile attack, and the vulnerability of our overseas forces and our allies to rogue regimes with advanced missile capabilities, are the Achilles' heel of American foreign policy. Preserving our ability to deploy military forces across the globe requires us to protect against threats of missile attack that, left unmet, could one day cause us to acquiesce to acts of aggression overseas in order not to expose ourselves to attack. Missile defenses will reduce the possibility of strategic blackmail by rogue regimes.

The threats are real. The diplomatic foundation has been laid. The potential of missile defense technology is clear. The implications of rendering America defenseless as a strategic choice are morally troubling. The case for missile defense is compelling. The threat of terrorism is grave, but the rise of this clear and present danger does not diminish the menace that rogue regimes that cavort with terror and aggressively pursue weapons of mass destruction pose to America. I urge my colleagues to support the Warner amendment to restore the President's requested funding for missile defense programs.

Mr. SMITH of New Hampshire. Madam President, I rise in strong support of the amendment offered by my friend and colleague, Senator WARNER, to restore funding for missile defense.

The cuts made during markup, while amounting to "only" 10 to 11 percent of the overall missile defense budget, are targeted to decapitate the program and destine it to failure. President Bush will likely veto the Defense authorization bill if we do not restore funding to missile defense.

I have long been a strong proponent of missile defense. We must take the appropriate steps to protect our homeland against all threats. An effective missile defense is a key element in homeland security. There are those who discount the threat. However, a recent national intelligence estimate (NIE) warned that a rogue nation, other than China or Russia, will be capable of a ballistic missile attack against the United States before 2015.

I believe we will face the threat in the near term, well before 2015. The threat is real, and it is now, not in the



distant future. If this body turns a blind eye to this ominous threat, History will condemn us for our lack of action, and question why we sat idle while the threat grew. It is important to note that the public overwhelmingly supports missile defense. However, the vast majority of Americans do not realize that our Nation currently can do nothing to stop a ballistic missile attack against the United States. In fact, a majority of Americans expressed surprise, disbelief, and anger, when told that the United States has no defense against ballistic missiles.

We need to get serious about developing and fielding a missile defense system. We can't wait for another September 11-like event to spur us into action. Complacency is our enemy. For the sake of our children and our grandchildren, I hope that reason will prevail and that we will vote to pass this amendment.

I commend President Bush for withdrawing from the ABM Treaty. The ABM Treaty was a cold war relic that deserved to be discarded. I also applaud the Bush administration for its new approach toward missile defense. Approaching missile defense as an integrated "system of systems," with layered defense in phases—boost, mid-course, and terminal—is the right thing to do. Unfortunately, the cuts during markup targeted the critically important systems engineering and command and control elements of missile defense.

In effect, the cuts removed the "system of systems" architecture that is important to the new approach to missile defense. The national intelligence estimate was clear. North Korea, Iraq, Iran, and others actively seeking to acquire weapons of mass destruction and longer range ballistic missiles. China already has ICBMs capable of hitting the United States and has threatened to use them if the United States interceded in a conflict with Taiwan. Effective missile defense is one of the most complex technical problems to face our Nation, and one that requires innovative solutions.

I applaud the new approach for the development and rapid fielding of missile defense. It is the right approach given the unique challenges of the program and the looming threat. There has been much unwarranted confusion over the non-traditional approach to defining requirements for missile defense, and the review and oversight process. Some allege that the Missile Defense Agency (MDA) has been given cart blanche to spend taxpayer money on outlandish technologies with no oversight.

These allegations are totally unfounded, and are largely intended by ideological opponents of missile defense to alarm and confuse the public. Developing a missile defense system is, as Pete Aldridge, the Deputy Secretary of Defense for Acquisition, Technology, and Logistics said, like operating in "uncharted waters."

In order to define the requirements for the system in the face of maturing technologies and the unpredictable future threat, the Missile Defense Agency will use an evolutionary or "spiral" development approach. In most complex programs like missile defense, it is extremely difficult in the early stages of development to define in sufficient detail what the fielded system will look like, how it will perform, and what its functional characteristics will be. These items are normally described in operational requirements documents, or ORDs. However, far too often, the services, with the best of intentions, write the operational requirements documents (ORDs) too early in development with their "best guess" on what the parameters should be, and then spend huge amounts of money trying to drive programs to meet those requirements.

In missile defense, these final requirements at this point are impossible to determine. Using "spiral" development. In other words, developing the system in increments and fielding capabilities as soon as they are ready will allow the Department of Defense to field an effective missile defense as rapidly as possible. Some argue that this program will not receive the proper amount of oversight both within the Department of Defense and from the Congress. The truth is that this program will have more oversight than any other program in the DOD, and I am confident that the Armed Services Committee will continue its diligent oversight role as well.

I would like to say a few words about the level of DOD oversight on missile defense so the record is clear. A group of senior Defense officials, including Deputy Secretary Paul Wolfowitz, Pete Aldridge, and the service Secretaries will act as a "board of directors" for missile defense and will review the missile defense program on a periodic basis. In fact, this group has already reviewed the program multiple times in the last few months and will continue to do so in the future. Keep in mind that the average DOD acquisition program does not have this level of oversight.

In addition, a second oversight group, the Missile Defense Support Group, also has been created to review missile defense. This group resembles the Defense Acquisition Board, which on traditional acquisition programs only reviews the program at key milestones. However, the Missile Defense Support Group will review the program on a quarterly basis. Furthermore, the oversight panel is supported by a staff that will conduct day-to-day oversight to ensure that the program remains on track. Of course, the Congress will continue its oversight role as before. Nothing has changed in that regard.

The concerns about a lack of oversight are unfounded. I would like to conclude by once again applauding the Bush administration for revamping the Missile Defense Program into one that

has the highest probability for success. Let's get on with the task. Our Nation's security and the safety of millions of Americans depend on us.

I would also like to thank Senator WARNER for his leadership on this issue, and would encourage all my colleagues to vote for this amendment.

Mr. BAUCUS. Madam President, I rise today to briefly comment on my vote against Senator KENNEDY's amendment to the Defense authorization bill.

This amendment would have resulted in a fundamental change in the way the Department of Defense is structured. It mandated a new policy for every new, modified, or renewed contract for all noninherently governmental services within the Department of Defense. The consequences of such a change at this point in time would not, in my estimation, serve the best interests of my State or of this Nation.

Small businesses are an integral part of Montana's economy. Small businesses meet the diverse, everyday needs of Montana's citizens; many Montana small businesses also successfully compete for federal contracts. The provisions of this amendment would have priced many small businesses out of Federal contract competitions. In light of Montana's struggling economy, I could not vote for an amendment that would have increased small business costs while creating an insurmountable hurdle that need not exist.

I am also keenly aware of the human capital crunch that the Federal Government currently faces. The Department of Defense faces particular challenges as they seek to maintain readiness while adjusting to post-cold war and post-September 11 realities. This amendment would have resulted in increased personnel costs for the Department of Defense, but, more importantly, it would have delayed contract awards and adversely affected mission effectiveness. This is not in the best interest of our nation's security or economic needs.

I am a strong supporter of labor standards in both the private and public sectors. Upholding labor standards for all Montanans is a top priority for me. I also firmly believe that the Federal Government needs to secure the best services, whether public or private, for the taxpayer dollars it expends. In examining this amendment, I felt that it did not uphold these standards. Instead, the amendment held the potential to harm Montana's small business viability and exacerbate the public-sector federal human capital shortage.

MEDICAL TECHNOLOGY AND RESEARCH

Ms. COLLINS. Madam. President, I rise today to discuss medical research aimed at preserving blood products, human organs, and other wound-repairing tissues. As the chairman may recall, last year I discussed with Chairman LEVIN the fact that this research could dramatically impact our ability

to overcome current medical challenges involved in blood and tissue preservation.

Recent U.S. military actions have resulted in stationing troops in harsh climates and conditions, such as those experienced in Afghanistan. Current locations and missions require new capabilities in combat casualty care, and these capabilities would include stable blood products, organs, and wound repairing tissues that will enhance human survivability under conditions of trauma, shock, anoxia, and other extreme conditions, including extreme environment. The Department of Defense needs to develop tissues with a long shelf life to support combat casualty care. Research in this area could develop stress-tolerant biosystems or tissues that selectively control critical metabolic processes by exploiting an enhanced understanding of differential gene expression in bio-organisms and systems exposed to extreme environments.

Ms. LANDRIEU. The Senator from Maine is quite correct in her observation and assessment that medical treatment, and specifically combat casualty care, particularly in a time of war, should not be overlooked. Further, the Department of Defense must consider all initiatives that could provide our military physicians and medical staff the tools necessary to save the lives of men and women whose service to our Nation puts them at risk of severe injury.

Ms. COLLINS. I am hopeful that as our bill moves through floor consideration and conference with the House, we can work to ensure that this type of research is adequately funded within the Department of Defense.

There are many aspects to consider in taking care of our soldiers, sailors, airmen and marines who are sent into harm's way. In times like these, preserving the well-being of our men and men in uniform should be given the investment necessary to see that research like this gets to the field.

Ms. LANDRIEU. I thank the distinguished Senator from Maine for highlighting the critical nature of this research. I recognize her interest in this particular area and that this research clearly has potential for saving lives, both military and civilian. I look forward to working with her on this issue as the Fiscal Year 2003 National Defense Authorization bill moves forward.

Ms. COLLINS. I thank the distinguished chairman for her commitment to support investments in the well-being of a most precious national asset—our men and women in uniform. And I look forward to working with her on this important issue. The support of the chairman of the Emerging Threats and Capabilities Subcommittee will be critical, and welcomed, to see that leading edge medical research is not only explored, but deployed in the days ahead.

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. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. REID. It is my understanding the Senate is now in morning business; is that right?

The PRESIDING OFFICER. That is correct.

#### SUPREME COURT DECISION IN ATKINS V. VIRGINIA

Mr. BIDEN. Madam President, last week the Supreme Court ruled, in a case called *Atkins v. Virginia*, that the execution of mentally retarded persons violates the eighth amendment's prohibition of cruel and unusual punishment. The Court thereby reversed its 1989 holding in *Penry v. Lynaugh*, which it decided at a time when only two States with death penalty laws forbade the execution of the mentally retarded. In *Atkins*, the Court noted that in the 13 years following *Penry*, 16 additional States have enacted laws banning such executions. In addition, 12 States do not have the death penalty at all, meaning that a total of 30 States do not permit the execution of the mentally retarded. Therefore, the Court concluded that a "national consensus" has emerged against the execution of the mentally retarded. Because the Court interprets the eighth amendment in accordance with "evolving standards of decency that mark the progress of a maturing society," the Court concluded that the emergence of this national consensus rendered such executions unconstitutional.

I applaud the Supreme Court's decision. And I do so not from the perspective of one who opposes the death penalty in all its applications. Rather, I am a supporter of the death penalty. I believe that, when used appropriately, it is an effective crime-fighting tool and a deterrent. Indeed, I am the author of two major Federal crime laws that extended the availability of the death penalty. I authored the Anti-Drug Abuse Act of 1988, which extended the death penalty to drug kingpins. And I authored the Violent Crime Control and Law Enforcement Act of 1994, which extended the death penalty to roughly 60 crimes, including—just to name a few—terrorist homicides, murder of Federal law enforcement officers, large-scale drug trafficking, and sexual abuse resulting in death.

But I believe that when we apply this ultimate sanction—which is, of course, irrevocable—we must do so consistent with the values that we stand for as a nation and as a civilized people. We must be as reasonable, as fair, and as judicious as we possibly can be. And we

must ensure that we reserve the death penalty only for monstrous people who have committed monstrous acts. In short, we must apply the death penalty in a way that is worthy of us as Americans.

That is why I have led the fight to make sure that the Federal death penalty—which I strongly support—does not apply to the mentally retarded. Just as we would not execute a 12-year-old who commits a crime, even though that 12-year-old knows the difference between right and wrong, so we should not execute a mentally retarded person. To be mentally retarded is to be deprived of the ability to comport oneself in a normal way, not because of anything that one did, but because of an accident of birth. We all know families into which children are born who do not have a high enough intelligence quotient to justly and fairly measure their actions against every other person in society. I cannot imagine strapping in a chair someone with an I.Q. of less than 70, with the mental capacity of a 12-year-old—at most—and telling him that he must die for his crimes.

Let me be clear: I do not believe that a mentally retarded criminal is blameless. Far from it. A mentally retarded person, like a child, may well know the difference between right and wrong, and may be able to control his actions. Therefore, I must be clear about one further point. This is not about choosing between executing mentally retarded criminals or letting them roam the streets. That is a false choice. Under the Federal laws that I have authored, as well as under State statutes, we provide for every possible penalty short of death for the mentally retarded, including life imprisonment without possibility of parole.

That was true last week, and it remains true today. The Supreme Court decision does not alter that fact one bit. It remains within our ability—and it remains our duty—to ensure that dangerous mentally retarded criminals are kept far away from law-abiding citizens. We have a host of penalties available to us to ensure that we are able to do so. And we have been doing so effectively. Since the 1989 *Penry* decision, only five States have resorted to executing mentally retarded persons. The remaining States, as well as the Federal Government, have effectively confined and deterred mentally retarded criminals by means of incarceration.

Some people have argued that we must allow executions of the mentally retarded because it is often extremely difficult to define and determine mental retardation. I disagree. That has not been the experience of the States in recent years. More importantly, whether something is difficult to do has no bearing on whether it is the right thing to do. Sparing the lives of mentally retarded criminals is manifestly the right thing to do, regardless of whether it is difficult on the margins. We ask judges and juries to make

difficult decisions every day of the year, because a system of justice based upon avoiding difficult decisions would provide no justice at all.

In 1990, I led the fight against an amendment that would have changed the Federal death penalty statute to permit the execution of the mentally retarded. During the floor debate, I implored my colleagues, "Let us show that our support for the death penalty is bonded by humanity." I asked my colleagues to remember that to be mentally retarded is to be denied the ability to develop the full human faculties that the rest of us take for granted. "We do not execute children," I noted. "Let us not execute people who never get beyond that stage in their life through absolutely no fault of their own."

I am proud that a majority of this body agreed with me and rejected the amendment. And I am proud that by our action, we, in our own small way, helped galvanize our brothers and sisters in State legislatures to such an extent that, 12 years later, the Supreme Court can state that a national consensus has emerged against executing the mentally retarded. As a supporter of the death penalty, I know that this ultimate sanction is justifiable only if it is administered in a way that comports with American values. Last week, the Supreme Court agreed, and we are a stronger nation for it.

#### LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam 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 September 17, 2001 in Evanston, IL. Mustapha Zemkour, a Chicago taxi driver and student, was injured when two men—including a Cook County corrections officer—chased him on motorcycles, then hit him in the face and yelled, "This is what you get, you mass murderer!" The perpetrators "apparently assumed he was of Arab descent" police said. The two men were charged with aggravated battery and a hate crime in the attack.

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.

#### AWARD OF THE DISTINGUISHED FLYING CROSS TO FORMER SEN- ATOR WILLIAM D. HATHAWAY

Ms. SNOWE. Madam President, I rise to salute a soldier, public servant, and son of Maine who Monday afternoon was honored for his heroic service 58 years ago today. This recognition is all the more special for me, for our Nation also honors a colleague, former Senator William D. Hathaway of Maine.

On Monday, the United States Air Force recognized a distinguished World War II veteran for his heroic service 58 years ago. As a young airman serving with the Fifteenth Air Force high over the Ploesti oil fields in Romania, Second Lieutenant Bill Hathaway and his crew mates showed their courage, and in the process helped turn the tide of the Battle of Ploesti toward the Allied cause.

As Major General N.F. Twining, Commanding General of the Fifteenth Air Force, wrote in a letter to Lieutenant Hathaway after the battle, "Your return marked the culmination of an outstanding campaign in the annals of American military history. The German war machine's disintegration on all fronts is being caused, to a large extent, by their lack of oil oil that you took away from them."

On the morning of June 24, 1944, while stationed near San Pancrazio, Italy, Lieutenant Hathaway and other members of the 514th Flying Squadron were deployed to Romania, where a battle for control of the Ploesti oil fields was raging with the Germans. Early that morning, Lieutenant Hathaway's squadron took off from their air station, located near the heel of Italy's boot, and crossed the Adriatic toward Bucharest, and the nearby oil fields. Future Senator Bill Hathaway was situated as a navigator as his B-17 aircraft droned toward its target.

By 10:00 a.m., the squadron had arrived over Ploesti, but they encountered heavy enemy fire from the time they crossed the Rhine River nearby. As many as 200 German fighters challenged the American flyers, who encountered heavy flak. Upon arriving over the oil fields, though, the American mission was thwarted by a heavy German smoke screen that shielded the oil fields and other targets on the ground from sight.

Undaunted, Lieutenant Hathaway and the crew plotted another alternative, as the squadron's commanding officer ordered the crew to turn around, circle back, and try the bombing run again. Dodging nearby anti-aircraft fire and enemy fighters, the team proceeded over the oil fields again, and this time they found their target. The 514th dropped its bombs on target and headed away from Ploesti.

But as with so many battles, the 514th's celebration was fleeting. Soon after dropping its bombs, Lieutenant Hathaway's aircraft was hit by flak from the dogfight over the oilfields. One of the B-17's engines was disabled, and three crew were injured: Lieuten-

ant Hathaway was hit in the shoulder, nose gunner George Deputy in the head; and bombardier Richard McDowell in the leg. Demonstrating the tenacity and courage that has characterized Bill Hathaway throughout his career, Lieutenant Hathaway gave his pilot a course to Turkey, and, while medics dressed the wounds of the other two airmen, he assumed Deputy's position in the nose turret, and fired at the German fighters that continued to buzz his aircraft.

Despite his valiant effort, the plane was crippled and continued to lose altitude. After German fighters took out a second engine, the pilot gave the order to bail out. Lieutenant Hathaway, and other members of the crew, donned their parachutes and jumped. Two crew, copilot David Kistler and waist gunner Ben Matthews, were killed when their parachutes failed to open. Lieutenant Hathaway and two others were taken prisoner upon landing, later being reunited with the remainder of the B-17 crew. Ultimately, these American heroes were imprisoned in Bucharest by German forces, where they remained until Romania was liberated by Russian allied soldiers in August, 1944.

For his extraordinary heroism and bravery, the Air Force this week honored Senator Hathaway, and fellow crew members Herman Hucke and Richard McDowell, with the Distinguished Flying Cross. The ceremony at the Officer's Club at Bolling Air Force Base Monday afternoon provided yet another distinguished recognition for Senator Bill Hathaway, who represented Maine for 13 years in Congress. Since leaving Congress, he has remained active and engaged in public service, including time as a commissioner and chairman of the Federal Maritime Commission.

In reviewing the courageous actions of Lieutenant Hathaway and his crew today, I am reminded of the words of President John F. Kennedy, who said, "In the long history of the world, only a few generations have been granted the role of defending freedom in its hour of maximum danger." Well, how fortunate we are that those few generations were blessed with men like Bill Hathaway, Herman Hucke, Richard McDowell, and other members of the crew, seemingly ordinary Americans from small towns and big cities all across our Nation who performed extraordinary deeds in service to their country.

So I am proud to join with the Air Force, the President, and the people of Maine and a grateful Nation in honoring Senator Hathaway, and his fellow crew, for their outstanding service. This recognition is well-deserved and, certainly, long overdue.

#### THE ANNOUNCEMENT OF GOV- ERNOR JESSE VENTURA NOT TO SEEK A SECOND TERM IN OF- FICE

Mr. MCCAIN. Mr. President, I rise to talk about one of most colorful, to put

it mildly, elected officials in contemporary American politics. Recently, Minnesota Governor Jesse Ventura announced he would not seek a second term in the Land of 10,000 Lakes. Governor Ventura took an unusual career path to arrive at his current position. After high school, Jesse Ventura volunteered for one of our Nation's toughest military assignments, the SEALs. He served 4 years in the Navy before eventually taking center stage in the wrestling ring and then as mayor of Brooklyn Park, MN for five years. Jesse continued his unconventional ways by challenging the political system and, against all odds, winning his gubernatorial race in 1998 against two well-established opponents. Now, he is exiting the political arena. As I look back, there were many comments made by the Governor that I disagreed with, as I did with some of his public policies. But Jesse Ventura's run 4 years ago was about more than who would run the State of Minnesota. As my hero, Theodore Roosevelt, said nearly a century ago, "It is not the critic who counts; not the man who points out how the strong man stumbles, or where the doer of deeds could have done them better. The credit belongs to the man who is actually in the arena."

#### ADDITIONAL STATEMENTS

##### DEFEAT THE HEAT

• Mr. FRIST. Madam President, as a Member of the U.S. Senate and as a physician, I would like to take the opportunity to alert my colleagues to the Defeat the Heat campaign for America's children.

Defeat the Heat is a new public safety campaign created by the National SAFE KIDS Campaign, the National Athletic Trainers' Association (NATA) and Gatorade. The campaign's purpose is to educate parents and kids about the dangers and the prevention of dehydration and heat illness. The goal is to teach parents to think of fluids as essential equipment for playing sports, just as they would regard a helmet or shin guards to be protective gear.

A survey commissioned by the National SAFE KIDS Campaign reveals that more than three in four parents of active 8-14 year olds do not know how much fluid their kids need to replace what is lost through perspiration, and many do not know how to prevent dehydration. A child can lose up to a quart of sweat during a 2-hour sports game.

There are several physiological factors that make children more vulnerable to heat-related illness than adults. Children absorb more heat from the environment because they have a greater surface-area to body-mass ration than adults—the smaller the child, the faster the heat is absorbed. Also, children are not able to dissipate as much heat as adults through perspiration. They produce more metabolic heat during

physical activity and do not have the same physiological urge to drink enough fluids to replenish sweat losses during prolonged exercise.

How can we help America's children defeat the heat? Drinking enough of the right fluids is the best defense against heat illness because dehydration is one of the first steps to more serious heat-related conditions like heat stroke and heat exhaustion. Children should be sure to drink before, during, and after activity and never wait until they feel thirsty to drink. If children feel thirsty, their body is already dehydrated.

It is with great pleasure that I join my fellow Tennessean, Coach Pat Summitt, six-time national champion NCAA Women's Basketball coach at the University of Tennessee, the National SAFE KIDS Campaign, the National Athletic Trainers' Association (NATA), Gatorade, and others in this admirable and worthwhile cause to educate parents about these health risks. As a physician, it is my hope that parents become active in this program to help their children defeat the heat.●

#### TRIBUTE TO COLONEL JOHN K. ELLSWORTH

• Mr. BOND. Mr. President, I rise today to pay tribute to an exceptional officer in the United States Air Force Reserve, an individual that a great many of us have come to know personally over the past few years, Colonel John K. Ellsworth. Colonel Ellsworth, who serves as Deputy Chief of the Air Force Senate Liaison Office, and was recently promoted to Colonel, will be leaving his position to attend the prestigious Army War College at Carlisle Barracks, PA. During his assignment here on Capitol Hill, Colonel Ellsworth personified the Air Force core values of integrity, service, and excellence in the many missions the Air Force performs in support of our national security. Many Members and staff enjoyed the opportunity to work with him on a variety of Air Force issues and traveled with him on a multitude of fact-finding trips around the world. To a person, they all recognize and deeply appreciate his character, dedication to duty, and professionalism. Today it is my privilege to recognize some of Colonel Ellsworth's many accomplishments, and to commend the superb service he provided the Air Force, the Congress, and our Nation.

Colonel Ellsworth entered the Air Force through the Reserve Officers' Training Corps program at the Citadel, SC. He served in various operational support and staff assignments including duty as a maintenance officer for many of the Air Force's aircraft. Throughout his distinguished career, Colonel Ellsworth's exceptional leadership skills were always evident to both superiors and subordinates as he repeatedly proved himself in numerous select leadership and command positions.

During his current assignment of working with the Congress, Colonel Ellsworth provided a clear and credible voice for the Air Force while representing its many programs on Capitol Hill, consistently providing accurate, concise and timely information. His integrity, professionalism and expertise enabled him to develop and maintain an exceptional rapport between the Air Force and the Congress. The key to his success, I believe, was his deep understanding of Congressional processes and priorities, and his unflinching advocacy of programs essential to the Air Force and to our Nation.

I am very pleased that Colonel Ellsworth is about to begin the next phase of his career as a senior officer in our Air Force. I offer my sincere congratulations and best wishes to him as he heads for his next assignment where he will further his knowledge of national security strategy with other warriors of our armed forces.

On behalf of the Congress and our great Nation, I thank Colonel Ellsworth and his entire family for the commitment and sacrifice they have made throughout his career. I know I speak for all of my colleagues in expressing my heartfelt appreciation to Colonel Ellsworth for a job well done. He is certainly a credit to the Air Force and the United States. We wish our friend the best of luck in his new assignment.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### REPORT ON BOSNIA AND U.S. FORCES IN NATO-LED STABILIZATION FORCE (SFOR) FOR THE PERIOD MARCH 2001 TO DECEMBER 2001—PM 98

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Armed Services:

*To the Congress of the United States:*

As required by the Levin Amendment to the 1998 Supplemental Appropriations and Rescissions Act (section 7(b) of Public Law 105-174) and section 1203(a) of the Strom Thurmond National Defense Authorization Act for

FY 1999 (Public Law 105-261), I am providing a report prepared by my Administration on progress made toward achieving benchmarks for a sustainable peace process in Bosnia and Herzegovina.

This sixth report, which also includes supplemental reporting as required by section 1203(a) of Public Law 105-261, provides an updated assessment of progress on the benchmarks covering the period March 2001 to December 2001.

GEORGE W. BUSH.  
THE WHITE HOUSE, June 25, 2002.

**PERIODIC REPORT ON THE NATIONAL EMERGENCY CAUSED BY THE LAPSE OF THE EXPORT ADMINISTRATION ACT OF 1979 FOR AUGUST 19, 2001 TO FEBRUARY 19, 2002—PM 99**

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

As required by section 204(c) of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), I transmit herewith a 6-month report prepared by my Administration, on the national emergency declared by Executive Order 13222 of August 17, 2001, to deal with the threat to the national security, foreign policy, and economy of the United States caused by the lapse of the Export Administration Act of 1979.

GEORGE W. BUSH.  
THE WHITE HOUSE, June 25, 2002.

**SECOND PROTOCOL TO THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF THE NETHERLANDS ON SOCIAL SECURITY—PM 100**

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

*To the Congress of the United States:*

Pursuant to section 233(e)(1) of the Social Security Act, as amended by the Social Security Amendments of 1977 (Public Law 95-216, 42 U.S.C. 433(e)(1)), I transmit herewith the Second Protocol to the Agreement Between the United States of America and the Netherlands on Social Security (the "Second Protocol"). The Second Protocol was signed at The Hague on August 30, 2001, and is intended to modify certain provisions of the original U.S.-Netherlands Agreement, signed December 9, 1987, as amended by the Protocol of December 7, 1989 (the "U.S.-Netherlands Agreement").

The U.S.-Netherlands Agreement as amended by the Second Protocol is similar in objective to the social security agreements that are also in force with Austria, Belgium, Canada, Chile, Finland, France, Germany, Greece, Ireland, Italy, Korea, Luxembourg, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. Such bilateral agreements provide for limited coordination between the United States and foreign social security systems to eliminate dual social security coverage and taxation and to help prevent the loss of benefits that can occur when workers divide their careers between two countries. The U.S.-Netherlands Agreement as amended by the Second Protocol contains all provisions mandated by section 233 and other provisions that I deem appropriate to carry out the purposes of section 233, pursuant to section 233(c)(4).

I also transmit for the information of the Congress a report prepared by the Social Security Administration explaining the key points of the Second Protocol with a paragraph-by-paragraph explanation of the provisions of the Second Protocol (Annex A). Also annexed to this report is the report required by section 233(e)(1) of the Social Security Act, a report on the effect of the Second Protocol on income and expenditures of the U.S. Social Security program and the number of individuals affected by the Second Protocol (Annex B), and a composite text of the U.S.-Netherlands Agreement showing the changes that will be made as a result of the Second Protocol. The Department of State and the Social Security Administration have recommended the Second Protocol and related documents to me.

I commend the Second Protocol to the United States-Netherlands Social Security Agreement and related documents.

GEORGE W. BUSH.  
THE WHITE HOUSE, June 25, 2002.

**PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO THE 1979 IRANIAN EMERGENCY AND ASSETS BLOCKING FOR THE PERIOD OCTOBER 1, 2001 THROUGH MARCH 31, 2002—PM 101**

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report prepared by my Administration on the national emergency with respect to Iran

that was declared in Executive Order 12170 of November 14, 1979.

GEORGE W. BUSH.  
THE WHITE HOUSE, June 25, 2002.

**MESSAGE FROM THE HOUSE**

At 12:16 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 3971. An act to provide for an independent investigation of Forest Service firefighter deaths that are caused by wildfire entrapment or burnover.

H.R. 3786. An act to revise the boundary of the Glen Canyon National Recreation Area in the States of Utah and Arizona.

H.R. 3858. An act to modify the boundaries of the New River Gorge National River, West Virginia.

H.R. 3937. An act to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

H.J. Res. 95. A joint resolution providing for the designation of a Medal of Honor Flag and for presentation of that flag to recipients of the Medal of Honor.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 416. concurrent resolution congratulating the Navy League of the United States on the occasion of the centennial of the organization's founding.

The message further announced that pursuant to section 112 of the Clean Air Act (42 U.S.C. 7412), the Speaker appoints the following member on the part of the House of Representatives to the Board of Directors of the National Urban Air Toxics Research Center to fill the existing vacancy thereon: Dr. Arthur C. Vailas of Houston, Texas.

**MEASURES REFERRED**

The following bills and joint resolution were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3786. An act to revise the boundary of the Glen Canyon National Recreation Area in the States of Utah and Arizona; to the Committee on Energy and Natural Resources.

H.R. 3858. An act to modify the boundaries of the New River Gorge National River, West Virginia; to the Committee on Energy and Natural Resources.

H.J. Res. 95. A joint resolution providing for the designation of a Medal of Honor Flag and for presentation of that flag to recipients of the Medal of Honor; to the Committee on Armed Services.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 416. Concurrent resolution congratulating the Navy League of the United States on the occasion of the centennial of the organization's founding; to the Committee on Armed Services.

**MEASURES PLACED ON THE CALENDAR**

The following bill was read the second time, and placed on the calendar:

H.R. 4931. An act to provide that the pension and individual retirement arrangement provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be permanent.

## MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 3971. An act to provide for an independent investigation of Forest Service firefighter deaths that are caused by wildfire entrapment or burnover.

## 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-7589. A communication from the Acting Assistant General Counsel for Regulations, Office of Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Rehabilitation Engineering Research Centers" received on June 24, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-7590. A communication from the Staff Director, Commission on Civil Rights, transmitting, pursuant to law, the List of States Rechartered by the Commission on Civil Rights; to the Committee on the Judiciary.

EC-7591. A communication from the Deputy Secretary of Commerce, transmitting, a draft of proposed legislation entitled "United States Patent and Trademark Office Reauthorization Act, Fiscal Year 2003"; to the Committee on the Judiciary.

EC-7592. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC-7593. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC-7594. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of \$50,000,000 or more to Finland; to the Committee on Foreign Relations.

EC-7595. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC-7596. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC-7597. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the ex-

port of defense articles to Pakistan; to the Committee on Foreign Relations.

EC-7598. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC-7599. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC-7600. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC-7601. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC-7602. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC-7603. A communication from the Attorney General, Department of Justice, transmitting, pursuant to law, the Attorney General's Semiannual Management Report and the Report of the Office of the Inspector General for the period October 1, 2001 to March 31, 2002; to the Committee on Governmental Affairs.

EC-7604. A communication from the Merit Systems Protection Board, transmitting, pursuant to law, a report entitled "The U.S. Office of Personnel Management in Retrospect: Achievements and Challenges After Two Decades"; to the Committee on Governmental Affairs.

EC-7605. A communication from the Merit Systems Protection Board, transmitting, pursuant to law, a report entitled "The Federal Merit Promotion Program: Process vs. Outcome"; to the Committee on Governmental Affairs.

EC-7606. 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 "Appeals Mediation Rev. Proc." (Rev. Proc. 2002-44, 2002-26) received on June 20, 2002; to the Committee on Finance.

EC-7607. 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 "Appeals Arbitration Extension Announcement" (Ann. 2002-60, 2002-26) received on June 20, 2002; to the Committee on Finance.

EC-7608. 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 "Disclosure of Return Information to Officers and Employees of the Department of Agriculture for Certain Statistical Purposes and Related Activities" (RIN1545-BA56; TD9001) received on June 20, 2002; to the Committee on Finance.

EC-7609. 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 "Revenue Ruling 2002-34; Applica-

tion of Section 4261(b) to Charters" (RR-166571-01) received on June 20, 2002; to the Committee on Finance.

EC-7610. 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 "Conversion of a Money Purchase Plan to a Profit-Sharing Plan" (Rev. Rul. 2002-42) received on June 20, 2002; to the Committee on Finance.

EC-7611. 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 "Passenger Name Record Information Required for Passengers on Flights in Foreign Air Transportation To or From the United States" (RIN1515-AD06) received on June 20, 2002; to the Committee on Finance.

EC-7612. 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 "Renewable Electricity Production Credit, Publication of Inflation Adjustment Factor and Reference Prices for Calendar Year 2002" (Notice 2002-39) received on June 24, 2002; to the Committee on Finance.

EC-7613. 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 "Guidance Under Section 832—Deductibility of Premium Acquisition Expenses of Non-Life Insurance Companies" (Rev. Proc. 2002-46) received on June 24, 2002; to the Committee on Finance.

EC-7614. A communication from the Acting Chair, Federal Subsistence Board, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Subsistence Management Regulations for Public Lands in Alaska, Subpart C and D—2002-2003 Subsistence Taking on Fish and Wildlife Regulations" (RIN1018-AI06) received on June 18, 2002; to the Committee on Energy and Natural Resources.

EC-7615. A communication from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting, a draft of proposed legislation to grant easements or rights-of-way for energy-related projects on the Outer Continental Shelf (OCS); to the Committee on Energy and Natural Resources.

EC-7616. A communication from the Assistant General Counsel for Regulatory Law, Office of Environment, Safety and Health, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "General Technical Base Qualification Standard" (DOE-STD-1146-2001) received on June 20, 2002; to the Committee on Energy and Natural Resources.

EC-7617. A communication from the Assistant General Counsel for Regulatory Law, Office of Environment, Safety and Health, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Radiological Assessor Training" (DOE-HDBK-1141-2001) received on June 20, 2002; to the Committee on Energy and Natural Resources.

EC-7618. A communication from the Assistant General Counsel for Regulatory Law, Office of Environment, Safety and Health, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Human Factors/Ergonomics Handbook for the Design for Ease of Maintenance" (DOE-HDBK-1140-2001) received on June 20, 2002; to the Committee on Energy and Natural Resources.

EC-7619. A communication from the Assistant General Counsel for Regulatory Law, Office of Environment, Safety and Health, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Radiological Safety Training for Plutonium Facilities" (DOE-HDBK-1145-2001) received on



June 20, 2002; to the Committee on Energy and Natural Resources.

EC-7620. A communication from the Assistant General Counsel for Regulatory Law, Office of Environment, Safety and Health, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Hoisting and Rigging" (DOE-STD-1090-2001) received on June 20, 2002; to the Committee on Energy and Natural Resources.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Governmental Affairs, without amendment:

S. 2530: A bill to amend the Inspector General Act of 1978 (5 U.S.C. App.) to establish police powers for certain Inspector General agents engaged in official duties and provide an oversight mechanism for the exercise of those powers. (Rept. No. 107-176).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 281: A bill to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial. (Rept. No. 107-177).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1240: A bill to provide for the acquisition of land and construction of an interagency administrative and visitor facility at the entrance to American Fork Canyon, Utah, and for other purposes. (Rept. No. 107-178).

By Mr. SARBANES, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 2673: An original bill to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

## 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. SARBANES:

S. 2673. An original bill to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

By Mr. BROWNBACK (for himself and Mr. CONRAD):

S. 2674. A bill to improve access to health care medically underserved areas; to the Committee on the Judiciary.

By Mr. SARBANES (for himself, Mr. WARNER, Ms. MIKULSKI, and Mr. ALLEN):

S. 2675. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a pilot program to make grants to eligible institutions to develop, demonstrate, or disseminate information on practices, methods, or techniques relating to environmental education and training in the Chesapeake Bay watershed; to the Committee on Health, Education, Labor, and Pensions.

By Mr. TORRICELLI (for himself and Mr. HATCH):

S. 2676. A bill to amend the Internal Revenue Code of 1986 to allow a 10-year foreign tax credit carryforward and to apply the look-thru rules for purposes of the foreign tax credit limitation to dividends from foreign corporations not controlled by a domestic corporation; to the Committee on Finance.

By Mr. ROCKEFELLER:

S. 2677. A bill to improve consumer access to prescription drugs, and for other purposes; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. CRAPO, Mr. HARKIN, Mr. WARNER, Mr. DASCHLE, Mr. CRAIG, Mr. BOND, Mr. GRAHAM, Mrs. CARNAHAN, Mr. REID, Mr. THOMAS, Mr. ENZI, and Mr. JOHNSON):

S. 2678. A bill to amend the Internal Revenue Code of 1986 to transfer all excise taxes imposed on alcohol fuels to the Highway Trust Fund, and for other purposes; to the Committee on Finance.

By Mr. BAUCUS (for himself and Mr. SMITH of Oregon):

S. 2679. A bill to amend the Internal Revenue Code of 1986 to provide for a tax credit for offering employer-based health insurance coverage, to provide for the establishment of health plan purchasing alliances, and for other purposes; to the Committee on Finance.

By Mr. BAUCUS:

S. 2680. A bill to direct the Secretary of the Interior to evaluate opportunities to enhance domestic oil and gas production through the exchange of nonproducing Federal oil and gas leases located in the Lewis and Clark National Forest, in the Flathead National Forest, and on Bureau of Land Management land in the State of Montana, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRASSLEY:

S.J. Res. 38. A joint resolution providing for the designation of a Medal of Honor Flag and for presentation of that flag to recipients of the Medal of Honor; to the Committee on Armed Services.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 291. A resolution to authorize testimony, document production, and legal representation in United States v. Milton Thomas Black; considered and agreed to.

By Mr. TORRICELLI:

S. Con. Res. 123. A concurrent resolution expressing the sense of Congress that the future of Taiwan should be resolved peacefully, through a democratic mechanism, with the express consent of the people of Taiwan and free from outside threats, intimidation, or

interference; to the Committee on Foreign Relations.

## ADDITIONAL COSPONSORS

S. 237

At the request of Mr. HUTCHINSON, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 237, a bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits.

S. 543

At the request of Mr. DOMENICI, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 543, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. 572

At the request of Mr. CHAFEE, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 572, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 677

At the request of Mr. HATCH, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 839

At the request of Mrs. HUTCHISON, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 839, a bill to amend title XVIII of the Social Security Act to increase the amount of payment for inpatient hospital services under the Medicare program and to freeze the reduction in payments to hospitals for indirect costs of medical education.

S. 912

At the request of Ms. MIKULSKI, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 912, a bill to amend title 38, United States Code, to increase burial benefits for veterans.

S. 913

At the request of Ms. SNOWE, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare program of all oral anticancer drugs.

S. 918

At the request of Ms. SNOWE, the name of the Senator from New Jersey

(Mr. TORRICELLI) was added as a cosponsor of S. 918, a bill to provide more child support money to families leaving welfare, to simplify the rules governing the assignment and distribution of child support collected by States on behalf of children, to improve the collection of child support, and for other purposes.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1022

At the request of Mr. WARNER, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 1022, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 1311

At the request of Mr. CHAFEE, his name was added as a cosponsor of S. 1311, a bill to amend the Immigration and Nationality Act to reaffirm the United States historic commitment to protecting refugees who are fleeing persecution or torture.

S. 1506

At the request of Mr. NELSON of Florida, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1506, a bill to amend title 10, United States Code, to repeal the requirement for reduction of SBP survivor annuities by dependency and indemnity compensation.

S. 1549

At the request of Mr. LIEBERMAN, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1549, a bill to provide for increasing the technically trained workforce in the United States.

S. 1991

At the request of Mr. HOLLINGS, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 1991, to establish a national rail passenger transportation system, reauthorize Amtrak, improve security and service on Amtrak, and for other purposes.

S. 2039

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 2039, a bill to expand aviation capacity in the Chicago area.

S. 2051

At the request of Mr. REID, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 2051, a bill to remove a condition preventing authority for concurrent receipt of military retired pay and vet-

erans' disability compensation from taking effect, and for other purposes.

S. 2121

At the request of Mr. BREAUX, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2121, a bill to amend section 313 of the Tariff Act of 1930 to simplify and clarify certain drawback provisions.

S. 2194

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 2194, a bill to hold accountable the Palestine Liberation Organization and the Palestinian Authority, and for other purposes.

S. 2335

At the request of Mr. JOHNSON, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2335, a bill to establish the Office of Native American Affairs within the Small Business Administration, to create the Native American Small Business Development Program, and for other purposes.

S. 2425

At the request of Mr. BAYH, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 2425, a bill to prohibit United States assistance and commercial arms exports to countries and entities supporting international terrorism.

S. 2435

At the request of Mr. KENNEDY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2435, a bill to amend title 9 of the United States Code to exclude all employment contracts from the arbitration provisions of chapter 1 of such title; and for other purposes.

S. 2447

At the request of Mr. DURBIN, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 2447, a bill to amend title XVIII of the Social Security Act to freeze the reduction in payments to hospitals for indirect costs of medical education.

S. 2448

At the request of Mr. HOLLINGS, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2448, a bill to improve nationwide access to broadband services.

S. 2512

At the request of Mr. HARKIN, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2512, a bill to provide grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 2525

At the request of Mr. KERRY, the name of the Senator from Illinois (Mr. DURBIN) 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. 2545

At the request of Mr. DOMENICI, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2545, a bill to extend and improve United States programs on the proliferation of nuclear materials, and for other purposes.

S. 2562

At the request of Mr. REID, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2562, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 2572

At the request of Mr. KERRY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2572, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. 2622

At the request of Mr. HOLLINGS, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2622, a bill to authorize the President to posthumously award a gold medal on behalf of Congress to Joseph A. De Laine in recognition of his contributions to the Nation.

S. 2647

At the request of Ms. SNOWE, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2647, a bill to require that activities carried out by the United States in Afghanistan relating to governance, reconstruction and development, and refugee relief and assistance will support the basic human rights of women and women's participation and leadership in these areas.

S. 2648

At the request of Mr. HUTCHINSON, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from New Hampshire (Mr. SMITH) were added as cosponsors of S. 2648, a bill to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes.

S. 2649

At the request of Mr. KENNEDY, the names of the Senator from Connecticut (Mr. DODD), the Senator from Illinois (Mr. DURBIN), the Senator from California (Mrs. FEINSTEIN), and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 2649, a bill to provide assistance to combat the HIV/AIDS pandemic in developing foreign countries.

S. 2668

At the request of Mrs. HUTCHISON, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2668, a bill to ensure the safety and security of passenger air transportation cargo and all-cargo air transportation.

S. RES. 266

At the request of Mr. ROBERTS, the name of the Senator from Wyoming

(Mr. THOMAS) was added as a cosponsor of S. Res. 266, a resolution designating October 10, 2002, as "Put the Brakes on Fatalities Day."

S. CON. RES. 119

At the request of Mr. BURNS, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. Con. Res. 119, a concurrent resolution honoring the United States Marines killed in action during World War II while participating in the 1942 raid on Makin Atoll in the Gilbert Islands and expressing the sense of Congress that a site in Arlington National Cemetery, near the Space Shuttle Challenger Memorial at the corner of Memorial and Farragut Drives, should be provided for a suitable monument to the Marine Raiders.

S. CON. RES. 121

At the request of Mr. HUTCHINSON, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. Con. Res. 121, a concurrent resolution expressing the sense of Congress that there should be established a National Health Center Week for the week beginning on August 18, 2002, to raise awareness of health services provided by community, migrant, public housing, and homeless health centers.

AMENDMENT NO. 3936

At the request of Mr. NELSON of Florida, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from New Hampshire (Mr. SMITH) were added as cosponsors of amendment No. 3936 intended to be proposed to S. 2514, an original bill to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BROWNBACK (for himself and Mr. CONRAD):

S. 2674. A bill to improve access to health care medically underserved areas; to the Committee on the Judiciary.

Mr. CONRAD. Mr. President, today I join Senator BROWNBACK in introducing important legislation aimed at ensuring that a piece of the puzzle regarding adequate physician services in underserved communities is preserved.

By all accounts, the Conrad State 20 J-1 Visa Waiver program has been a great success at bringing crucially-needed doctors to medically-underserved areas. It has served as a wonderful resource for my State and for other States across our Nation. The bill we are introducing today eliminates the program's sunset date, thereby making sure that this much-needed program remains available.

I created the Conrad State 20 program in 1994 to deal with the reality that many areas of the country, especially rural communities, have a very difficult time recruiting American doctors. These health facilities have had no other choice but to turn to foreign medical graduates to fill their needs. J-1 visa waivers allow foreign physicians to practice in medically-underserved communities after their J-1 status has expired without first returning to their home countries. These waivers allow foreign physicians to receive nonimmigrant, H-1B status, temporary worker in specialty occupation, for 3 years. In order to receive the waiver, the physician must agree to serve the medically-underserved community for the full three years. If he or she fails to fulfill that commitment, the physician is subject to immediate deportation.

Prior to the creation of my State 20 program, J-1 visa waiver exclusively involved finding an "interested Federal agency" to coordinate the request. This was found to be a long, cumbersome, and bureaucratic process. By allowing States to directly participate in the process of obtaining waivers, my program relieves some of the burdens on participating Federal agencies and allows decisions regarding a State's health care needs to be made at the State level by the people who know best.

I have shepherded the Conrad State 20 program from its creation in 1994 through a subsequent reauthorization and other improvements over the years. By now removing the program's sunset date, the bill that Senator BROWNBACK and I are introducing today will ensure that this important program remains a part of a State's tool belt in dealing with physician-shortages in medically-underserved areas.

Our bill also provides for a modest increase from 20 allowable Conrad State 20 visa waivers per State per year to 30. For some time, a number of States have been bumping up against the State 20 ceiling, and my hope is that this increase will help additional medically underserved communities throughout the country procure the physician services they need.

I urge my colleagues to support this legislation.

By Mr. SARBANES (for himself, Mr. WARNER, Ms. MIKULSKI, and Mr. ALLEN):

S. 2675. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a pilot program to make grants to eligible institutions to develop, demonstrate or disseminate information on practices, methods, or techniques relating to environmental education and training in the Chesapeake Bay watershed; to the Committee on Health, Education, Labor, and Pensions.

Mr. SARBANES. Mr. President, today I am introducing legislation to establish an environmental education program for elementary and secondary

school students and teachers within the Chesapeake Bay watershed. This measure would provide grant assistance to elementary and secondary schools, school districts and not-for-profit environmental education organizations in the six-state watershed to support teacher training, curriculum development, classroom education and meaningful Bay or stream outdoor experiences. It would also enable the U.S. Department of Education to become an active partner in the Chesapeake Bay Program. Joining me as co-sponsors of this legislation are my colleagues Senators MIKULSKI, WARNER, and ALLEN.

There is a growing consensus that a major commitment to education, to promoting an ethic of responsible stewardship and citizenship among the nearly 16 million people who live in the watershed, is necessary if all of the other efforts to "Save the Bay" are to succeed. The ultimate responsibility for the protection and restoration of Chesapeake Bay is dependent upon the individual and collective actions of this and future generations. As population growth and development continue to place enormous pressures on the Chesapeake Bay region's natural resource base, we must learn how to minimize the impacts that we are having on the Bay. Our future depends upon our ability to use the Bay's resources in a sustainable manner. This is as much a civic responsibility as voting. Developing an environmentally literate citizenry that has the skills and knowledge to make well-informed choices and to exercise the rights and responsibilities as members of a community is clearly one of the best ways to raise generations who can be contributors to a healthy and enduring watershed. In my judgment, this can best be accomplished by expanding assistance for environmental education and training programs in the K-12 levels.

In addition to stewardship, there are other dimensions to expanding environmental education opportunities in the Chesapeake Bay region that are equally compelling. A number of recent studies have found that environmental education also enhances student achievement, critical thinking and basic life skills. A 1998 report by the State Education and Environment Roundtable, perhaps the most comprehensive study to date, documents how 40 schools in 12 States, including three schools in Maryland and four schools in Pennsylvania, achieved remarkable academic, attitudinal and behavioral results by using the environment as an integrating strategy for learning across all subject areas. According to the study, students performed better in science, social studies, math and reading. Classroom discipline problems declined and students demonstrated increased engagement and enthusiasm in learning in an environment-based context. Moreover, students' creative thinking, decision-making and interpersonal skills were enhanced by environment-based learning.

The report is replete with success stories, but I will just cite two examples from schools in the Chesapeake Bay watershed. According to the report, students in the 4th grade at Hollywood Elementary School in Maryland scored 27 percent higher on the Maryland State Performance and Assessment Program test than at other schools in their county and 43 percent higher than the State as a whole after the school implemented the environmental based education program. The study also found behavior improvements and reduced discipline problems for 6th graders participating in the STREAMS program at Huntingdon Area Middle School in Pennsylvania compared to students not involved in the program. I ask unanimous consent that excerpts from this study regarding these two schools be printed in the RECORD.

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

[From the State Education and Environment Roundtable]

CLOSING THE ACHIEVEMENT GAP—USING THE ENVIRONMENT AS AN INTEGRATING CONTEXT FOR LEARNING

(By Gerald A. Lieberman and Linda L. Hoody)

HOLLYWOOD ELEMENTARY: A LIVING LABORATORY

Adults in Saint Mary's County, Maryland, a wedge of farmland bordering the Chesapeake Bay, had tried for 25 years to start a community recycling program; for some reason the idea just never caught on. But once the fifth graders at Hollywood Elementary School decided to solve the problem it did not take long for them to turn their campus into a neighborhood recycling center.

It was the children's enthusiasm more than anything that motivated parents and neighbors to join their efforts. Soon, Hollywood's hallways bulged with giant boxes of old newspapers and the school's parking lot became a regular Saturday-morning stop for residents eager to dump their cans and glass. Teachers helped, but students ran the show. Parents offered their vans, trucks, and even horse trailers to help haul the goods to the nearest recycling station in the next county. Eventually Saint Mary's County itself caught on, set up a few recycling transfer stations of its own and hired a recycling coordinator. But it all started at Hollywood.

"It was just as grass-roots as anything can get," remembers Betty Brady, the teacher who initiated the project. "We were a very small school at the time, less than 300 students, and we became a little place where people rallied."

Hollywood Elementary is not such a little place anymore. Enrollment is up to 600 now, housed in a spacious new facility designed to accommodate the real-world teaching that Brady and her colleagues practice. But the campus remains a rallying point for parents, educators, and other area residents dedicated to the task of maximizing individual learning through integrated, environment-based education.

During the past 15 years, aided by community volunteers and funded through a series of small grants from the Chesapeake Bay Trust, Hollywood's students have turned their 72-acre campus into a living lab—blazing a nature trail, creating a butterfly garden, planting a forest habitat for migrating birds, and transforming a drainage pond into

a natural wetland. Each project capitalized on the children's innate attraction to the natural world while providing unique opportunities to combine traditional subject areas in a meaningful whole. The results? At Hollywood Elementary, education works.

"As teachers, we always look at what works with and for children, paying attention to what causes that learner engagement that's so crucial to learning that lasts," explained principal, Kathleen Glaser. "We're very concerned about not just teaching something so that students can pass a test and then forget it a month later, but teaching something that will be part of their knowledge base, something they can work from to solve problems and enhance their lives."

Glaser and her staff, as well as the parents and students of Hollywood Elementary, clearly believe the school's real-world emphasis produces that kind of learning. And recent empirical evidence confirms it. Since 1992, the state of Maryland has required a year-end performance assessment for all students in grades three, five, and eight. It is a demanding yardstick, build around a child's ability to perform integrated tasks, such as life-science experiments and writing research reports. But it is a perfect tool to measure the effects of integrated education on real-world problem-solving.

Following five years of steady progress, Hollywood's students turned in a bellwether performance in 1997. In contrast to a statewide average of 38 percent, 67 percent of Hollywood's third grades achieved satisfactory assessment scores. At the fifth-grade level, Hollywood hit Maryland's ideal 70th percentile, with 70 percent of students performing in the satisfactory zone, as contrasted to 46 percent statewide.

Glaser attributes her school's stellar performance in large part to her staff of hard-working and innovative teachers, including Betty Brady and Julie Tracy.

Tracy found Glaser's supportive leadership style reason enough to choose Hollywood over another job offer when she finished her master's certification program in 1990. "I think it was probably the teachers and Mrs. Glaser's encouragement and her openness to suggestions," she said. "The other school was not as open to innovative ideas."

For instance, while partnering with a class in Costa Rica during a Smithsonian-sponsored study on migratory birds, Tracy's students learned that loss of habitat was causing a decrease in the birds' population. Their solution? Creating a habitat on the school grounds. Teaming up with other classes, they identified likely planting areas, including a stand of recently planted trees that still lacked native underbrush, and filled in the area with berry shrubs chosen from the birds' regular menu.

Tracy believes allowing that sort of student initiative is crucial to the learning. "If you approach a project saying, 'we're going to go out and plant a tree,' then it's the teacher's project," she said. "But if the students are engaged in real scientific inquiry, and they're the decision-makers directing the project, then it's authentic, and they're engaged in meaningful learning."

With its integrated, environment-based curriculum now expanding, and recognition of its effectiveness spreading, Hollywood Elementary has become a living portrait of the mature EIC school.

Looking back, Hollywood's recycling program, begun in the late 1980s, constitutes an important benchmark in an evolutionary process that started in 1982 when Glaser became principal of the school. From her own experiences first as a classroom teacher and later as a resource teacher, Glaser brought a dual focus to her new position: to encourage

individual learning and support innovative teaching.

"I think we communicated pretty early, after I became principal, that what was most important was the individual learner," Glaser said. "I think it's also important for teachers to grow professionally, so when they found a program or a resource or a good working idea we began to try some of those out."

As Brady and her fellow teachers continued to brainstorm and experiment, they made two discoveries. First, they found that students learned most effectively when previously disjointed subjects came together in an integrated curriculum. Second, they realized that the environment provided a perfect integrating context for learning.

Brady has a simple explanation for that: "All things are connected." Tracy agrees. "All the subject areas are right there," she said. "You don't have to try to plug anything in; it all just fits in naturally when you use the environment."

Add to that children's innate love of animals and curiosity about nature, and Hollywood had found a sure-fire recipe for effective education. "We saw children really engaging with the real world in a way they weren't engaging with the textbooks," Glaser explained, "and we saw the learning really lasting." "They see the big picture," Tracy added. "They see the goal."

Encouraged by their early successes and Glaser's never-wavering support, Hollywood's teachers began to design more and more environment-based projects and to tighten the teamwork so crucial to integrated learning. In some instances, teachers paired up based on their differing preferences: a nature nut, unfazed by bugs and dirt, and a bookworm, more comfortable juggling papers and pencils.

"We have such a spirit here of being a community of learners and leaders that people welcome someone with a different strength," Glaser commented. "I'd like to think that one of the things we do well is to blend the teaching strengths we have available, then nature not only the students, but also support each other where we need it."

Hollywood's distinctive approach to teaching caught the national limelight in 1996, when Julie Tracy's idea that second and third graders could turn a drainage pond into a natural habitat earned her a 1996 presidential award for excellence in teaching. In a project that combined biology, botany, ecology, math, and language arts, Tracy's students explored the types of aquatic plants and animals they could expect to thrive in the little pond, then drafted a planting plan, calculating depths and distances for optimal growth, and recruited parents and local college students to help with the work. Today, the former drainage basin is home to fish, birds, amphibians, and even a raccoon or two.

Not surprisingly, with Hollywood's thriving EIC emphasis drawing attention throughout Maryland and beyond, people are beginning to take notice. Glaser has been fielding frequent calls from other schools eager to duplicate Hollywood's success. She is eager to respond. "They want to know more about the nature trail or the butterfly garden, how that sort of thing gets organized," Glaser said. "I'm getting more interested in how to help other teachers integrate some of these ideas. How can we help people benefit from our years of experience?"

"I'm seeing lots of indicators that this kind of work is growing," Glaser said. "Hopefully, we can be a place people can visit or know about, so they can learn more about how to do it." If American education is indeed headed toward a new paradigm of integrated, environment-based instruction,

Hollywood is already out front and eager to lead the way.

#### HUNTINGDON AREA MIDDLE SCHOOL: STREAMS OF KNOWLEDGE

The students at Huntingdon Area Middle School are making adults in their rural Pennsylvania community sit up and take notice. Their active engagement in their community is an outgrowth of an innovative, homegrown EIC program called STREAMS—a regional grand-prize winner of the National Middle School Association's Team-teaching Award.

STREAMS, which stands for Science Teams in Rural Environments for Aquatic Management Studies, is an interdisciplinary program that aims to increase students' awareness of and concern for their immediate environment and to engage them in the community at large. As its name suggests, the program focuses on water and emphasizes active learning and real-world issues.

Student enthusiasm for the program keeps building. Every year, Huntingdon students clamor to begin projects earlier and earlier. "We used to start in January," said Fred Wilson, social studies teacher. "Then it was in November and this year some kids were ready in September." The accelerated schedule means more work for Wilson and his colleagues. But there is a certain synergy created when students are so eager, he said. And that is what gives him the energy to keep up.

The genesis of the STREAMS program occurred eight years ago when the sixth-grade teaching team, including Wilson, began looking for a new theme to incorporate across their existing interdisciplinary curriculum. They decided a program tied to the water studies presented in Tim Julian's science class would be ideal because they could tie it into all the disciplines.

"We wanted to examine problems in our community—such as water quality, storm-water runoff and erosion—to make the subject more meaningful to our students," Wilson explained. It was a perfect choice. With four separate watersheds converging within two miles of the school, he pointed out, Huntingdon already had a phenomenal outdoor lab at its doorstep.

Wilson volunteered to develop the interdisciplinary program and contacted a number of organizations in his search for suitable learning projects. But, while he discovered lots of suggestions for activities, there was no program that could be "plugged in" to Huntingdon's existing curriculum. By 1991, the first year Wilson and his teammates taught the STREAMS unit, he had developed his own instructional segments dealing with storm-water runoff, erosion and sedimentation, water quality monitoring, household pollutants, and community involvement. At the same time, Julian expanded the portion of his science curriculum that dealt with water to include the study of local watersheds as well as water and wastewater treatment facilities.

Students response was overwhelming, so overwhelming that the following summer Wilson and his colleagues developed more STREAMS topics—wetlands, groundwater, acidity, and nutrient enrichment—and added more water quality studies plus two additional watersheds to monitor.

The team effort regularly crosses disciplinary lines, with each teacher contributing his or her expertise toward common projects. In science class, for instance, Julian teaches the students about the properties of water, purification processes, and wastewater treatment. Before they go out on a field trip to conduct tests, they also learn how to use the proper monitoring equipment. "Our kids don't go out unless they are prepped," Wilson said. "That's so they can succeed."

Rose Taylor, Huntingdon's sixth-grade language arts teacher, reinforces the vocabulary students need to know in their studies and works with students on STREAMS-related writing assignments. Math teacher Mike Simpson helps the students learn to interpret statistics, construct charts and graphs, and use computer database programs to report their findings. He also incorporates the data they collect into problems he uses to teach important math concepts such as fractions and percentages. "Rather than use cookbook problems," he said, "we use real field data."

Wilson's part of the curriculum emphasizes the consequences of land use—residential, agricultural, and mining—on the water supply, as well as various types of pollution and the function of wetlands. Wilson's students also learn about the effects of storm-water runoff, a significant problem in the Huntingdon vicinity because of over-development in what was once a wetland.

Everything comes together out in the field, where all the team members get their hands dirty. Their eagerness to dig right in can be traced in large measure to their lengthy history as a team. "We've teamed together so long—15 years—that we can be frank and open," Wilson explained. Another secret of the STREAMS staff is a willingness to step outside the bounds of their own disciplines. "You have to be willing," he said, "to wear different hats."

Indeed, STREAMS teachers seem entirely comfortable sharing their teaching responsibilities all around. All the team members, for example, teach reading. Tim Julian and Mike Simpson capitalize on the interrelationships between science and math; both, for instance, teach students to interpret charts and graphs. "Science uses a lot of math—averaging, graphing, measuring speed," Julian pointed out. "Sometimes we work together; sometimes we handle it separately." Julian also supports Rose Taylor's efforts in language arts by having students write reports on their field activities. "I do correct their grammar," he said, "but I don't lower their science grade for mistakes."

The teachers are equally flexible about class time. "I could go into school tomorrow and say that I need a block of time," Wilson said, "and we'd revamp the schedule in a minute." STREAMS team members synchronize and evaluate their lesson plans and schedules in regular weekly meetings, but they can also meet daily during a common planning period.

Wilson conducts an annual formal assessment of what students learned in the program. In the 1994/95 school year, 97 percent of STREAMS students failed a pre-test with an average score of 38 percent. Two months after the program concluded, the students' average score, on an unannounced post-test, was 81 percent, with only a 2 percent failure rate. In the 1996/97 school year, Wilson conducted the post-test five months after they completed the initial STREAMS unit. Even after that lengthy interval, the students' averaged 71 percent on the test. Those results, Wilson point out, indicate that most students not only mastered the content, but also retained that knowledge months after completing the program.

When Wilson and his colleagues started the STREAMS program, no one dreamed how successful and far-reaching it would become. Beyond the creativity and effort of the Huntingdon team, Wilson said, another key reason for their success is partnering with various organizations in the community.

Parents are another valuable resource. Without them, Wilson said, he could not accommodate all the students who want to do independent work, often after school and on weekends. They help transport and chap-

erone students giving presentations to public groups, civic organizations, teacher conferences, and workshops, as well as those taking special field trips or traveling to the biotechnology lab at Penn State. Parents also help with tree-planting projects and water-quality monitoring.

The students, too, have tapped into the partnering concept. When they proposed creating a wetland near the school, for example, they raised \$1,000 and then found partners to contribute the \$3,000 needed to complete the project—proof that they have learned to leverage their dollars and attract broad-based support.

The community that spawned these savvy students and teachers is by some standards an unlikely one. Huntingdon, a town of 7,000, is located in south central Pennsylvania, an area that historically has reported the highest unemployment figures in the state. The average family income here is \$20,000 annually. Only 9.4 percent of adults in the county have earned a post-secondary degree, compared to 18 percent statewide.

Wilson also noted a dichotomy in the region's attitudes toward education, with some residents very supportive and others indifferent. Consequently, it has been exciting for Huntingdon's teachers to watch a gradual shift in the public's attitude toward the students' endeavors. "At first, they were taken rather lightly," Julian noted, "but now the community is coming and asking them for help."

Without a doubt, Wilson observed, the Huntingdon teachers' decision to use the environment as an umbrella for interdisciplinary study and hands-on instructional strategies has produced tremendous results. "I think that our students are engaged in a meaningful learning experience that will help to empower them to be critical thinkers and become more independent learners," he said.

As principal Jill Adams sees it, programs like STREAMS and teachers like Wilson and his colleagues hold the key to reshaping the entire educational process. "The future of education really depends on people like this," she said. "We cannot continue to teach the way that we were taught."

Mr. SARBANES. In the Chesapeake Bay region, the Governors of Maryland, Virginia, Pennsylvania and the Mayor of the District of Columbia have recognized the importance of engaging students in the protection of the Chesapeake Bay. The States have each enacted legislation to integrate environmental standards into the curriculum for particular grade levels. As signatories to the Chesapeake 2000 Agreement, they have also committed to "provide a meaningful Bay or stream outdoor experience for every school student in the watershed before graduation from high school" beginning with the class of 2005.

Likewise, several not-for-profit organizations including the Chesapeake Bay Foundation, and the Living Classrooms Foundation have spearheaded efforts to create long-term, cohesive education programs focused on the local environment. They have developed terrific partnerships with schools and are helping teachers develop and implement quality instruction, investigations and Bay or stream-side projects.

Unfortunately, all these efforts and programs are only reaching a very small percentage of the more than 3.3 million K-12 students in the watershed.

Classroom environmental instruction across grade levels is sporadic and inconsistent, at best, and relatively few students have had the opportunity to engage in meaningful outdoor experiences. Many of the school systems in the Bay watershed are only at the beginning stages in developing and implementing environmental education into their curriculum, let alone exposing them to outdoor watershed experiences. What's lacking is not the desire or will, but the resources and training to undertake more comprehensive environmental education programs.

In 1970, the Congress enacted the first Environmental Education act to authorize the then-U.S. Department of Health, Education, and Welfare to establish programs to support environmental education at the elementary and secondary levels and in communities. In its statement of findings and purposes, the Congress found "that the deterioration of the quality of the Nation's environment and of its ecological balance is in part due to poor understanding by citizens of the Nation's environment and of the need for ecological balance; that presently there do not exist adequate resources for educating citizens in these areas, and that concerted efforts on educating citizens about environmental quality and ecological balance are therefore necessary." Grants for curriculum development, teacher training, and community demonstration projects were made available for several years under this Act, but the program expired and was not reauthorized.

In 1990, the Congress enacted the National Environmental Education Act to renew the federal role in environmental education. The Congress, once again found that "current Federal efforts to inform and educate the public concerning the natural and built environment and environmental problems are not adequate." Today, 32 years after the first Environmental Education Act was first authorized, those findings are still true. Last year, nationwide funding for the National Environmental Education Act administered by EPA was only \$7.3 million. That averages to a little more than \$140,000 for each of the 50 States, a sum that is totally inadequate for schools to incorporate environmental education as part of the K-12 curriculum.

The legislation which I am introducing would authorize \$6 million a year over the next three years in federal grant assistance to help close the resource and training gap for students in the elementary and secondary levels in the Chesapeake Bay watershed. It would require a 50 percent non-federal match, thus leveraging \$12 million in assistance. The funding could be used to help design, demonstrate or disseminate environmental curricula and field practices, train teachers or other educational personnel, and support on-the-ground activities or Chesapeake Bay or stream outdoor educational experiences involving students and teachers,

among other things. The program would complement a similar initiative that I sponsored last year within the National Oceanic and Atmospheric Administration which is providing \$1.2 million to support environmental education in the Chesapeake watershed.

The Chesapeake Bay Program has pioneered many of the Nation's most innovative environmental protection and restoration initiatives. It has been a leader in establishing a large volunteer monitoring program; implementing pollution control programs such as the ban on phosphate detergents and voluntary nutrient reduction goals; and conducting an extensive habitat restoration program including the opening of hundreds of miles of prime spawning habitat to migratory fish. It is an ideal proving ground for demonstrating that strong and consistent support for environmental education, using the Chesapeake Bay and local environment as the primary instructional focus, will lead not only to a healthier, enduring watershed, but a more educated and informed citizenry, with a deeper understanding and appreciation for the environment, their community and their role in society as responsible citizens.

By Mr. TORRICELLI (for himself and Mr. HATCH):

S. 2676. A bill to amend the Internal Revenue Code of 1986 to allow a 10-year foreign tax credit carryforward and to apply the look-thru rules for purposes of the foreign tax credit limitation to dividends from foreign corporations not controlled by a domestic corporation; to the Committee on Finance.

Mr. TORRICELLI. Mr. President, today, Senator HATCH and I are introducing legislation to modernize and simplify the foreign tax credit. The legislation contains two meritorious provisions that we hope Congress will enact this year, in that they are both long overdue.

The first provision addresses the problem of double taxation that results when foreign tax credits expire unused under current law. To enhance the international competitiveness of U.S. companies operating overseas, and to help avoid this unfair double taxation, our legislation simply extends the current 5-year foreign tax credit carryforward period for five additional years to a 10-year carryforward.

The second provision reforms current law, which unduly hinders U.S. companies in their efforts to penetrate foreign markets by imposing the so-called 10/50 foreign tax credit rule. Due to legal and political realities, many U.S. companies are forced to operate through corporate joint ventures in partnership with local businesses. The 10/50 rule imposes a foreign tax credit limitation for each of these corporate joint ventures where a U.S. company owns at least 10 percent but not more than a 50 percent interest in a foreign company, and thus increases the cost of doing business for U.S. firms competing abroad.

10/50 reform would restore parity in the tax treatment of joint-venture income to other income earned overseas by U.S. companies by applying "look-through" treatment. Without this change, U.S.-based companies engaged in joint ventures overseas will continue to be disadvantaged vis à vis foreign competitors. Congress attempted to rectify this problem in a large tax bill that was ultimately vetoed in 1999. The Clinton Treasury also recommended enactment of this crucial tax change in its FY 2000 budget package and similarly, the Joint Committee on Taxation endorsed this non-controversial provision in its 2001 Simplification Study.

As indicated earlier, these two changes are long overdue and we urge their expeditious enactment.

Mr. HATCH. Mr. President, I am pleased to join with my friend and colleague from New Jersey in introducing a bill to improve the tax treatment of U.S.-based multinational companies.

It is apparent that our international tax code is deeply flawed. The current wave of companies reincorporating in Bermuda, the foreign sales corporation debacle, and the trend of tax-motivated foreign takeovers all provide abundant evidence that Congress needs to act to make our international tax rules friendlier to American-based companies.

The bill we are introducing today is one that I consider to be a down-payment on the fundamental reform that our international tax system demands. The bill will reduce, but unfortunately will not eliminate, the double taxation of international income that occurs far too often. This double taxation is just one of several serious problems with our international tax rules.

The threat of double taxation, where an American corporation ends up paying corporate taxes to both the United States and to a foreign country on the same income, discourages U.S. firms from investing overseas. And since U.S. multinationals provide millions of America's best-paying domestic jobs, anything that discourages overseas direct investment ends up hurting the take-home pay of our nation's workers.

Our bill has two provisions. The first would reform the carryforward treatment of foreign tax credits. The Internal Revenue Code was originally designed to make sure that U.S. corporations investing overseas are not subject to double taxation by a foreign nation and the U.S. on the same income. It does this through the availability of a foreign tax credit. If this system worked well, then American businesses would seldom or ever face this kind of double taxation.

However, the system most emphatically does not work well. For example, American businesses are only allowed to use these foreign tax credits when their U.S. operations are profitable. As a result, when the U.S. side of the business is doing badly, firms are unable to immediately use the foreign tax credits. While the current tax law allows



businesses to carry excess foreign tax credits forward for up to 5 years, that timetable is unrealistic. An expanding business, with high domestic expansion costs and low domestic profits, can easily go through 5 years of losses, and never get a chance to use those tax credits. Once the 5-year period has expired, the credits are gone forever, and the result is double taxation, the threat of which discourages firms from taking on otherwise profitable overseas investment projects.

If we want American businesses to take the long view, a 5-year carryforward just is not long enough. The legislation Senator TORRICELLI and I are introducing today will extend that horizon to 10 years. If enacted, it would give U.S. firms a much better search throughout the world for profitable investment projects. And again, profits earned by U.S. companies throughout the world generally translates into more and better-paying jobs for Americans.

Our second proposal would eliminate our tax code's inhospitable treatment of international joint ventures. In many developing countries with rules and restrictions on foreign ownership, joint ventures are the only way to get things done. Our current-law tax treatment of these joint ventures, known as 10/50 companies because between 10 and 50 percent of the joint venture is owned by the U.S. company—is indefensible.

Ordinarily, our tax code adds together tax attributes from different divisions of the same firm. For example, if one division of a company loses a hundred dollars and another division earns a hundred in profits, we offset the gain and the loss and assess no tax liability.

Unfortunately, when it comes to these 10/50 companies, the tax law applies a separate foreign tax credit limitation to each venture. This increases the cost of doing business for the U.S. firms competing abroad because it makes it harder for firms to use their foreign tax credits and also adds a great deal of complexity. The result? Double taxation once again. And once again, our tax code discourages U.S. firms from jumping on profitable investment opportunities, because of the very real threat of double taxation.

When American businesses are considered overseas investment opportunities, we do not want that decision to turn on the arcane details of U.S. tax law—we want a code that is fairer, simpler, and most of all, helps our companies better compete in the global marketplace. The bill we are introducing today will not fix all of our tax code's many problems in the international area, but it is an excellent start. I urge our colleagues to give their consideration to this important piece of legislation.

By Mr. ROCKEFELLER:

S. 2677. A bill to improve consumer access to prescription drugs, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce a bill that affects all of our lives. This bill gets to the heart of an issue that Congress has been talking about for years, access to prescription drugs. As the name implies, the Consumer Access to Prescription Drugs Improvement Act of 2002 seeks to improve access to prescription drugs for every person who needs medication.

Today, people rely on prescription drugs for several different reasons. For some people, prescription drugs make life more comfortable. Some would not survive without them. Prescription drugs have become an intricate part of modern medicine, replacing procedures that once required an inpatient stay. Ailments that once could not be treated can now be cured with a little pill. The innovation that has been displayed is amazing and must continue.

The problem, however, is that prescription drug manufacturers have been distorting the market. Drug manufacturers are exploiting loopholes in existing laws to further extend their monopolies and keep generic drugs off the market. The result, after years of paying monopoly prices, consumers continue to be cheated out of cost-effective alternatives. We've all heard the horror stories of people going without their medications, splitting pills, or making the choice between food and drugs. However, the consequences of actions taken by drug manufacturers are actually more global. They are taking a terrible toll on State budgets, forcing Medicaid to severely scale back their coverage of our most needed population. They are causing employer health care premiums to go through the roof. These pressures will cause the number of uninsured to increase and will ultimately limit access to health care.

The group that suffers the most due to drug cost growth is seniors. Millions of seniors have no drug coverage today. Over the past five years, the 50 prescription drugs most commonly used by seniors have increased in price by nearly twice the rate of inflation. In fact, over 25 percent of these drugs increased in price by three or more times the rate of inflation over that time period. According to the Kaiser Family Foundation, the average retail prescription price for brand name drugs has increased more than 58 percent in 10 years. Brandeis University recently released a report on this issue. The major conclusion of the report is that greater and appropriate use of generic medications can achieve \$50-\$100 billion in savings for any new Medicare drug benefit. This legislation will make a Medicare drug benefit affordable and sustainable into the future. Senators should be aware that I plan to offer this legislation as an amendment to any Medicare prescription drug benefit that the Senate considers.

This legislation will stop pharmaceutical companies from circumventing the law and open the door to

competition so that every consumer from West Virginia to California has access to reasonably priced prescription drugs. However, this legislation will also go further. It will provide crucial information to physicians, consumers, and health care purchasers about the cost-effective generics that are equivalent to brand names. According to the Federal Trade Commission, generic drugs typically cost 25 percent less than brand-name drugs when they first enter the market. After two years, the price difference grows to 60 percent. Every patient should have access to the drug prescribed by their doctor, but if there is a drug out there that is equivalent to the brand name but will cost you half as much, don't you want your physician to know about it? This bill will shine a spotlight on the real costs and the effects of issues we hear so much about, direct-to-consumer advertising, drug detailing, and sampling. We can no longer afford to talk about these issues in broad, hypothetical terms. Congress and the public need to understand these issues better so that we can be more prudent purchasers. This legislation will create the correct incentives, to innovate rather than litigate.

Finally, this legislation will expand access to drugs under existing programs which are so crucial to those who rely on them. This legislation will expand Medicare's current drug benefit to include all cancer drugs, regardless of the method by which they are administered. It will allow public hospitals access to the drug prices they need to be able to continue in their mission to provide care to our neediest citizens. It will help states with their drug utilization review programs which we all know are cost effective. I urge my colleagues to join me in this effort.

My efforts are supported by the Service Employees International Union, the American Federation of State, County and Municipal Employees, the AFL-CIO, Families USA, the Generic Pharmaceutical Association, the National Association of Chain Drug Stores, and Representative WAXMAN, the author of the original legislation.

Representative WAXMAN stated:

Now more than ever, as the cost of prescription drugs has skyrocketed, access to low-cost generics is essential. At a time when the brand-name companies have few innovative products in their pipelines, we are seeing a disturbing trend: a growing number of companies are choosing to protect their profits through legal maneuvers to delay generic competition on their existing products. The price of this anti-competitive behavior to our nation's health care bill and to the health of Americans is shockingly high. It is time that Congress acted to stop unnecessary delays in the marketing of generic drugs. The bill that Senator Rockefeller is introducing today makes a real contribution to the effort to combat these problems.

This legislation is a commonsense step we can take to increase access to prescription drugs for all consumers. I urge Congress to consider and pass this legislation. I ask unanimous consent

that the text of the bill be printed in the RECORD.

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

S. 2677

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

# SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Consumer Access to Prescription Drugs Improvement Act of 2002”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings; purposes.

## TITLE I—EXPANSION OF ACCESS THROUGH EDUCATION AND INFORMATION

Sec. 101. Pharmaceutical Advisory Committee.

Sec. 102. Guidance for payer and medical communities.

Sec. 103. Study of procedures and scientific standards for evaluating generic biological products.

Sec. 104. Institute of Medicine study.

## TITLE II—EXPANSION OF ACCESS THROUGH INCREASED COMPETITION

Sec. 201. Drug Reimbursement Fund.

Sec. 202. Patent certification.

Sec. 203. Accelerated generic drug competition.

Sec. 204. Notice of agreements settling challenges to certifications that a patent is invalid or will not be infringed.

Sec. 205. Publication of information in the Orange Book.

Sec. 206. No additional 30-month extension.

## TITLE III—EXPANSION OF ACCESS THROUGH EXISTING PROGRAMS

Sec. 301. Medicare coverage of all anticancer oral drugs.

Sec. 302. Removal of State restrictions.

Sec. 303. Medicaid drug use review program.

Sec. 304. Clarification of inclusion of inpatient drug prices charged to certain public hospitals in the best price exemptions established for purposes of the Medicaid drug rebate program.

Sec. 305. Upper payment limits for generic drugs under Medicaid.

## TITLE IV—GENERAL PROVISIONS

Sec. 401. Report.

## SEC. 2. FINDINGS; PURPOSES.

(a) **FINDINGS.**—Congress finds that—

(1) prescription drugs are a crucial part of modern medicine, serving as complements to medical procedures, substitutes for surgery and other medical procedures, and new forms of treatment;

(2) a lack of access to prescription drugs can not only cause discomfort, but can be life-threatening to a patient;

(3)(A) by all accounts, double-digit prescription drug price increases are forecast annually for the next 3 to 5 years; and

(B) such increases would result in prescription drug costs that would be prohibitive for many Americans;

(4) the Congressional Budget Office estimates that—

(A) the use of generic prescription drugs for brand-name prescription drugs could save purchasers of prescription drugs between \$8,000,000,000 and \$10,000,000,000 each year; and

(B) generic prescription drugs cost between 25 percent and 60 percent less than brand-name prescription drugs, resulting in an estimated average saving of \$15 to \$30 on each prescription;

(5) expanding access to generic prescription drugs can help consumers, especially seniors and the uninsured, have access to more affordable prescription drugs;

(6) policymakers should be better informed about issues relating to prescription drugs, particularly issues concerning barriers to patient access to prescription drugs;

(7) health care purchasers should be more aware of safe, cost-effective alternatives to brand-name prescription drugs; and

(8) prescription drug coverage provided under existing programs should be expanded to better reflect modern technology and provide drugs to the people who rely on them most, yet who increasingly find themselves uninsured or with coverage that is becoming more expensive and less meaningful.

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

(1) to better educate policymakers, purchasers, and the public about safe and cost-effective generic alternatives, barriers to market entry, and upcoming issues in the pharmaceutical industry;

(2) to increase consumer access to prescription drugs by—

(A) decreasing price through increased competition; and

(B) expanding coverage under the Medicare and Medicaid programs.

## TITLE I—EXPANSION OF ACCESS THROUGH EDUCATION AND INFORMATION

### SEC. 101. PHARMACEUTICAL ADVISORY COMMITTEE.

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by inserting after section 1805 the following:

#### “PHARMACEUTICAL ADVISORY COMMITTEE

“SEC. 1805A. (a) **ESTABLISHMENT.**—There is established, as part of the Medicare Payment Advisory Commission established under section 1805, a committee to be known as the ‘Pharmaceutical Advisory Committee’ (referred to in this section as the ‘Committee’).

#### “(b) **MEMBERSHIP.**—

“(1) **COMPOSITION.**—The Committee shall be composed of 11 members appointed by the Comptroller General of the United States.

#### “(2) **QUALIFICATIONS.**—

“(A) **IN GENERAL.**—The Committee members shall be selected from among—

“(i) individuals with expertise in and knowledge of the pharmaceutical industry (brand name and generic), including expertise in and knowledge of pharmaceutical—

“(I) development;

“(II) pricing;

“(III) distribution;

“(IV) marketing;

“(V) reimbursement; and

“(VI) patent law; and

“(ii) providers of health and related services;

“(B) **REPRESENTATION.**—The members of the Committee shall include—

“(i) physicians and other health professionals;

“(ii) employers;

“(iii) third-party payers;

“(iv) representatives of consumers;

“(v) individuals having—

“(I) skill in the conduct and interpretation of pharmaceutical and health economics research; and

“(II) expertise in outcomes, effectiveness research, and technology assessment; and

“(vi) patent attorneys.

“(C) **CONFLICTS OF INTEREST.**—The members of the Committee shall not include any individual who, within the 5-year period preceding the date of appointment to the Committee, has been an officer or employee of a drug manufacturer or has been employed as a consultant to a drug manufacturer.

“(D) **REPRESENTATION.**—The members of the Committee shall be broadly representa-

tive of various professions, geographic regions, and urban and rural areas.

“(E) **LIMITATION.**—Not more than ½ of the members appointed under this subsection may be directly involved in the provision, management, or delivery of items and services covered under this title.

“(F) **PUBLIC DISCLOSURE.**—As soon as practicable after the date of enactment of this Act, the Comptroller General of the United States shall establish rules for the public disclosure of financial and other potential conflicts of interest by members of the Committee.

#### “(3) **TERMS; VACANCIES.**—

##### “(A) **TERMS.**—

“(i) **IN GENERAL.**—Except as provided in clause (ii), a member of the Committee shall be appointed for a term of 3 years.

“(ii) **INITIAL TERMS.**—Of the members first appointed to the Committee under this subsection—

“(I) 4 shall be appointed for a term of 1 year; and

“(II) 4 shall be appointed for a term of 2 years.

“(iii) **CARRYOVER.**—After the term of a member of the Committee has expired, the member may continue to serve until a successor is appointed.

##### “(B) **VACANCIES.**—

“(i) **IN GENERAL.**—A vacancy on the Committee—

“(I) shall not affect the powers of the Committee; and

“(II) shall be filled in the same manner as the original appointment was made.

“(ii) **FILLING OF UNEXPIRED TERM.**—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

“(4) **MEETINGS.**—The Committee shall meet at the call of the chairperson.

“(5) **CHAIRPERSON; VICE CHAIRPERSON.**—The Comptroller General shall appoint 1 of the members as chairperson and 1 of the members as vice chairperson.

##### “(c) **DUTIES.**—

“(1) **IN GENERAL.**—The Committee shall—

“(A) review payment policies for drugs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.); and

“(B) make recommendations to Congress with respect to the payment policies.

“(2) **INCLUSIONS.**—The matters to be studied by the Committee under paragraph (1) include—

“(A) the effects of direct-to-consumer advertising, drug detailing, and sampling;

“(B) the level of use of generic drugs as safe and cost-effective alternatives to brand name drugs;

“(C) the barriers to approval of generic drugs, including consideration of all of the matters described in paragraph (3);

“(D) the adequacy of drug price metrics, including the average wholesale price and the average manufacturers price;

“(E) the effectiveness of various education methods on changing clinical behavior;

“(F) the effectiveness of common drug management tools, including drug use review and use of formularies;

“(G) the perception of patients, physicians, nurses, and pharmacists of generic prescription drugs as safe and effective substitutes for brand-name prescription drugs;

“(H) the costs of research and development and the costs of clinical trials associated with producing a drug;

“(I) the relationship between pharmacy benefit managers and prescription drug manufacturers;

“(J) best practices to increase medical safety and reduce medical errors; and

“(K) polypharmacy and underutilization.

“(3) BARRIERS TO APPROVAL.—The matters for consideration referred to in paragraph (2)(C) include—

“(A) the appropriate balance between rewarding scientific innovation and providing affordable access to health care;

“(B) features of the communication process and grievance procedure of the Committee that provide opportunities for tactics that unduly delay generic market entry;

“(C) the use of the citizen's petition process to delay generic market entry;

“(D) the use of changes to a drug product (including a labeling change) timed to delay generic approval; and

“(E) the impact of granting patents on diagnostic methods such as patents on genes and genetic testing systems on access to affordable health care.

“(4) REPORT.—Not later than January 1 of each year, the Committee shall submit to Congress a report on—

“(A) the results of the reviews and recommendations;

“(B) issues affecting drug prices, including use of and access to generic drugs; and

“(C) the effect of drug prices on spending by government-sponsored health care programs and health care spending in general.

“(d) POWERS.—

“(1) INFORMATION FROM FEDERAL AGENCIES.—

“(A) IN GENERAL.—The Committee may secure directly from a Federal department or agency such information as the Committee considers necessary to carry out this section.

“(B) PROVISION OF INFORMATION.—On request of the Chairperson of the Committee, the head of the Federal department or agency shall provide the information to the Committee.

“(2) DATA COLLECTION.—To carry out the duties of the Committee under subsection (c), the Committee shall—

“(A) collect and assess published and unpublished information that is available on the date of enactment of this Act;

“(B) if information available under subparagraph (A) is inadequate, carry out, or award grants or contracts for, original research and experimentation; and

“(C) adopt procedures to allow members of the public to submit information to the Committee for inclusion in the reports and recommendations of the Committee.

“(3) ADDITIONAL POWERS.—The Committee may—

“(A) seek assistance and support from appropriate Federal departments and agencies;

“(B) enter into any contracts or agreements as are necessary to carry out the duties of the Committee, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

“(C) make advance, progress, and other payments that relate to the duties of the Committee;

“(D) provide transportation and subsistence for persons serving without compensation; and

“(E) promulgate regulations for the internal organization and operation of the Committee.

“(e) COMMITTEE PERSONNEL MATTERS.—

“(1) COMPENSATION OF MEMBERS.—

“(A) IN GENERAL.—A member of the Committee shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Board.

“(B) TRAVEL EXPENSES.—A member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agen-

cy under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Board.

“(2) STAFF.—

“(A) IN GENERAL.—The Committee may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Committee to perform the duties of the Committee.

“(B) COMPENSATION.—The Chairperson of the Committee may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

“(C) EMPLOYEES OF THE FEDERAL GOVERNMENT.—For the purposes of compensation, benefits, rights, and privileges, the staff of the Committee shall be considered employees of the Federal Government.

“(f) REQUEST FOR APPROPRIATIONS.—

“(1) IN GENERAL.—The Committee shall submit requests for appropriations in the same manner as the Comptroller General submits requests for appropriations.

“(2) SEPARATE AMOUNTS.—Notwithstanding paragraph (1), amounts appropriated for the Committee shall be separate from amounts appropriated for the Comptroller General.”.

#### SEC. 102. GUIDANCE FOR PAYER AND MEDICAL COMMUNITIES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall issue guidance for the payer community and the medical community on—

(1) how consumers, physicians, nurses, and pharmacists should be educated on generic drugs; and

(2) the need to potentially educate pharmacy technicians, nurse practitioners, and physician assistants on generic drugs.

(b) MATTERS TO BE ADDRESSED.—The guidance shall include such items as—

(1) a recommendation for allotment of a portion of yearly continuing education hours to the subject of generic drugs similar to recommendations for continuing education already in place for pharmacists in some States on pharmacy law and AIDS;

(2) a recommendation to all medical education governing bodies regarding course curricula concerning generic drugs to include in the course work of medical professionals;

(3) a recommendation on how the Food and Drug Administration could notify physicians and pharmacists when a brand name drug becomes available as a generic drug and what information could be included in the notification;

(4) the establishment of a speaker's bureau available to groups by geographic region to speak and provide technical assistance on issues relating to generic drugs, to be available to pharmacists, consumer groups, physicians, nurses, and local media; and

(5) the proposition of a survey on perception and awareness of generic drugs at the beginning and end of an educational campaign to test the effectiveness of the campaign on different audiences.

(c) PUBLIC EDUCATION.—The Secretary shall provide for the education of the public on the availability and benefits of generic drugs.

(d) NOTIFICATION OF NEW GENERIC PRESCRIPTION DRUG APPROVALS.—As soon as practicable after a new generic prescription drug is approved, the Secretary shall—

(1) notify physicians, pharmacists, and other health care providers of the approval; and

(2) inform health care providers of the brand-name prescription drug for which the generic prescription drug is a substitute.

#### SEC. 103. STUDY OF PROCEDURES AND SCIENTIFIC STANDARDS FOR EVALUATING GENERIC BIOLOGICAL PRODUCTS.

(a) IN GENERAL.—The Institute of Medicine shall conduct a study to evaluate—

(1) the feasibility of producing generic versions of biological products; and

(2) the relevance of the source materials and the manufacturing process to the production of the generic versions.

(b) ESTABLISHMENT OF PROCESS.—

(1) IN GENERAL.—If, as a result of the study under subsection (a), the Institute of Medicine finds that it would be feasible to produce generic versions of biological products, not later than 3 years after the date of the completion of the study, the Secretary, shall prescribe procedures and conditions under which biological products intended for human use may be approved under an abbreviated application or license.

(2) APPLICATION.—An abbreviated application or license shall, at a minimum, contain—

(A) information showing that the conditions of use prescribed, recommended, or suggested in the labeling proposed for the new biological product have been previously approved for a drug subject to regulation under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or under section 351 of the Public Health Service Act (42 U.S.C. 262) (referred to in this subsection as a “listed drug”);

(B) information to show that the new biological product has chemical and biological characteristics comparable to the characteristics of the listed drug; and

(C) information showing that the new biological product has a safety and efficacy profile comparable to that of the listed drug.

(3) PRODUCT STANDARDS.—The Secretary, on the initiative of the Secretary or on petition, may by regulation promulgate drug product standards, procedures, and conditions to determine insignificant changes in a biological product that do not affect the scientific and medical soundness of product approval and interchangeability.

#### SEC. 104. INSTITUTE OF MEDICINE STUDY.

(a) IN GENERAL.—The Institute of Medicine shall convene a committee to conduct a study to determine—

(1) whether information regarding the relative efficacy and effectiveness of drugs (as defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) and biological products (as defined in section 351(i) of the Public Health Service Act (42 U.S.C. 262(i))) is available to the public for independent and external review;

(2) whether the benefits of drugs and biological products, and particularly the relative benefits of similar drugs and biological products, are understood by physicians and patients; and

(3) whether prescribing and use patterns are unduly or inappropriately influenced by marketing to physicians and direct advertising to patients.

(b) RECOMMENDATIONS.—If problems are identified by the study conducted under subsection (a), the committee shall make recommendations to the Commissioner of Food and Drugs for improvement, including recommendations regarding—

(1) ways to better review the relative efficacy and effectiveness of drugs approved for use by the Food and Drug Administration;

(2) the appropriate governmental or non-governmental body to conduct the review described under paragraph (1); and

(3) ways to improve communication and dissemination of the information reviewed in paragraph (1).

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section.

## **TITLE II—EXPANSION OF ACCESS THROUGH INCREASED COMPETITION**

### **SEC. 201. DRUG REIMBURSEMENT FUND.**

Subchapter A of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 501 et seq.) is amended by adding at the end the following:

#### **“SEC. 524. DRUG REIMBURSEMENT FUND.**

“(a) **DEFINITIONS.**—In this section:

“(1) **DRUG PATENT.**—The term ‘drug patent’ means a patent described in section 505(b)(1).

“(2) **FUND.**—The term ‘Fund’ means the Drug Reimbursement Fund established under subsection (b).

“(b) **ESTABLISHMENT.**—There is established in the Treasury of the United States a separate fund to be known as the ‘Drug Reimbursement Fund’.

“(c) **COMPTROLLER.**—The Secretary shall appoint a comptroller to administer the Fund.

“(d) **REGULATIONS.**—

“(1) **IN GENERAL.**—The Secretary shall promulgate regulations for the operation of the Fund, including the method of payments from the Fund and designation of beneficiaries of the Fund.

“(2) **ADMINISTRATIVE DETERMINATIONS.**—The regulations under paragraph (1) may permit the administrative determination of the claims of health insurers, State and Federal Government programs, and third-party payers or other parties that are disadvantaged by the conduct of drug manufacturers that seek to bring spurious civil actions for infringement of drug patents in order to block the production and marketing of lower-cost drug alternatives.

“(e) **CONTRIBUTIONS TO THE FUND.**—

“(1) **IN GENERAL.**—In any civil action under section 505 or 512 or in a civil action for infringement of a drug patent (as defined in section 524(a)) under chapters 28 and 29 of title 35, United States Code—

“(A) if the Court determines that the drug patent is invalid or that the drug patent is not otherwise infringed, but that the plaintiff obtained an injunction against the defendant for the production or marketing of the drug to which the drug patent relates, the Court shall order the plaintiff to pay to the Fund the amount that is equal to—

“(i) the amount that is equal to the amount of net revenues generated by the plaintiff from the production or marketing of the drug during the period in which the injunction was in effect, plus an additional period of 12 months; minus

“(ii) the amount of any special damages paid by the plaintiff under section 524(m); or

“(B) if the defendant enters into a settlement agreement or any other arrangement under which the defendant agrees to withdraw an application under section 505 or 512, the Court shall order the defendant to pay to the Fund the amount that is equal to 50 percent of the amount (including the value of any form of property) that the defendant receives from the plaintiff under the arrangement.

“(2) **COLLECTION.**—The United States may seek to enforce collection of a contribution required to be made to the Fund by bringing a civil action in United States district court.”.

### **SEC. 202. PATENT CERTIFICATION.**

(a) **IN GENERAL.**—Section 505(j)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)) is amended—

(1) in subparagraph (B)—

(A) by striking “(B) The approval” and inserting the following:

“(B) **EFFECTIVE DATE OF APPROVAL.**—Except as provided in subparagraph (C), the approval”; and

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

“(iii) **CERTIFICATION THAT PATENT IS INVALID OR WILL NOT OTHERWISE BE INFRINGED.**—

“(I) **NO CIVIL ACTION FOR PATENT INFRINGEMENT OR DECLARATORY JUDGMENT, OR NO MOTION FOR PRELIMINARY INJUNCTION.**—Except as provided in subclause (II), if—

“(aa) the applicant made a certification described in paragraph (2)(A)(vii)(IV);

“(bb) none of the conditions for denial of approval stated in paragraph (4) applies;

“(cc)(AA) no civil action for infringement of a patent that is the subject of the certification is brought before the expiration of the 45-day period beginning on the date on which the notice provided under paragraph (2)(B)(ii) was received; or

“(BB) a civil action is brought as described in subitem (AA), but no motion for preliminary injunction is filed within 90 days of commencement of the civil action; and

“(dd) the applicant does not bring a civil action for declaratory judgment of invalidity or other noninfringement of the patent before the expiration of the 60-day period beginning on the date on which the notice provided under paragraph (2)(B)(ii) was received; the approval shall be made effective on the expiration of 60 days after the date on which the notice provided under paragraph (2)(B)(ii) was received.

“(II) **CIVIL ACTION FOR PATENT INFRINGEMENT OR DECLARATORY JUDGMENT.**—If—

“(aa)(AA) a civil action for infringement of a patent that is the subject of the certification is brought before the 45-day period beginning on the date on which the notice provided under paragraph (2)(B)(ii) was received; or

“(BB) the applicant brings a civil action for declaratory judgment of invalidity or other noninfringement of the patent before the expiration of the 60-day period beginning on the date on which the notice under paragraph (2)(B)(ii) was received;

“(bb) the holder of the approved application or the owner of the patent seeks a preliminary injunction prohibiting the applicant from engaging in the commercial manufacture and sale of the drug; and

“(cc) none of the conditions for denial of approval stated in paragraph (4) applies;

the approval shall be made effective on issuance by a United States district court of a decision and order that denies a preliminary injunction, or, in a case in which a preliminary injunction has been granted by a United States district court prohibiting the applicant from engaging in the commercial manufacture or sale of the drug, a decision and order that determines that the drug patent is invalid or that the drug patent is not otherwise infringed.

“(III) **PROCEDURE.**—In a civil action brought as described in subclause (II)—

“(aa) the civil action shall be brought in the judicial district in which the defendant has its principal place of business or a regular and established place of business;

“(bb) each of the parties shall reasonably cooperate in expediting the civil action;

“(cc) the court shall not consider a motion for preliminary injunction unless the motion is filed within 90 days of commencement of the civil action; and

“(dd) the holder of the approved application or the owner of the patent shall be entitled to a preliminary injunction if the holder or owner demonstrates a likelihood of success on the merits and without regard to whether the holder or owner would suffer im-

mediate or irreparable harm or to any other factor.”;

(2) by redesignating subparagraphs (C) and (D) as subparagraphs (F) and (G), respectively; and

(3) by inserting after subparagraph (B) the following:

“(C) **EFFECTIVENESS ON CONDITION.**—

“(i) **NOTICE.**—The applicant of an application that has been approved under subparagraph (A) but for which the approval has not yet been made effective under subparagraph (B) (referred to in this subparagraph as the ‘previous application’) and with respect to which a preliminary injunction has been issued prohibiting the commercial manufacture or sale of the drug subject to the previous application may submit to the Secretary a notice stating that—

“(I) the applicant expects to receive, within 180 days, a United States district court decision and order that vacates the preliminary injunction and denies a permanent injunction or determines that the patent is invalid or is otherwise not infringed (referred to in this subparagraph as a ‘noninfringement decision’);

“(II) requests the immediate issuance of an approval of the application conditioned on a noninfringement decision within the specified time;

“(III) agrees that—

“(aa) the applicant will not settle or otherwise compromise the noninfringement decision in any manner that would prevent or delay the immediate marketing of the drug under the approved application; and

“(bb) the applicant will notify the Secretary of the noninfringement decision (or if a decision is rendered that is not a noninfringement decision, will notify the Secretary of that decision) not later than 5 days after the date of entry of judgment; and

“(IV) consents to the immediate withdrawal of the approval, without opportunity for a hearing, if the applicant fails to comply with the agreement under subclause (III) or if the noninfringement decision is vacated by the district court or reversed on appeal.

“(ii) **APPROVAL.**—On receipt of a notice under clause (i), if none of the conditions for denial of approval stated in paragraph (4) applies, the Secretary shall immediately issue an effective approval of the application conditioned on the receipt of a noninfringement decision within the specified time, subject to immediate withdrawal if the applicant fails to comply with the agreement under clause (i)(III).

“(iii) **EFFECT.**—If a noninfringement decision is rendered, the date of the final decision of a court referred to in subparagraph (B)(iv)(II)(aa) shall be the date of the noninfringement decision, notwithstanding that the noninfringement decision may be, or has been, appealed.

“(D) **CIVIL ACTION FOR DECLARATORY JUDGMENT.**—A person that files an abbreviated application for a new drug under this section containing information showing that the conditions of use prescribed, recommended, or suggested in the labeling proposed for the new drug have been previously approved for a listed drug may bring a civil action—

“(i) against the holder of an approved application for the listed drug, for a declaratory judgment declaring that the certification made by the holder of the approved drug application under subsection (b)(5)(C) relating to the listed drug was not properly made; or

“(ii) against the owner of a patent that claims the listed drug, a method of using the listed drug, or the active ingredient in the listed drug, for a declaratory judgment declaring that the patent is invalid or will not otherwise be infringed by the new drug for which the applicant seeks approval.”.

(b) CONFORMING AMENDMENTS.—Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended—

(1) in subsections (b)(1)(A)(i) and (c)(1)(A)(i), by striking “(j)(5)(D)(ii)” each place it appears and inserting “(j)(5)(G)(ii)”;

(2) in subsections (b)(1)(A)(ii) and (c)(1)(A)(ii), by striking “(j)(5)(D)” each place it appears and inserting “(j)(5)(G)”;

(3) in subsections (e) and (l), by striking “505(j)(5)(D)” each place it appears and inserting “505(j)(5)(G)”.

#### SEC. 203. ACCELERATED GENERIC DRUG COMPETITION.

(a) IN GENERAL.—Section 505(j)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)) (as amended by section 203) is amended—

(1) in subparagraph (B)(iv), by striking subclause (II) and inserting the following:

“(II) the earlier of—

“(aa) the date of a final decision of a court in an action described in clause (iii)(II) (from which no appeal has been or can be taken, other than a petition to the Supreme Court for a writ of certiorari) holding that the patent that is the subject of the certification is invalid or not otherwise infringed; or

“(bb) the date of a settlement order or consent decree signed by a Federal judge that enters a final judgment and includes a finding that the patent that is the subject of the certification is invalid or not otherwise infringed;”;

(2) by inserting after subparagraph (D) the following:

“(E) FORFEITURE OF 180-DAY PERIOD.—

“(i) DEFINITIONS.—In this subparagraph:

“(I) FORFEITURE EVENT.—The term ‘forfeiture event’ means the occurrence of any of the following:

“(aa) FAILURE TO MARKET.—An applicant fails to market the drug by the later of—

“(AA) the date that is 60 days after the date on which the approval of the application for the drug is made effective under subparagraph (B)(iii) (unless the Secretary extends the date because of the existence of extraordinary or unusual circumstances); or

“(BB) if the approval has been made effective and a civil action has been brought against the applicant for infringement of a patent subject to a certification under paragraph (2)(A)(vii)(IV) or a civil action has been brought by the applicant for a declaratory judgment that such a patent is invalid or not otherwise infringed, and if there is no other such civil action pending by or against the applicant, the date that is 60 days after the date of a final decision in the civil action, (unless the Secretary extends the date because of the existence of extraordinary or unusual circumstances).

“(bb) WITHDRAWAL OF APPLICATION.—An applicant withdraws an application.

“(cc) AMENDMENT OF CERTIFICATION.—An applicant, voluntarily or as a result of a settlement or defeat in patent litigation, amends the certification from a certification under paragraph (2)(A)(vii)(IV) to a certification under paragraph (2)(A)(vii)(III).

“(dd) FAILURE TO OBTAIN APPROVAL.—An applicant fails to obtain tentative approval of an application within 30 months after the date on which the application is filed, unless the failure is caused by—

“(AA) a change in the requirements for approval of the application imposed after the date on which the application is filed; or

“(BB) other extraordinary circumstances warranting an exception, as determined by the Secretary.

“(ee) FAILURE TO CHALLENGE PATENT.—In a case in which, after the date on which an applicant submitted an application under this subsection, new patent information is submitted under subsection (c)(2) for the listed drug for a patent for which certification is

required under paragraph (2)(A), the applicant fails to submit, not later than 60 days after the date on which the applicant receives notice from the Secretary under paragraph (7)(A)(iii) of the submission of the new patent information either a certification described in paragraph (2)(A)(vii)(IV) or a statement that the method of use patent does not claim a use for which the applicant is seeking approval under this subsection in accordance with paragraph (2)(A)(viii) (unless the Secretary extends the date because of extraordinary or unusual circumstances).

“(ff) MONOPOLIZATION.—The Secretary, after a fair and sufficient hearing, in consultation with the Federal Trade Commission, and based on standards used by the Federal Trade Commission in the enforcement of Acts enforced by the Federal Trade Commission, determines that the applicant at any time engaged in—

“(AA) anticompetitive or collusive conduct; or

“(BB) any other conduct intended to unlawfully monopolize the commercial manufacturing of the drug that is the subject of the application.

“(II) SUBSEQUENT APPLICANT.—The term ‘subsequent applicant’ means an applicant that submits a subsequent application under clause (ii).

“(ii) FORFEITURE EVENT OCCURS.—If—

“(I) a forfeiture event occurs;

“(II) no action described in subparagraph (B)(iii)(II) was brought against or by the previous applicant, or such an action was brought but did not result in a final judgment that included a finding that the patent is invalid; and

“(III) an action described in subparagraph (B)(iii)(II) is brought against or by the next applicant, and the action results in a final judgment that includes a finding that the patent is invalid;

the 180-day period under subparagraph (B)(iv) shall be forfeited by the applicant and shall become available to an applicant that submits a subsequent application containing a certification described in paragraph (2)(A)(vii)(IV).

“(iii) FORFEITURE EVENT DOES NOT OCCUR.—If a forfeiture event does not occur, the application submitted subsequent to the previous application shall be treated as the previous application under subparagraph (B)(iv).

“(iv) AVAILABILITY.—The 180-day period under subparagraph (B)(iv) shall be available only to—

“(I) the previous applicant submitting an application for a drug under this subsection containing a certification described in paragraph (2)(A)(vii)(IV) with respect to any patent; or

“(II) under clause (i), a subsequent applicant submitting an application for a drug under this subsection containing such a certification with respect to any patent; without regard to whether an application has been submitted for the drug under this subsection containing such a certification with respect to a different patent.

“(v) APPLICABILITY.—The 180-day period described in subparagraph (B)(iv) shall apply only if—

“(I) the application contains a certification described in paragraph (2)(A)(vii)(IV); and

“(II)(aa) an action is brought for infringement of a patent that is the subject of the certification; or

“(bb) not later than 60 days after the date on which the notice provided under paragraph (2)(B)(ii) is received, the applicant brings an action against the holder of the approved application for the listed drug.”.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective only with respect to an application filed under section

505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) after the date of enactment of this Act for a listed drug for which no certification under section 505(j)(2)(A)(vii)(IV) of that Act was made before June 7, 2002.

#### SEC. 204. NOTICE OF AGREEMENTS SETTLING CHALLENGES TO CERTIFICATIONS THAT A PATENT IS INVALID OR WILL NOT BE INFRINGED.

(a) DEFINITIONS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

“(kk) BRAND NAME DRUG COMPANY.—The term ‘brand name drug company’ means a person engaged in the manufacture or marketing of a drug approved under section 505(b).

“(ll) GENERIC DRUG APPLICANT.—The term ‘generic drug applicant’ means a person that has filed for approval or received approval of an abbreviated new drug application under section 505(j).”.

(b) NOTICE OF AGREEMENTS SETTLING CHALLENGES TO CERTIFICATIONS THAT A PATENT IS INVALID OR WILL NOT OTHERWISE BE INFRINGED.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended by adding at the end the following:

“(o) NOTICE OF AGREEMENTS SETTLING CHALLENGES TO CERTIFICATIONS THAT A PATENT IS INVALID OR WILL NOT OTHERWISE BE INFRINGED.—

“(1) IN GENERAL.—A brand name drug company and a generic drug applicant that enter into an agreement regarding the settlement of a challenge to a certification with respect to a patent on a drug under subsection 505(b)(2)(A)(iv) shall submit to the Secretary and the Attorney General a notice that includes—

“(A) a copy of the agreement;

“(B) an explanation of the purpose and scope of the agreement; and

“(C) an explanation whether there is any possibility that the agreement could delay, restrain, limit, or otherwise interfere with the production, manufacture, or sale of the generic version of the drug.

“(2) FILING DEADLINES.—A notice required under paragraph (1) shall be submitted not later than 10 business days after the date on which the agreement described in paragraph (1) is entered into.

“(3) ENFORCEMENT.—

“(A) CIVIL PENALTY.—

“(i) IN GENERAL.—A person that fails to comply with paragraph (1) shall be liable for a civil penalty of not more than \$20,000 for each day of failure to comply.

“(ii) PROCEDURE.—A civil penalty under clause (i) may be recovered in a civil action brought by the Secretary or the Attorney General in accordance with section 16(a)(1) of the Federal Trade Commission Act (15 U.S.C. 56(a)(1)).

“(B) COMPLIANCE AND EQUITABLE RELIEF.—If a person fails to comply with paragraph (1), on application of the Secretary or the Attorney General, a United States district court may order compliance and grant such other equitable relief as the court determines to be appropriate.

“(4) REGULATIONS.—The Secretary, with the concurrence of the Attorney General, may by regulation—

“(A) require that a notice required under paragraph (1) be submitted in such form and contain such documentary material and information relevant to the agreement as is appropriate to enable the Secretary and the Attorney General to determine whether the agreement may violate the antitrust laws; and

“(B) prescribe such other rules as are appropriate to carry out this subsection.”.

**SEC. 205. PUBLICATION OF INFORMATION IN THE ORANGE BOOK.**

(a) **DEFINITION OF ORANGE BOOK.**—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) (as amended by section 205(a)) is amended by adding at the end the following:

“(mm) **ORANGE BOOK.**—The term ‘Orange Book’ means the publication published by the Secretary under section 505(b)(1).”

(b) **PUBLICATION OF INFORMATION IN THE ORANGE BOOK.**—Section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) is amended—

(1) in the fourth sentence of paragraph (1), by inserting before the period at the end the following: “in a publication entitled ‘Approved Drug Products With Therapeutic Equivalence Indications’ (commonly known as the ‘Orange Book’)”; and

(2) by adding at the end the following:

“(5) **PUBLICATION OF INFORMATION IN THE ORANGE BOOK.**—

“(A) **DEFINITIONS.**—In this paragraph:

“(i) **INTERESTED PERSON.**—The term ‘interested person’ includes—

“(I) an applicant under paragraph (1);

“(II) any person that is considering engaging in the manufacture, production, or marketing of a drug with respect to which there may be a question whether the drug infringes the patent to which information submitted under the second sentence of paragraph (1) pertains;

“(III) the Federal Trade Commission; and

“(IV) a representative of consumers.

“(ii) **QUALIFIED PATENT INFORMATION.**—The term ‘qualified patent information’ means information that meets the requirement of the second sentence of paragraph (1) that a patent with respect to which information is submitted under that sentence be a patent with respect to which a claim of patent infringement could reasonably be asserted if a person not licensed by the owner engaged in the manufacture, use, or sale of the drug that is the subject of an application under paragraph (1).

“(B) **DUTY OF THE SECRETARY.**—The Secretary shall publish in the Orange Book only information that is qualified patent information.

“(C) **CERTIFICATION.**—

“(i) **IN GENERAL.**—Information submitted under the second sentence of paragraph (1) shall not be published in the Orange Book unless the applicant files a certification, subject to section 1001 of title 18, United States Code, and sworn in accordance with section 1746 of title 28, United States Code, that discloses the patent data or information that forms the basis of the entry.

“(ii) **CONTENTS.**—A certification under clause (i) shall—

“(I)(aa) identify all relevant claims in the patent information for which publication in the Orange Book is sought; and

“(bb) with respect to each such claim, a statement whether the claim covers an approved drug, an approved method of using the approved drug, or the active ingredient in the approved drug (in the same physical form as the active ingredient is present in the approved drug);

“(II) state the approval date for the drug;

“(III) state an objectively reasonable basis on which a person could conclude that each relevant claim of the patent covers an approved drug, an approved method of using the approved drug, or the active ingredient in the approved drug (in the same physical form as the active ingredients is present in the approved drug);

“(IV) state that the information submitted conforms with law; and

“(V) state that the submission is not made for the purpose of delay or for any improper purpose.

“(iii) **REGULATIONS.**—

“(I) **IN GENERAL.**—Not later than 16 months after the date of enactment of this paragraph, the Secretary, in consultation with the United States Patent and Trademark Office, shall promulgate regulations governing certifications under clause (i).

“(II) **CIVIL PENALTIES.**—The regulations under subclause (I) shall prescribe civil penalties for the making of a fraudulent or misleading statement in a certification under clause (i).

“(D) **CONSULTATION.**—For the purpose of deciding whether information should be published in Orange Book, the Secretary may consult with the United States Patent and Trademark Office.

“(E) **PUBLICATION OF DETERMINATION.**—The Secretary shall publish in the Federal Register notice of a determination by the Secretary whether information submitted by an applicant under the second sentence of paragraph (1) is or is not qualified patent information.

“(F) **PETITION TO RECONSIDER DETERMINATION.**—

“(i) **IN GENERAL.**—An interested person may file with the Secretary a petition to reconsider the determination.

“(ii) **CONTENTS.**—A petition under clause (i) shall describe in detail all evidence and present all reasons relied on by the petitioner in support of the petition.

“(iii) **NOTICE.**—The Secretary shall publish in the Federal Register notice of the filing of a petition under clause (i).

“(iv) **RESPONSE.**—Not later than 30 days after publication of a notice under clause (iii), any interested person may file with the Secretary a response to the petition.

“(v) **REPLY.**—Not later than 15 days after the filing of a response under clause (iv), the petitioner may file with the Secretary a reply to the response.

“(vi) **REGULATIONS.**—The Secretary may promulgate regulations providing for any additional procedures for the conduct of challenges under this subparagraph.”

(c) **EXPEDITED REVIEW OF THE ORANGE BOOK.**—

(1) **USE OF DEFINED TERMS.**—Terms used in this subsection that are defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 201 et seq.) (as amended by this section) having the meanings given the terms in that Act.

(2) **EXPEDITED REVIEW.**—As soon as practicable after the date of enactment of this Act, the Secretary shall—

(A) complete a review of the Orange Book to identify any information in the Orange Book that is not qualified patent information; and

(B) delete any such information from the Orange Book.

(3) **PRIORITY.**—In conducting the review under paragraph (2), the Secretary shall give priority to making determinations concerning information in the Orange Book with respect to which any interested person may file a petition for reconsideration under paragraph (5)(F) of section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)), as added by subsection (b).

(d) **DIFFERENCES IN LABELING.**—Section 505(j)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(2)) is amended—

(1) in subparagraph (A)(v)—

(A) by striking “subparagraph (C) or because” and inserting “subparagraph (C), because”; and

(B) by inserting after “manufacturers” the following: “, or because of the omission of an indication or other aspect of labeling that is required by patent protection or exclusivity accorded under paragraph (5)(D)”; and

(2) by adding at the end the following:

“(D) **LABELING CONSISTENT WITH LABELING FOR EARLIER VERSION OF LISTED DRUG.**—For the purposes of subparagraph (A)(v), information showing that labeling proposed for the new drug that is the same as the labeling previously approved for the listed drug, although not for the current version of the listed drug, shall be deemed to be the same labeling as that approved for the listed drug so long as the previously approved labeling is not incompatible with a safe and effective new drug.”

**SEC. 206. NO ADDITIONAL 30-MONTH EXTENSION.**

Section 505(j)(5)(B)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)(B)(iii)) is amended by inserting after the fourth sentence the following: “Once a thirty-month period begins under the second sentence of this clause with respect to any application under this subsection, there shall be no additional thirty-month period or extension of the thirty-month period with respect to the application by reason of the making of any additional certification described in subclause (IV) of paragraph (2)(A)(vii) or for any other reason.”

**TITLE III—EXPANSION OF ACCESS THROUGH EXISTING PROGRAMS****SEC. 301. MEDICARE COVERAGE OF ALL ANTICANCER ORAL DRUGS.**

(a) **IN GENERAL.**—Section 1861(s)(2)(Q) of the Social Security Act (42 U.S.C. 1395x(s)(2)(Q)) is amended by striking “anticancer chemotherapeutic agent for a given indication,” and all that follows and inserting “anticancer agent for a medically accepted indication (as defined in subsection (t)(2)(B));”

(b) **CONFORMING AMENDMENT.**—Section 1834(j)(5)(F)(iv) of the Social Security Act (42 U.S.C. 1395m(j)(5)(F)(iv)) is amended by striking “therapeutic”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to drugs furnished on or after the date that is 90 days after the date of enactment of this Act.

**SEC. 302. REMOVAL OF STATE RESTRICTIONS.**

(a) **THERAPEUTIC EQUIVALENCE.**—Section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) is amended—

(1) in paragraph (5)(A)—

(A) by striking “(5)(A) Within one hundred and eighty days of the” and inserting the following:

“(5) **TIME PERIODS.**—

“(A) **APPROVAL OR DISAPPROVAL.**—

“(i) **IN GENERAL.**—Not later than 180 days after the date of”; and

(B) by adding at the end the following:

“(ii) **FINDING REGARDING THERAPEUTIC EQUIVALENCE.**—When the Secretary approves an application submitted under paragraph (1), the Secretary shall include in the approval a finding whether the drug for which the application is approved (referred to in this paragraph as the ‘subject drug’) is the therapeutic equivalent of a listed drug.

“(iii) **THERAPEUTIC EQUIVALENCE.**—For purposes of clause (ii), a subject drug is the therapeutic equivalent of a listed drug if—

“(I) all active ingredients of the subject drug, the dosage form of the subject drug, the route of administration of the subject drug, and the strength or concentration of the subject drug are the same as those of the listed drug and the compendial or other applicable standard met by the subject drug is the same as that met by the listed drug (even though the subject drug may differ in shape, scoring, configuration, packaging, excipients, expiration time, or (within the limits established by paragraph (2)(A)(v)) labeling);

“(II) the subject drug is expected to have the same clinical effect and safety profile as



the listed drug when the subject drug is administered to patients under conditions specified in the labeling; and

“(III) the subject drug—

“(aa)(AA) does not present a known or potential bioequivalence problem; and

“(BB) meets an acceptable in vitro standard; or

“(bb) if the subject drug presents a known or potential bioequivalence problem, is shown to meet an appropriate bioequivalence standard.

“(iv) FINDING.—If Secretary finds that the subject drug meets the requirements of clause (iii) with respect to a listed drug, the Secretary shall include in the approval of the application for the subject drug a finding that the subject drug is the therapeutic equivalent of the listed drug.”; and

(2) in paragraph (7)(A)(i)(II), by striking “and the number of the application which was approved” and inserting “, the number of the application that was approved, and a statement whether a finding of therapeutic equivalence was made under paragraph (5)(A)(iv), and if so the name of the listed drug to which the drug is a therapeutic bioequivalent”.

(b) STATE LAWS.—Section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) is amended by adding at the end the following:

“(10) STATE LAWS.—No State or political subdivision of a State may establish or continue in effect with respect to a drug that is the subject of an application under paragraph (5) any requirement that is different from, or in addition to, any requirement relating to therapeutic equivalence applicable to the drug under paragraph (5).”.

#### SEC. 303. MEDICAID DRUG USE REVIEW PROGRAM.

(a) IN GENERAL.—Section 1927(g)(2) of the Social Security Act (42 U.S.C. 1396r-8(g)(2)) is amended by adding at the end the following:

“(E) GENERIC DRUG SAMPLES.—The program shall provide for the distribution of generic drug samples of covered outpatient drugs to physicians and other prescribers.”.

(b) FEDERAL PERCENTAGE OF EXPENDITURES.—Section 1903(a)(3)(D) of the Social Security Act (42 U.S.C. 1396b(a)(3)(D)) is amended by striking “in 1991, 1992, or 1993,” and inserting “(beginning with fiscal year 2003)”.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2002.

#### SEC. 304. CLARIFICATION OF INCLUSION OF INPATIENT DRUG PRICES CHARGED TO CERTAIN PUBLIC HOSPITALS IN THE BEST PRICE EXEMPTIONS ESTABLISHED FOR PURPOSES OF THE MEDICAID DRUG REBATE PROGRAM.

Section 1927(c)(1)(C)(ii) of the Social Security Act (42 U.S.C. 1396r-8(c)(1)(C)(ii)) is amended—

(1) in subclause (II), by striking “and” at the end;

(2) in subclause (III), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(IV) with respect to a covered entity described in section 340B(a)(4)(L) of the Public Health Service Act, shall, in addition to any prices excluded under clause (i)(I), exclude any price charged on or after the date of enactment of this subparagraph, for any drug, biological product, or insulin provided as part of, or as incident to and in the same setting as, inpatient hospital services (and for which payment may be made under this title as part of payment for and not as direct reimbursement for the drug).”.

#### SEC. 305. UPPER PAYMENT LIMITS FOR GENERIC DRUGS UNDER MEDICAID.

Section 1927(e) of the Social Security Act (42 U.S.C. 1396r-8(e)) is amended by striking paragraph (4) and inserting the following:

“(4) ESTABLISHMENT OF UPPER PAYMENT LIMITS.—

“(A) IN GENERAL.—The Administrator of the Centers for Medicare & Medicaid Services shall establish an upper payment limit for each multiple source drug for which the FDA has rated 3 or more products therapeutically and pharmaceutically equivalent.

“(B) PUBLIC AVAILABILITY OF NATIONAL DRUG CODE.—The Administrator of the Centers for Medicare & Medicaid Services shall make publicly available, at such time and together with the publication of the upper payment limits established in accordance with subparagraph (A), the national drug code (commonly referred to as the ‘NDC’) for each drug used as the reference product to establish the upper payment limit for a particular multiple source drug.

“(C) DEFINITION OF REFERENCE PRODUCT.—In subparagraph (B), the term ‘reference product’ means the specific drug product, the price of which is used by the Administrator of the Centers for Medicare & Medicaid Services to calculate the upper payment limit for a particular multiple source drug.”.

#### TITLE IV—GENERAL PROVISIONS

##### SEC. 401. REPORT.

(a) IN GENERAL.—Not later than the date that is 5 years after the date of enactment of this Act, the Federal Trade Commission shall submit to Congress a report describing the extent to which implementation of the amendments made by this Act—

(1) has enabled products to come to market in a fair and expeditious manner, consistent with the rights of patent owners under intellectual property law; and

(2) has promoted lower prices of drugs and greater access to drugs through price competition.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$1,000,000.

By Mr. BAUCUS (for himself, Mr. CRAPO, Mr. HARKIN, Mr. WARNER, Mr. DASCHLE, Mr. CRAIG, Mr. BOND, Mr. GRAHAM, Mrs. CARNAHAN, Mr. REID, Mr. THOMAS, Mr. ENZI, and Mr. JOHNSON):

S. 2678. A bill to amend the Internal Revenue Code of 1986 to transfer all excise taxes imposed on alcohol fuels to the Highway Trust Fund, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to introduce the MEGATRUST Act, the Maximum Growth for America Through the Highway Trust Fund.

Next year, the Congress must reauthorize highway and transit programs and the system of Federal financing for them. This is a very important issue for our Nation. The highway and transit programs are very important in every State. Very few other pieces of legislation effect our country's citizens and businesses more directly than the highway bill. These are our ways for moving goods and people.

They are key to our economy and our ability to connect to one another. This country needs good, safe highways in order to cross great distances, and highway and transit construction and maintenance is an important part of every State's economy.

In order to facilitate our work in reauthorizing these programs, I plan to introduce a series of bills concerning important issues that Congress must address in that legislation.

This will be the first of those bills, a proposal concerning revenues for the highway trust fund. But unlike other bills I will introduce, this one must pass more quickly because it sets the foundation for the other bills I will be introducing later. This bill will represent how this country will help pay for our highway and transit needs over the next several years.

The MEGATRUST Act represents an important step in the effort to strengthen our Nation's economy, and improve its quality of life, by investing in transportation.

It would increase revenues into the highway trust fund by several billion dollars annually by making some needed corrections in the way Federal revenues are credited to the highway trust fund.

Nothing in this bill increases any tax. I repeat that. Nothing in this bill increases any tax.

Federal dollars to help States and localities improve their highways and transit systems are derived largely from the Federal highway trust fund. Under the system today, revenues from highway user taxes are deposited into the highway trust fund, and, more specifically, into separate accounts within the fund for highways and for transit. Those are two separate accounts.

These revenues are, in turn, distributed to States and localities for transportation investments that truly to improve our lives, create jobs, and make our economy better. This trust fund mechanism has been widely regarded as successful. But, as always, we must make adjustments to meet new challenges.

This bill would improve and extend this important financing mechanism, principally by making sure that certain revenues not currently credited to the highway trust fund are, in fact, placed in that fund.

The MEGATRUST Act does several things. First, it will ensure that taxes paid on gasoline are fully credited to the highway account of the highway trust fund. Today, when gasoline is taxed, the mass transit account of the highway trust fund receives its full share of revenues, as if the fuel were gasoline. But 2.5 cents of the gas tax per gallon that is imposed on gasoline is credited to the general fund of the Treasury, not to the highway account. So the MEGATRUST Act ensures that those 2.5 cents per gallon go to the highway account.

Second, the MEGATRUST Act will ensure that the highway system does not bear the cost of our national policy to develop and promote the use of gasoline. This tax rate preference is part of our national policy to advance the use of gasoline.

I believe the ethanol subsidy is good energy policy, good agriculture policy, and good tax policy. Yet ironically, it is the highway trust fund that bears the burden of the subsidy. Since it is good general policy—that is, gasoline—I believe the general fund should bear

the burden of the subsidy, not the highway trust fund.

Gasohol, as a fuel, is taxed 5.3 cents per gallon less than gasoline. But gasohol-fueled vehicles cause the same wear and tear on roads as gasoline-fueled vehicles. That is obvious. They use the same roads, travel the same distances, et cetera.

Ensuring necessary and affordable energy supplies is important to the quality of life and economic prosperity of all Americans. Policies to achieve these objectives, however, should not come at the expense of transportation infrastructure improvements.

Accordingly, the MEGATRUST Act would leave the gasohol tax rate preference in place but credit the highway account of the highway trust fund with revenue equal to that forgone to the Treasury by the gasohol tax preference.

Third, the MEGATRUST Act credits both the highway and mass transit accounts of the highway trust fund with interest starting in fiscal year 2004. Today, the highway trust fund is one of the few trust funds in the Federal budget that is not credited with interest on its unspent balance, which is highly inappropriate.

The MEGATRUST Act would change this in order to make sure that collected highway user taxes are to be put to work for better transportation for our citizens.

Fourth, the MEGATRUST Act would extend the basic highway user taxes and the highway trust fund so they do not expire.

And last, the MEGATRUST Act would require the creation of an important commission concerning the future financing of the Federal highway and transit programs.

Why is that important? While the current mechanism has worked well, we know that cars will become more fuel efficient and advancing technology will only bring us closer to increased fuel efficiency.

Other changes are possible as well in our dynamic economy. While major changes will not occur overnight, we have to be ready for them. We have to understand what is likely to happen so we can consider making adjustments in the highway trust fund and its revenue streams, so we are not caught off guard and unable to adequately fund our transportation system.

What am I saying? I am basically saying that the hybrid fuel vehicles—it could be fuels cells, other technologies for our automobiles of the future—they do not use gasoline, they do not use gasohol, therefore, revenue would not be placed in the highway trust fund. We have to anticipate all of those changes so our highways are adequately funded regardless of the types of cars and regardless of the type of energy that is used to propel those cars.

I especially thank Senators HARKIN, WARNER, CRAPO, GRAHAM of Florida, REID, DASCHLE, CARNAHAN, BOND, and CRAIG for working so closely with me on this legislation.

In sum, through this highway trust fund proposal, I want to make clear to my colleagues that there are ways to increase revenue into the highway trust fund without raising taxes. We will need to increase highway trust fund resources to help us all structure a successful reauthorization bill next year, and I look forward to working closely with my colleagues to that end.

By Mr. BAUCUS (for himself, and Mr. SMITH of Oregon):

S. 2679. A bill to amend the Internal Revenue Code of 1986 to provide for a tax credit for offering employer-based health insurance coverage, to provide for the establishment of health plan purchasing alliances, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to introduce the "Health Insurance Access Act" of 2002.

This bill addresses one of the most serious problems facing the United States. The problem of the uninsured.

According to recent census data, 38 million Americans lack health insurance coverage. More than the population of twenty-three States. Plus the District of Columbia. And lack of coverage is an even greater problem in rural areas. In Montana, one in five citizens goes without health insurance. As premiums sky-rocket, I'm worried that this number may grow even higher.

For America's uninsured, the consequences of going without health coverage can be devastating.

Put plainly, uninsured Americans are less healthy than those with health insurance. They delay seeking medical care or go without treatment altogether that could prevent and detect crippling illnesses. Illnesses like diabetes, heart disease, and cancer. The uninsured are far less likely to receive health services if they are injured or become ill.

These factors take an enormous personal toll on the lives of the uninsured. They are sicker and less productive in the workplace. Their children are less likely to survive past infancy. And they must struggle with the knowledge that a serious injury or illness in their family might push them to the brink of financial ruin.

I just recently saw a statistic that women with breast cancer who lack health insurance are 49 percent more likely to die than women who have insurance. Unfortunately, this statistic is just one of countless other statistics about the effects that lack of health insurance has on peoples' health and their lives.

But these personal struggles are not the only affect of America's uninsured problem. Because when the uninsured become so sick that they must finally seek emergency treatment, there is no one to pay for it. No insurance company. No government program.

So who absorbs the cost of this uncompensated medical care? We all do. In the form of higher health care costs.

Higher and higher premiums at a time when the cost of health care is already rising out of control.

The situation is becoming critical. And I believe the time for talking has ended. It is time for us to examine solutions instead of talking about the problem.

That is why I have joined with Senator GORDON SMITH to introduce this important piece of legislation. Our bill would lift millions of Americans out of the ranks of the uninsured. It would give millions of families the peace of mind that comes from knowing they will receive the care they need, when they need it. And it would lighten the load of uncompensated care on our over-burdened health care system.

Our bill attacks the problem of the uninsured on several fronts. As you know, the 38 million uninsured Americans are a diverse mix of people. Some work for small employers, who simply can't afford the high cost of health insurance. Others have pre-existing health conditions. These conditions translate into unaffordable, even astronomical, health care insurance premiums.

Some uninsured Americans fall just beyond the eligibility levels for public programs like Medicaid. And many are near-elderly individuals, too young to qualify for Medicare, yet old enough that any health condition at all means expensive premiums or high deductibles. In fact, the fastest growing segment of the uninsured today is the near-elderly population.

Our bill addresses each of these populations.

The first part of our bill would target uninsured Americans who work for small businesses. It would give a tax credit of up to 50 percent to small firms, those with 50 or fewer employees, for the cost of health insurance premiums for their employees. The credit is not limited only to employers who do not currently provide health benefits. It is available to all qualified small employers. The credit will give small employers the extra resources they need to extend, or continue to offer, health benefits to millions of hard-working Americans and their families.

One thing I heard from my constituents traveling around the State, in addition to grief over increasing premiums, is that the health insurance options available to individuals and small employers are limited. If they could pool their resources together, even across State lines, they might be able to reduce their costs as a group.

In response to these concerns, the second part of our bill would provide funding to states, private employer groups, and associations to create purchasing pools. These purchasing pools, or alliances, as we call them in this bill, would provide small employers with affordable health coverage options, which would, accordingly, allow them to take maximum advantage of their tax credits.

For individuals with high cost health conditions, our bill would spend \$50 million annually to support state high risk pools. These pools serve a dual purpose. They offer high-risk individuals a place to purchase affordable health coverage. And, by isolating the costs of high-risk individuals, they help lower premiums for those who are not considered high risk or high cost.

Fourth, our bill would also allow states to expand health insurance coverage to the parents of children who are eligible for Medicaid and the Children's Health Insurance Program, or CHIP. This will reach an estimated four million low-income parents who do not currently meet eligibility levels for health insurance coverage under public programs. It will also help us cover even more kids under CHIP, kids who are eligible for coverage but not currently enrolled.

Finally, our bill would allow uninsured Americans between the ages of 62 and 65 to buy into Medicare. Under current law, Americans in this age group are stuck in a bind: not old enough to qualify for Medicare, but unable to afford the high cost of private health insurance options because of their age or health condition. This predicament explains why they represent the fastest-growing group of uninsured. Our bill would offer the near-elderly a more affordable, quality health care package to tide them over until they reach 65.

All told, these efforts would expand access to health insurance coverage to 10 million Americans who are currently uninsured. It's not a panacea. But it's a start.

I commend Senator SMITH for his hard work on this issue. I believe our bipartisan efforts prove that covering the uninsured is not a Democratic issue. It's not a Republican issue. And it's not a Montana or an Oregon issue. It's an American issue.

I hope my colleagues will join this fight by helping us pass this legislation, and taking a solid step towards providing quality, affordable health insurance to all Americans.

Mr. SMITH of Oregon. Mr. President, I would like to thank my colleague from Montana for his leadership on the issue of the uninsured, and rise today in support of the Baucus-Smith Health Insurance Access Act. This bill will go a long way toward mending some of the holes in our nation's health care safety net.

And make no mistake, the safety net is torn. Currently 40 million Americans, that's one in six,—live, work, and go to school among us without health insurance. That means that nationally, 17 percent of Americans do not have any health insurance. They are our friends, our neighbors, our children, our parents.

And the problem is getting worse, not better. In 2001, two million Americans lost their health insurance, that's the largest one year increase in almost a decade.

Many, more than 35 million of these uninsured Americans, are in low-in-

come working families. Many people who work in small businesses are not offered health insurance, and those who are often cannot afford the skyrocketing premiums.

This is particularly true if an individual or a member of their family happen to have some kind of pre-existing or chronic condition that can make a simple policy totally unaffordable. Even relatively healthy Americans find that when they get older, they may be unable to afford health care premiums after they retire, but before they become eligible for Medicare.

Some people say that insurance is irrelevant, that the uninsured can still get good care at public clinics and in emergency rooms. While it is true that public clinics do provide high quality care to millions of Americans, this is not the same as having health insurance with a regular source of care.

Not having a regular source of care leads to needless delays in seeking care. According to a recent report by the Institute of Medicine, an estimated 18,000 people die every year because they don't have health insurance, and don't get the care they need in a timely fashion. Eighteen thousand deaths a year. Millions more people suffer unnecessarily due to delays in care.

Millions of Americans are falling through the cracks in our health care system, and it is our moral obligation to help them get the care they need by providing access to affordable health insurance.

The Health Insurance Access Act of 2002 provides a number of solutions to the growing crisis of the uninsured.

It helps small businesses, which are often unable to offer affordable health insurance to their employees. Under this legislation, small businesses would get a significant tax break to subsidize their purchase of health insurance. The tax break is indexed to the size of a business, so the smallest employers get the most help if they choose to offer their employees health insurance. This is important because smaller businesses are much less likely to offer their employees health coverage.

In order to avoid punishing small employers who are already doing the right thing, our tax credit is available to all qualified small employers, regardless of whether they currently offer health insurance to their employees.

Another problem small businesses face in purchasing health insurance for their employees is finding an affordable policy with real benefits for their employees. By definition, small businesses are too small to provide a stable risk pool. This drives up the cost of premiums.

The Baucus-Smith Health Insurance Access Act of 2002 offers employers some relief to this problem by providing funding for purchasing alliances, which lower premiums by sharing risk. This will provide new, more affordable options for millions of Americans, who have until now had limited health insurance choices.

Our bill also provides grants to states to help fund high risk pools for people who have very limited health insurance options. It seems ironic to me that many of the people who need health insurance most, people with an expensive medical condition—are often unable to obtain insurance.

For many people who have extensive health care needs and medical expenses, obtaining coverage in the individual insurance market is not a viable option. If they can find a policy to cover their illness—often they cannot—they may not be able to afford the premium.

However, in many cases, many of these individuals may not be able to buy health insurance at any cost, because insurers often turn down high risk individuals for coverage because of an existing or previous illness.

High-risk insurance pools attempt to fill this gap in the insurance market. Oregon has had a high risk insurance pool for people who were unable to obtain health insurance because of health conditions for the past 15 years. Since its inception, more than 24,000 Oregonians have bought health care coverage through this high risk insurance pool, 24,000 people who would otherwise have had no health care coverage.

Operating a high risk pool in Oregon has had its costs, costs which are increasing every year. Our legislation will help States assist people who are trying to do the right thing afford health insurance coverage that would otherwise be out of reach.

While much of the policy discussion about the uninsured focuses on children, low income parents are substantially more likely than their children to be uninsured. The Health Insurance Access Act of 2002 would also allow states to offer Medicaid and SCHIP benefits to parents of low income eligible children.

Encouraging States to offer Medicaid or SCHIP coverage to parents will significantly expand access to care for low income parents, and their children, because parents are more likely to enroll their kids in Medicaid or SCHIP when the family is eligible, rather than just certain family members.

Finally, the Health Insurance Access Act of 2002 would address another hole in the insurance market: the near elderly. The near elderly, Americans aged 62-64, often do not have employer sponsored health insurance, because they have retired from the labor force, but are not yet eligible for Medicare.

At the same time, insurance coverage is particularly critical for near-elderly Americans, as the risk of serious illness rises with age, and the prevalence of chronic disease is higher among this population. In addition, because many of the near-elderly have pre-existing conditions, private insurers often deny them coverage or charge unaffordable premiums.

Allowing all Americans aged 62-64 to buy into the Medicare program would create a strong risk pool that would

stabilize premiums, making them affordable to many who would otherwise have been unable to afford coverage. Researchers estimate that almost 40% of eligible Americans 62–64 would buy into Medicare if allowed to do so.

The number of uninsured people in America is an outrage. If 18,000 Americans died in terrorist incidents each year, there would be widespread outrage. Yet, tens of thousands of uninsured Americans are at risk of dying each year from cancers diagnosed too late, or stroke from uncontrolled high blood pressure. These can be slow, painful deaths. They are preventable deaths. We can help prevent these deaths. We should help prevent these deaths.

I urge you to join me and my colleague from Montana to support the Health Insurance Access Act of 2002. This legislation will touch millions of lives by making quality, affordable health insurance accessible to individuals and families who are living at risk.

It is the right thing to do. It is the right time to do it.

By Mr. BAUCUS:

S. 2680. A bill to direct the Secretary of the Interior to evaluate opportunities to enhance domestic oil and gas production through the exchange of nonproducing Federal oil and gas leases located in the Lewis and Clark National Forest, in the Flathead National Forest and on Bureau of Land Management land in the State of Montana, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BAUCUS. Mr. President, I am introducing a bill today that is extremely important to the people of my State of Montana. Why is it so important? Because I hope it will take us one step closer to achieving permanent protections for Montana's magnificent Rocky Mountain Front.

The Front, as we call it back home, is part of one of the largest and most intact wild places left in the lower 48. To the North, the Front includes a 200 square mile area known as the Badger-Two Medicine in the Lewis and Clark National Forest. This area sits just south-east of Glacier National Park, one of our greatest national treasures. The Badger-Two Medicine area is sacred ground to the Blackfeet Tribe. In January of 2002, portions of the Badger-Two, known as the Badger-Two Medicine Blackfoot Traditional Cultural District, were declared eligible for listing in the National Register of Historic Places.

South of the Badger-Two, the Front includes a 400 square mile strip of national forest land and about 20 square miles of BLM lands, including three BLM Outstanding Natural Areas.

Not only the Front still retain almost all its native species, only bison are missing, but it also harbors the country's largest bighorn sheep herd and second largest elk herd. The Rocky

Mountain Front supports one of the largest populations of grizzly bears south of Canada and is the only place in the lower 48 States where grizzly bears still roam from the mountains to their historic range on the plains.

Because of this exceptional habitat, the Front offers world renowned hunting, fishing and recreational opportunities. Sportsmen, local land owners, hikers, local communities and many other Montanans have worked for decades to protect and preserve the Front for future generations.

In short, a majority of Montanans feel very strongly that oil and gas development, and Montana's Rocky Mountain Front, just don't mix. The habitat is too rich, the landscape too important, to subject it to the roads, drills, pipelines, industrial equipment, chemicals, noise, and human activity that come with oil and gas development.

Building upon a significant public and private conservation investment and following an extensive public comment process, the Lewis and Clark National Forest decided in 1997 to withdraw for 15 years 356,000 acres in the Front from any new oil and gas leasing. This was a significant first step in protecting the Front from developing that I wholeheartedly supported.

However, in many parts of the Rocky Mountain Front, oil and gas leases exist that pre-date the 1997 decision. These leaseholders have invested time and resources in acquiring their leases. Several leaseholders have applied to the federal government for permits to drill. These leases are the subject of my proposed bill.

History has shown that energy exploration and development in the Front is likely to result in expensive and time consuming environmental studies and litigation. This process rarely ends with a solution that is satisfactory to the oil and gas lessee. For example, in the late 1980's both Chevron and Fina applied for permits to drill in the Badger-Two Medicine portion of the Front. After millions of dollars spent on studies and years of public debate, Chevron abandoned or assigned all of its lease rights, and Fina sold its lease rights back to the original owner.

Therefore, I think we should be fair to those leaseholders. We want them to continue to provide for our domestic oil and gas needs, but they are going to have a long, difficult and expensive road if they wish to develop oil and gas in the Rocky Mountain Front.

My legislation would direct the Interior Department to evaluate non-producing leases in the Rocky Mountain Front and look at opportunities to cancel these leases, in exchange for allowing leaseholders to explore for oil and gas somewhere else, namely in the Gulf of Mexico or in the State of Montana. In conducting this evaluation, the Secretary would have to consult with leaseholders, with the State of Montana and the public and other interested parties.

When Interior concludes this study in two years, the bill calls for the agency to make recommendations to Congress and the Energy and Natural Resources Committee on the advisability of pursuing lease exchanges in the Front and any changes in law and regulation needed to enable the Secretary to undertake such an exchange.

Finally, in order to allow the Secretary to conduct this study, my bill would continue the current lease suspension in the Badger-Two Medicine Area for three more years. This lease suspension would only apply to the Badger-Two Medicine Area, not the entire Front.

That's it, that's all my bill does. It doesn't predetermine any outcome, it doesn't impact any existing exploration activities or environmental review processes. It just creates a process through which the federal government, the people of Montana and leaseholders can finally have a real, open and honest discussion about the fate of the Rocky Mountain Front.

We should look for ways to fairly compensate leaseholders for investments they've made in their leases if they decide to leave the Front rather than waste years and millions fighting to explore for uncertain oil and gas reserves. Because, a lot of Montanans don't want to see the Front developed, and they will fight to protect it. Including me.

So, developers can wait years, or decades, or most likely never, for oil and gas to flow from the Front. Or we can look at ways to encourage domestic production much sooner, in much more cost effective, appropriate and efficient ways somewhere else.

That is what I hope this legislation will accomplish, and I hope my colleagues in the Senate will support it.

By Mr. GRASSLEY:

S.J. Res. 38. A joint resolution providing for the designation of a Medal of Honor Flag and for presentation of that flag recipients of the Medal of Honor; to the Committee on Armed Services.

Mr. GRASSLEY. Mr. President, today I am introducing a resolution to designate a Medal of Honor Flag to further honor those individuals who have gone above and beyond the call of duty in service to their country and to present that flag to each recipient of the Medal of Honor. This idea came from a constituent of mine, retired First Sergeant William Kendall of Jefferson, IA. Mr. Kendall had been thinking about another resident of Jefferson, Captain Darrell Lindsey, who was shot down while on a bombing mission over France during World War II. Captain Lindsey was able to keep his aircraft in the air long enough to allow the members of his crew to escape safely, but this action cost him his life. As a result of this selfless sacrifice, Captain Lindsey was awarded the Medal of Honor.

A Medal of Honor monument commemorating this heroic Iowan now

stands on the courthouse lawn in Jefferson, IA. It was partly this monument and the proud history of his fellow Iowan that inspired Bill Kendall to ponder the heroism of all recipients of the Medal of Honor. He then began to wonder why there was no official flag to honor recipients of the Medal of Honor. The Medal of Honor is the Nation's highest award for bravery he felt that a flag would help to show respect for this award as well as all those who have earned it through their service to the United States of America. I agree.

The Medal of Honor is not given out lightly. To date, only 3,439 individuals have been awarded the Medal of Honor and there are only 143 living recipients of this award. Each of the armed services has very strict regulations for judging whether an individual is entitled to the Medal of Honor. The award is only given for acts of exceptional bravery or self-sacrifice above and beyond what is expected and must involve risk of life. The deed must be proved by incontestable evidence of at least two eyewitnesses.

I should also add that there is an Iowa connection going back to the creation of the Medal of Honor. In 1861, during the Civil War, Iowa Senator James Grimes introduced legislation in the Senate to create a Medal of Honor for the Navy. This first Medal of Honor was followed by similar awards for the other services. It is appropriate that another Iowan, Sergeant William Kendall, should create the first Medal of Honor flag.

It is indeed right and appropriate to honor those Americans to whom we owe so much. Bill Kendall's idea for a Medal of Honor flag is a good one and I am honored to do what I can to help see his vision realized. I am pleased that the House has already acted on a similar measure and I hope my colleagues in the Senate will join me in this important initiative.

I ask unanimous consent that the text of this resolution be printed in the RECORD.

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

S.J. RES. 38

Whereas the Medal of Honor is the highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Forces of the United States;

Whereas the Medal of Honor was established by Congress during the Civil War to recognize soldiers who had distinguished themselves by gallantry in action;

Whereas the Medal of Honor was conceived by Senator James Grimes of the State of Iowa in 1861; and

Whereas the Medal of Honor is the Nation's highest military honor, awarded for acts of personal bravery or self-sacrifice above and beyond the call of duty: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. DESIGNATION OF MEDAL OF HONOR FLAG.

(a) IN GENERAL.—Chapter 9 of title 36, United States Code, is amended by adding at the end the following new section:

#### “§ 903. Designation of Medal of Honor Flag

“(a) DESIGNATION.—The Secretary of Defense shall design and designate a flag as the Medal of Honor Flag. In selecting the design for the flag, the Secretary shall consider designs submitted by the general public.

“(b) PRESENTATION.—The Medal of Honor Flag shall be presented as specified in sections 3755, 6257, and 8755 of title 10 and section 505 of title 14.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“903. Designation of Medal of Honor Flag.”.

#### SEC. 2. PRESENTATION OF FLAG TO MEDAL OF HONOR RECIPIENTS.

(a) ARMY.—(1) Chapter 357 of title 10, United States Code, is amended by adding at the end the following new section:

#### “§ 3755. Medal of honor: presentation of Medal of Honor Flag

“The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36 to each person to whom a medal of honor is awarded under section 3741 of this title after the date of the enactment of this section. Presentation of the flag shall be made at the same time as the presentation of the medal under section 3741 or 3752(a) of this title.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“3755. Medal of honor: presentation of Medal of Honor Flag.”.

(b) NAVY AND MARINE CORPS.—(1) Chapter 567 of such title is amended by adding at the end the following new section:

#### “§ 6257. Medal of honor: presentation of Medal of Honor Flag

“The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36 to each person to whom a medal of honor is awarded under section 6241 of this title after the date of the enactment of this section. Presentation of the flag shall be made at the same time as the presentation of the medal under section 6241 or 6250 of this title.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“6257. Medal of honor: presentation of Medal of Honor Flag.”.

(c) AIR FORCE.—(1) Chapter 857 of title 10, United States Code, is amended by adding at the end the following new section:

#### “§ 8755. Medal of honor: presentation of Medal of Honor Flag

“The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36 to each person to whom a medal of honor is awarded under section 8741 of this title after the date of the enactment of this section. Presentation of the flag shall be made at the same time as the presentation of the medal under section 8741 or 8752(a) of this title.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“8755. Medal of honor: presentation of Medal of Honor Flag.”.

(d) COAST GUARD.—(1) Chapter 13 of title 14, United States Code, is amended by inserting after section 504 the following new section:

#### “§ 505. Medal of honor: presentation of Medal of Honor Flag

“The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36 to each person to whom a medal of honor is awarded under section 491 of this title after the date

of the enactment of this section. Presentation of the flag shall be made at the same time as the presentation of the medal under section 491 or 498 of this title.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 504 the following new item:

“505. Medal of honor: presentation of Medal of Honor Flag.”.

(e) PRIOR RECIPIENTS.—The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36, United States Code, as added by section 1(a), to each person awarded the Medal of Honor before the date of the enactment of this joint resolution who is living as of that date. Such presentation shall be made as expeditiously as possible after the date of the designation of the Medal of Honor Flag by the Secretary of Defense under such section.

### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 291—TO AUTHORIZE TESTIMONY, DOCUMENT PRODUCTION AND LEGAL REPRESENTATION IN UNITED STATES V. MILTON THOMAS BLACK

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

Whereas, in the case of United States v. Milton Thomas Black, Cr. No. S-02-016-PMP, pending in the United States District Court for the District of Nevada, subpoenas for testimony have been issued to Clara Kircher and Phil Toomajian, employees in the office of Senator Patrick J. Leahy; Donald Wilson, an employee in the office of Senator Harry Reid; and Katharine Dillingham and Craig Spilsbury, employees in the office of Senator Orrin G. Hatch;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

*Resolved* That Clara Kircher, Phil Toomajian, Donald Wilson, Katharine Dillingham, Craig Spilsbury, and any other employee of the Senate from whom testimony or document production is required, are authorized to testify and produce documents in the case of United States v. Milton Thomas Black, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal counsel is authorized to represent employees of the Senate in connection with the testimony and document production authorized in section one of this resolution.

SENATE CONCURRENT RESOLUTION 123—EXPRESSING THE SENSE OF CONGRESS THAT THE FUTURE OF TAIWAN SHOULD BE RESOLVED PEACEFULLY, THROUGH A DEMOCRATIC MECHANISM, WITH THE EXPRESS CONSENT OF THE PEOPLE OF TAIWAN AND FREE FROM OUTSIDE THREATS, INTIMIDATION, OR INTERFERENCE

Mr. TORRICELLI submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 123

Whereas in the San Francisco Peace Treaty signed on September 8, 1951 (3 U. S. T. 3169) (in this resolution referred to as the "treaty"), Japan renounced all right, title, and claim to Taiwan;

Whereas the signatories of the treaty left the status of Taiwan undetermined;

Whereas the universally accepted principle of self-determination is enshrined in Article 1 of the United Nations Charter;

Whereas the United States is a signatory of the United Nations Charter;

Whereas the United States recognizes and supports that the right to self-determination exists as a fundamental right of all peoples, as set forth in numerous United Nations instruments;

Whereas the people of Taiwan are committed to the principles of freedom, justice, and democracy as evidenced by the March 18, 2000, election of Mr. Chen Shui-bian as Taiwan's President;

Whereas the 1993 Montevideo Convention on Rights and Duties of States defines the qualifications of a nation-state as a defined territory, a permanent population, and a government capable of entering into relations with other states;

Whereas on February 24, 2000, and March 8, 2000, President Clinton stated: "We will ... continue to make absolutely clear that the issues between Beijing and Taiwan must be resolved peacefully and with the assent of the people of Taiwan";

Whereas both the 2000 Republican party platform and the Democratic party platform emphasized and made clear the belief that the future of Taiwan should be determined with the consent of the people of Taiwan; and

Whereas Deputy Secretary of State Richard Armitage said in a Senate Foreign Relations Committee hearing on March 16, 2001, that "what has changed is that any eventual agreement that is arrived at has to be acceptable to the majority of the people on Taiwan": Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—*

(1) the future of Taiwan should be resolved peacefully, through a democratic mechanism such as a plebiscite and with the express consent of the people of Taiwan; and

(2) the future of Taiwan must be decided by the people of Taiwan without outside threats, intimidation, or interference.

AMENDMENTS SUBMITTED—JUNE 24, 2002

**SA 3970.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction,

and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

#### TITLE XIII—COAST GUARD AUTHORIZATION

##### SEC. 1301. SHORT TITLE.

This title may be cited as the "Coast Guard Authorization Act of 2002".

##### SEC. 1302. TABLE OF CONTENTS.

The table of contents for this title is as follows:

Sec. 1301. Short title.

Sec. 1302. Table of contents.

##### SUBTITLE A—AUTHORIZATION

Sec. 1311. Authorization of appropriations.

Sec. 1312. Authorized levels of military strength and training.

Sec. 1313. LORAN-C.

Sec. 1314. Patrol craft.

Sec. 1315. Caribbean support tender.

##### SUBTITLE B—PERSONNEL MANAGEMENT

Sec. 1321. Coast Guard band director rank.

Sec. 1322. Compensatory absence for isolated duty.

Sec. 1323. Suspension of retired pay of Coast Guard members who are absent from the United States to avoid prosecution.

Sec. 1324. Extension of Coast Guard housing authorities.

Sec. 1325. Accelerated promotion of certain Coast Guard officers.

Sec. 1326. Regular lieutenant commanders and commanders; continuation on failure of selection for promotion.

Sec. 1327. Reserve officer promotion

Sec. 1328. Reserve Student Pre-Commissioning Assistance Program.

Sec. 1329. Continuation on active duty beyond 30 years.

Sec. 1330. Payment of death gratuities on behalf of Coast Guard Auxiliaries.

Sec. 1331. Align Coast Guard severance pay and revocation of commission authority with Department of Defense authority.

##### SUBTITLE C—MARINE SAFETY

Sec. 1351. Modernization of national distress and response system.

Sec. 1352. Extension of Territorial Sea for Vessel Bridge-to-Bridge Radiotelephone Act.

Sec. 1353. Icebreaking services.

Sec. 1354. Modification of various reporting requirements.

Sec. 1355. Oil Spill Liability Trust Fund; emergency fund advancement authority.

Sec. 1356. Merchant mariner documentation requirements.

Sec. 1357. Penalties for negligent operations and interfering with safe operation.

Sec. 1358. Fishing vessel safety training.

Sec. 1359. Extend time for recreational vessel and associated equipment recalls.

Sec. 1360. Safety equipment requirement.

Sec. 1361. Marine casualty investigations involving foreign vessels.

Sec. 1362. Maritime Drug Law Enforcement Act amendments.

Sec. 1363. Temporary certificates of documentation for recreational vessels.

##### SUBTITLE D—RENEWAL OF ADVISORY GROUPS

Sec. 1371. Commercial Fishing Industry Vessel Advisory Committee.

Sec. 1372. Houston-Galveston Navigation Safety Advisory Committee.

Sec. 1373. Lower Mississippi River Waterway Advisory Committee.

Sec. 1374. Navigation Safety Advisory Council.

Sec. 1375. National Boating Safety Advisory Council.

Sec. 1376. Towing Safety Advisory Committee.

##### SUBTITLE E—MISCELLANEOUS

Sec. 1381. Conveyance of Coast Guard property in Portland, Maine.

Sec. 1382. Harbor safety committees.

Sec. 1383. Limitation of liability of pilots at Coast Guard Vessel Traffic Services.

Sec. 1384. Conforming references to the former Merchant Marine and Fisheries Committee.

Sec. 1385. Long-term lease authority for lighthouse property.

Sec. 1386. Electronic filing of commercial instruments for vessels.

Sec. 1387. Radio direction finding apparatus carriage requirement.

Sec. 1388. Wing-in-ground craft.

Sec. 1389. Deletion of thumbprint requirement for merchant mariners' documents.

Sec. 1390. Authorization of payment.

Sec. 1391. Additional Coast Guard funding needs after September 11, 2001.

Sec. 1392. Repeal of special authority to revoke endorsements.

Sec. 1393. Prearrival messages from vessels destined to United States ports.

Sec. 1394. Safety and security of ports and waterways.

Sec. 1395. Pictured Rocks National Lakeshore boundary division.

Sec. 1396. Administrative waiver.

Sec. 1397. Vessel STUYVESANT.

Sec. 1398. Escanaba dock.

##### SUBTITLE A—AUTHORIZATION

##### SEC. 1311. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 2002.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 2002, as follows:

(1) For the operation and maintenance of the Coast Guard, \$4,533,000,000, of which—

(A) \$25,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund; and

(B) \$537,000,000 is authorized for activities associated with improving maritime security, including maritime domain awareness and law enforcement operations.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, \$985,000,000 of which—

(A) \$20,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990;

(B) \$50,000,000 is authorized to be available for equipment and facilities associated with improving maritime security awareness, crisis prevention, and response; and

(C) \$338,000,000 is authorized to be available to implement the Coast Guard's Integrated Deepwater system.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, \$22,000,000, to remain available until expended, of which \$3,500,000 is authorized to be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed



appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, \$876,350,000, to remain available until expended.

(5) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), \$17,000,000, to remain available until expended.

(6) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program—

(A) \$13,500,000, to remain available until expended; and

(B) \$2,000,000, to remain available until expended, which may be utilized for construction of a new Chelsea Street Bridge over the Chelsea River in Boston, Massachusetts.

(b) FISCAL YEAR 2003.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 2003, as follows:

(1) For the operation and maintenance of the Coast Guard, \$4,800,000,000, of which—

(A) \$25,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund; and

(B) \$537,000,000 is authorized for activities associated with improving maritime security, including maritime domain awareness and law enforcement operations.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, \$1,000,000,000 of which—

(A) \$20,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990;

(B) \$50,000,000 is authorized to be available for equipment and facilities associated with improving maritime security awareness, crisis prevention, and response; and

(C) \$500,000,000 is authorized to be available to implement the Coast Guard's Integrated Deepwater system.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, \$23,106,000, to remain available until expended, of which \$3,500,000 is authorized to be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, \$935,000,000, to remain available until expended.

(5) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), \$17,300,000, to remain available until expended.

(6) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program administrative costs associated with the Bridge Alteration Program—

(A) \$16,000,000, to remain available until expended; and

(B) \$2,000,000, to remain available until expended, which may be utilized for construc-

tion of a new Chelsea Street Bridge over the Chelsea River in Boston, Massachusetts.

#### SEC. 1312. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) END-OF-YEAR STRENGTH FOR FISCAL YEAR 2002.—The Coast Guard is authorized an end-of-year strength of active duty personnel of 45,500 as of September 30, 2002.

(b) TRAINING STUDENT LOADS FOR FISCAL YEAR 2002.—For fiscal year 2002, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 1,500 student years.

(2) For flight training, 125 student years.

(3) For professional training in military and civilian institutions, 300 student years.

(4) For officer acquisition, 1,050 student years.

(c) END-OF-YEAR STRENGTH FOR FISCAL YEAR 2003.—The Coast Guard is authorized an end-of-year strength of active duty personnel of 45,500 as of September 30, 2003.

(d) TRAINING STUDENT LOADS FOR FISCAL YEAR 2003.—For fiscal year 2003, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,250 student years.

(2) For flight training, 125 student years.

(3) For professional training in military and civilian institutions, 300 student years.

(4) For officer acquisition, 1,150 student years.

#### SEC. 1313. LORAN-C.

There are authorized to be appropriated to the Department of Transportation, in addition to funds authorized for the Coast Guard for operation of the LORAN-C system, for capital expenses related to LORAN-C navigation infrastructure, \$22,000,000 for fiscal year 2002. The Secretary of transportation may transfer from the Federal Aviation Administration and other agencies of the department funds appropriated as authorized under this section in order to reimburse the Coast Guard for related expenses.

#### SEC. 1314. PATROL CRAFT.

(a) TRANSFER OF CRAFT FROM DOD.—Notwithstanding any other provision of law, the Secretary of Transportation may accept, by direct transfer without cost, for use by the Coast Guard primarily for expanded drug interdiction activities required to meet national supply reduction performance goals, up to 7 PC-170 patrol craft from the Department of Defense if it offers to transfer such craft.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Coast Guard, in addition to amounts otherwise authorized by this Act, up to \$100,000,000, to remain available until expended, for the conversion of, operation and maintenance of, personnel to operate and support, and shoreline infrastructure requirements for, up to 7 patrol craft.

#### SEC. 1315. CARIBBEAN SUPPORT TENDER.

(a) IN GENERAL.—The Coast Guard is authorized to operate and maintain a Caribbean Support Tender (or similar type vessel) to provide technical assistance, including law enforcement training, for foreign coast guards, navies, and other maritime services.

(b) MEDICAL AND DENTAL CARE.—

(1) The Commandant may provide medical and dental care to foreign military Caribbean Support Tender personnel and their dependents accompanying them in the United States—

(A) on an outpatient basis without cost; and

(B) on an inpatient basis if the United States is reimbursed for the costs of providing such care. Payments received as reimbursement for the provision of such care shall be credited to the appropriations

against which the charges were made for the provision of such care.

(2) Notwithstanding paragraph (1)(B), the Commandant may provide inpatient medical and dental care in the United States without cost to foreign military Caribbean Support Tender personnel and their dependents accompanying them in the United States if comparable care is made available to a comparable number of United States military personnel in that foreign country.

#### SUBTITLE B—PERSONNEL MANAGEMENT

#### SEC. 1321. COAST GUARD BAND DIRECTOR RANK.

Section 336(d) of title 14, United States Code, is amended by striking "commander" and inserting "captain".

#### SEC. 1322. COMPENSATORY ABSENCE FOR ISOLATED DUTY.

(a) IN GENERAL.—Section 511 of title 14, United States Code, is amended to read as follows:

##### "§ 511. Compensatory absence from duty for military personnel at isolated duty stations

"The Secretary may grant compensatory absence from duty to military personnel of the Coast Guard serving at isolated duty stations of the Coast Guard when conditions of duty result in confinement because of isolation or in long periods of continuous duty."

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 13 of title 14, United States Code, is amended by striking the item relating to section 511 and inserting the following: "511. Compensatory absence from duty for military personnel at isolated duty stations."

#### SEC. 1323. SUSPENSION OF RETIRED PAY OF COAST GUARD MEMBERS WHO ARE ABSENT FROM THE UNITED STATES TO AVOID PROSECUTION.

Section 633 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201) is amended by redesignating subsections (b), (c), and (d) in order as subsections (c), (d), and (e), and by inserting after subsection (a) the following:

"(b) APPLICATION TO COAST GUARD.—Procedures promulgated by the Secretary of Defense under subsection (a) shall apply to the Coast Guard. The Commandant of the Coast Guard shall be considered a Secretary of a military department for purposes of suspending pay under this section."

#### SEC. 1324. EXTENSION OF COAST GUARD HOUSING AUTHORITIES.

(a) IN GENERAL.—Section 689 of title 14, United States Code, is amended by striking "2001." and inserting "2006."

(b) HOUSING DEMONSTRATION PROJECT.—Section 687 of title 14, United States Code, is amended by adding at the end the following:

"(g) DEMONSTRATION PROJECT AUTHORIZED.—To promote efficiencies through the use of alternative procedures for expediting new housing projects, the Secretary—

"(1) may develop and implement a demonstration project for acquisition or construction of military family housing and military unaccompanied housing at the Coast Guard installation at Kodiak, Alaska;

"(2) in implementing the demonstration project shall utilize, to the maximum extent possible, the contracting authority of the Small Business Administration's Section 8(a) Program;

"(3) shall, to the maximum extent possible, acquire or construct such housing through contracts with small business concerns qualified under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) that have their principal place of business in the State of Alaska; and

"(4) shall report to Congress by September 1st of each year on the progress of activities under the demonstration project."

#### SEC. 1325. ACCELERATED PROMOTION OF CERTAIN COAST GUARD OFFICERS.

Title 14, United States Code, is amended—

(1) by adding at the end of section 259 the following:

“(c)(1) After selecting the officers to be recommended for promotion, a selection board may recommend officers of particular merit, from among those officers chosen for promotion, to be placed at the top of the list of selectees promulgated by the Secretary under section 271(a) of this title. The number of officers that a board may recommend to be placed at the top of the list of selectees may not exceed the percentages set forth in subsection (b) unless such a percentage is a number less than one, in which case the board may recommend one officer for such placement. No officer may be recommended to be placed at the top of the list of selectees unless he or she receives the recommendation of at least a majority of the members of a board composed of five members, or at least two-thirds of the members of a board composed of more than five members.

“(2) The Secretary shall conduct a survey of the Coast Guard officer corps to determine if implementation of this subsection will improve Coast Guard officer retention. A selection board may not make any recommendation under this subsection before the date the Secretary publishes a finding that implementation of this subsection will improve Coast Guard officer retention and management.

“(3) The Secretary shall submit any finding made by the Secretary pursuant to paragraph (2) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.”;

(2) by inserting “and the names of those officers recommended to be advanced to the top of the list of selectees established by the Secretary under section 271(a) of this title” in section 260(a) after “promotion”; and

(3) by inserting at the end of section 271(a) the following: “The names of all officers approved by the President and recommended by the board to be placed at the top of the list of selectees shall be placed at the top of the list of selectees in the order of seniority on the active duty promotion list.”.

**SEC. 1326. REGULAR LIEUTENANT COMMANDERS AND COMMANDERS; CONTINUATION ON FAILURE OF SELECTION FOR PROMOTION.**

Section 285 of title 14, United States Code, is amended—

(1) by striking “Each officer” and inserting “(a) Each officer”; and

(2) by adding at the end the following new subsections:

“(b) A lieutenant commander or commander of the Regular Coast Guard subject to discharge or retirement under subsection (a) may be continued on active duty when the Secretary directs a selection board convened under section 251 of this title to continue up to a specified number of lieutenant commanders or commanders on active duty. When so directed, the selection board shall recommend those officers who in the opinion of the board are best qualified to advance the needs and efficiency of the Coast Guard. When the recommendations of the board are approved by the Secretary, the officers recommended for continuation shall be notified that they have been recommended for continuation and offered an additional term of service that fulfills the needs of the Coast Guard.

“(c)(1) An officer who holds the grade of lieutenant commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period which extends beyond 24 years of active commissioned service unless promoted to the grade of commander of the Regular Coast Guard. An officer who holds the grade of commander

of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period which extends beyond 26 years of active commissioned service unless promoted to the grade of captain of the Regular Coast Guard.

“(2) Unless retired or discharged under another provision of law, each officer who is continued on active duty under subsection (b), is not subsequently promoted or continued on active duty, and is not on a list of officers recommended for continuation or for promotion to the next higher grade, shall, if eligible for retirement under any provision of law, be retired under that law on the first day of the first month following the month in which the period of continued service is completed.”

**SEC. 1327. RESERVE OFFICER PROMOTIONS.**

(a) Section 729(i) of title 14, United States Code is amended by inserting “on the date a vacancy occurs, or as soon thereafter as practicable, in the grade to which the officer was selected for promotion, or if promotion was determined in accordance with a running mate system,” after “grade”.

(b) Section 731 of title 14, United States Code, is amended by striking the period at the end of the sentence in section 731, and inserting “, or in the event that promotion is not determined in accordance with a running mate system, then a Reserve officer becomes eligible for consideration for promotion to the next higher grade at the beginning of the promotion year in which he completes the following amount of service computed from his date of rank in the grade in which he is serving:

“(1) 2 years in the grade of lieutenant (junior grade).

“(2) 3 years in the grade of lieutenant.

“(3) 4 years in the grade of lieutenant commander.

“(4) 4 years in the grade of commander.

“(5) 3 years in the grade of captain.”.

(c) Section 736(a) of title 14, United States Code, is amended by inserting “the date of rank shall be the date of appointment in that grade, unless the promotion was determined in accordance with a running mate system, in which event” after “subchapter,” in the first sentence.

**SEC. 1328. RESERVE STUDENT PRE-COMMISSIONING ASSISTANCE PROGRAM.**

(a) IN GENERAL.—Chapter 21 of title 14, United States Code, is amended by inserting after section 709 the following new section:

**“§ 709a. Reserve student pre-commissioning assistance program**

“(a) The Secretary may provide financial assistance to an eligible enlisted member of the Coast Guard Reserve, not on active duty, for expenses of the member while the member is pursuing on a full-time basis at an institution of higher education a program of education approved by the Secretary that leads to—

“(1) a baccalaureate degree in not more than 5 academic years; or

“(2) a post-baccalaureate degree.

“(b)(1) To be eligible for financial assistance under this section, an enlisted member of the Coast Guard Reserve shall—

“(A) be enrolled on a full-time basis in a program of education referred to in subsection (a) at any institution of higher education; and

“(B) enter into a written agreement with the Coast Guard described in paragraph (2).

“(2) A written agreement referred to in paragraph (1)(B) is an agreement between the member and the Secretary in which the member agrees—

“(A) to accept an appointment as a commissioned officer in the Coast Guard Reserve, if tendered;

“(B) to serve on active duty for up to five years; and

“(C) under such terms and conditions as shall be prescribed by the Secretary, to serve in the Coast Guard Reserve until the eighth anniversary of the date of the appointment.

“(c) Expenses for which financial assistance may be provided under this section are the following:

“(1) Tuition and fees charged by the institution of higher education involved.

“(2) The cost of books.

“(3) In the case of a program of education leading to a baccalaureate degree, laboratory expenses.

“(4) Such other expenses as are deemed appropriate by the Secretary.

“(d) The amount of financial assistance provided to a member under this section shall be prescribed by the Secretary, but may not exceed \$25,000 for any academic year.

“(e) Financial assistance may be provided to a member under this section for up to 5 consecutive academic years.

“(f) A member who receives financial assistance under this section may be ordered to active duty in the Coast Guard Reserve by the Secretary to serve in a designated enlisted grade for such period as the Secretary prescribes, but not more than 4 years, if the member—

“(1) completes the academic requirements of the program and refuses to accept an appointment as a commissioned officer in the Coast Guard Reserve when offered;

“(2) fails to complete the academic requirements of the institution of higher education involved; or

“(3) fails to maintain eligibility for an original appointment as a commissioned officer.

“(g)(1) If a member requests to be released from the program and the request is accepted by the Secretary, or if the member fails because of misconduct to complete the period of active duty specified, or if the member fails to fulfill any term or condition of the written agreement required to be eligible for financial assistance under this section, the financial assistance shall be terminated. The Secretary may request the member to reimburse the United States in an amount that bears the same ratio to the total costs of the education provided to that member as the unserved portion of active duty bears to the total period of active duty the member agreed to serve. The Secretary shall have the option to order such reimbursement without first ordering the member to active duty. An obligation to reimburse the United States imposed under this paragraph is a debt owed to the United States.

“(2) The Secretary may waive the service obligated under subsection (f) of a member who becomes unqualified to serve on active duty due to a circumstance not within the control of that member or who is not physically qualified for appointment and who is determined to be unqualified for service as an enlisted member of the Coast Guard Reserve due to a physical or medical condition that was not the result of the member's own misconduct or grossly negligent conduct.

“(3) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of a written agreement entered into under subsection (b) does not discharge the individual signing the agreement from a debt arising under such agreement or under paragraph (1).

“(h) As used in this section, the term ‘institution of higher education’ has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).”.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 21 of title 14, United States Code, is amended by adding the following new item after the item relating to

section 709: "709A. Reserve student pre-commissioning assistance program".

**SEC. 1329. CONTINUATION ON ACTIVE DUTY BEYOND 30 YEARS.**

Section 289 of title 14, United States Code, is amended by adding at the end the following:

"(h) Notwithstanding subsection (g) and section 288 of this title, the Commandant may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under subsection (g) or section 288 of this title. An officer so retained, unless retired under some other provision of law, shall be retired on June 30 of that promotion year in which no action is taken to further retain the officer under this subsection."

**SEC. 1330. PAYMENT OF DEATH GRATUITIES ON BEHALF OF COAST GUARD AUXILIARIES.**

(a) Section 823a(b) of title 14, United States Code, is amended by inserting the following new paragraph following paragraph (8):

"(9) On or after January 1, 2001, the first section 651 contained in the Omnibus Consolidated Appropriations Act, 1997 (110 Stat. 3009-368)."

**SEC. 1331. ALIGN COAST GUARD SEVERANCE PAY AND REVOCATION OF COMMISSION AUTHORITY WITH DEPARTMENT OF DEFENSE AUTHORITY.**

(a) IN GENERAL.—Chapter 11 of title 14, United States Code, is amended—

(1) in section 281—

(A) by striking "three" in the section heading and inserting "five"; and

(B) by striking "three" in the text and inserting "five";

(2) in section 283(b)(2)(A), by striking "severance" and inserting "separation";

(3) in section 286—

(A) by striking "severance" in the section heading and inserting "separation"; and

(B) by striking subsection (b) and inserting the following:

"(b) An officer of the Regular Coast Guard who is discharged under this section or section 282, 283, or 284 of this title who has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

"(c) An officer of the Regular Coast Guard who is discharged under section 327 of this title, who has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10 as determined under regulations promulgated by the Secretary.

"(d) Notwithstanding subsections (a) or (b), an officer discharged under chapter 11 of this title for twice failing of selection for promotion to the next higher grade is not entitled to separation pay under this section if the officer requested in writing or otherwise sought not to be selected for promotion, or requested removal from the list of selectees."

(4) in section 286a—

(A) by striking "severance" in the section heading and inserting "separation" in its place; and

(B) by striking subsections (a), (b), and (c) and inserting the following:

"(a) A regular warrant officer of the Coast Guard who is discharged under section 580 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

"(b) A regular warrant officer of the Coast Guard who is discharged under section 1165 or 1166 of title 10, and has completed 6 or

more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10, as determined under regulations promulgated by the Secretary.

"(c) In determining a member's years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded."; and

(5) in section 327—

(A) by striking "severance" in the section heading and inserting "separation";

(B) by striking subsection (a)(2) and inserting in its place the following:

"(2) for discharge with separation benefits under section 286(c) of this title.";

(C) by striking subsection (a)(3);

(D) by striking subsection (b)(2) and inserting in its place the following:

"(2) if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged with separation benefits under section 286(c) of this title, unless under regulations promulgated by the Secretary the condition under which the officer is discharged does not warrant an honorable discharge."; and

(E) by striking subsection (b)(3).

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 14, United States Code, is amended—

(1) in the item relating to section 281, by striking "three" and inserting "five" in its place; and

(2) in the item relating to section 286, by striking "severance" and inserting "separation" in its place;

(3) in the item relating to section 286a, by striking "severance" and inserting "separation" in its place; and

(4) in the item relating to section 327, by striking "severance" and inserting "separation" in its place.

(c) EFFECTIVE DATE.—The amendments made by paragraphs (2), (3), (4), and (5) of subsection (a) shall take effect four years after the date of enactment of this Act, except that subsection (d) of section 286 of title 14, United States Code, as amended by paragraph (3) of subsection (a) of this section shall take effect on enactment of this Act and shall apply with respect to conduct on or after that date. The amendments made to the table of sections of chapter 11 of title 14, United States Code, by paragraphs (2), (3), and (4) of subsection (b) of this section shall take effect four years after the date of enactment of this Act.

**SUBTITLE C—MARINE SAFETY**

**SEC. 1351. MODERNIZATION OF NATIONAL DISTRESS AND RESPONSE SYSTEM.**

(a) REPORT.—The Secretary of Transportation shall prepare a status report on the modernization of the National Distress and Response System and transmit the report, not later than 60 days after the date of enactment of this Act, and annually thereafter until completion of the project, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(b) CONTENTS.—The report required by subsection (a) shall—

(1) set forth the scope of the modernization, the schedule for completion of the System, and provide information on progress in meeting the schedule and on any anticipated delays;

(2) specify the funding expended to-date on the System, the funding required to complete the system, and the purposes for which the funds were or will be expended;

(3) describe and map the existing public and private communications coverage throughout the waters of the coastal and internal regions of the continental United States, Alaska, Hawaii, Guam, and the Caribbean, and identify locations that possess direction-finding, asset-tracking communications, and digital selective calling service;

(4) identify areas of high risk to boaters and Coast Guard personnel due to communications gaps;

(5) specify steps taken by the Secretary to fill existing gaps in coverage, including obtaining direction-finding equipment, digital recording systems, asset-tracking communications, use of commercial VHF services, and digital selective calling services that meet or exceed Global Maritime Distress and Safety System requirements adopted under the International Convention for the Safety of Life at Sea;

(6) identify the number of VHF-FM radios equipped with digital selective calling sold to United States boaters;

(7) list all reported marine accidents, casualties, and fatalities occurring in areas with existing communications gaps or failures, including incidents associated with gaps in VHF-FM coverage or digital selective calling capabilities and failures associated with inadequate communications equipment aboard the involved vessels during calendar years 1997 forward;

(8) identify existing systems available to close all identified marine safety gaps before January 1, 2003, including expeditious receipt and response by appropriate Coast Guard operations centers to VHF-FM digital selective calling distress signal; and

(9) identify actions taken to-date to implement the recommendations of the National Transportation Safety Board in its Report No. MAR-99-01.

**SEC. 1352. EXTENSION OF TERRITORIAL SEA FOR VESSEL BRIDGE-TO-BRIDGE RADIO-TELEPHONE ACT.**

Section 4(b) of the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203(b)), is amended by striking "United States inside the lines established pursuant to section 2 of the Act of February 19, 1895 (28 Stat. 672), as amended." and inserting "United States, which includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988."

**SEC. 1353. ICEBREAKING SERVICES.**

The Commandant of the Coast Guard shall not plan, implement or finalize any regulation or take any other action which would result in the decommissioning of any WYTL-class harbor tugs unless and until the Commandant certifies in writing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House, that sufficient replacement assets have been procured by the Coast Guard to remediate any degradation in current icebreaking services that would be caused by such decommissioning.

**SEC. 1354. MODIFICATION OF VARIOUS REPORTING REQUIREMENTS.**

PRESERVATION OF CERTAIN REPORTING REQUIREMENTS.—Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) does not apply to any report required to be submitted under any of the following provisions of law:

(1) COAST GUARD OPERATIONS AND EXPENDITURES.—Section 651 of title 14, United States Code.

(2) SUMMARY OF MARINE CASUALTIES REPORTED DURING PRIOR FISCAL YEAR.—Section 6307(c) of title 46, United States Code.

(3) USER FEE ACTIVITIES AND AMOUNTS.—Section 664 of title 46, United States Code.

(4) CONDITIONS OF PUBLIC PORTS OF THE UNITED STATES.—Section 308(c) of title 49, United States Code.

(5) ACTIVITIES OF FEDERAL MARITIME COMMISSION.—Section 208 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1118).

(6) ACTIVITIES OF INTERAGENCY COORDINATING COMMITTEE ON OIL POLLUTION RESEARCH.—Section 7001(e) of the Oil Pollution Act of 1990 (33 U.S.C. 2761(e)).

**SEC. 1355. OIL SPILL LIABILITY TRUST FUND; EMERGENCY FUND ADVANCEMENT AUTHORITY.**

Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752(b)) is amended after the first sentence by inserting “To the extent that such amount is not adequate for removal of a discharge or the mitigation or prevention of a substantial threat of a discharge, the Coast Guard may obtain an advance from the Fund such sums as may be necessary, up to a maximum of \$100,000,000, and within 30 days shall notify Congress of the amount advanced and the facts and circumstances necessitating the advance. Amounts advanced shall be repaid to the Fund when, and to the extent that removal costs are recovered by the Coast Guard from responsible parties for the discharge or substantial threat of discharge.”.

**SEC. 1356. MERCHANT MARINER DOCUMENTATION REQUIREMENTS.**

(a) INTERIM MERCHANT MARINERS' DOCUMENTS.—Section 7302 of title 46, United States Code, is amended—

(1) by striking “A” in subsection (f) and inserting “Except as provided in subsection (g), a”; and

(2) by adding at the end the following:

“(g)(1) The Secretary may, pending receipt and review of information required under subsections (c) and (d), immediately issue an interim merchant mariner's document valid for a period not to exceed 120 days, to—

“(A) an individual to be employed as gaming personnel, entertainment personnel, wait staff, or other service personnel on board a passenger vessel not engaged in foreign service, with no duties, including emergency duties, related to the navigation of the vessel or the safety of the vessel, its crew, cargo or passengers; or

“(B) an individual seeking renewal of, or qualifying for a supplemental endorsement to, a valid merchant mariner's document issued under this section.

“(2) No more than one interim document may be issued to an individual under paragraph (1)(A) of this subsection.”.

(b) EXCEPTION.—Section 8701(a) of title 46, United States Code, is amended—

(1) by striking “and” after the semicolon in paragraph (8);

(2) by redesignating paragraph (9) as paragraph (10); and

(3) by inserting after paragraph (8) the following:

“(9) a passenger vessel not engaged in a foreign voyage with respect to individuals on board employed for a period of not more than 30 service days within a 12 month period as entertainment personnel, with no duties, including emergency duties, related to the navigation of the vessel or the safety of the vessel, its crew, cargo or passengers; and”.

**SEC. 1357. PENALTIES FOR NEGLIGENT OPERATIONS AND INTERFERING WITH SAFE OPERATION.**

Section 2302(a) of title 46, United States Code, is amended by striking “\$1,000.” and inserting “\$5,000 in the case of a recreational vessel, or \$25,000 in the case of any other vessel.”.

**SEC. 1358. FISHING VESSEL SAFETY TRAINING.**

(a) IN GENERAL.—The Commandant of the Coast Guard may provide support, with or without reimbursement, to an entity en-

gaged in fishing vessel safety training including—

(1) assistance in developing training curricula;

(2) use of Coast Guard personnel, including active duty members, members of the Coast Guard Reserve, and members of the Coast Guard Auxiliary, as temporary or adjunct instructors;

(3) sharing of appropriate Coast Guard informational and safety publications; and

(4) participation on applicable fishing vessel safety training advisory panels.

(b) No Interference with Other Functions.—In providing support under subsection (a), the Commandant shall ensure that the support does not interfere with any Coast Guard function or operation.

**SEC. 1359. EXTEND TIME FOR RECREATIONAL VESSEL AND ASSOCIATED EQUIPMENT RECALLS.**

Section 4310(c) of title 46, United States Code, is amended—

(1) by striking “5” wherever it appears and inserting “10” in its place in paragraph (2)(A) and (B).

(2) by inserting “by first class mail or” in front of “by certified mail” in paragraph (1)(A), (B), and (C).

**SEC. 1360. SAFETY EQUIPMENT REQUIREMENT.**

The Commandant of the Coast Guard shall ensure that all Coast Guard personnel are equipped with adequate safety equipment, including survival suits where appropriate, while performing search and rescue missions.

**SEC. 1361. MARINE CASUALTY INVESTIGATIONS INVOLVING FOREIGN VESSELS.**

Section 6101 of title 46, United States Code, is amended—

(1) by redesignating the second subsection (e) as subsection (f); and

(2) by adding at the end the following new subsection:

“(g) To the extent consistent with generally recognized practices and procedures of international law, this part applies to a foreign vessel involved in a marine casualty or incident, as defined in the International Maritime Organization Code for the Investigation of Marine Casualties and Incidents, where the United States is a Substantially Interested State and is, or has the consent of, the Lead Investigating State under the Code.”.

**SEC. 1362. MARITIME DRUG LAW ENFORCEMENT ACT AMENDMENTS.**

(a) Section 3 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903) is amended—

(1) in subsection (c)(1)(D) by striking “and”;

(2) in subsection (c)(1)(E) by striking “United States.” and inserting “United States; and”; and

(3) by inserting after subsection (c)(1)(E) the following:

“(F) a vessel located in the contiguous zone of the United States, as defined in Presidential Proclamation 7219 of September 2, 1999, and (i) is entering the United States, (ii) has departed the United States, or (iii) is a hovering vessel as defined in 19 U.S.C. 1401(k).”.

(b) Section 4 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1904) is amended—

(1) by inserting “(a)” before “Any property”; and

(2) by adding at the end the following:

“(b) Practices commonly recognized as smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, an offense under this chapter, and may support seizure and forfeiture of the vessel, even in the absence of controlled substances aboard the vessel. The following indicia, inter alia, may

be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of an offense under this chapter:

“(1) The construction or adaptation of the vessel in a manner that facilitates smuggling, including—

“(A) the configuration of the vessel to ride low in the water or present a low hull profile to avoid being detected visually or by radar;

“(B) the presence of any compartment or equipment which is built or fitted out for smuggling, not including items such as a safe or lock-box reasonably used for the storage of personal valuables;

“(C) the presence of an auxiliary tank not installed in accordance with applicable law, or installed in such a manner as to enhance the vessel's smuggling capability;

“(D) the presence of engines that are excessively over-powered in relation to the design and size of the vessel;

“(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel and avoid detection;

“(F) the presence of a camouflaging paint scheme, or of materials used to camouflage the vessel, to avoid detection; or

“(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport.

“(2) The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.

“(3) The presence of excessive fuel, lube oil, food, water, or spare parts, inconsistent with legitimate vessel operation, inconsistent with the construction or equipment of the vessel, or inconsistent with the character of the vessel's stated purpose.

“(4) The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation, and in a manner of navigation consistent with smuggling tactics used to avoid detection by law enforcement authorities.

“(5) The failure of the vessel to stop or respond or heave to when hailed by government authority, especially where the vessel conducts evasive maneuvering when hailed.

“(6) The declaration to government authority of apparently false information about the vessel, crew, or voyage, or the failure to identify the vessel by name or country of registration when requested to do so by government authority.

“(7) The presence of controlled substance residue on the vessel, on an item aboard the vessel, or on a person aboard the vessel, of a quantity or other nature which reasonably indicates manufacturing or distribution activity.

“(8) The use of petroleum products or other substances on the vessel to foil the detection of controlled substance residue.

“(9) The presence of a controlled substance in the water in the vicinity of the vessel, where given the currents, weather conditions, and course and speed of the vessel, the quantity or other nature is such that it reasonably indicates manufacturing or distribution activity.”.

**SEC. 1363. TEMPORARY CERTIFICATES OF DOCUMENTATION FOR RECREATIONAL VESSELS.**

(a) Section 12103(a) of title 46, United States Code, is amended by inserting “, or a temporary certificate of documentation,” after “certificate of documentation”.

(b)(1) Chapter 121 of title 46, United States Code, is amended by adding a new section 12103a, as follows:

**“§ 12103a. Issuance of temporary certificate of documentation by third parties**

“(a) The Secretary of Transportation may delegate, subject to the supervision and control of the Secretary and under terms set out

by regulation, to private entities determined and certified by the Secretary to be qualified, the authority to issue a temporary certificate of documentation for a recreational vessel, if the applicant for the certificate of documentation meets the requirements set out in sections 12102 and 12103 of this chapter.

“(b) A temporary certificate of documentation issued under section 12103(a) and subsection (a) of this section is valid for up to 30 days from issuance.”.

(2) The table of sections at the beginning of chapter 121 of title 46, United States Code, is amended by inserting after the item relating to section 12103 the following:

“12103a. Issuance of temporary certificate of documentation by third parties.”.

#### **SUBTITLE D—RENEWAL OF ADVISORY GROUPS**

##### **SEC. 1371. COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.**

(a) COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.—Section 4508 of title 46, United States Code, is amended—

(1) by inserting “ Safety ” in the heading after “ Vessel ”;

(2) by inserting “Safety” in subsection (a) after “Vessel”;

(3) by striking “(5 U.S.C App. 1 et seq.)” in subsection (e)(1) and inserting “(5 U.S.C. App.)”; and

(4) by striking “September 30, 2000” and inserting “September 30, 2005”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 45 of title 46, United States Code, is amended by striking the item relating to section 4508 and inserting the following:

“4508. Commercial Fishing Industry Vessel Safety Advisory Committee.”.

##### **SEC. 1372. HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.**

Section 18(h) of the Coast Guard Authorization Act of 1991 (Public Law 102-241) is amended by striking “September 30, 2000.” and inserting “September 30, 2005.”.

##### **SEC. 1373. LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.**

Section 19 of the Coast Guard Authorization Act of 1991 (Public Law 102-241) is amended by striking “September 30, 2000” in subsection (g) and inserting “September 30, 2005”.

##### **SEC. 1374. NAVIGATION SAFETY ADVISORY COUNCIL.**

Section 5 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended by striking “September 30, 2000” in subsection (d) and inserting “September 30, 2005”.

##### **SEC. 1375. NATIONAL BOATING SAFETY ADVISORY COUNCIL.**

Section 13110 of title 46, United States Code, is amended by striking “September 30, 2000” in subsection (e) and inserting “September 30, 2005”.

##### **SEC. 1376. TOWING SAFETY ADVISORY COMMITTEE.**

The Act entitled “An Act to Establish a Towing Safety Advisory Committee in the Department of Transportation” (33 U.S.C. 1231a) is amended by striking “September 30, 2000.” in subsection (e) and inserting “September 30, 2005.”.

#### **SUBTITLE E—MISCELLANEOUS**

##### **SEC. 1381. CONVEYANCE OF COAST GUARD PROPERTY IN PORTLAND, MAINE.**

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Administrator of General Services may convey to the Gulf of Maine Aquarium Development Corporation, its successors and assigns, without payment for consideration, all right, title, and interest of the United States in and to approximately 4.13 acres of land, including a pier and bulkhead, known as the Naval Reserve

Pier property, together with any improvements thereon in their then current condition, located in Portland, Maine. All conditions placed with the deed of title shall be construed as covenants running with the land.

(2) IDENTIFICATION OF PROPERTY.—The Administrator, in consultation with the Commandant of the Coast Guard, may identify, describe, and determine the property to be conveyed under this section. The floating docks associated with or attached to the Naval Reserve Pier property shall remain the personal property of the United States.

(b) LEASE TO THE UNITED STATES.—

(1) CONDITION OF CONVEYANCE.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into a lease agreement with the United States, the terms of which are mutually satisfactory to the Commandant and the Corporation, in which the Corporation shall lease a portion of the Naval Reserve Pier property to the United States for a term of 30 years without payment of consideration. The lease agreement shall be executed within 12 months after the date of enactment of this Act.

(2) IDENTIFICATION OF LEASED PREMISES.—The Administrator, in consultation with the Commandant, may identify and describe the leased premises and rights of access, including the following, in order to allow the Coast Guard to operate and perform missions from and upon the leased premises:

(A) The right of ingress and egress over the Naval Reserve Pier property, including the pier and bulkhead, at any time, without notice, for purposes of access to Coast Guard vessels and performance of Coast Guard missions and other mission-related activities.

(B) The right to berth Coast Guard cutters or other vessels as required, in the moorings along the east side of the Naval Reserve Pier property, and the right to attach floating docks which shall be owned and maintained at the United States’ sole cost and expense.

(C) The right to operate, maintain, remove, relocate, or replace an aid to navigation located upon, or to install any aid to navigation upon, the Naval Reserve Pier property as the Coast Guard, in its sole discretion, may determine is needed for navigational purposes.

(D) The right to occupy up to 3,000 contiguous gross square feet at the Naval Reserve Pier property for storage and office space, which will be provided and constructed by the Corporation, at the Corporation’s sole cost and expense, and which will be maintained, and utilities and other operating expenses paid for, by the United States at its sole cost and expense.

(E) The right to occupy up to 1,200 contiguous gross square feet of offsite storage in a location other than the Naval Reserve Pier property, which will be provided by the Corporation at the Corporation’s sole cost and expense, and which will be maintained, and utilities and other operating expenses paid for, by the United States at its sole cost and expense.

(F) The right for Coast Guard personnel to park up to 60 vehicles, at no expense to the government, in the Corporation’s parking spaces on the Naval Reserve Pier property or in parking spaces that the Corporation may secure within 1,000 feet of the Naval Reserve Pier property or within 1,000 feet of the Coast Guard Marine Safety Office Portland. Spaces for no less than 30 vehicles shall be located on the Naval Reserve Pier property.

(3) RENEWAL.—The lease described in paragraph (1) may be renewed, at the sole option of the United States, for additional lease terms.

(4) LIMITATION ON SUBLEASES.—The United States may not sublease the leased premises to a third party or use the leased premises

for purposes other than fulfilling the missions of the Coast Guard and for other mission related activities.

(5) TERMINATION.—In the event that the Coast Guard ceases to use the leased premises, the Administrator, in consultation with the Commandant, may terminate the lease with the Corporation.

(c) IMPROVEMENT OF LEASED PREMISES.—

(1) IN GENERAL.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into an agreement with the United States, subject to the Commandant’s design specifications, project’s schedule, and final project approval, to replace the bulkhead and pier which connects to, and provides access from, the bulkhead to the floating docks, at the Corporation’s sole cost and expense, on the east side of the Naval Reserve Pier property within 30 months from the date of conveyance. The agreement to improve the leased premises shall be executed within 12 months after the date of enactment of this Act.

(2) FURTHER IMPROVEMENTS.—In addition to the improvements described in paragraph (1), the Commandant is authorized to further improve the leased premises during the lease term, at the United States’ sole cost and expense.

(d) UTILITY INSTALLATION AND MAINTENANCE OBLIGATIONS.—

(1) UTILITIES.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into an agreement with the United States to allow the United States to operate and maintain existing utility lines and related equipment, at the United States’ sole cost and expense. At such time as the Corporation constructs its proposed public aquarium, the Corporation shall replace existing utility lines and related equipment and provide additional utility lines and equipment capable of supporting a third 110-foot Coast Guard cutter, with comparable, new, code compliant utility lines and equipment at the Corporation’s sole cost and expense, maintain such utility lines and related equipment from an agreed upon demarcation point, and make such utility lines and equipment available for use by the United States, provided that the United States pays for its use of utilities at its sole cost and expense. The agreement concerning the operation and maintenance of utility lines and equipment shall be executed within 12 months after the date of enactment of this Act.

(2) MAINTENANCE.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into an agreement with the United States to maintain, at the Corporation’s sole cost and expense, the replacement bulkhead and pier on the east side of the Naval Reserve Pier property. The agreement concerning the maintenance of the bulkhead and pier shall be executed within 12 months after the date of enactment of this Act.

(3) AIDS TO NAVIGATION.—The United States shall be required to maintain, at its sole cost and expense, any Coast Guard active aid to navigation located upon the Naval Reserve Pier property.

(e) ADDITIONAL RIGHTS.—The conveyance of the Naval Reserve Pier property shall be made subject to conditions the Administrator or the Commandant consider necessary to ensure that—

(1) THE CORPORATION SHALL NOT INTERFERE OR ALLOW INTERFERENCE, IN ANY MANNER, WITH USE OF THE LEASED PREMISES BY THE UNITED STATES; AND

(2) the Corporation shall not interfere or allow interference, in any manner, with any aid to navigation nor hinder activities required for the operation and maintenance of any aid to navigation, without the express written permission of the head of the agency

responsible for operating and maintaining the aid to navigation.

(f) **REMEDIES AND REVERSIONARY INTEREST.**—The Naval Reserve Pier property, at the option of the Administrator, shall revert to the United States and be placed under the administrative control of the Administrator, if, and only if, the Corporation fails to abide by any of the terms of this section or any agreement entered into under subsection (b), (c), or (d) of this section.

(g) **LIABILITY OF THE PARTIES.**—The liability of the United States and the Corporation for any injury, death, or damage to or loss of property occurring on the leased property shall be determined with reference to existing State or Federal law, as appropriate, and any such liability may not be modified or enlarged by this title or any agreement of the parties.

(h) **EXPIRATION OF AUTHORITY TO CONVEY.**—The authority to convey the Naval Reserve property under this section shall expire 3 years after the date of enactment of this Act.

(i) **DEFINITIONS.**—In this section:

(1) **AID TO NAVIGATION.**—The term “aid to navigation” means equipment used for navigational purposes, including but not limited to, a light, antenna, sound signal, electronic navigation equipment, cameras, sensors power source, or other related equipment which are operated or maintained by the United States.

(2) **CORPORATION.**—The term “Corporation” means the Gulf of Maine Aquarium Development Corporation, its successors and assigns.

#### **SEC. 1382. HARBOR SAFETY COMMITTEES.**

(a) **STUDY.**—The Coast Guard shall study existing harbor safety committees in the United States to identify—

(1) strategies for gaining successful cooperation among the various groups having an interest in the local port or waterway;

(2) organizational models that can be applied to new or existing harbor safety committees or to prototype harbor safety committees established under subsection (b);

(3) technological assistance that will help harbor safety committees overcome local impediments to safety, mobility, environmental protection, and port security; and

(4) recurring resources necessary to ensure the success of harbor safety committees.

(b) **PROTOTYPE COMMITTEES.**—The Coast Guard shall test the feasibility of expanding the harbor safety committee concept to small and medium-sized ports that are not generally served by a harbor safety committee by establishing 1 or more prototype harbor safety committees. In selecting a location or locations for the establishment of a prototype harbor safety committee, the Coast Guard shall—

(1) consider the results of the study conducted under subsection (a);

(2) consider identified safety issues for a particular port;

(3) compare the potential benefits of establishing such a committee with the burdens the establishment of such a committee would impose on participating agencies and organizations;

(4) consider the anticipated level of support from interested parties; and

(5) take into account such other factors as may be appropriate.

(c) **Effect on Existing Programs and State Law.**—Nothing in this section—

(1) limits the scope or activities of harbor safety committees in existence on the date of enactment of this Act;

(2) precludes the establishment of new harbor safety committees in locations not selected for the establishment of a prototype committee under subsection (b); or

(3) preempts State law.

(d) **NONAPPLICATION OF FACA.**—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to harbor safety committees established under this section or any other provision of law.

(e) **HARBOR SAFETY COMMITTEE DEFINED.**—In this section, the term “harbor safety committee” means a local coordinating body—

(1) whose responsibilities include recommending actions to improve the safety, mobility, environmental protection, and port security of a port or waterway; and

(2) the membership of which includes representatives of government agencies, maritime labor, maritime industry companies and organizations, environmental groups, and public interest groups.

#### **SEC. 1383. LIMITATION OF LIABILITY OF PILOTS AT COAST GUARD VESSEL TRAFFIC SERVICES.**

(a) **IN GENERAL.**—Chapter 23 of title 46, United States Code, is amended by adding at the end the following:

##### **“§ 2307. Limitation of liability for Coast Guard Vessel Traffic Service pilots**

“Any pilot, acting in the course and scope of his duties while at a United States Coast Guard Vessel Traffic Service, who provides information, advice or communication assistance shall not be liable for damages caused by or related to such assistance unless the acts or omissions of such pilot constitute gross negligence or willful misconduct.”

(b) **CLERICAL AMENDMENT.**—The chapter analysis for chapter 23 of title 46, United States Code, is amended by adding at the end the following:

“2307. Limitation of liability for Coast Guard Vessel Traffic Service pilots”.

#### **SEC. 1384. CONFORMING REFERENCES TO THE FORMER MERCHANT MARINE AND FISHERIES COMMITTEE.**

(a) **LAWS CODIFIED IN TITLE 14, UNITED STATES CODE.**—

(1) Section 194(b)(2) of title 14, United States Code, is amended by striking “Merchant Marine and Fisheries” and inserting “Transportation and Infrastructure”.

(2) Section 663 of title 14, United States Code, is amended by striking “Merchant Marine and Fisheries” and inserting “Transportation and Infrastructure”.

(3) Section 664 of title 14, United States Code, is amended by striking “Merchant Marine and Fisheries” and inserting “Transportation and Infrastructure”.

(b) **Laws Codified in Title 33, United States Code.**—

(1) Section 3(d)(3) of the International Navigational Rules Act of 1977 (33 U.S.C. 1602(d)(3)) is amended by striking “Merchant Marine and Fisheries,” and inserting “Transportation and Infrastructure.”

(2) Section 5004(2) of the Oil Pollution Act of 1990 (33 U.S.C. 2734(2)) is amended by striking “Merchant Marine and Fisheries” and inserting “Transportation and Infrastructure”.

(c) **Laws Codified in Title 46, United States Code.**—

(1) Section 6307 of title 46, United States Code, is amended by striking “Merchant Marine and Fisheries” and inserting “Transportation and Infrastructure”.

(2) Section 901g(b)(3) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241k(b)(3)) is amended by striking “Merchant Marine and Fisheries” and inserting “Transportation and Infrastructure”.

(3) Section 913(b) of the International Maritime and Port Security Act (46 U.S.C. App. 1809(b)) is amended by striking “Merchant Marine and Fisheries” and inserting “Transportation and Infrastructure”.

#### **SEC. 1385. LONG-TERM LEASE AUTHORITY FOR LIGHTHOUSE PROPERTY.**

(a) **IN GENERAL.**—Chapter 17 of title 14, United States Code, is amended by adding at the end a new section 672b to read as follows:

##### **“§ 672b. Long-term lease authority for lighthouse property**

“(a) The Commandant of the Coast Guard may lease to non-Federal entities, including private individuals, lighthouse property under the administrative control of the Coast Guard for terms not to exceed 30 years. Consideration for the use and occupancy of lighthouse property leased under this section, and for the value of any utilities and services furnished to a lessee of such property by the Commandant, may consist, in whole or in part, of non-pecuniary remuneration including, but not limited to, the improvement, alteration, restoration, rehabilitation, repair, and maintenance of the leased premises by the lessee. Section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b) shall not apply to leases issued by the Commandant under this section.

“(b) Amounts received from leases made under this section, less expenses incurred, shall be deposited in the Treasury.”

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by adding after the item relating to section 672 the following:

“672b. Long-term lease authority for lighthouse property.”

#### **SEC. 1386. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS FOR VESSELS.**

Section 31321(a)(4) of title 46, United States Code, is amended—

(1) by striking “(A)”;

(2) by striking subparagraph (B).

#### **SEC. 1387. RADIO DIRECTION FINDING APPARATUS CARRIAGE REQUIREMENT.**

The first sentence of section 365 of the Communications Act of 1934 (47 U.S.C. 363) is amended by striking “operators.” and inserting “operators, or with radio direction-finding apparatus.”

#### **SEC. 1388. WING-IN-GROUND CRAFT.**

(a) Section 2101(35) of title 46, United States Code, is amended by inserting “a wing-in-ground craft, regardless of tonnage, carrying at least one passenger for hire, and” after the phrase “‘small passenger vessel’ means”.

(b) Section 2101 of title 46, United States Code, is amended by adding at the end the following:

“(48) wing-in-ground craft means a vessel that is capable of operating completely above the surface of the water on a dynamic air cushion created by aerodynamic lift due to the ground effect between the vessel and the water’s surface.”

#### **SEC. 1389. DELETION OF THUMBPRINT REQUIREMENT FOR MERCHANT MARINERS’ DOCUMENTS.**

Section 7303 of title 46, United States Code, is amended by striking “the thumbprint.”

#### **SEC. 1390. AUTHORIZATION OF PAYMENT.**

(a) **IN GENERAL.**—The Secretary of the Treasury shall pay the sum of \$71,000, out of funds in the Treasury not otherwise appropriated, to the State of Hawaii, such sum being the damages arising out of the June 19, 1997, allision by the United States Coast Guard Cutter RUSH with the ferry pier at Barber’s Point Harbor, Hawaii.

(b) **FULL SETTLEMENT.**—The payment made under subsection (a) is in full settlement of all claims by the State of Hawaii against the United States arising from the June 19, 1997, allision.

#### **SEC. 1391. ADDITIONAL COAST GUARD FUNDING NEEDS AFTER SEPTEMBER 11, 2001.**

(a) **IN GENERAL.**—No later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Director of the Office of Homeland Security shall submit a report to the Congress that—

(1) compares Coast Guard expenditures by mission area on an annualized basis before



and after the terrorist attacks of September 11, 2001;

(2) estimates—

(A) annual funding amounts and personnel levels that would restore all Coast Guard mission areas to the readiness levels that existed before September 11, 2001;

(B) annual funding amounts and personnel levels required to fulfill the Coast Guard's additional responsibilities for port security after September 11, 2001; and

(C) annual funding amounts and personnel levels required to increase law enforcement needs in mission areas other than port security after September 11, 2001;

(3) generally describes the services provided by the Coast Guard to the Department of Defense after September 11, 2001, and states the cost of such services; and

(4) identifies the Federal agency providing funds for those services.

(b) **REPORT REQUIRED.**—Not later than 180 days after the date of enactment of this Act, the Commandant shall submit a report to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation identifying mission targets for each Coast Guard mission for fiscal years 2003, 2004, and 2005 and the specific steps necessary to achieve those targets. The Inspector General shall review the final strategic plan, and provide an independent report with its views to the Committees within 90 days after the plan has been submitted by the Secretary.

**SEC. 1392. REPEAL OF SPECIAL AUTHORITY TO REVOKE ENDORSEMENTS.**

Section 503 of the Coast Guard Authorization Act of 1998 (46 U.S.C. 12106 note) is repealed.

**SEC. 1393. PREARRIVAL MESSAGES FROM VESSELS DESTINED TO UNITED STATES PORTS.**

(a) **PREARRIVAL MESSAGE REQUIREMENTS.**—Section 4 of the Ports and Waterways Safety Act (33 U.S.C. 1223) is amended—

(1) by striking paragraph (5) of subsection (a) and inserting the following:

“(5) may require the receipt of prearrival messages from any vessel destined for a port or place subject to the jurisdiction of the United States in accordance with subsection (e).”; and

(2) by adding at the end the following:

“(e) **PREARRIVAL MESSAGE REQUIREMENTS.**—

“(1) **IN GENERAL.**—The Secretary may require prearrival messages under subsection (a)(5) to provide any information that the Secretary determines is necessary for the control of the vessel and the safety and security of the port, waterways, facilities, vessels, and marine environment, including—

“(A) the route and name of each port and each place of destination in the United States;

“(B) the estimated date and time of arrival at each port or place;

“(C) the name of the vessel;

“(D) the country of registry of the vessel;

“(E) the call sign of the vessel;

“(F) the International Maritime Organization (IMO) international number or, if the vessel does not have an assigned IMO international number, the official number of the vessel;

“(G) the name of the registered owner of the vessel;

“(H) the name of the operator of the vessel;

“(I) the name of the classification society of the vessel;

“(J) a general description of the cargo on board the vessel;

“(K) in the case of certain dangerous cargo—

“(i) the name and description of the dangerous cargo;

“(ii) the amount of the dangerous cargo carried;

“(iii) the stowage location of the dangerous cargo; and

“(iv) the operational condition of the equipment under section 164.35 of title 33, Code of Federal Regulations;

“(L) the date of departure and name of the port from which the vessel last departed;

“(M) the name and telephone number of a 24-hour point of contact for each port included in the notice of arrival;

“(N) the location or position of the vessel at the time of the report;

“(O) a list of crew members onboard the vessel including, with respect to each crew member—

“(i) the full name;

“(ii) the date of birth;

“(iii) the nationality;

“(iv) the passport number or mariners document number; and

“(v) the position or duties;

“(P) a list of persons other than crew members onboard the vessel including, with respect to each such person—

“(i) the full name;

“(ii) the date of birth;

“(iii) the nationality; and

“(iv) the passport number; and

“(Q) any other information required by the Secretary.

“(2) **FORM AND TIME.**—The Secretary may require prearrival messages under subsection (a)(5) to be submitted—

“(A) in electronic or other form; and

“(B) to be submitted not later than 96 hours before the vessel's arrival or at such time, as provided in regulations, as the Secretary deems necessary to permit the Secretary to examine thoroughly all information provided.

“(3) **INFORMATION NOT SUBJECT TO FOIA.**—Section 552 of title 5, United States Code, does not apply to any information submitted under subsection (a)(5).

“(4) **ENFORCEMENT OF REQUIREMENT.**—The Secretary may deny entry of a vessel into the territorial sea of the United States if the Secretary has not received notification for the vessel in accordance with subsection (a)(5).”

(b) **RELATION OF PREARRIVAL MESSAGE REQUIREMENT TO OTHER PROVISION OF LAW.**—Section 5 of the Ports and Waterways Safety Act (33 U.S.C. 1224) is amended adding at the end the following:

“(c) **RELATION TO PREARRIVAL MESSAGE REQUIREMENT.**—Nothing in this section interferes with the Secretary's authority to require information under section 4(a)(5) before a vessel's arrival in a port or place subject to the jurisdiction of the United States.”

**SEC. 1394. SAFETY AND SECURITY OF PORTS AND WATERWAYS.**

The Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) is amended—

(1) by striking “safety and protection of the marine environment” in section 2(a) (33 U.S.C. 1221(a)) and inserting “safety, protection of the marine environment, and safety and security of United States ports and waterways”; and

(2) by striking “safety and protection of the marine environment,” in section 5(a) (33 U.S.C. 1224(a)) and inserting “safety, protection of the marine environment, and the safety and security of United States ports and waterways.”

**SEC. 1395. PICTURED ROCKS NATIONAL LAKE-SHORE BOUNDARY DIVISION.**

(a) **TRANSFER.**—As soon as practicable after the date of enactment of this Act, the Administrator of General Services may transfer to the Secretary, without consideration, administrative jurisdiction over, and management of, the public land.

(b) **BOUNDARY REVISION.**—The boundary of the Lakeshore is revised to include the public land transferred under subsection (a).

(c) **AVAILABILITY OF MAP.**—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) **ADMINISTRATION.**—The Secretary may administer the public land transferred under section (a)—

(1) as part of the Lakeshore; and

(2) in accordance with applicable laws (including regulations)

(e) **ACCESS TO AIDS TO NAVIGATION.**—The Secretary of Transportation, in consultation with the Secretary, may access the front and rear range lights for the purposes of servicing, operating, maintaining, and repairing those lights.

(f) **DEFINITIONS.**—In this section:

(1) **LAKESHORE.**—The term “Lakeshore” means the Pictured Rocks National Lakeshore in the State of Michigan.

(2) **MAP.**—The term “map” means the map entitled “Proposed Addition to Pictured Rocks National Lakeshore”, numbered 625/80048, and dated April 2002.

(3) **PUBLIC LAND.**—The term “public land” means the approximately .32 acres of United States Coast Guard land and improvements to the land, including the United States Coast Guard Auxiliary Operations Station and the front and rear range lights, as depicted on the map.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of State.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary \$225,000 to restore, preserve, and maintain the public land transferred under subsection (a).

**SEC. 1396. ADMINISTRATIVE WAIVER.**

The yacht EXCELLENCE III, hull identification number HQZ00255K101, is deemed to be an eligible vessel within the meaning of section 504(2) of the Coast Guard Authorization Act of 1998 (46 U.S.C. 12106 nt).

**SEC. 1397. VESSEL STUYVESANT.**

(a) **IN GENERAL.**—Section 5501 (a)(2)(A) of the Oceans Act of 1992 (46 U.S.C. App. 292 note) is amended to read as follows:

“(A)(i) the vessel STUYVESANT, official number 648540; and

“(ii) until the earlier of December 8, 2022, or the date on which the vessel STUYVESANT ceases to be documented under section 12106 of title 46 United States Code—

“(I) any other hopper dredging vessel documented under section 12106 of title 46 United States Code, before November 4, 1992, and chartered to Stuyvesant Dredging Company or to an entity in which it has an ownership interest;

“(II) any non-hopper dredging vessel documented under section 12106 of title 46 United States Code and chartered to Stuyvesant Dredging Company or to an entity in which it has an ownership interest, but only as is necessary to fulfill dredging obligations under a specific contract for the employment of the STUYVESANT, including any extension periods, pursuant to which the STUYVESANT performs the majority of the work, as measured by cost and volume, and the non-hopper dredging vessel is used only on a temporary basis for the limited purpose of supplementing the dredging activity of the STUYVESANT under that specific contract and no other; and

“(III) any other non-hopper dredging vessel documented under section 12106 of title 46 United States Code, and chartered to Stuyvesant Dredging Company or to an entity in which it has an ownership interest, but only as is necessary as temporary replacement capacity for the vessel STUYVESANT,

should the STUYVESANT become disabled, for as long as the disability lasts, if repairs to the STUYVESANT to correct the disability are promptly made;”.

(b) IMPLEMENTATION.—

(1) The charterer of any vessel chartered under the authority of section 5501(a)(2)(A) of the Oceans Act of 1992, as amended by subsection (a), shall file with the Administrator of the Maritime Administration, upon execution of the charter, a copy of the charter documents, the contract pursuant to which the dredging is to occur, an affidavit of United States citizenship of the vessel owner and such other documents as the Administrator may require for the purpose of ensuring compliance with that section.

(2) The amendment made by subsection (a) applies to any vessel chartered to the Stuyvesant Dredging Company, or to an entity in which that company has an ownership interest, on the earlier of—

(A) March 1, 2005; or

(B) the date on which Army Corps of Engineers or other dredging contractual commitments for the employment of such vessel that were in effect on the date of enactment of this Act are completed.

**SEC. 1398. ESCANABA DOCK**

The Commandant of the Coast Guard is authorized to transfer \$300,000 from the funds appropriated for Acquisition, Construction, and Improvements, to the City of Escanaba, Michigan.

**AMENDMENTS SUBMITTED AND PROPOSED—JUNE 25, 2002**

SA 3973. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 3974. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3975. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3976. Mr. HATCH (for himself, Mrs. FEINSTEIN, and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3977. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3978. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3979. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3980. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3981. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3982. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3983. Mr. BIDEN submitted an amendment intended to be proposed by him to the

bill S. 2514, supra; which was ordered to lie on the table.

SA 3984. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3985. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3986. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3987. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3988. Mr. DOMENICI (for himself and Mr. STEVENS) submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3989. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3973. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XXVIII, add the following:

**SEC. 2829. LAND CONVEYANCE, SUNFLOWER ARMY AMMUNITION PLANT, KANSAS.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army or the Administrator of General Services may convey, without consideration, to the Johnson County Park and Recreation District, Kansas (in this section referred to as the “District”), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, in the State of Kansas consisting of approximately 2,000 acres and containing the Sunflower Army Ammunition Plant. The purpose of the conveyance is to permit the District to use the parcel for recreational purposes.

(b) ENVIRONMENTAL MATTERS.—(1) With respect to the parcel conveyed under subsection (a), the Secretary or Administrator shall retain responsibility for carrying out, to levels consistent with the intended use of the parcel by the District—

(A) any response action that may be required under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or other applicable provisions of law; and

(B) any action required under any other statute to remediate petroleum products (or their derivatives) or propellants (or their derivatives).

(2) Any Federal department or agency that had or has operations resulting in the release or threatened release of any hazardous substances, petroleum products (or their derivatives) or propellants (or their derivatives) on, under, or about the parcel conveyed under subsection (a), and any Federal department or agency that owned the parcel at the time of such release or threatened release, shall pay the cost of any response action or other action that may be necessary to remediate the parcel to levels consistent with the intended use of the parcel by the District.

(3) In accepting the parcel conveyed under subsection (a), the District—

(A) shall not be treated as a responsible party under section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)), or any other applicable provision of law, for performing, or paying the cost of, any response action or other action that may be necessary as the result of any release or threatened release of hazardous substances, petroleum products (or their derivatives) or propellants (or their derivatives) on, under, or about the parcel as a result of activities on the parcel before the date of the conveyance; and

(B) shall not be subject to suit for contribution for any cost described by subparagraph (A) under section 113(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(f)), or any other applicable provision of law.

(c) EXCEPTION FROM SCREENING REQUIREMENT.—The conveyance of property authorized by subsection (a) shall be made without regard to the requirement under section 2696 of title 10, United States Code, that the property be screened for further Federal use in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(d) DESCRIPTION OF PROPERTY.—(1) The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary or Administrator.

(2) The Secretary or Administrator may use for the purpose of paragraph (1) a survey prepared by the National Park Service if the Secretary or Administrator determines that the survey is appropriate for that purpose.

(3) If the Secretary or Administrator obtains for the purpose of paragraph (1) a survey other than the survey described in paragraph (2), the cost of such survey shall be borne by the District.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary or Administrator may require such additional terms and conditions in connection with the conveyance of real property under subsection (a) as the Secretary or Administrator considers appropriate to protect the interests of the United States.

(f) EFFECTIVE DATE.—This section shall take effect on January 31, 2003.

SA 3974. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XXVIII, add the following:

**SEC. 2829. LAND CONVEYANCE, BLUEGRASS ARMY DEPOT, RICHMOND, KENTUCKY.**

(a) CONVEYANCE AUTHORIZED.—(1) The Secretary of the Army may convey, without consideration, to Madison County, Kentucky (in this section referred to as the “County”), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 10 acres at the Bluegrass Army Depot, Richmond, Kentucky, for the purpose of facilitating the construction of a veterans’ center on the parcel by the State of Kentucky.

(2) The Secretary may not make the conveyance authorized by this subsection unless

the Secretary determines that the State of Kentucky has appropriated adequate funds for the construction of the veterans' center.

(b) **REVERSIONARY INTEREST.**—If the Secretary determines that the real property conveyed under subsection (a) ceases to be utilized for the sole purpose of a veterans' center or that reasonable progress is not demonstrated in constructing the center and initiating services to veterans, all right, title, and interest in and to the property shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination under this subsection shall be made on the record after an opportunity for a hearing.

(c) **ADMINISTRATIVE EXPENSES.**—The Secretary shall apply section 2695 of title 10, United States Code, to the conveyance authorized by subsection (a).

(d) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the County.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SA 3975.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following new title:

**TITLE XIII—MILITARY CHARTER SCHOOLS**  
**Subtitle A—Stable Transitions in Education for Armed Services' Dependent Youth**

**SEC. 1301. SHORT TITLE.**

This subtitle may be cited as the "Stable Transitions in Education for Armed Services' Dependent Youth Act".

**SEC. 1302. FINDINGS.**

Congress finds that—

(1) States are establishing new and higher academic standards for students in kindergarten through grade 12;

(2) no Federal funding streams are specifically designed to help States and school districts with the costs of providing military or mobile students who are struggling academically, with the extended learning time and accelerated curricula that the students need to meet high academic standards;

(3) forty-eight States now require State accountability tests to determine student grade-level performance and progress;

(4) nineteen States currently rate the performance of all schools or identify low-performing schools through State accountability tests;

(5) sixteen States now have the power to close, take over, or overhaul chronically failing schools on the basis of those tests;

(6) fourteen States provide high-performing schools with monetary rewards on the basis of those tests;

(7) nineteen States currently require students to pass State accountability tests to graduate from secondary school;

(8) six States currently link student promotion to results on State accountability tests;

(9) thirty-seven States have a process in place that allows charters to be a useful tool to bridge the gap created by frequent school changes;

(10) excessive percentages of students are not meeting their State standards and are failing to perform at high levels on State accountability tests; and

(11) among mobile students, a common thread is that school transcripts are not easily transferred and credits are not accepted between public school districts in the United States.

**SEC. 1303. PURPOSE.**

The purpose of this subtitle is to provide Federal support through a new demonstration program to States and local educational agencies, to enable the States and local educational agencies to develop models for high quality military charter schools that are specifically designed to help mobile military dependent students attending public school make a smooth transition from one school district to another, even across State lines, and achieve a symbiotic relationship between military installations and these school districts.

**SEC. 1304. DEFINITIONS.**

In this subtitle:

(1) **ELEMENTARY SCHOOL; SECONDARY SCHOOL; LOCAL EDUCATIONAL AGENCY; STATE EDUCATIONAL AGENCY.**—The terms "elementary school", "secondary school", "local educational agency", and "State educational agency" have the meanings given such terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) **MILITARY INSTALLATION.**—The term "military installation" has the meaning given such term in section 2687(e)(1) of title 10, United States Code.

(3) **MILITARY DEPENDENT STUDENT.**—The term "military dependent student" means an elementary school or secondary school student who has a parent who is a member of the Armed Forces, including a member of a reserve component of the Armed Forces, without regard to whether the member is on active duty or full-time National Guard duty (as defined in section 101(d) of title 10, United States Code).

(4) **SECRETARY.**—The term "Secretary" means the Secretary of Defense.

(5) **STUDENT.**—The term "student" means an elementary school or secondary school student.

**SEC. 1305. GRANTS TO STATES.**

(a) **GRANTS AUTHORIZED.**—

(1) **IN GENERAL.**—From amounts appropriated under section 1310, the Secretary, in consultation with the Secretary of Education, shall establish a demonstration program through which the Secretary shall make grants to State educational agencies, on a competitive basis, to enable the State educational agencies to assist local educational agencies in establishing and maintaining high quality military charter schools.

(2) **DISTRIBUTION RULE.**—In awarding grants under this subtitle the Secretary shall ensure that such grants serve not more than 10 States and not more than 35 local educational agencies with differing demographics.

(3) **SPECIAL LOCAL RULE.**—

(A) **NONPARTICIPATING STATE.**—If a State chooses not to participate in the demonstration program assisted under this subtitle or does not have an application approved under subsection (c), then the Secretary may award a grant directly to a local educational agency in the State to assist the local educational agency in carrying out high quality military charter schools.

(B) **LOCAL EDUCATIONAL AGENCY APPLICATION.**—To be eligible to receive a grant under

this paragraph, a local educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(C) **REGULATIONS.**—The Secretary shall promulgate such regulations as the Secretary determines necessary to carry out this paragraph.

(b) **ELIGIBILITY AND SELECTION.**—

(1) **ELIGIBILITY.**—For a State educational agency to be eligible to receive a grant under subsection (a), the State served by the State educational agency shall—

(A) have in effect all standards and assessments required under section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311);

(B) compile and annually distribute to parents a public school report card that, at a minimum, includes information on student and school performance for each of the assessments required under section 1111 of the Elementary and Secondary Education Act of 1965;

(C) require each military charter school assisted under this subtitle to be an independent public school;

(D) require each military charter school assisted under this subtitle to operate under an initial 5-year charter granted by a State charter authority, with specified check points and renewal, as required by State law; and

(E) require each military charter school assisted under this subtitle to participate in the State's testing program.

(2) **SELECTION.**—In selecting State educational agencies to receive grants under this section, the Secretary shall make the selections in a manner consistent with the purpose of this subtitle.

(c) **APPLICATION.**—

(1) **IN GENERAL.**—To be eligible to receive a grant under this section, a State educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) **CONTENTS.**—Such application shall include—

(A) information describing specific measurable goals and objectives to be achieved in the State through the military charter schools carried out under this subtitle, which may include specific measurable annual educational goals and objectives relating to—

(i) increased student academic achievement;

(ii) decreased student dropout rates;

(iii) governance, parental involvement plans, and disciplinary policies;

(iv) a military charter school admissions policy that requires a minimum of 60 percent military dependent elementary school or secondary school students, and a maximum of 80 percent of military dependent students, except where such percentages are impossible to maintain because of the demographics of the area around the military installation;

(v) liability and other insurance coverage, business and accounting practices, and the procedures and methods employed by the chartering authority in monitoring the school; and

(vi) such other factors as the State educational agency may choose to measure; and

(B) information on criteria, established or adopted by the State, that—

(i) the State will use to select local educational agencies for participation in the military charter schools carried out under this subtitle; and

(ii) at a minimum, will assure that grants provided under this subtitle are provided to—

(I) the local educational agencies in the State that are sympathetic to, and take actions to ease the transition burden upon, such local educational agencies' military dependent students;

(II) the local educational agencies in the State that have the highest percentage of military dependent students impacting the local school system or not meeting basic or minimum required standards for State assessments required under section 1111 of the Elementary and Secondary Education Act of 1965; and

(III) an assortment of local educational agencies serving urban, suburban, and rural areas, and impacted by a local military installation.

#### SEC. 1306. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) IN GENERAL.—

(1) FIRST YEAR.—Except as provided in paragraph (3), for the first year that a State educational agency receives a grant under this subtitle, the State educational agency shall use the funds made available through the grant to make grants to eligible local educational agencies in the State to pay for the Federal share of the cost of planning for or carrying out the military charter school programs.

(2) SUCCEEDING YEARS.—Except as provided in paragraph (3), for the second and third year that a State educational agency receives a grant under this subtitle, the State educational agency shall use the funds made available through the grant to make grants to eligible local educational agencies in the State to pay for the Federal share of the cost of carrying out the military charter school programs.

(3) TECHNICAL ASSISTANCE AND PLANNING ASSISTANCE.—The State educational agency may use not more than 5 percent of the grant funds received under this subtitle for a fiscal year—

(A) to provide to the local educational agencies technical assistance that is aligned with the curriculum of the local educational agencies for the programs;

(B) to enable the local educational agencies to obtain such technical assistance from entities other than the State educational agency that have demonstrated success in using the curriculum; and

(C) to assist the local educational agencies in evaluating activities carried out under this subtitle.

(b) APPLICATION.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, a local educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the Secretary or the State educational agency may require.

(2) CONTENTS.—Each such application shall include, to the greatest extent practicable—

(A) information that—

(i) demonstrates that the local educational agency will carry out a military charter school program funded under this section—

(I) that provides intensive high quality programs that are aligned with challenging State content and student performance standards, and that is focused on reinforcing and boosting the core academic skills and knowledge of students who are struggling academically, as determined by the State;

(II) that focuses on accelerated learning, rather than remediation, so that students served through the program will master the high level skills and knowledge needed to meet the highest State standards or to perform at high levels on all State assessments required under section 1111 of the Elementary and Secondary Education Act of 1965;

(III) that is based on, and incorporates best practices developed from, research-based charter school methods and practices;

(IV) that has a proposed curriculum that is directly aligned with State content and student performance standards;

(V) for which only teachers who are certified and licensed, and are otherwise fully qualified teachers, provide academic instruction to students enrolled in the program;

(VI) that offers to staff in the program professional development and technical assistance that are aligned with the approved curriculum for the program; and

(VII) that incorporates a parental involvement component that seeks to involve parents in the program's topics and students' daily activities; and

(ii) may include—

(I) the proposed curriculum for the military charter school program;

(II) the local educational agency's plan for recruiting highly qualified and highly effective teachers to participate in the program; and

(III) a schedule for the program that indicates that the program is of sufficient duration and intensity to achieve the State's goals and objectives described in section 1305(c)(2)(A);

(B) an outline indicating how the local educational agency will utilize applicable Federal, State, local, or public funds, other than funds made available through the grant, to support the program;

(C) an explanation of how the local educational agency will ensure that the instruction provided through the program will be provided by qualified teachers;

(D) an explanation of the types of intensive training or professional development, aligned with the curriculum of the program, that will be provided for staff of the program;

(E) an explanation of the facilities to be used for the program;

(F) an explanation regarding the duration of the periods of time that students and teachers in the program will have contact for instructional purposes (such as the hours per day and days per week of that contact, and the total length of the program);

(G) an explanation of the proposed student-to-teacher ratio for the program, analyzed by grade level;

(H) an explanation of the grade levels that will be served by the program;

(I) an explanation of the approximate cost per student for the program;

(J) an explanation of the salary costs for teachers in the program;

(K) a description of a method for evaluating the effectiveness of the program at the local level;

(L) information describing specific measurable goals and objectives, for each academic subject in which the program will provide instruction, that are consistent with, or more rigorous than, the adequate yearly progress goals established by the State under section 1111 of the Elementary and Secondary Education Act of 1965;

(M) a description of how the local educational agency will involve parents and the community in the program in order to raise academic achievement;

(N) a description of how the local educational agency will acquire any needed technical assistance that is aligned with the curriculum of the local educational agency for the program, from the State educational agency or other entities with demonstrated success in using the curriculum; and

(O) a statement of a clearly defined goal for providing counseling and other transition burden relief for military dependent children.

(c) PRIORITY.—In making grants under this section, the State educational agency shall give priority to local educational agencies that demonstrate a high level of need for the military charter school programs.

(d) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the cost described in subsection (a) is 50 percent.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

#### SEC. 1307. SUPPLEMENT NOT SUPPLANT.

Funds appropriated pursuant to the authority of this subtitle shall be used to supplement and not supplant other Federal, State, local, or private funds expended to support military charter school programs.

#### SEC. 1308. REPORTS.

(a) STATE REPORTS.—Each State educational agency that receives a grant under this subtitle shall annually prepare and submit to the Secretary a report. The report shall describe—

(1) the method the State educational agency used to make grants to eligible local educational agencies and to provide assistance to schools under this subtitle;

(2) the specific measurable goals and objectives described in section 1305(c)(2)(A) for the State as a whole and the extent to which the State met each of the goals and objectives in the year preceding the submission of the report;

(3) the specific measurable goals and objectives described in section 1306(b)(2)(L) for each of the local educational agencies receiving a grant under this subtitle in the State and the extent to which each of the agencies met each of the goals and objectives in that preceding year;

(4) the steps that the State educational agency will take to ensure that any such local educational agency that did not meet the goals and objectives in that year will meet the goals and objectives in the year following the submission of the report, or the plan that the State educational agency has for revoking the grant awarded to such an agency and redistributing the grant funds to existing or new military charter school programs;

(5) how eligible local educational agencies and schools used funds provided by the State educational agency under this subtitle;

(6) the degree to which progress has been made toward meeting the goals and objectives described in section 1305(c)(2)(A); and

(7) best practices for the Secretary to share with interested parties.

(b) REPORT TO CONGRESS.—The Secretary shall annually prepare and submit to Congress a report. The report shall describe—

(1) the methods the State educational agencies used to make grants to eligible local educational agencies and to provide assistance to schools under this subtitle;

(2) how eligible local educational agencies and schools used funds provided under this subtitle; and

(3) the degree to which progress has been made toward meeting the goals and objectives described in sections 1305(c)(2)(A) and 1306(b)(2)(L).

(c) GOVERNMENT ACCOUNTING OFFICE REPORT TO CONGRESS.—The Comptroller General of the United States shall conduct a study regarding the demonstration program carried out under this subtitle and the impact of the program on student achievement. The Comptroller General shall prepare and submit to Congress a report containing the results of the study.

#### SEC. 1309. ADMINISTRATION.

(a) FEDERAL.—The Secretary shall develop program guidelines for and oversee the demonstration program carried out under this subtitle.

(b) LOCAL.—The commander of each military installation served by a military charter school assisted under this subtitle shall establish a nonprofit corporation or an oversight group to provide the applicable local educational agency with oversight and guidance regarding the day-to-day operations of the military charter school.

#### SEC. 1310. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

- (1) \$5,000,000 for fiscal year 2003;
- (2) \$7,000,000 for fiscal year 2004;
- (3) \$9,000,000 for fiscal year 2005;
- (4) \$11,000,000 for fiscal year 2007; and
- (5) \$13,000,000 for fiscal year 2008.

#### SEC. 1311. TERMINATION.

The authority provided by this subtitle terminates 5 years after the date of enactment of this Act.

#### Subtitle B—Credit Enhancement Initiatives To Promote Military Charter School Facility Acquisition, Construction, and Renovation

#### SEC. 1321. CREDIT ENHANCEMENT INITIATIVES TO PROMOTE MILITARY CHARTER SCHOOL FACILITY ACQUISITION, CONSTRUCTION, AND RENOVATION.

Title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7201 et seq.) is amended by adding at the end the following:

#### “PART E—CREDIT ENHANCEMENT INITIATIVES TO PROMOTE MILITARY CHARTER SCHOOL FACILITY ACQUISITION, CONSTRUCTION, AND RENOVATION.

##### “SEC. 5701. PURPOSE.

“The purpose of this part is to provide grants to eligible entities to permit the eligible entities to establish or improve innovative credit enhancement initiatives that assist military charter schools to address the cost of acquiring, constructing, and renovating facilities.

##### “SEC. 5702. GRANTS TO ELIGIBLE ENTITIES.

“(a) GRANTS FOR INITIATIVES.—

“(1) IN GENERAL.—The Secretary shall use 100 percent of the amount available to carry out this part to award grants to eligible entities that have applications approved under this part, to enable the eligible entities to carry out innovative initiatives for assisting military charter schools to address the cost of acquiring, constructing, and renovating facilities by enhancing the availability of loans or bond financing.

“(2) NUMBER OF GRANTS.—The Secretary shall award not less than 4 grants under this part in each fiscal year.

“(b) GRANTEE SELECTION.—

“(1) DETERMINATION.—The Secretary shall evaluate each application submitted, and shall determine which applications are of sufficient quality to merit approval and which are not.

“(2) MINIMUM GRANTS.—The Secretary shall award at least—

“(A) 1 grant to an eligible entity described in section 5710(1)(A);

“(B) 1 grant to an eligible entity described in section 5710(1)(B); and

“(C) 1 grant to an eligible entity described in section 5710(1)(C).

if applications are submitted that permit the Secretary to award the grants without approving an application that is not of sufficient quality to merit approval.

“(c) GRANT CHARACTERISTICS.—Grants under this part shall be in sufficient amounts, and for initiatives of sufficient scope and quality, so as to effectively enhance credit for the financing of military charter school acquisition, construction, or renovation.

“(d) SPECIAL RULE.—In the event the Secretary determines that the funds available to

carry out this part are insufficient to permit the Secretary to award not less than 4 grants in accordance with subsections (a) through (c)—

“(1) subsections (a)(2) and (b)(2) shall not apply; and

“(2) the Secretary may determine the appropriate number of grants to be awarded in accordance with subsections (a)(1), (b)(1), and (c).

##### “SEC. 5703. APPLICATIONS.

“(a) IN GENERAL.—To receive a grant under this part, an eligible entity shall submit to the Secretary an application in such form as the Secretary may reasonably require.

“(b) CONTENTS.—An application submitted under subsection (a) shall contain—

“(1) a statement identifying the activities proposed to be undertaken with funds received under this part, including how the eligible entity will determine which military charter schools will receive assistance, and how much and what types of assistance the military charter schools will receive;

“(2) a description of the involvement of military charter schools in the application's development and the design of the proposed activities;

“(3) a description of the eligible entity's expertise in capital market financing;

“(4) a description of how the proposed activities will—

“(A) leverage private sector financing capital, to obtain the maximum amount of private sector financing capital, relative to the amount of government funding used, to assist military charter schools; and

“(B) otherwise enhance credit available to military charter schools;

“(5) a description of how the eligible entity possesses sufficient expertise in education to evaluate the likelihood of success of a military charter school program for which facilities financing is sought;

“(6) in the case of an application submitted by a State governmental entity, a description of the actions that the entity has taken, or will take, to ensure that military charter schools within the State receive the funding the schools need to have adequate facilities;

“(7) an assurance that the eligible entity will give priority to funding initiatives that assist military charter schools in which students have demonstrated academic excellence or improvement during the 2 consecutive academic years preceding submission of the application; and

“(8) such other information as the Secretary may reasonably require.

##### “SEC. 5704. MILITARY CHARTER SCHOOL OBJECTIVES.

“An eligible entity receiving a grant under this part shall use the funds received through the grant, and deposited in the reserve account established under section 5705(a), to assist 1 or more military charter schools to access private sector capital to accomplish 1 or more of the following objectives:

“(1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a military charter school) in improved or unimproved real property that is necessary to commence or continue the operation of a military charter school.

“(2) The construction of new facilities, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operation of a military charter school.

“(3) The payment of startup costs, including the costs of training teachers and purchasing materials and equipment, including instructional materials and computers, for a military charter school.

##### “SEC. 5705. RESERVE ACCOUNT.

“(a) IN GENERAL.—For the purpose of assisting military charter schools to accomplish the objectives described in section 5704, an eligible entity receiving a grant under this part shall deposit the funds received through the grant (other than funds used for administrative costs in accordance with section 5706) in a reserve account established and maintained by the eligible entity for that purpose. The eligible entity shall make the deposit in accordance with State and local law and may make the deposit directly or indirectly, and alone or in collaboration with others.

“(b) USE OF FUNDS.—Amounts deposited in such account shall be used by the eligible entity for 1 or more of the following purposes:

“(1) Guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, loans, and interests therein, the proceeds of which are used for an objective described in section 5704.

“(2) Guaranteeing and insuring leases of personal and real property for such an objective.

“(3) Facilitating financing for such an objective by identifying potential lending sources, encouraging private lending, and carrying out other similar activities that directly promote lending to, or for the benefit of, military charter schools.

“(4) Facilitating the issuance of bonds by military charter schools, or by other public entities for the benefit of military charter schools, for such an objective, by providing technical, administrative, and other appropriate assistance (including the recruitment of bond counsel, underwriters, and potential investors and the consolidation of multiple military charter school projects within a single bond issue).

“(c) INVESTMENT.—Funds received under this part and deposited in the reserve account shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities.

“(d) REINVESTMENT OF EARNINGS.—Any earnings on funds received under this part shall be deposited in the reserve account established under subsection (a) and used in accordance with subsection (b).

##### “SEC. 5706. LIMITATION ON ADMINISTRATIVE COSTS.

“An eligible entity that receives a grant under this part may use not more than 0.25 percent of the funds received through the grant for the administrative costs of carrying out the eligible entity's responsibilities under this part.

##### “SEC. 5707. AUDITS AND REPORTS.

“(a) FINANCIAL RECORD MAINTENANCE AND AUDIT.—The financial records of each eligible entity receiving a grant under this part shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

“(b) REPORTS.—

“(1) ELIGIBLE ENTITY ANNUAL REPORTS.—Each eligible entity receiving a grant under this part annually shall submit to the Secretary a report of the eligible entity's operations and activities under this part.

“(2) CONTENTS.—Each such annual report shall include—

“(A) a copy of the eligible entity's most recent financial statements, and any accompanying opinion on such statements, prepared by the independent public accountant auditing the financial records of the eligible entity;

“(B) a copy of any report made on an audit of the financial records of the eligible entity that was conducted under subsection (a) during the reporting period;

“(C) an evaluation by the eligible entity of the effectiveness of the entity’s use of the Federal funds provided under this part in leveraging private funds;

“(D) a listing and description of the military charter schools served by the eligible entity with such Federal funds during the reporting period;

“(E) a description of the activities carried out by the eligible entity to assist military charter schools in meeting the objectives set forth in section 5704; and

“(F) a description of the characteristics of lenders and other financial institutions participating in the activities undertaken by the eligible entity under this part during the reporting period.

“(3) SECRETARIAL REPORT.—The Secretary shall review the reports submitted under paragraph (1) and shall provide a comprehensive annual report to Congress on the activities conducted under this part.

**“SEC. 5708. NO FULL FAITH AND CREDIT FOR GRANTEE OBLIGATIONS.**

“No financial obligation of an eligible entity entered into pursuant to this part (such as an obligation under a guarantee, bond, note, evidence of debt, or loan) shall be an obligation of, or guaranteed in any respect by, the United States. The full faith and credit of the United States is not pledged to the payment of funds that may be required to be paid under any obligation made by an eligible entity pursuant to any provision of this part.

**“SEC. 5709 RECOVERY OF FUNDS.**

“(a) IN GENERAL.—The Secretary, in accordance with chapter 37 of title 31, United States Code, shall collect—

“(1) all of the funds in a reserve account established by an eligible entity under section 5705(a), if the Secretary determines, not earlier than 2 years after the date on which the entity first received funds under this part, that the entity has failed to make substantial progress in carrying out the purposes described in section 5705(b); or

“(2) all or a portion of the funds in a reserve account established by an eligible entity under section 5705(a), if the Secretary determines that the eligible entity has permanently ceased to use all or a portion of the funds in such account to accomplish any purpose described in section 5705(b).

“(b) EXERCISE OF AUTHORITY.—The Secretary shall not exercise the authority provided in subsection (a) to collect from any eligible entity any funds that are being properly used to achieve 1 or more of the purposes described in section 5705(b).

“(c) PROCEDURES.—The provisions of sections 451, 452, and 458 of the General Education Provisions Act (20 U.S.C. 1234, 1234a, 1234g) shall apply to the recovery of funds under subsection (a).

“(d) CONSTRUCTION.—This section shall not be construed to impair or affect the authority of the Secretary to recover funds under part D of the General Education Provisions Act (20 U.S.C. 1234 et seq.).

**“SEC. 5710. DEFINITIONS.**

“In this part:

“(1) ELIGIBLE ENTITY.—The term ‘eligible entity’ means—

“(A) a public entity, such as a military installation as defined in section 2687(e)(1) of title 10, United States Code;

“(B) a private nonprofit entity; or

“(C) a consortium of entities described in subparagraphs (A) and (B).

“(2) MILITARY CHARTER SCHOOL.—The term ‘military charter school’ has the meaning given such term by regulations promulgated by the Secretary of Defense.

**“SEC. 5711. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated to carry out this part \$10,000,000 for fiscal year 2003 and each succeeding fiscal year.”

**SEC. 1322. INCOME EXCLUSION FOR INTEREST PAID ON LOANS BY MILITARY CHARTER SCHOOLS.**

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by inserting after section 139 the following new section:

**“SEC. 139A. INTEREST ON MILITARY CHARTER SCHOOL LOANS.**

“(a) EXCLUSION.—Gross income does not include interest on any military charter school loan.

“(b) MILITARY CHARTER SCHOOL LOAN.—For purposes of this section:

“(1) IN GENERAL.—The term ‘military charter school loan’ means any indebtedness incurred by a military charter school.

“(2) MILITARY CHARTER SCHOOL.—The term ‘military charter school’ means an institution defined as a military charter school by the Secretary of Defense.”

(b) CONFORMING AMENDMENT.—The table of sections for such part III is amended by inserting after the item relating to section 139 the following:

“Sec. 139A. Interest on military charter school loans.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of enactment of this Act, with respect to indebtedness incurred after the date of enactment of this Act.

**SA 3976.** Mr. HATCH (for himself, Mrs. FEINSTEIN, and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 258, after line 24, insert the following:

**SEC. 1065. COMMENDATION OF MILITARY CHAPLAINS.**

(a) FINDINGS.—Congress finds the following:

(1) Military chaplains have served with those who fought for the cause of freedom since the founding of the Nation.

(2) Military chaplains and religious support personnel of the Armed Forces have served with distinction as uniformed members of the Armed Forces in support of the Nation’s defense missions during every conflict in the history of the United States.

(3) 400 United States military chaplains have died in combat, some as a result of direct fire while ministering to fallen Americans, while others made the ultimate sacrifice as a prisoner of war.

(4) Military chaplains currently serve in humanitarian operations, rotational deployments, and in the war on terrorism.

(5) Religious organizations make up the very fabric of religious diversity and represent unparalleled levels of freedom of conscience, speech, and worship that set the United States apart from any other nation on Earth.

(6) Religious organizations have richly blessed the uniformed services by sending clergy to comfort and encourage all persons of faith in the Armed Forces.

(7) During the sinking of the USS Dorchester in February 1943 during World War II, four chaplains (Reverend Fox, Reverend Poling, Father Washington, and Rabbi Goode) gave their lives so that others might live.

(8) All military chaplains aid and assist members of the Armed Forces and their family members with the challenging issues of today’s world.

(9) The current war against terrorism has brought to the shores of the United States new threats and concerns that strike at the beliefs and emotions of Americans.

(10) Military chaplains must, as never before, deal with the spiritual well-being of the members of the Armed Forces and their families.

(b) COMMENDATION.—Congress, on behalf of the Nation, expresses its appreciation for the outstanding contribution that all military chaplains make to the members of the Armed Forces and their families.

(c) PRESIDENTIAL PROCLAMATION.—The President is authorized and requested to issue a proclamation calling on the people of the United States to recognize the distinguished service of the Nation’s military chaplains.

**SA 3977.** Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

**SECTION 1. ENVIRONMENTAL ASSISTANCE TO NON-FEDERAL INTERESTS IN WYOMING.**

Section 595 of the Water Resources Development Act of 1999 (113 Stat. 383) is amended—

(1) in the section heading, by striking “AND MONTANA” and inserting “, MONTANA, AND WYOMING”;

(2) in subsections (b) and (c), by striking “and Montana” each place it appears and inserting “, Montana, and Wyoming”; and

(3) in subsection (h)—  
(A) in paragraph (1), by striking “and” at the end;

(B) in paragraph (2), by adding “and” at the end; and

(C) by inserting after paragraph (2) the following: “(3) \$25,000,000 for Wyoming.”

**SA 3978.** Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 23, line 24, increase the amount by \$1,000,000.

On page 13, line 14, reduce the amount by \$1,000,000.

**SA 3979.** Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for



military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 24, line 2, increase the first amount by \$1,000,000.

On page 14, line 5, reduce the amount by \$1,000,000.

**SA 3980.** Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 13, line 18, increase the amount by \$1,000,000.

On page 13, line 14, reduce the amount by \$1,000,000.

**SA 3981.** Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 23, between lines 12 and 13, insert the following:

**SEC. 135. MOBILE EMERGENCY BROADBAND SYSTEM.**

(a) AMOUNT FOR PROGRAM.—Of the total amount authorized to be appropriated by section 103(4), \$1,000,000 shall be available for the procurement of technical communica-

tions-electronics equipment for the Mobile Emergency Broadband System.

(b) OFFSETTING REDUCTION.—Of the total amount authorized to be appropriated by section 103(4), the amount available under such section for the Navy for other procurement for gun fire control equipment, SPQ-9B solid state transmitter, is hereby reduced by \$1,000,000.

**SA 3982.** Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

In the table in section 2301(a), insert after the item relating to the United States Air Force Academy, Colorado, the following:

Delaware .....	Dover Air Force Base .....	\$7,500,000
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In the table in section 2301(a), strike the amount identified as the total in the amount column and insert "\$729,031,000".

In section 2304(a), strike "\$2,597,272,000" in the matter preceding paragraph (1) and insert "\$2,604,772,000".

In section 2304(a)(1), strike "\$709,431,000" and insert "\$716,931,000".

**SA 3983.** Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

Insert the following new section at the appropriate place:

**SEC. . RATIFICATION OF AGREEMENT REGARDING ADAK NAVAL COMPLEX, ALASKA, AND RELATED LAND CONVEYANCES.**

(a) RATIFICATION OF AGREEMENT.—The document entitled the "Agreement Concerning the Conveyance of Property at the Adak Naval Complex (hereinafter "the Agreement"), and dated September 20, 2000, executed by the Aleut Corporation, the Department of the Interior and the Department of the Navy, together with any technical amendments or modifications to the boundaries that may be agreed to be the parties is hereby ratified, confirmed, and approved and the terms, conditions, procedures, covenants, reservations, indemnities and other provisions set forth in the Agreement are declared to be obligations and commitments of the United States and the Aleut Corporation as a matter of Federal law: Provided, That modifications to the maps and legal descriptions of lands to be removed from the National Wildlife Refuge System within the military withdrawal on Adak Island set forth in Public Land Order 1949 may be made only upon agreement of all Parties to the Agreement and notification given to the Com-

mittee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate: Provided further, That the acreage conveyed to the United States by the Aleut Corporation under the Agreement, as modified, shall be at least 36,000 acres.

(b) REMOVAL OF LANDS FROM REFUGE.—Effective on the date of conveyance to the Aleut Corporation of the Adak Exchange Lands as described in the Agreement, all such lands shall be removed from the National Wildlife Refuge System and shall neither be considered as part of the Alaska Maritime National Wildlife Refuge nor be subject to any laws pertaining to lands within the boundaries of the Alaska Maritime National Wildlife Refuge, including the conveyance restrictions imposed by section 22(g) of the Alaska Native Claims Settlement Act (ANCSA), 43 U.S.C. 1621(g), for land in the National Wildlife Refuge System. The Secretary shall adjust the boundaries of the Refuge so as to exclude all interests in lands and land rights, surface and subsurface, received by the Aleut Corporation in accordance with this Act and the Agreement.

(c) RELATION TO ALASKA NATIVE CLAIMS SETTLEMENT ACT.—Lands and interests therein exchanged and conveyed by the United States pursuant to this Act shall be considered and treated as conveyances of lands or interests therein under the ANCSA, except that receipt of such lands and interests therein shall not constitute a sale or disposition of land or interests received pursuant to such Act. The public easements for access to public lands and waters reserved pursuant to the Agreement are deemed to satisfy the requirements and purposes of Section 17(b) of the ANCSA.

(d) REACQUISITION OF LANDS.—The Secretary of the Interior is authorized to acquire by purchase or exchange, on a willing seller basis only, any land conveyed to the Aleut Corporation under the Agreement and this Act. In the event any of the lands are subsequently acquired by the United States, they shall be automatically included in the Refuge System. The laws and regulations applicable to Refuge lands shall then apply to these lands and the Secretary shall then adjust the boundaries accordingly.

(e) MISCELLANEOUS PROVISIONS.—(1) Notwithstanding the Federal Property and Administration Act of 1949, as amended (40 U.S.C. 483–484) and the Defense Base Closure and Realignment Act of 1990, as amended (10 U.S.C. 2687), and for the purposes of the transfer of property authorized by this Act, Department of the Navy personal property that remains on Adak Island is deemed related to the real property and shall be conveyed by the Department of the Navy to the Aleut Corporation at no additional cost when the related real property is conveyed by the Department of the Interior.

(2) The Secretary of the Interior shall convey to the Aleut Corporation those lands identified in the Agreement as the former landfill sites without charge to the Aleut Corporation's entitlement under the Alaska Native Claims Settlement Act.

(3) For purposes of section 21(c) of the ANCSA, the receipt of all property by the Aleut Corporation shall be entitled to a tax basis equal to fair value on the date of transfer. Fair value shall be determined by replacement cost appraisal.

(4) Any property, including, but not limited to, appurtenance and improvements, received pursuant to this Act shall, for purposes of section 21(d) of the ANCSA, as amended, and section 907(d) of the Alaska National Interest Lands Conservation Act, as amended, be treated as not developed until such property is actually occupied, leased (other than leases for nominal consideration to public entities) or sold by the Aleut Corporation, or, in the case of a lease or other transfer by the Aleut Corporation to a wholly owned development subsidiary, actually occupied, leased, or sold by the subsidiary.

(5) Upon conveyance to the Aleut Corporation of the lands described in Appendix A of the Agreement, the lands described in Appendix C of the Agreement will become unavailable for selection under ANCSA.

(6) The maps included as part of Appendix A to the Agreement depict the lands to be conveyed to the Aleut Corporation. The maps shall be left on file at the Region 7 Office of the U.S. Fish and Wildlife Service and the offices of the Alaska Maritime National

Wildlife Refuge in Homer, Alaska. The written legal descriptions of the lands to be conveyed to the Aleut Corporation are also part of Appendix A. In case of any discrepancies, the maps shall be controlling.

**SA 3984.** Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XXIII, add the following:

**SEC. 2305. AVAILABILITY OF FUNDS FOR CONSOLIDATION OF MATERIALS COMPUTATIONAL RESEARCH FACILITY AT WRIGHT-PATTERSON AIR FORCE BASE, OHIO.**

(a) **AVAILABILITY.**—Of the amount authorized to be appropriated by section 2304(a), and paragraph (1) of that section, for the Air Force and available for military construction projects at Wright-Patterson Air Force Base, Ohio, \$15,200,000 shall be available for a military construction project for consolidation of the materials computational research facility at Wright-Patterson Air Force Base (PNZHTV033301A).

(b) **OFFSET.**—(1) The amount authorized to be appropriated by section 301(a)(4) for the Air Force for operation and maintenance is hereby reduced by \$2,800,000.

(2) Of the amount authorized to be appropriated by section 2304(a), and paragraph (1) of that section, for the Air Force and available for military construction projects at Wright-Patterson Air Force Base—

(A) the amount available for a dormitory is hereby reduced by \$10,400,000; and

(B) the amount available for construction of a Fully Contained Small Arms Range Complex is hereby reduced by \$2,000,000.

**SA 3985.** Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

**SEC. 214. AEROSPACE RELAY MIRROR SYSTEM (ARMS) DEMONSTRATION.**

Of the amount authorized to be appropriated by section 201(3) for the Department of Defense for research, development, test, and evaluation for the Air Force, \$6,000,000 may be available for the Aerospace Relay Mirror System (ARMS) Demonstration.

**SA 3986.** Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other

purposes; which was ordered to lie on the table; as follows:

At the end of title XXI, add the following:

**SEC. 2109. ADDITIONAL FISCAL YEAR 2003 MILITARY CONSTRUCTION PROJECT FOR ANECHOIC CHAMBER AT WHITE SANDS MISSILE RANGE, NEW MEXICO.**

(a) **PROJECT AUTHORIZED.**—In addition to the military construction projects authorized in section 2101(a), the Secretary of the Army may carry out a military construction project, including land acquisition related thereto, at White Sands Missile Range, New Mexico, for an anechoic chamber in the amount of \$3,000,000.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to amounts authorized to be appropriated by section 2104(a), and paragraph (1) of that section, there is authorized to be appropriated for fiscal years beginning after September 30, 2002, for the Department of the Army for the military construction project authorized in subsection (a), \$3,000,000.

(c) **OFFSET.**—The amount authorized to be appropriated by section 301(a)(1) for the Army for operation and maintenance is hereby reduced by \$3,000,000, with the amount of the reduction to be allocated to Base Operations Support (Servicewide Support).

**SA 3987.** Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

**SEC. 214. ELECTROMAGNETIC WAVE DETECTION AND IMAGING TRANSCIEVER (EDIT).**

(a) **AVAILABILITY OF FUNDS.**—(1) The amount authorized to be appropriated by section 201(1) for the Department of Defense for research, development, test, and evaluation for the Army and available for landmine warfare and barrier advanced technology (PE#0603606A) is increased by \$4,500,000, with the amount of the increase to be available for the Electromagnetic Wave Detection and Imaging Transciever (EDIT).

(2) The amount available under paragraph (1) for the Electromagnetic Wave Detection and Imaging Transciever is in addition to any other amounts available under this Act for that item.

(b) **OFFSET.**—The amount authorized to be appropriated by section 201(1) for the Department of Defense for research, development, test, and evaluation for the Army and available for warfighter advanced technology (PE#0603001A) is reduced by \$4,500,000.

**SA 3988.** Mr. DOMENICI (for himself and Mr. STEVENS) submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following:

**TITLE XIII—COMMERCIAL REUSABLE IN-SPACE TRANSPORTATION**

**SEC. 1301. SHORT TITLE.**

This title may be cited as the “Commercial Reusable In-Space Transportation Act of 2002”.

**SEC. 1302. FINDINGS.**

Congress makes the following findings:

(1) It is in the national interest to encourage the production of cost-effective, in-space transportation systems, which would be built and operated by the private sector on a commercial basis.

(2) The use of reusable in-space transportation systems will enhance performance levels of in-space operations, enhance efficient and safe disposal of satellites at the end of their useful lives, and increase the capability and reliability of existing ground-to-space launch vehicles.

(3) Commercial reusable in-space transportation systems will enhance the economic well-being and national security of the United States by reducing space operations costs for commercial and national space programs and by adding new space capabilities to space operations.

(4) Commercial reusable in-space transportation systems will provide new cost-effective space capabilities (including orbital transfers from low altitude orbits to high altitude orbits and return, the correction of erroneous satellite orbits, and the recovery, refurbishment, and refueling of satellites) and the provision of upper stage functions to increase ground-to-orbit launch vehicle payloads to geostationary and other high energy orbits.

(5) Commercial reusable in-space transportation systems can enhance and enable the space exploration of the United States by providing lower cost trajectory injection from earth orbit, transit trajectory control, and planet arrival deceleration to support potential National Aeronautics and Space Administration missions to Mars, Pluto, and other planets.

(6) Satellites stranded in erroneous earth orbit due to deficiencies in their launch represent substantial economic loss to the United States and present substantial concerns for the current backlog of national space assets.

(7) Commercial reusable in-space transportation systems can provide new options for alternative planning approaches and risk management to enhance the mission assurance of national space assets.

(8) Commercial reusable in-space transportation systems developed by the private sector can provide in-space transportation services to the National Aeronautics and Space Administration, the Department of Defense, the National Reconnaissance Office, and other agencies without the need for the United States to bear the cost of production of such systems.

(9) The availability of loan guarantees, with the cost of credit risk to the United States paid by the private-sector, is an effective means by which the United States can help qualifying private-sector companies secure otherwise unattainable private financing for the production of commercial reusable in-space transportation systems, while at the same time minimizing Government commitment and involvement in the development of such systems.

**SEC. 1303. LOAN GUARANTEES FOR PRODUCTION OF COMMERCIAL REUSABLE IN-SPACE TRANSPORTATION.**

(a) **AUTHORITY TO MAKE LOAN GUARANTEES.**—The Secretary may guarantee loans made to eligible United States commercial providers for purposes of producing commercial reusable in-space transportation services or systems.

(b) **ELIGIBLE UNITED STATES COMMERCIAL PROVIDERS.**—The Secretary shall prescribe requirements for the eligibility of United States commercial providers for loan guarantees under this section. Such requirements shall ensure that eligible providers are financially capable of undertaking a loan guaranteed under this section.

(c) **LIMITATION ON LOANS GUARANTEED.**—The Secretary may not guarantee a loan for a United States commercial provider under this section unless the Secretary determines that credit would not otherwise be reasonably available at the time of the guarantee for the commercial reusable in-space transportation service or system to be produced utilizing the proceeds of the loan.

(d) **CREDIT SUBSIDY.**—

(1) **COLLECTION REQUIRED.**—The Secretary shall collect from each United States commercial provider receiving a loan guarantee under this section an amount equal to the amount, as determined by the Secretary, to cover the cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, of the loan guarantee.

(2) **PERIODIC DISBURSEMENTS.**—In the case of a loan guarantee in which proceeds of the loan are disbursed over time, the Secretary shall collect the amount required under this subsection on a pro rata basis, as determined by the Secretary, at the time of each disbursement.

(e) **OTHER TERMS AND CONDITIONS.**—

(1) **PROHIBITION ON SUBORDINATION.**—A loan guaranteed under this section may not be subordinated to another debt contracted by the United States commercial provider concerned, or to any other claims against such provider.

(2) **RESTRICTION ON INCOME.**—A loan guaranteed under this section may not—

(A) provide income which is excluded from gross income for purposes of chapter 1 of the Internal Revenue Code of 1986; or

(B) provide significant collateral or security, as determined by the Secretary, for other obligations the income from which is so excluded.

(3) **TREATMENT OF GUARANTEE.**—The guarantee of a loan under this section shall be conclusive evidence of the following:

(A) That the guarantee has been properly obtained.

(B) That the loan qualifies for the guarantee.

(C) That, but for fraud or material misrepresentation by the holder of the loan, the guarantee is valid, legal, and enforceable.

(4) **OTHER TERMS AND CONDITIONS.**—The Secretary may establish any other terms and conditions for a guarantee of a loan under this section, as the Secretary considers appropriate to protect the financial interests of the United States.

(f) **ENFORCEMENT OF RIGHTS.**—

(1) **IN GENERAL.**—The Attorney General may take any action the Attorney General considers appropriate to enforce any right accruing to the United States under a loan guarantee under this section.

(2) **FORBEARANCE.**—The Attorney General may, with the approval of the parties concerned, forbear from enforcing any right of the United States under a loan guaranteed under this section for the benefit of a United States commercial provider if such forbearance will not result in any cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, to the United States.

(3) **UTILIZATION OF PROPERTY.**—Notwithstanding any other provision of law and subject to the terms of a loan guaranteed under this section, upon the default of a United States commercial provider under the loan, the Secretary may, at the election of the Secretary—

(A) assume control of the physical asset financed by the loan; and

(B) complete, recondition, reconstruct, renovate, repair, maintain, operate, or sell the physical asset.

(g) **CREDIT INSTRUMENTS.**—

(1) **AUTHORITY TO ISSUE INSTRUMENTS.**—Notwithstanding any other provision of law, the Secretary may, subject to such terms and conditions as the Secretary considers appropriate, issue credit instruments to United States commercial providers of in-space transportation services or system, with the aggregate cost (as determined under the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.)) of such instruments not to exceed \$1,500,000,000, but only to the extent that new budget authority to cover such costs is provided in appropriations Acts or authority is otherwise provided in appropriations Acts.

(2) **CREDIT SUBSIDY.**—The Secretary shall provide a credit subsidy for any credit instrument issued under this subsection in accordance with the provisions of the Federal Credit Reform Act of 1990.

(3) **CONSTRUCTION.**—The eligibility of a United States commercial provider of in-space transportation services or systems for a credit instrument under this subsection is in addition to any eligibility of such provider for a loan guarantee under other provisions of this section.

#### SEC. 1304. DEFINITIONS.

In this title:

(1) **SECRETARY.**—The term “Secretary” means the Secretary of Defense.

(2) **COMMERCIAL PROVIDER.**—The term “commercial provider” means any person or entity providing commercial reusable in-orbit space transportation services or systems, primary control of which is held by persons other than the Federal Government, a State or local government, or a foreign government.

(3) **IN-SPACE TRANSPORTATION SERVICES.**—The term “in-space transportation services” means operations and activities involved in the direct transportation or attempted transportation of a payload or object from one orbit to another by means of an in-space transportation vehicle.

(4) **IN-SPACE TRANSPORTATION SYSTEM.**—The term “in-space transportation system” means the space and ground elements, including in-space transportation vehicles and support space systems, and ground administration and control facilities and associated equipment, necessary for the provision of in-space transportation services.

(5) **IN-SPACE TRANSPORTATION VEHICLE.**—The term “in-space transportation vehicle” means a vehicle designed—

(A) to be based and operated in space;

(B) to transport various payloads or objects from one orbit to another orbit; and

(C) to be reusable and refueled in space.

(6) **UNITED STATES COMMERCIAL PROVIDER.**—The term “United States commercial provider” means any commercial provider organized under the laws of the United States that is more than 50 percent owned by United States nationals.

**SA 3989.** Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 258, after line 24, insert the following:

#### SEC. 1065. SENSE OF THE SENATE REGARDING AMTRAK.

(a) **FINDINGS.**—The Senate makes the following findings:

(1) The terrorist attacks of September 11, 2001, shut down airports across the Nation and the National Railroad Passenger Corporation (Amtrak) was called upon to transport displaced air travelers and deliver emergency relief supplies to ground zero in New York and Washington D.C.

(2) Thousands of Americans nationwide turned to Amtrak in the weeks following September 11, 2001, for their intercity travel needs.

(3) Nearly 23,000,000 Americans depend on Amtrak for their recreational and business travel needs every year.

(4) Amtrak transports 61,000 intercity passengers each day.

(5) Amtrak provides access to commuter rail operators which serve 80,000,000 commuters each year.

(6) Amtrak has only received \$25,000,000,000 in Federal funding over the past 30 years in comparison with \$750,000,000,000 spent on highways and aviation.

(7) The airlines received \$15,000,000,000 to avoid an industrywide shutdown following the terrorist attacks of September 11, 2001.

(8) The airlines received \$150,000,000 this year in Federal funding to provide air service to 80 cities where passenger revenues were insufficient to support the provision of service.

(9) The Amtrak Reform and Accountability Act of 1997 authorized \$5,160,000,000 in Federal funding and Amtrak only received \$2,860,000,000.

(10) The Secretary of Transportation, Norman Y. Mineta, in his address to the United States Chamber of Commerce on June 20, 2002, stated that, “In a long career in Congress and now as Secretary of Transportation, I have not wavered from an important conviction: intercity passenger rail is an important part of the Nation’s transportation system.”

(11) No passenger rail system in the world operates without substantial government subsidies.

(b) **SENSE OF THE SENATE.**—It is the sense of the Senate that—

(1) The President and the Department of Transportation should act immediately to provide \$200,000,000 in loan guarantees to prevent a systemwide shutdown of the National Railroad Corporation (Amtrak);

(2) it is vital to the United States national security that Amtrak continues to operate as the sole provider of intercity passenger rail service in the United States;

(3) it is not necessary that Amtrak operate as a for-profit business venture; and

(4) it is necessary that Congress and the Administration work together to provide \$1,200,000,000 for Amtrak in fiscal year 2003.

#### 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 a hearing has been scheduled before the Committee on Energy and Natural Resources on the Department of Energy’s, DOE’s, Environmental Management, EM, Program.

The hearing will explore DOE’s progress in implementing its accelerated cleanup initiative and the changes

DOE has proposed to the EM science and technology program.

The hearing will be held on Thursday, July 11, at 10 a.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

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 e-mail it to [amanda\\_goldman@energy.senate.gov](mailto:amanda_goldman@energy.senate.gov) or fax it to 202-224-9026.

For further information, please contact Jonathan Epstein at 202-224-3357 or John Kotek at 202-224-6385.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to conduct a hearing during the session of the Senate on Tuesday, June 25, 2002. The purpose of this hearing will be to consider nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, June 25, 2002, at 9:30 a.m. on reauthorization of the National Transportation Safety Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Tuesday, June 25, 2002, at 9:30 a.m. to hold a hearing to conduct oversight of the Environmental Protection Agency Inspector General's actions with respect to the Ombudsman and evaluate S. 606, a bill to provide additional authority to the Office of the Ombudsman of EPA.

The hearing will be held in SD-406.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 25, 2002 at 10:15 a.m. to hold a nominations hearing.

### Agenda

Nominees: Mr. James Jeffrey, of Virginia, to be Ambassador to the Republic of Albania; Mr. Michael Klosson, of Maryland, to be Ambassador to the Republic of Cyprus; Mr. James Gadsden, of Maryland, to be Ambassador to the Republic of Iceland; and Mr. Randolph

Bell, of Virginia, for the rank of Ambassador during his tenure of service as Special Envoy for Holocaust Issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 25, 2002 at 2:30 p.m. to hold a hearing on the Peace Corps.

### Agenda

#### Witnesses

Panel 1: The Honorable Gaddi Vasquez, Director, The Peace Corps, Washington, DC.

Panel 2: The Honorable Mark Schneider, Former Director of the Peace Corps, Vice President, International Crisis Group, Washington, DC.

Panel 3—Returned Peace Corps Volunteers: Mr. Dane Smith, Peace Corps volunteer in Ethiopia 1963-65, President, National Peace Corps Association, Washington, DC; Mrs. Barbara Ferris, Volunteer in Morocco (1980-1982), Women in Development Coordinator (1987-1993), Peace Corps, Washington, DC; and Mr. John Coyne Pelham, Volunteer in Ethiopia/Eritrea (1962-1964), NYC Regional Manager (1994-2000), Peace Corps, New York City, New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on the reauthorization of the Office of Education Research and Improvement during the session of the Senate on Tuesday, June 25, 2002, at 10 a.m. in SD-430.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Submitted on Public Health, be authorized to meet for a hearing on "The Crisis in Children's Dental Health: A Silent Epidemic" during the session of the Senate on Tuesday, June 25, 2002, at 2:30 p.m. in SD-430.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space and the House Subcommittee on Science and Space be authorized to meet on Tuesday, June 25, 2002, at 1 p.m. in 2318 Rayburn Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON TECHNOLOGY, TERRORISM, AND GOVERNMENT INFORMATION

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Technology, Terrorism and Government Information be authorized to meet to conduct a hearing on "Protecting the Homeland: The President's Proposal for Reorganizing Our Homeland Security Infrastructure" on Tuesday, June 25, 2002, at 10 a.m. in room 226 of the Dirksen Senate Office Building.

### Agenda

#### Tentative witness list

Panel I: The Honorable Warren B. Rudman, Co-Chair, United States Commission on National Security/21st Century, Washington, DC; the Honorable James S. Gilmore III, Former Governor of the Commonwealth of Virginia and Chairman, Advisory Panel to Assess the Capabilities for Domestic Response to Terrorism Involving Weapons of Mass Destruction, Richmond, VA; and the Honorable David M. Walker, Comptroller General, General Accounting Office, Washington, DC.

Panel II: Paul C. Light, Vice President and Director, Governmental Studies, the Brookings Institution, Washington, DC; Ivo H. Daalder, Senior Fellow, Foreign Policy Studies, the Brookings Institution, Washington, DC; and Ivan Eland, Director, Defense Policy Studies, CATO Institute, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MEASURE READ THE FIRST TIME—H.R. 3971

Mr. REID. I believe that H.R. 3971, which was recently received from the House, is at the desk. I now ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The assistant legislative clerk read as follows:

A bill (H.R. 3971) to provide for independent investigation of Forest Service firefighter deaths that are caused by wildfire entrapment or turnover.

Mr. REID. I now ask for its second reading but object to my own request on behalf of a number of my colleagues.

The PRESIDING OFFICER. Objection is heard. The bill will remain at the desk.

## VIOLENCE AGAINST MASS TRANSPORTATION SYSTEMS

Mr. REID. I ask unanimous consent the Senate proceed to the consideration of Calendar No. 430, S. 2621.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2621) to provide a definition of vehicle for purposes of criminal penalties relating to terrorist attacks and other acts of violence against mass transportation systems.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Madam President. I am pleased the Senate is considering today S. 2621, a bill I introduced earlier this month with Senator BIDEN that is also cosponsored by Senators HATCH and SCHUMER. This bill is intended to clarify that an airplane is a vehicle for purposes of terrorist and other violent acts against mass transportation systems. A significant question about this point has been raised in an important criminal case and deserves our prompt attention.

On June 11, 2002, a U.S. district judge in Boston dismissed one of the nine charges against Richard Reid stemming from his alleged attempt to detonate an explosive device in his shoe while onboard an international flight from Paris to Miami on December 22, 2001. The dismissed count charged defendant Reid with violating section 1993 of title 18, United States Code, by attempting to "wreck, set fire to, and disable a mass transportation vehicle."

Section 1993 is a new criminal law that was added, as section 801, to the USA PATRIOT Act to punish terrorist attacks and other acts of violence against, inter alia, a "mass transportation" vehicle or ferry, or against a passenger or employee of a mass transportation provider. I had urged that this provision be included in the final anti-terrorism law considered by the Congress. A similar provision was originally part of S. 2783, the "21st Century Law Enforcement and Public Safety Act," that I introduced in the last Congress in June, 2000 at the request of the Clinton administration.

The district court rejected defendant Reid's arguments to dismiss the section 1993 charge on grounds that (1) the penalty provision does not apply to an "attempt," and (2) an airplane is not engaged in "mass transportation." "Mass transportation" is defined in section 1993 by reference to the "the meaning given to that term in section 5302(a)(7) of title 49, U.S.C., except that the term shall include schoolbus, charter and sightseeing transportation."

Section 5302(a)(7), in turn, provides the following definition: "mass transportation" means "transportation by conveyance that provides regular and continuing general or special transportation to the public, but does not include school bus, charter or sightseeing transportation." The court explained that "commercial aircraft transport large numbers of people every day" and that the definition of "mass transportation" "when read in an ordinary or natural way, encompasses aircraft of the kind at issue here," *U.S. v. Reid*, CR No. 02-10013, at p. 10, 12 (D. MA, June 11, 2002).

Defendant Reid also argued that the section 1993 charge should be dismissed because an airplane is not a "vehicle." The court agreed, citing the fact that the term "vehicle" is not defined in section 1993 and that the Dictionary Act, 1 U.S.C. § 4, narrowly defines "ve-

hicle" to include "every description of carriage or other artificial contrivance used, or capable of being used, as a means of transportation *on land*." The emphasis in the original opinion.

Notwithstanding common parlance, the district court relied on the narrow definition to conclude that an aircraft is not a "vehicle" within the meaning of section 1993.

The new section 1993 was intended to provide broad Federal criminal jurisdiction over terrorist and violent acts against all mass transportation systems, not only bus services, but also commercial airplanes, cruise ships, railroads and other forms of transportation available for public carriage.

The bill the committee reports today would add a definition of "vehicle" to section 1993 and clarify that an airplane is a "vehicle" both in common parlance and under this new criminal law to protect mass transportation systems. Specifically, the bill would define this term to mean "any carriage or other contrivance used, or capable of being used, as a means of transportation on land, water or through the air."

On June 20, 2002, less than two weeks after the bill was introduced, the Judiciary Committee favorably reported this bill for consideration by the Senate. I urge the Senate to act promptly and pass this legislation.

Mr. REID. I ask unanimous consent the bill be read three times, passed, the motion to reconsider be laid on the table with no intervening action or debate, and any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2621) was read the third time and passed, as follows:

S. 2621

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

#### SECTION 1. DEFINITION.

Section 1993(c) of title 18, United States Code, is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) the term 'vehicle' means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, water, or through the air."

#### APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Republican leader, after consultation with the ranking member of the Senate Committee on Finance, pursuant to Public Law 106-170, announces the appointment of the following individuals to serve as members of the Ticket to Work and Work Incentives Advisory Panel:

Vincent Randazzo of Virginia, vice Stephanie Lee Smith, resigned, and

Katie Beckett of Iowa, for a term of 4 years.

#### AUTHORIZATION OF LEGAL REPRESENTATION

Mr. REID. I ask unanimous consent the Senate proceed to S. Res. 291 submitted earlier today by Senators DASCHLE and LOTT.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 291) to authorize testimony, document production, and legal representation in *United States v. Milton Thomas Black*.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DASCHLE. Madam President, a Federal grand jury in Nevada has indicated an individual on four counts of mailing a threaten communication and one count of transmitting a threatening communication in interstate commerce for a series of threats to kill public officials and others in written communications sent last year to the offices of Senators PATRICK J. LEAHY and ORRIN G. HATCH, among others.

The U.S. attorney has issued subpoenas for testimony at trial by employees on the staffs of Senators LEAHY and HATCH who received the communications and an employee on Senator HARRY REID's staff who had contact with the defendant. The testimony is necessary to establish the receipt of the threatening communications in Washington, DC.

This resolution would authorize the Senate employees to testify and produce documents in this case with representation by the Senate Legal Counsel.

Mr. REID. I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid on the table, with the above occurring without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 291) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 291

Whereas, in the case of *United States v. Milton Thomas Black*, Cr. No. S-02-016-PMP, pending in the United States District Court for the District of Nevada, subpoenas for testimony have been issued to Clara Kircher and Phil Toomajian, employees in the office of Senator Patrick J. Leahy; Donald Wilson, an employee in the office of Senator Harry Reid; and Katherine Dillingham and Craig Spilsbury, employees in the office of Senator Orrin G. Hatch;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate

may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

*Resolved*, That Clara Kircher, Phil Toomajian, Donald Wilson, Katherine Dillingham, Craig Spilsbury, and any other employee of the Senate from whom testimony or document production is required, are authorized to testify and produce documents in the case of *United States v. Milton Thomas Black*, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent employees of the Senate in connection with the testimony and document production authorized in section one of this resolution.

#### ORDERS FOR WEDNESDAY, JUNE 26, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, June 26; 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 be in a period of morning business until 11 a.m. with Senators permitted to speak for

up to 10 minutes each, with the first 30 minutes of the time under the control of the majority leader or his designee, and the second 30 minutes of the time under the control of the Republican leader or his designee; that at 11 o'clock the Senate resume consideration of the Department of Defense authorization bill; further that the live quorum with respect to the cloture motion filed earlier today be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I have been corrected. There will be some time left in the final block after the prayer and the pledge, and whatever time is taken up. That time—20 or 25 minutes—will be equally divided under the standard that we have used here on many occasions. I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. REID. Madam President, cloture was filed today by the majority leader. Therefore, all first-degree amendments must be filed prior to 1 p.m. tomorrow, Wednesday.

#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Madam President, if there is no further business to come before

the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:58 p.m., adjourned until, Wednesday, June 26, 2002, at 9:30 a.m.

#### NOMINATIONS

Executive nominations received by the Senate June 25, 2002:

##### DEPARTMENT OF STATE

DAVID L. LYON, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF FIJI, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NAURU, AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF TONGA, AND AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO TUVALU.

NANCY J. POWELL, OF IOWA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF PAKISTAN.

##### CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

MICHELLE GUILLERMIN, OF MARYLAND, TO BE CHIEF FINANCIAL OFFICER, CORPORATION FOR NATIONAL AND COMMUNITY SERVICE, VICE ANTHONY MUSICK.

##### DEPARTMENT OF HEALTH AND HUMAN SERVICES

RICHARD H. CARMONA, OF ARIZONA, TO BE MEDICAL DIRECTOR IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS, AND TO BE SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE FOR A TERM OF FOUR YEARS, VICE DAVID SATCHEL, TERM EXPIRED.



# EXTENSIONS OF REMARKS

## PERSONAL EXPLANATION

### HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. ISRAEL. Mr. Speaker, I was unable to be in Washington yesterday. Four recorded votes were taken by the House; if I were here, I would have voted as follows:

Rollcall No. 252: a motion to suspend the rules and pass H.J. Res. 95, designating an official flag of the Medal of Honor and providing for presentation of that flag to each recipient of that Medal of Honor, as amended. I would have voted "yea";

Rollcall No. 251: a motion to suspend the rules and pass H.R. 3971, a bill to provide for an independent investigation of Forest Service firefighter deaths that are caused by wildfire entrapment or burnover. I would have voted "yea";

Rollcall No. 250: a motion to suspend the rules and pass H.R. 3786, the Glen Canyon National Recreation Area Boundary Revision Act of 2002. I would have voted "yea"; and

Rollcall No. 249: a motion to suspend the rules and pass H.R. 3937, to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California. I would have voted "yea".

## PERSONAL EXPLANATION

### HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. RILEY. Mr. Speaker, I was unavoidably detained for Rollcall No. 249, H.R. 3937, To revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California. Had I been present I would have voted "yea."

I was also unavoidably detained for Rollcall No. 250, H. R. 3786, the Glen Canyon National Recreation Area Boundary Revision Act of 2002. Had I been present I would have voted "yea".

I was also unavoidably detained for Rollcall No. 251, H.R. 3971, calling for an Independent investigation of Forest Service firefighter deaths that are caused by wildfire entrapment or burnover. Had I been present I would have voted "yea".

I was also unavoidably detained for Rollcall No. 252, H.J. Res. 95, Designating an Official Flag of the Medal of Honor and Providing for Presentation of that Flag to each Recipient of that Medal of Honor. Had I been present I would have voted "yea".

## CONGRATULATIONS TO DR. J. PAT CUMMINGS

### HON. BARBARA CUBIN

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mrs. CUBIN. Mr. Speaker, on Saturday, June 29, doctors of optometry from around the nation will gather in New Orleans to elect Dr. J. Patrick Cummings to be the 81st president of the American Optometric Association. Dr. Cummings is a resident of Sheridan, Wyoming, and it is a pleasure for me to take a moment today to congratulate him on this honor.

Dr. Cummings is a graduate of Pacific University in Forest Grove, Oregon, and the university's College of Optometry, where he has served as an adjunct professor since 1994. Dr. Cummings has been in private practice in Sheridan since 1977. He also served as a consulting optometrist at the VA medical center in Sheridan for 13 years and is currently on the staff at Sheridan County Memorial Hospital. He is a Fellow in the American Academy of Optometry. As you might expect, Dr. Cummings has been an active member in his professional societies. He has been recognized twice as Wyoming's Optometrist of the Year. He was elected to the American Optometric Association's board of trustees in 1994 and has held a number of association leadership posts during the past nine years.

In addition to his professional involvement, Dr. Cummings has been active in a wide range of civic activities. These include: the Lion's Club, Jaycees, Sheridan County Memorial Hospital Foundation, Chamber of Commerce and Sheridan Area Community Foundation. He also has served as a house captain for Christmas in April, a CPR instructor and trainer, a Red Cross advanced first aid instructor and a National Ski Patrol first aid advisor. Dr. Cummings has been a member of the National Ski Patrol since 1978 and was a member of the Professional Ski Instructors Association. An avid pilot and aircraft builder, Dr. Cummings has constructed and flown two home-built aircraft and has helped in the construction of several others.

Dr. Cummings and his wife Becky have three children, Patrick, Abby and Josh. The American Optometric Association is the professional society for the nation's 33,000 optometrists. Dr. Cummings will lead the association as it continues to work to improve eye and vision care in the United States. Dr. J. Patrick Cummings has distinguished himself as a leader in his profession. I am confident that he will have a successful term as president, and I join his family, friends and colleagues in wishing him well.

## PERSONAL EXPLANATION

### HON. VITO FOSSELLA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. FOSSELLA. Mr. Speaker, I am not recorded on rollcall numbers 249, 250, 251, and 252. I was unavoidably detained and was not present to vote. Had I been present, I would have voted "yes" on rollcall numbers 249, 250, 251, 252.

## PERSONAL EXPLANATION

### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. RADANOVICH. Mr. Speaker, my vote on June 21, 2002 (Rollcall No. 248) which is recorded as absent was recorded in error. I intended to vote "yes" and would like the record to reflect my position on final passage of H.R. 4931, the Retirement Savings Security Act of 2002.

## IN HONOR OF THE 40TH ANNIVERSARY OF BUNGER SURF SHOP

### HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. ISRAEL. Mr. Speaker, I rise today to recognize the 40th Anniversary of the Bunger Surf Shop and acknowledge the pioneering efforts Charlie and Janet Bunger have made on behalf of surfing on Long Island.

In 1962, Charlie Bunger built his first surfboard in his garage on Indiana Avenue. Three years later, Charlie and his business partner, Kevin Kelly, opened the retail end of Bunger Surf Shop in Copaigue, New York. At the time, the Bunger Surf Shop produced over 1,000 boards a year with only 15 employees. Throughout the next thirty years, the Bunger family expanded their business to Bay Shore, West Babylon, and Babylon. Today, you can still find Charlie, Janet and their four children, Theresa, Susan, Charlie Jr., and Tommy, covered in foam dust and dripping in resin as they construct and design world renowned surfboards.

Mr. Speaker, I would also like to bring to the attention of Congress Charlie Bunger's induction into the East Coast Surfing Hall of Fame. Charles Bunger has distinguished himself as one of the premiere surfboard manufacturers on the East Coast and the Bunger Surf Shop has become an icon in Babylon Village. The Bungers are pioneers in the field of surfing and their contributions to the sport and to the Second Congressional District of New York will not be overlooked.

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

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

HONORING MAYOR JOHN MASON  
FOR EXEMPLARY CITIZENSHIP

**HON. TOM DAVIS**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to honor Mayor John Mason of Fairfax, Virginia for his strong showing of public service, citizenship, and dedication to Virginia's 11th Congressional District.

John has been a valuable civil servant for over 15 years. First elected as a Fairfax City Councilman in 1986, John's dedication to public service and administration led him to his first successful mayoral election four years later. John served as mayor for the City of Fairfax for 12 years. During his administration transportation was persistently a top priority for John. He champions the adoption of a long-range transportation plan for the Washington metropolitan area. Among his recent accomplishments, John was successful in enhancing emergency transportation units after September 11, 2001.

John, a renowned city leader, is recognized for revitalizing the City of Fairfax's economy and rejuvenating its residential and public areas. The City of Fairfax currently receives more Federal per capita spending than any other city in the United States. This advantage has greatly improved the welfare of the area. Since 1992, John decreased the City of Fairfax's office vacancy rate by nineteen percent. He has also sustained the city's niche as a desirable middle class community. Since 1990, the city welcomed a twelve percent increase in new homes.

John's work with the City of Fairfax's historic sites is also something to be commended. He rehabilitated the Old Town Hall, as well as the Ratcliffe-Allison House. Furthermore, believing that the future of the City of Fairfax relies on the preservation of its history, John commissioned a historic resources position to oversee his rehabilitation efforts.

During the past decade in office, John successfully addressed issues of public safety and environmental concern. City of Fairfax residents have not witnessed a single homicide since 1996, and other major crimes have decreased more than four percent. Improvements in the areas of conservation and the environment involved increased recycling rates and employing pilot environment-friendly, bio-engineering techniques.

John contributes beyond the responsibilities of his leadership position. While mayor, he served as chairman of the National Capital Regional Transportation Planning Board and the Association of Metropolitan Planning Organizations. In his professional career, John has been a vice president of the Science Applications International Corporation, and director of its Transportation Policy and Analysis Center.

Mr. Speaker, I extend my warmest gratitude to Mayor John Mason for his admirable contributions to the City of Fairfax. He has distinguished himself through his lifelong devotion to public and community service, and I call upon all of my colleagues to join me in applauding his achievements.

PERSONAL EXPLANATION

**HON. MAJOR R. OWENS**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. OWENS. Mr. Speaker, yesterday I was unavoidably absent and missed rollcall votes Nos. 249, 250, 251, and 252. If present I would have voted "yea."

HONORING DR. NANCY BECK  
YOUNG—RECIPIENT OF THE D.B.  
HARDEMAN PRIZE

**HON. JERRY F. COSTELLO**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing Dr. Nancy Beck Young for receiving the D.B. Hardeman Prize from the Lyndon Baines Johnson Foundation. The Hardeman Prize is awarded every year by the LBJ Foundation for outstanding works in the areas of biography, history, journalism and political science.

Dr. Young is a history professor at McKendree College in Lebanon, Illinois. In addition to her research, she teaches American political and women's history. She won the Hardeman Prize, a national competition, for her book Wright Patman: Populism, Liberalism, and the American Dream. This book chronicles the life of Wright Patman, who served for 47 years in the House of Representatives, representing northeast Texas. The book eloquently describes Patman's diligent work on behalf of World War I veterans and the business community.

Dr. Young received this honor for writing the best book published on a congressional topic in 2000. This shows her commitment to expanding the scope of knowledge about Congress, her literary craftsmanship, and her creative and thorough approach to research. She has also proven to be a valuable asset to McKendree College, and this award demonstrates the contribution small colleges and universities can make to the research and education community.

Mr. Speaker, I ask my colleagues to join me in honoring the work of Dr. Nancy Beck Young and congratulate her upon the receipt of the D.B. Hardeman Prize and to wish her and her family the very best for the future.

PERSONAL EXPLANATION

**HON. BOB RILEY**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. RILEY. Mr. Speaker, I was unavoidably detained for Rollcall No. 244, On Approving the Journal. Had I been present I would have voted "yea."

I was unavoidably detained for Rollcall No. 245, H. Res. 451. Had I been present I would have voted "yea."

I was unavoidably detained for Rollcall No. 246, the Neal Substitute Amendment. Had I been present I would have voted "no."

I was unavoidably detained for Rollcall No. 247, the Motion to Recommit with Instructions H.R. 4931. Had I been present I would have voted "no."

I was unavoidably detained for Rollcall No. 248, final passage of H.R. 4931, the Retirement Savings Security Act. Had I been present I would have voted "yea."

CONGRATULATING NAVY LEAGUE  
OF UNITED STATES ON ITS CEN-  
TENNIAL

SPEECH OF

**HON. JAMES R. LANGEVIN**

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 24, 2002*

Mr. LANGEVIN. Mr. Speaker, it gives me great pleasure to rise in support of H. Con. Res. 416, which congratulates the Navy League of the United States on the occasion of the centennial of the organization's founding. The Navy League was formed in 1902 as a way for citizens to educate the public about the sea services and to support the men and women that proudly wear the Navy, Marine, Merchant Marine and Coast Guard uniforms. The Navy League has done and continues to do a remarkable job.

Navy League Councils exist throughout this great nation where they honor outstanding officers and enlisted members, host awards ceremonies, sponsor the Naval Sea Cadets Corps and support ship commissioning events. On a national level, the Navy League is an invaluable resource to members of Congress and our staffs. They provide an excellent forum for the scientific, legislative and defense communities to discuss and understand the needs of our maritime services.

My home state of Rhode Island has almost 500 Navy League members. We are very proud of our Navy heritage in Rhode Island, where we create outstanding naval vessels in our shipyards and outstanding naval officers at the Naval War College in Newport. A strong navy can never be taken for granted. We have learned that we must be ever vigilant and in a high state of readiness. I am proud to be a cosponsor of this resolution and I'm grateful that we have the Navy League to constantly remind us how valuable our Navy, Marine Corps, Merchant Marine and Coast Guard are to us.

PERSONAL EXPLANATION

**HON. NEIL ABERCROMBIE**

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. ABERCROMBIE. Mr. Speaker, I was unavoidably detained yesterday and consequently I was not able to cast my vote on 4 rollcall votes. Had I been present, I would have voted as follows:

Rollcall No. 249, H.R. 3937—to revoke a public land order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge in California, "yes".

Rollcall No. 250, H.R. 3786—To revise the boundary of the Glen Canyon National Recreation Area in the States of Utah and Arizona, "yes".

Rollcall No. 251, H.R. 3971—To provide for an independent investigation of Forest Service firefighter deaths that are caused by wildfire entrapment, or burnover, "yes".

Rollcall No. 252, H.J. Res. 95—To designate an official flag of the Medal of Honor and providing for presentation of that flag to each recipient of that Medal of Honor "yes".

#### PERSONAL EXPLANATION

#### HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. CLEMENT. Mr. Speaker, on rollcall Nos. 252, 251, 250, and 249, had I been present, I would have voted "yea."

#### BRONZE STAR EVENT

#### HON. JAY INSLEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. INSLEE. Mr. Speaker, in a year of honoring heroes, on July 2, 2002, I will have the privilege to honor nine men in my district for their heroism and bravery. These men all fought in World War II and were never awarded the Bronze Stars, which they rightfully earned more than 50 years ago.

These veterans, like countless other men and women of their generation, heard the call and bravely fought to defend the United States and our allies. They put the early years of their adult lives on hold to fight in the deserts of Africa, the islands of the Pacific and in the embattled towns and countrysides of Europe. Some of these soldiers made the ultimate sacrifice and never returned from the war. The fortunate ones who came home made sure to take their civic responsibility to heart. Having defended our freedoms on the battlefield, they realized the importance of preserving these same freedoms at home. Like veterans of all wars, those who fought in World War II continue to play a vital role in our communities by voting, participating in civic affairs and sharing their stories with younger generations so that their sacrifice will never be forgotten.

I would like to take a moment to recognize the nine men who will finally receive their Bronze Stars on July 2, 2002: Charles Anders of Redmond who served in Europe, Harold Enger of Bothell who served in Europe and Africa, The late Charles Iffland who served in Europe and Africa, The late William Nielsen who served in Europe, James Owens of Redmond who served in Europe, Ernest Schaefer of Kirkland who served in the Pacific, Trevor Wilkinson of Redmond who served in Europe, Robert Zappone of Kenmore who served in Europe, The late Elmer Peal, who gave his life for his country while serving in the Philippines.

I am proud to have these men and their families in my district. They are true American Heroes.

#### HONORING THE NORTHEAST ALLISON COMMEMORATION COMMUNITY PROJECT

#### HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. GREEN of Texas. Mr. Speaker, I rise today in honor the men and women who were a part of the Northeast Allison Commemoration Community Project. This project was composed of citizens, community leaders, civic clubs, churches, and local government and business who banded together for each other after the devastating flooding caused by Tropical Storm Allison.

Last June, when Allison began moving into the Houston area, few had any idea the disaster that lay ahead. Over the week beginning June 6, Allison sat over Houston, Texas, and dumped rainfall in excess of 10"-15", with some areas in the 29th District receiving over 30", with the majority of that falling in a 24 hour period.

Flooding from this storm was severe and widespread, with streets and freeways impassible, residents being rescued from their roofs just before their homes were completely submerged, and schools and other public places transformed into hastily-organized shelters.

The damage to both homes and businesses was estimated at over \$5 billion. However, that total is low, when you consider the inability to completely replace treasured mementos and other valuables that were left behind and washed away or ruined by floodwaters.

In the aftermath of this disaster, the Northeast Allison Commemoration Community Project was formed. This organization helped address the overwhelming sense of helplessness with crisis counseling; strengthened the unity of the community; served as a remembrance to those who lost their lives; and brought healing to the devastated neighborhoods.

This Saturday, the Project will hold a gathering to celebrate their recovery. This gathering will allow members of this community an opportunity to close the door on this difficult period. However, the bonds which were forged and strengthened by this flood will continue, as we all work together in the future.

#### PAYING TRIBUTE TO LIEUTENANT COLONEL THOMAS L. PIROZZI

#### HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to pay tribute to Lieutenant Colonel Thomas L. Pirozzi and offer heartfelt congratulations for a successful Battalion Command. Lieutenant Colonel Pirozzi is the commanding officer of the 626th Forward Support Battalion, stationed at Fort Campbell, Kentucky, and currently on duty near Kandahar, Afghanistan. On July 8, 2002, Lieutenant Colonel Pirozzi will be changing command in Afghanistan and will subsequently return to the United States for his next assignment, in Washington, D.C.

Lieutenant Colonel Pirozzi was born in Bayonne, New Jersey on November 6, 1961 to

Eli and Elaine Pirozzi. He graduated from Bayonne High School and was commissioned into the Quartermaster Corps through the Rutgers University ROTC program, where he earned a Bachelors degree in Business Administration and American Literature. Lieutenant Colonel Pirozzi also holds a Masters of Military Science Degree from the Marine Corps University at Quantico, Virginia.

Prior to taking command of the 626th Forward Support Battalion, Lieutenant Colonel Pirozzi served in a number of positions around the world, including Chief of Logistics Information Systems for the U.S. European Command in Stuttgart, Germany; Executive Officer, 82nd Forward Support Battalion, 82nd Airborne Division and XVIII Airborne Corps Airdrop Officer at Fort Bragg, North Carolina; and Forward Area Support Coordination Officer (FASCO), 3rd Brigade, 101st Airborne Division (Air Assault), and Commander, 53rd Quartermaster (Airdrop Support), Fort Campbell, Kentucky, Saudi Arabia and Kuwait.

Lieutenant Colonel Pirozzi's awards and decorations are as impressive as his service around the world. They include, the Bronze Star Medal (with Oak Leaf Cluster), Joint Meritorious Service Medal, Meritorious Service Medal (with two Oak Leaf Clusters), Joint Service Achievement Medal, Army Achievement Medal (with two Oak Leaf Clusters), the Humanitarian Service Medal, the Southwest Asia Campaign Medal (with two Bronze Star Devices), Saudi Arabia and Kuwait Liberation Medals, the Air Assault Badge, Master Parachutist Badge, and the Parachute Rigger badge.

Mr. Speaker, it is clear through his numerous assignments and awards that Lieutenant Colonel Pirozzi has served his country with honor and pride. Therefore, I ask that my colleagues join me in thanking him for his service to our country and to the cause of Freedom, not only here at home, but abroad. I would also ask my colleagues to join me in welcoming Lieutenant Colonel Pirozzi home from Afghanistan and wishing him good fortune in his new assignment in Washington, D.C.

#### PAYING TRIBUTE TO CHERYL BAKER

#### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. McINNIS. Mr. Speaker, it is my honor today to pay tribute to Cheryl Baker who was recently appointed as Mayor of Cortez. This is a special occasion for both Cortez and Cheryl, the first woman to be elected Mayor of Cortez. This position is a reflection of Cheryl's hard work and dedication to improving life for the citizens of Cortez.

The Cortez City Council unanimously nominated Cheryl for the position of mayor by merit of her hard work and leadership skills, which she has so often demonstrated. I am confident that they will serve her well throughout the course of her term and although Cheryl will undoubtedly face many difficult challenges and decisions in the following months, she has clearly exhibited a dedication and willingness to tackle any obstacles that may lie ahead.

Cheryl has expressed considerable concern about the financial state of Cortez and has already begun development on a five-year plan

that will improve city funding. She has also announced a proposal that would consider reducing the city's water use by at least 20 percent by improving communication with city residents regarding the need for conservation.

Mr. Speaker, I am proud to bring the accomplishments of Cheryl Baker to the attention of this body today. Her leadership, hard work, and dedication to improving the lives of her fellow Coloradans is an example for all aspiring community leaders and it is for this reason that I wish to bring her accomplishments before this body of Congress, and nation. I wish the best of luck to Cheryl, in your coming term and congratulations to Cortez on its first woman mayor!

#### PRESIDENTIAL SCHOLARS AWARD

##### HON. BETTY MCCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Ms. MCCOLLUM. Mr. Speaker, today I proudly commend David Sims, a teacher of Latin at St. Paul Academy and Summit School in St. Paul, Minnesota for receiving the 2002 Presidential Scholar Teacher Recognition Award. Mr. Sims was nominated for this distinction by Presidential Scholar Hannah Wright of St. Paul. He and other influential teachers fully deserve the recognition provided by the Commission on Presidential Scholars. We have people like Mr. Sims to thank for being dedicated educators for our nation's children. It is my distinct pleasure to congratulate Mr. Sims on receiving this prestigious honor.

#### PERSONAL STATEMENT

##### HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. BECERRA. Mr. Speaker, on Friday, June 21, 2002, due to business related to honoring four students in my District, I was unable to cast my floor vote on roll call numbers 246, 247, and 248. The votes I missed include roll call vote 246 on Agreeing to the Amendment; roll call vote 247 on The Motion to Re-commit with Instructions; and roll call vote 248 on Passage of H.R. 4931, The Retirement Savings Security Act.

Had I been present for the votes, I would have voted "aye" on roll call votes 246 and 247, and "no" on roll call vote 248.

#### RECOGNITION OF ENTERPRISE HIGH SCHOOL'S AWARD WINNING CHEERLEADING SQUAD

##### HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. EVERETT. Mr. Speaker, I would like to take this opportunity to recognize an extraordinary team of individuals who have personified the meaning of a champion on the national stage.

The cheerleading squad of Enterprise High School in my hometown of Enterprise, Ala-

bama was recently successful in attaining their third cheerleading national championship in as many years.

Earlier this year in Orlando, Florida, the squad earned the CheerSport National Championship in senior dance, the grand championship at the National Cheerleaders Association/National Dance Association Sunshine Classic, and the NCA/NDA American Classic Championship. In addition, the squad has claimed three individual national championships and the coach of the year national championship.

The Wildcat cheerleading squad has exemplified the type of determination and hard work that is required to fulfill the heart of a champion. Their unprecedented history of national achievement is a testament to the community's commitment to excellence and fortitude for success.

I take great pride in acknowledging the talents of the young people from my district, and it is this type of spirit, resolve, and ability embodied by this team of champions that allows me to confidently rest the future of our country in the hands of Alabama's youth.

#### HONORING IRENE HOLLINGER

##### HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. LIPINSKI. Mr. Speaker, I rise today to congratulate Irene Hollinger on her retirement. Mrs. Hollinger is retiring on June 30th after 29 years in the occupational health field.

Mrs. Hollinger is retiring from Edwards Medical Supply Inc. where she did important work in Customer Relations and Customer Service.

Mrs. Hollinger has been married to her husband, Edward Hollinger, for the past 41 years and the two of them have four children and five grandchildren. Mrs. Hollinger served as a PTA mother for eight years at St. Agnes Church and she also spent three years as a baseball mother for the Marquette Baseball club.

Mrs. Hollinger is a beloved employee. Her co-workers and customers will greatly miss Mrs. Hollinger upon her retirement.

The commitment, dedication and energy given by Mrs. Hollinger to her family and career are seen by all who know her. It is my pleasure to honor Mrs. Hollinger for her 29 years of service in the occupational health field and extend my heartiest wishes as she begins her well-deserved retirement.

#### CELEBRATING THE 30TH ANNIVERSARY OF TITLE IX

SPEECH OF

##### HON. BETTY MCCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 19, 2002*

Ms. MCCOLLUM. Mr. Speaker, on the 30th anniversary of Title IX, I am proud to celebrate the progress we have made since Members like PATSY MINK, Edith Green and others fought hard to pass this legislation. It is hard to believe today that there was a time when our Nation's colleges and universities simply denied women admission under the assump-

tion that females were more interested in homemaking than higher education. A time when the idea of thousands of girls participating in field hockey or soccer was laughable. A time when only boys took shop class and only girls took home economics.

We have come a long way in the last 30 years. Girls and women are taking advantage of opportunities in sports and school subjects that used to be dominated by males. In 1972, less than 300,000 girls participated in high school varsity sports; last year more than 2.7 million girls played on a varsity sports team. Now, high school girls are taking upper-level math and science courses at the same rate as boys.

We have a lot to celebrate today, but we also have more work to do. Studies show that in the classroom, girls still typically receive less attention, including praise, criticism and encouragement, than boys. In many colleges and universities, disproportionate gaps remain between the percentage of female athletes and the percentage of scholarship money they receive. We can do better!

I am optimistic about the future of our Nation's educational systems under Title IX. We must uphold the progress we have made and, at the same time, continue to expand opportunities for our daughters, granddaughters and generations beyond.

#### PERSONAL EXPLANATION

##### HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. KLECZKA. Mr. Speaker, on roll call Numbers 249, 250, 251, and 252, I was unavoidably detained. Had I been present, I would have voted yes on all of those votes.

#### TRIBUTE TO THE HONORABLE FRANCES MEADOWS

##### HON. NATHAN DEAL

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. DEAL of Georgia. Mr. Speaker, I rise to convey my deep sympathy and condolences to the family of Frances Jenkins Meadows, a distinguished public servant who passed from this life on April 21.

Ms. Meadows was a remarkable pioneer and role model to many. As a single mother of three, she was working at a local production plant when she developed the notion to return to school at night. She enrolled at Lanier Tech to study data processing. While there, she began working part-time at neighboring Gainesville College in records administration, using her freshly learned skills in the pre-computer era. Impressing the college officials, she accepted full-time employment in the Registrar's Office at the college, thus beginning a thirty-year career there. She retired in 1999 as Assistant Director of the Office of Financial Aid.

Ms. Meadows' pioneering was not limited to her chosen profession. In 1992, she became the first African-American to ever be elected to the Hall County Board of Commissioners. She

was re-elected, without opposition, in 1996 and 2000. She was concurrently elected vice-president of the Association County Commissioners of Georgia and appointed to the Georgia Environmental Facilities Authority.

Long a mainstay in her beloved St. John Baptist Church where she taught Sunday school, she was a member of the senior choir and singles ministry. Community honors included Drum Major of the Year, Rotary's Jean Harris award and the Distinguished Alumni Award of Gainesville College.

Mr. Speaker, Frances Meadows will long be remembered for her warm smile, her friendly hug, her unabashed devotion to her family and her church and, in her public life, her high integrity and love of public service. One song from a memorial service, "Go Rest High Upon That Mountain," speaks volumes for many of us who knew her well; we know she is resting high on that mountain as we toil to carry forward her ideals and all the goodness in her life that we admired.

It is well remembered that, as her cortege proceeded through the bustling streets of Gainesville, Georgia, on the day of her burial, the community stilled. Legions of admirers, and many who did not know her personally, stopped their lives to pay their final respects to this fine woman. Frances Jenkins Meadows, a pioneer and proud servant of the Lord and His people.

#### CELEBRATING THE 30TH ANNIVERSARY OF TITLE IX

SPEECH OF

**HON. STENY H. HOYER**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 19, 2002*

Mr. HOYER. Mr. Speaker, this month marks the 30th anniversary of title IX of the Education Act Amendments of 1972. This legislation prohibits sex discrimination in educational institutions that receive Federal funds. It has been instrumental, in my opinion, in helping women get into educational programs where they had previously been underrepresented, such as the math and sciences. It has helped to encourage women to break job barriers and obtain careers, such as engineers, doctors and mathematicians, which in turn has diversified our workforce and infused our society with an energy and potential that had not been tapped for centuries.

It is really incredible, when we think of this country and we think of how we excluded on the basis of gender so many talented people. I am the father of three daughters. And the concept that these incredibly talented, energetic people would have been excluded based upon their gender is despicable. We have come a long way in this country not only on gender but on race, ethnicity, and national origin. Title IX was a tremendous contributor to that progress.

Perhaps the biggest achievement of title IX is the fact that it has leveled the playing field for men and women in sports. It mandates equal treatment for playing opportunities, access to athletic scholarships, equipment, facilities, and coaching. The numbers paint a powerful portrait. In the 30 years since title IX, the number of girls participating in high school sports has skyrocketed from 200,000 to al-

most 3 million, an 800 percent-plus increase. At the intercollegiate level, the number of participants is five times greater than before title IX was enacted.

But what an appropriate thing it was to say we are going to treat people based upon, as Martin Luther King said, the content of their character or the abilities that they have. We said that in the Disabilities Act. We said it in title IX, how important it is for us to continually emphasize it is what people can do that we need to focus on, not their gender or race or disability, not some arbitrary and mostly capricious distinction that we draw.

Clearly, the dated stereotype that women are not interested in athletics has been shattered as the door of opportunity continues to open.

Title IX has allowed the desires and passions of millions of women to be realized. They participate in sports. They enjoy sports. They succeed in competitive sports.

Competitive athletics have increased the academic success of young women and make it less likely that they will become involved with alcohol and drug abuse. The emotional and physical benefits women and girls gain from participation are invaluable. We know that physical participation is important, not only for your physical but also your mental capacities.

At a time when many young women become critical of their appearance and grapple with eating disorders and low self-esteem, sports helps young women develop confidence and a positive body image. In the long term, athletic activities decrease a woman's chance of developing heart disease and breast cancer. So it is truly extraordinarily helpful.

Mia Hamm, and what an extraordinary athlete. she is, the captain of the U.S. soccer team, which won the 1999 Women's World Cup, once stated, "What I love about soccer is the way it makes me feel about myself. It makes me feel that I can contribute." She is part of the daughters of title IX who have paved a path for millions of female athletes to follow. Her statement hits the nail right on the head, as it highlights the selfconfidence and teamwork skills sports helped to develop and define.

Title IX is, of course, not without its critics, but I think for the most part they are misguided. They blame title IX for eliminating some men's minor sports, but the reality is title IX provides institutions with the flexibility to determine how to provide equity for their students.

A March 2001 GAO study found that 72 percent of colleges and universities that added women's teams did so without cutting any men's teams. In fact, men's overall intercollegiate athletic participation has risen since the passage of title IX. This truly was a win/win situation for men as well as and particularly for women.

The complaint to be brought against title IX is that it does not go far enough, that the advancement for women in education and athletics, no matter how positive, must go further.

As part of today's celebration of title IX, I would like to recognize Dr. Deborah A. Yow, the athletic director for the University of Maryland. The gentleman from North Carolina (Mr. COBLE) is a crusty, conservative Member of the House of Representatives; a wonderful human being, a good-hearted human being,

but not one that I perceive in the forefront of feminism in America, and I say that affectionately.

He knows full well that I am closely associated with the University of Maryland. He came up and said, you know what, you have got a woman you ought to hire at the University of Maryland. She is a friend of mine, Deborah Yow, and is under consideration to be the athletic director at the University of Maryland.

Now, at that point in time there were no women athletic directors at the level I-A schools. But the fact that the gentleman from North Carolina (Mr. COBLE) came up to me and said Deborah Yow could do that job, I went back to my office and picked up the phone and called the then-president of the University of Maryland, who is now our new chancellor of our system, and told him, Britt, I have just talked to a person, this Deborah Yow must be extraordinary. Shortly thereafter, Deborah Yow was hired. She is now the athletic director, and of course we finished 10-1 in football and won the national basketball championship, under a woman athletic director. Those were men's teams; and we have won numerous championships in lacrosse and field hockey for our women's teams.

Her sister is a major athletic leader in our country as well. Her outstanding career achievements serve to exemplify the important contributions made by women in the athletic arena, as well as to our entire society.

In a male-dominated profession, 91.6 percent of athletic directors in Division I universities being men, Debbie has not only met the challenges of her profession, but she has raised the bar for all. Under Debbie's leadership, the Terrapins ranked nationally as one of the top 20 athletic programs in the country, according to U.S. News and World Report. The University of Maryland under her leadership has established an incredibly strong athletic program with exemplary student athletes, coaches and administrators.

Mr. Speaker, in closing, in 1972, when the Congress and the country said we are going to make sure that everybody, irrespective of gender, can participate equally and achieve to the extent of their character and their ability, we made a statement and adopted a policy that has made America a better country. Title IX has truly made our country stronger.

#### PERSONAL EXPLANATION

**HON. XAVIER BECERRA**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. BECERRA. Mr. Speaker, on Monday, June 24, 2002, I was unable to cast my floor vote on rollcall Nos. 249, 250, 251, and 252. The votes I missed include rollcall vote 249, on the Motion to Suspend the Rules and Pass, As Amended, H.R. 3937; rollcall vote 250, on the Motion to Suspend the Rules and Pass, As Amended, H.R. 3786; rollcall vote 251, on the Motion to Suspend the Rules and Pass, H.R. 3971; and rollcall vote 252, on the Motion to Suspend the Rules and Pass, As Amended, H. J. Res. 95.

Had I been present for the votes, I would have voted "aye" on rollcall votes 249, 250, 251, and 252.

## PERSONAL EXPLANATION

**HON. TERRY EVERETT**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. EVERETT. Mr. Speaker, due to my attending to pressing business in my district on Friday and Monday and today's flight delays, I was unable to vote during the following rollcall votes. Had I been present, I would have voted as indicated below.

Rollcall No. 244 (On Approving the Journal)—yes.

Rollcall No. 245 (On agreeing to H. Res. 451, providing for consideration of H.R. 4931—the Retirement Savings Security Act)—yes.

Rollcall No. 246 (On agreeing to the Neal of Massachusetts Substitute Amendment to H.R. 4931)—no.

Rollcall No. 247 (On motion to recommit H.R. 4931 with instructions)—no.

Rollcall No. 248 (On passage of H.R. 4931)—yes.

Rollcall No. 249 (On motion to suspend the rules and pass as amended H.R. 3937, to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California)—yes.

Rollcall No. 250 (On motion to suspend the rules and pass as amended H.R. 3786, the Glen Canyon National Recreation Area Revision Act of 2002)—yes.

Rollcall No. 251 (On motion to suspend the rules and pass H.R. 3971, independent investigation of Forest Service firefighter deaths that are caused by wildfire entrapment or turnover)—yes.

Rollcall No. 252 (On motion to suspend the rules and pass as amended H.J. Res. 95, designating an official flag of the Medal of Honor and presentation of that flag to each recipient of that Medal of Honor)—yes.

Rollcall No. 253 (On Approving the Journal)—yes.

Rollcall No. 254 (On motion to suspend the rules and pass the bill H.R. 4858, to improve access to physicians in medically underserved areas)—yes.

Rollcall No. 255 (On motion to suspend the rules and pass the bill as amended H.R. 4679, the Lifetime Consequences for Sex Offenders Act of 2002).

UTILIZING FOREST MANAGEMENT  
TO PREVENT FIRES**HON. DOUG BEREUTER**

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. BEREUTER. Mr. Speaker, this Member commends to his colleagues the following editorial from the June 21, 2002, edition of the Wall Street Journal entitled "The Fire This Time." The editorial argues that the Clinton Administration's misguided environmental policy and forest management left our Nation's forests filled with fuel conducive to catastrophic forest fires such as we are seeing with the Hayman fire in Colorado.

The editorial stresses that proper forest management can prevent catastrophic fires, which are neither good for the environment or

our economy. The editorial also mentions that forests owned by private timber companies rarely burn, let alone at catastrophic levels. These companies employ sound forest management practices to prevent forest fires because they see their trees as an investment. This editorial makes the case that Americans should protect their investment in our public forests and protect them by allowing the Forest Service to utilize forest management principles and practice selective logging to remove the dead wood and underbrush that fuel these cataclysmic fires.

[From the Wall Street Journal, June 21, 2002]

## THE FIRE THIS TIME

In December 1995, a storm hit the Six Rivers National Forest in northern California, tossing dead trees across 35,000 acres and creating dangerous fire conditions. For three years local U.S. Forest Service officials labored to clean it up, but they were blocked by environmental groups and federal policy. In 1999 the time bomb blew: A fire roared over the untreated land and 90,000 more acres.

Bear this anecdote in mind as you watch the 135,000-acre Hayman fire now roasting close to Denver. And bear it in mind the rest of this summer, in what could be the biggest marshmallow-toasting season in half a century. Because despite the Sierra Club spin, catastrophic fires like the Hayman are not inevitable, or good. They stem from bad forest management—which found a happy home in the Clinton Administration.

In a briefing to Congress last week, U.S. Forest chief Dale Bosworth finally sorted the forest from the tree-huggers. He said that if proper forest-management had been implemented 10 years ago, and if the agency weren't in the grip of "analysis paralysis" from environmental regulation and lawsuits, the Hayman fire wouldn't be raging like an inferno.

Mr. Bosworth also presented Congress with a sobering report on our national forest. Of the 192 million acres the Forest Service administers, 73 million are at risk from severe fire. Tens of millions of acres are dying from insects and diseases. Thousands of miles of roads, critical to fighting fires, are unusable. Those facts back up a General Accounting Office report, which estimates that one in three forest acres is dead or dying. So much for the green mantra of "healthy ecosystems."

How did one of America's great resources come to such a pass? Look no further than the greens who tramped into power with the last Administration. Senior officials adopted an untested philosophy known as "ecosystem management," a bourgeois bohemian plan to return forests to their "natural" state. The Clintonites cut back timber harvesting by 80% and used laws and lawsuits to put swathes of land off-limits to commercial use.

We now see the results. Millions of acres are choked with dead wood, infected trees and underbrush. Many areas have more than 400 tons of dry fuel per acre—10 times the manageable level. This is tinder that turns small fires into infernos, outrunning fire control and killing every fuzzy endangered animal in sight. In 2000 alone fires destroyed 8.4 million acres, the worst fire year since the 1950s. Some 800 structures were destroyed—many as a fire swept across Los Alamos, New Mexico—and control and recovery costs neared \$3 billion. The Forest Service's entire budget is \$4.9 billion.

That number, too, is important. Before the Clinton Administration limited timber sales, U.S. forests helped pay for their own upkeep. Selective logging cleaned up grounds and

paid for staff, forestry stations, cleanup and roads. Today, with green groups blocking timber sales at every turn, the GAO says taxpayers will have to spend \$12 billion to cart off dead wood.

It's no accident that two of the main Clinton culprits—former director of Fish & Wildlife Jamie Rappaport Clark and former Forest Service boss Michael Dombeck—have both landed at the National Wildlife Federation, which broadcasts across its Internet homepage, "Fires Are Good."

Fixing all of this won't be easy. After 30 years of environmental regulation, the Forest Service now spends 40% of its time in "planning and assessment." Even the smallest project takes years. Mr. Bosworth has identified the problems, but fixing them will require White House leadership and Congressional cooperation.

One solution would be to follow the lead of private timber companies, whose forests don't tend to suffer such catastrophic fires. Their trees are an investment; they can't afford to let them burn. Americans should feel the same way about theirs.

TRIBUTE TO FATHER T. BYRON  
COLLINS, S.J.**HON. HENRY J. HYDE**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. HYDE. Mr. Speaker, I rise today to pay tribute to a long-time friend of many of us in this House, Father T. Byron Collins, S.J. This past Friday, June 21, 2002, was the 50th anniversary of Father Collins' ordination into the priesthood. He originally entered the Jesuit Order in September 1940.

Father Collins has touched many lives during his half century of ordained priesthood. He faithfully serves parishioners at Our Mother of Sorrows Catholic Church in Centerville—on Maryland's Eastern Shore—every weekend. This man has enriched the lives of many Georgetown University students, giving them a greater understanding of the Catholic faith, while at the same time, appreciating these students for being the true heart and soul of Georgetown University. And as his fellows Jesuits know well, this legendary figure is also a warm and caring individual.

Over the years, Father Collins has dedicated his life to strengthening Georgetown University, the nation's oldest Catholic institution of higher learning. He came to the campus in 1954. Soon after his assignment to Georgetown, Father Collins assumed responsibilities for facilities development on the campus, undertaking important budgetary functions. As one who works tirelessly to fulfill the challenges before him, Father Collins has left his humble, yet permanent, mark on the Georgetown campus of today, tomorrow and forever.

Members of the Society of Jesus live by the creed, "To the greater glory of God and the salvation of souls." Indeed, throughout these 50 years, my friend, Father T. Byron Collins, S.J., has lived a life that has exemplified that philosophy. Those of us in this Chamber who are privileged to know him well understand how true that is. I am certain that my colleagues will join me in extending hearty congratulations to this special man as he begins the sixth decade of his priesthood.



STATEMENT AGAINST PRESERVA-  
TION FOR ANTIBIOTICS FOR  
HUMAN TREATMENT ACT OF 2002

**HON. ROY BLUNT**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. BLUNT. Mr. Speaker, often in Congress, we ignore science in favor of emotional appeals and sound bites. The "Preservation for Antibiotics for Human Treatment Act of 2002" is a case in point. The bill focuses on a type of antibiotic known as fluoroquinolones. It grants FDA the authority to ban any product containing the antibiotic while providing no recourse to fight against this new mandate. The bill suggests that there is a direct correlation between the increased use of antibiotics in food production and human health problems. Yet, no scientific study exists to corroborate the link.

The bill also singles out a beneficial class of products, used in the production of poultry, without ample scientific evidence. The family farmers that I represent do not choose to use antibiotics unless there is a great need in their flocks or herds. The class of antibiotics mentioned in the proposed bill is used rarely and only under the direction of a veterinarian on a prescriptive basis. In addition, farmers must wait until the drug is out of the birds' systems before they can send them to the processing plant. This proposal could cost poultry growers and processors millions of dollars with no scientific proof of harm to human health. While public health must come before economic considerations, Congress should not impose severe economic damage upon one segment of agriculture without sufficient evidence that the action would be beneficial to human health.

The proposal will also ignore the benefits to human health from the scientific and prescriptive use of antibiotics in animal production. It is unknown what all of the consequences would be to humans if antibiotics were removed from poultry production. One consequence that could occur is an increased level of pathogens in the food chain as a result of the arrival of ill animals to processing plants. Food processors are directed to keep pathogen numbers as low as possible, and withdrawal of the use of antibiotics in food production will make that job harder.

Another troublesome aspect of the bill is the intrusion of Congress into the FDA regulatory process where these debates and decisions can and should be made. I know the regulatory process can be cumbersome and lengthy; however, that forum, when implemented properly, allows for debate in the scientific arena.

The consequences to the poultry farmers in my district if the bill is passed could be economically disastrous. The bill is unnecessary, weak in science and a new government mandate. Congress should think before it reacts to irrational, unfounded fears.

PRESIDENTIAL SCHOLARS AWARD

**HON. BETTY McCOLLUM**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Ms. McCOLLUM. Mr. Speaker, today I proudly commend Hannah Wright of St. Paul,

Minnesota for being selected as a 2002 Presidential Scholar. I am happy to welcome Ms. Wright and her parents to Washington, D.C. for a week of recognition, including a medalion awards ceremony. Since 1964, distinguished high school seniors from around the United States have been recognized as Presidential Scholars for their academic achievement, community involvement, artistic expression, and leadership skills. Ms. Wright is an outstanding example of the talented young people we will rely on to guide our nation in the future. It is my distinct pleasure to congratulate Ms. Wright and St. Paul Academy and Summit School on receiving the 2002 Presidential Scholar Award.

TRIBUTE TO INVERNESS, FLOR-  
IDA'S KEY TRAINING CENTER  
FOR THE MENTALLY CHAL-  
LENGED

**HON. KAREN L. THURMAN**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mrs. THURMAN. Mr. Speaker, I am here today to pay tribute to a wonderful not-for-profit organization in Inverness, Florida that provides social, educational and residential services to the developmentally disabled. The Key Training Center offers its clients a place to learn through structured classroom instruction. A place to be productive by helping clients work in vocational settings for competitive wages and a place to live in campus group homes, apartments and Key Pine Village, a special need's facility for clients with severe and profound mental retardation.

The Centers slogan "A Place Where Miracles Happen" is truly evident when one thinks of the one thousand plus developmentally disabled citizens that have been a part of the Key Training Center in the last 30 years. One reason for the success of this organization is because they believe emphasis should be put on ability not disability when dealing with anyone including the mentally impaired.

As a not-for-profit, this organization relies on the generosity of others to maintain many of its programs. That is why July 19 the Key Training Center is proud to kick off their annual Run for the Money Week fund-raiser. The week begins with a celebrity dinner auction and is followed by a grueling 180 mile, week long run from the steps of Florida's Capitol to Citrus County. The run is representative of the challenges and obstacles that clients at the center must overcome every day. Last year the Key Training Center raised more than \$133,000 and has set its goal of \$135,000 for this year.

I am so proud of this organization, its associates and clients for all of their hard work and dedication to such a wonderful cause. I would also like to submit for the RECORD an essay from the Key Training Center that truly depicts the heart of the organization:

THE MAGIC OF MIRACLES

Imagine for a moment what life would be like if you were mentally challenged and developmentally disabled. Think about living each day with a life-long condition you did not create and cannot cure.

Consider the daily challenge of existing in a world that recognizes beauty, status, and

wealth. How does it feel to be seen as different by people who do not understand? What can you do to show others you have potential?

Where can you go to laugh, learn about life and live joyfully as God intends for His children? What is the promise for today? And what is the promise for tomorrow and beyond? How do you turn your dreams into reality?

Miracles often occur when desire and determination find challenge and opportunity. Look closely and learn how miracles are the magic that give promise and hope to our mentally challenged friends.

Experience a simple, yet unforgettable, blessing when a mentally handicapped person extends a hand of friendship to you, warms your day with a broad smile or touches and tugs at your heart with the most genuine of loving hugs.

Discover how a dedicated staff with steadfast community support continues not only a life-changing mission but a compassionate ministry of kindness, love, dignity and respect.

At the core of the Key Training Center is a profound faith in God and a devout belief that His love for these people and this place is exceedingly boundless.

It is difficult to explain but impossible to deny—the Key Training Center is a place where miracles happen every day!

PERSONAL EXPLANATION

**HON. EARL POMEROY**

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. POMEROY. Mr. Speaker, on June 24, 2002, due to flight delays caused by severe weather, I missed roll call votes Nos. 249, 250, 251, and 252. Had I been present, I would have voted "yea" on all four votes.

I WILL SOAR AGAIN—HONORING  
THE HEROES WHO MADE INDE-  
PENDENCE DAY POSSIBLE

**HON. RONNIE SHOWS**

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. SHOWS. Mr. Speaker, as we prepare to go home to celebrate the July 4th holiday and the anniversary of America's Independence, we must remember the contributions of our fighting men and women who made our independence possible and who keep us free today.

In this regard, I want to share with my colleagues the work of Cindy Taylor-Dawson, of Brandon, Mississippi. She has created a web site called "I Will Soar Again," inspired by the events of September 11th and dedicated to the heroes who put their lives on the line to defend our freedom. "I Will Soar Again" has been viewed by countless people around the world, and has enabled them to express their thanks to America's heroes.

"I Will Soar Again" represents the best of America and the power of what just one person with a vision can accomplish.

Last year "I Will Soar Again" featured "Trees for the Troops 2001," where people could post messages on a "virtual Christmas

Tree" that could be viewed by our troops, no matter where they were stationed. In fact, Cindy used every message to decorate real Christmas Trees, too! She is anxious to get going on "Trees for the Troops 2002."

I commend this web site to you, Mr. Speaker, and our colleagues. It can be found at <http://www.iwillsoaragain.com/>. There are many things to see and read, including samplings of Cindy's poetry. By scrolling down to the bottom, one can find "Trees for the Troops 2001" and read the heartfelt greetings submitted by thousands of grateful people.

"I Will Soar Again" is one person's way of saying God Bless America. I commend this site to our colleagues, staffs, families and constituents, so they can contribute to the next Christmas Tree.

#### HIP HOUSING MARKS 30 YEARS OF SERVICE TO SAN MATEO COUNTY

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me in paying tribute to the Human Investment Project for Housing (HIP Housing) of San Mateo, California, on the occasion of its 30th Anniversary. For the past 30 years, this outstanding organization has been addressing the need for affordable housing.

Founded in 1972, HIP Housing was established to create programs to assist the disadvantaged and disabled living within San Mateo County. In 1979, recognizing a lack of affordable housing in the community, HIP Housing developed its "Homesharing Help and Information Program" and began to focus on expanding the pool of affordable housing in the community. Since then, HIP Housing has made over 12,000 homesharing placements and today serves over 2,500 people each year, 500 of which are children.

Mr. Speaker, the high cost of living in my congressional district is well documented. High housing prices have forced some out of their homes, leaving many with only expensive temporary housing options. HIP Housing has come to the rescue of thousands of people, finding permanent housing for seniors, single-parents and their children, persons with disabilities, the homeless and working persons.

Fortunately, HIP Housing has long been recognized for its great work. In 1985, the organization received the "Best Practices Award" from the American Society on Aging; in 1990 HIP Housing was appointed the Northern California liaison to National Home Equity Conversion Counseling Task Force; the California American Institute of Architects awarded the organization the "Community Assistance" award in 1991; and in 1998, HIP Housing received HUD's Blue Ribbon Best Practices Award.

Mr. Speaker, I would again like to emphasize just how vital HIP Housing has been to San Mateo County. Through its wide variety of housing programs and incredible generosity, HIP Housing has made a world of a difference for tens of thousands of people and it continues to do so every day.

#### PERSONAL EXPLANATION

### HON. ADAM H. PUTNAM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. PUTNAM. Mr. Speaker, from June 17 through 19, 2002 I had the honor of traveling to the United Kingdom on a Congressional Delegation as the Vice Chairman of the Government Reform Subcommittee on National Security, Veterans Affairs and International Relations. While in London, visiting the British Parliament's House of Lords, I had the opportunity to discuss policy-related issues and the ongoing war on terrorism with some of my distinguished British counterparts. Specifically, we held the first U.S. Congressional hearing ever in British Parliament on the subject of Gulf War Syndrome. I was excused by the Speaker to participate in this extraordinary experience, which prevented me from voting on legislation that came before the floor of the House of Representatives during that time. Had I been available to cast my vote I would have done the following:

Rollcall Votes: (1) #230—Journal—Yea; (2) #231—H. Con. Res. 415—Recognizing National Homeownership Month and the Importance of Homeownership in the United States—Yea; (3) #232—H. Con. Res. 340—Supporting the Goals and Ideals of Meningitis Awareness Month—Yea; (4) #233—H.R. 327—Small Business Paperwork Relief Act—Yea; (5) #234—H.R. 4794—Designating the Ronald C. Packard Post Office Building—Yea; (6) #235—H.R. 4717—Designating the Jim Fonteno Post Office Building—Yea; (7) #236—Journal—Yea; (8) #237—H.R. 3389—National Sea Grant College Program Act Amendments of 2002—Yea; (9) #238—Hastings of Florida Motion to Instruct Conferees on H.R. 3295—Help America Vote Act—No.

#### CONGRATULATING NAVY LEAGUE OF UNITED STATES ON ITS CENTENNIAL

SPEECH OF

### HON. ANDER CRENSHAW

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 24, 2002*

Mr. CRENSHAW. Mr. Speaker, I rise today to support House Concurrent Resolution 416 and congratulate the Navy League of the United States for 100 years of outstanding service.

The Navy League is a civilian organization that provides a valuable service to military communities across the United States. Their programs, such as the Naval Sea Cadet and the Navy Junior ROTC programs, are dedicated to increasing the educational and life experiences of this country's youth. Each year, many deserving high school students are the beneficiaries of generous Navy League scholarships and awards.

I am fortunate enough to have 2 separate Navy Leagues in my district, the Jacksonville Navy League and the Mayport Navy League. The members of both of these organizations dedicate their time, skills, expertise and other resources to help improve the lives of the men and women of the Navy, Coast Guard and

Marines and their families. The Mayport League has sponsored commissioning of local new ships, most recently the USS *Roosevelt*; and both leagues have honored local Navy, Coast Guard and Marine personnel through the Sailor of the Year luncheon and the annual Midway Memorial Dinner. This resolution allows Congress to honor the commitment to this nation by the Navy League and its dedicated members.

Mr. Speaker, it is with great pride today that I say happy 100th birthday to the Navy League, especially the local Jacksonville and Mayport councils.

#### 90TH ANNIVERSARY OF THE VISITING NURSE ASSOCIATION OF CENTRAL NEW JERSEY

### HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. PALLONE. Mr. Speaker, I would like to take this opportunity to congratulate the Visiting Nurse Association of Central Jersey as it celebrates its 90th Anniversary Year as the region's premier provider of community health services, serving more than 100,000 clients each year. The organization that is now VNA of Central Jersey began with a meeting of volunteers on June 24, 1912 at Brookdale Farm, Geraldine Thompson's estate in Lincroft, NJ.

First known as the Monmouth County Branch of the State Charities Aid and Prison Reform Association, the young organization set out to improve prison conditions and achieve a more humane approach to public assistance. It successfully campaigned for a tuberculosis hospital (Allenwood Sanitarium), and was appointed agent for the NJ Tuberculosis League.

From the beginning, the health care needs of women and children were a paramount concern. In its first decade, the agency completed a study of mentally handicapped children in the public schools; it launched child welfare programs and established mobile dental clinics and mobile mental hygiene clinics. Public health nurses were added to the social work staff, and the agency established a county district health office.

The name was changed to the Monmouth County Organization for Social Service in 1918. However, the agency has always been a voluntary, nonprofit organization and is not a branch of county government.

Accomplishments of the second decade included the addition of three satellite health centers and a continuing focus on services for children: well-child conferences, nutrition and parenting programs, and establishment of a children's shelter.

The 1930s brought a training program for student nurses, nursery and play schools at the Hartshorne Health Center in Belford to assist working mothers, and an expansion of services for handicapped children. The agency also assisted Fitkin Hospital (now Jersey Shore Medical Center) in establishing a social service department.

During the war years, MCOSS spearheaded a medical-dental plan for veterans. In the late 1940s the agency participated in organizing the Cancer Society, Heart Association and Cerebral Palsy Treatment Center in the county. The agency's program to provide health

care for migrant workers received national recognition.

In the following decade, the agency participated in the Salk vaccine testing program and gave field training to graduate nursing students from Rutgers University and Columbia. The Thrift Shop opened its doors in Manasquan in 1960. Also in the 1960s, the agency and the Monmouth County Board of Freeholders worked out a plan for countywide bedside nursing care.

The high quality of nursing, the aging of the population, the growing costs of hospital care and advances in home care technology led to explosive growth in home care services in the 1970s and 1980s. In 1979, the agency formally changed its name to MCOSN Nursing Services. In 1988, service was expanded to Middlesex County through acquisition of the Visiting Nurse Association in Middlesex. In an effort to make the organization's identity clear in both Middlesex County and Monmouth County, the agency's trustees voted in December 1993 to adopt the name Visiting Nurse Association of Central Jersey. (A visiting nurse association is a freestanding, community-based, nonprofit organization governed by a volunteer board of trustees, providing intermittent care in the home and helping to support itself through fund-raising.)

Significant developments of the 1980s and 1990s included creation of VNACJ Community Services, the administrative umbrella for grant-funded services and fund-raising programs; the foundation of the hospice program; growth of the rehabilitative services department; and establishment of primary care centers staffed by nurse practitioners. In 1988, the hospice program was certified by Medicare, and now serves more than 700 terminally ill patients and their families annually.

From mobile health clinics in the 1920s, services to migrants in the 1940s, hospice care in the 1980s, primary care in the 1990s, expansion of school-based clinics in 2000 to the introduction of advanced home care technology in 2001, the venturesome spirit of that early group of volunteers continues to infuse an organization which has consistently been in the vanguard of community health in this nation.

As VNA of Central Jersey celebrates its 90th year, it also pays tribute to Judith Stanley Coleman on her 25th anniversary as Chairman. First as trustee and then as the agency's sixth chairman, Mrs. Coleman has been an outstanding leader, advocate and supporter of the organization. She has worked tirelessly to ensure that the voluntary nonprofit agency continue to honor its commitment to provide care to all in need, regardless of their ability to pay.

COMMENDING MR. LOWELL R.  
OVERTON

**HON. GARY G. MILLER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. GARY G. MILLER of California. Mr. Speaker, I rise to commend Mr. Lowell R.

Overton, broker and co-owner of Coldwell Banker Realty in Diamond Bar, California.

Mr. Overton graduated from Cal Poly Pomona in 1976 with a bachelor of arts degree in social science followed in 1977 with a bachelor of science degree in behavioral science, accompanied with a criminal justice and corrections certificate.

After graduation from Cal Poly Pomona, Mr. Overton started his career in real estate at Goldenwest Realtors and Associates in Diamond Bar, where he quickly became office "Top Producer." He later joined Prudential California Realty in 1989. During his tenure there, he was honored with a total of eight Pinnacle Awards, representing placement among the top ten individuals nationally. In 1993, he was named National Champion of Prudential Real Estate Affiliates topping more than 38,000 agents nationwide. In doing so, he personally closed \$35 million in residential income and a total of 187 homes, becoming the first person in company history to generate more than 1 million dollars in gross commission income. In 1995, he was the recipient of the prestigious Legend Award, which is given to agents within the company exhibiting extraordinary "perseverance, expertise and consistency" in the course of their careers.

As an alumnus, Overton has been a strong supporter for many years of the Behavioral Sciences Department and the College of Letters Arts and Social Sciences at Cal Poly Pomona. He has provided an endowment to fund a scholarship for an outstanding psychology, sociology or behavioral science major, which has enabled the department to make nine awards to date. He is also the founder of the CLASS Alumni Chapter Endowed Scholarship Fund and the Behavioral Sciences Department Endowed Scholarship Fund. He has also endowed the Lowell Overton Award for the Presidents Council Scholarship for the College of Letters Arts and Social alumni chapter, currently serving as the chapter's president. He is a director on the Cal Poly Pomona Foundation, a member of the Kellogg Voorhis Heritage Society and the President's Council. Overton has also participated numerous times in the Professor for a Day Program and the Behavioral Sciences Department Honors Luncheon. He has also brought Cal Poly Pomona together with local statewide political leaders, most recently co-sponsoring a reception for California State Attorney General Bill Lockyer.

Thank you, Lowell for all of your hard work and dedication to California State Polytechnic University Pomona and to the community.

TRIBUTE TO THE INTERNATIONAL  
CONNECTION COMMITTEE OF  
THE ALPHA KAPPA ALPHA SO-  
RORITY, INCORPORATED

**HON. DONALD M. PAYNE**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 25, 2002*

Mr. PAYNE. Mr. Speaker, I would like to ask my colleagues here in the U.S. House of Rep-

resentatives to join me in paying tribute to the members of the International Connection Committee of Alpha Kappa Alpha Sorority, Incorporated for their outstanding years of service as leaders in the community.

For 60 years, the Alpha Kappa Alpha Sorority, Inc., a registered 501(c)(7) nonprofit, nonpartisan fraternal organization, has been an active participant in fostering political activities. The Sorority's involvement has ranged from organizing the Nonpartisan Lobby for Economic and Democratic Rights to press for political, social and economic justice for African Americans to the establishment of the Office of Governmental Affairs in Washington, D.C.

Recognizing the importance of engaging its members in public policy initiatives and political campaign activities, the International Connection Committee became a reality in 1980 at the International Convention. The Committee's first major initiative was a nationwide "voter blitz" to mobilize the African American community to vote in the 1980 General Election. In 1998, members joined with the NAACP for the Mass Demonstration at the U.S. Supreme Court to protest the lack of minority law clerks employed by the Justices. To build on the success of the inaugural committee, the 1998-2000 International Connection Committee continued to move the public policy program by implementing a wide range of events including voter education and registration activities, training sessions for members who sought elective and appointive office, and AKA Lobby Days.

It is my distinct honor and privilege to recognize the members of the 2000-2002 International Connection Committee of Alpha Kappa Alpha Sorority, Inc. for their efforts to continue the work of an organization rich in both history and service. The members are Juanita Orr, Chairman; and representatives Lenora Gerald, North Atlantic Region; Leyser Morris-Hayes, South Eastern Region; Vivian Burke, Mid-Atlantic Region; Jenelle Elder-Green, Central Region; Vertelle Middleton, South Atlantic Region; Tari Bradford, South Central Region; Nancy Quarles, Great Lakes Region; Kimberly Scott, Mid-Western Region; Dawn Bobbitt, Far Western Region; Frances Molloy, International Region; Dorothy R. Jackson, Resource & Washington, D.C. Chairman of Millennium Public Policy Conferences, and Dr. Norma Solomon White, International President. I also acknowledge with pride and respect the many Connection Committee activists who preceded the current Committee.

Mr. Speaker, I know that my colleagues will join me in honoring the members for their exceptional service to our community. We are fortunate to have noble citizens like them to provide essential services and support to our society.

# Daily Digest

## Senate

### Chamber Action

*Routine Proceedings, pages S5969–S6048*

**Measures Introduced:** Eight bills and three resolutions were introduced, as follows: S. 2673–2680, S.J. Res. 38, S. Res. 291, and S. Con. Res. 123.

Page S6013

#### Measures Reported:

S. 2530, to amend the Inspector General Act of 1978 (5 U.S.C. App.) to establish police powers for certain Inspector General agents engaged in official duties and provide an oversight mechanism for the exercise of those powers. (S. Rept. No. 107–176)

S. 281, to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial, with an amendment in the nature of a substitute. (S. Rept. No. 107–177)

S. 1240, to provide for the acquisition of land and construction of an interagency administrative and visitor facility at the entrance to American Fork Canyon, Utah, with an amendment in the nature of a substitute. (S. Rept. No. 107–178)

S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight.

Page S6013

#### Measures Passed:

**Mass Transportation Safety:** Senate passed S. 2621, to provide a definition of vehicle for purposes of criminal penalties relating to terrorist attacks and other acts of violence against mass transportation systems.

Pages S6046–47

**Authorizing Legal Representation:** Senate agreed to S. Res. 291, to authorize testimony, document production, and legal representation in *United States v. Milton Thomas Black*.

Pages S6047–48

**National Defense Authorization Act:** Senate continued consideration of S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, taking action on the following amendment proposed thereto:

Pages S5973–95, S5996–99, S6001–08

#### Rejected:

Kennedy Amendment No. 3918, to provide for equal competition in contracting. (By 50 yeas to 49 nays (Vote No. 162), Senate tabled the amendment.)

Pages S5973–85

A motion was entered to close further debate on the bill and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a cloture vote will occur on Thursday, June 27, 2002.

Page S6001

A unanimous-consent agreement was reached providing for further consideration of the bill at 11 a.m., on Wednesday, June 26, 2002.

Page S6048

#### Appointments:

**Ticket to Work and Work Incentives Advisory Panel:** The Chair, on behalf of the Republican Leader, after consultation with the Ranking Member of the Senate Committee on Finance, pursuant to Public Law 106–170, announced the appointment of the following individuals to serve as members of the Ticket to Work and Work Incentives Advisory Panel: Vincent Randazzo of Virginia, vice Stephanie Lee Smith, resigned, and Katie Beckett of Iowa, for a term of four years.

Page S6047

**Messages from the President:** Senate received the following messages from the President of the United States:

Transmitting, pursuant to law, a Report on Bosnia and U.S. Forces in NATO-Lead Stabilization Force (SFOR) for the period March 2001 to December 2001; to the Committee on Armed Services. (PM–98)

Pages S6010–11

Transmitting, pursuant to law, the Periodic Report on the National Emergency Caused by the Lapse of the Export Administration Act of 1979 for

August 19, 2001 to February 19, 2002; to the Committee on Banking, Housing, and Urban Affairs. (PM-99) **Page S6011**

Transmitting, pursuant to law, the Second Protocol to the Agreement Between the United States of America and the Kingdom of the Netherlands on Social Security; to the Committee on Finance. (PM-100) **Page S6011**

Transmitting, pursuant to law, the Periodic Report on the National Emergency With Respect to the 1979 Iranian Emergency and Assets Blocking for the period October 1, 2001 through March 31, 2002; to the Committee on Banking, Housing, and Urban Affairs. (PM-101) **Page S6011**

**Nominations Received:** Senate received the following nominations:

David L. Lyon, of California, to be Ambassador to the Republic of Fiji, and to serve concurrently and without additional compensation as Ambassador of the United States of America to the Republic of Nauru, Ambassador to the Kingdom of Tonga, and Ambassador to Tuvalu.

Nancy J. Powell, of Iowa, to be Ambassador to the Islamic Republic of Pakistan.

Michelle Guillermin, of Maryland, to be Chief Financial Officer, Corporation for National and Community Service.

Richard H. Carmona, of Arizona, to be Medical Director in the Regular Corps of the Public Health Service, subject to qualifications therefore as provided by law and regulations, and to be Surgeon General of the Public Health Service for a term of four years. **Page S6048**

**Messages From the House:** **Page S6011**

**Measures Referred:** **Page S6011**

**Measures Placed on Calendar:**  
**Pages S5969-70, S6011-12**

**Measures Read First Time:** **Pages S6012, S6046**

**Executive Communications:** **Pages S6012-13**

**Additional Cosponsors:** **Pages S6013-15**

**Statements on Introduced Bills/Resolutions:**  
**Pages S6015-38**

**Additional Statements:** **Page S6010**

**Amendments Submitted:** **Pages S6038-45**

**Notices of Hearings/Meetings:** **Pages S6045-46**

**Authority for Committees to Meet:** **Page S6046**

**Record Votes:** One record vote was taken today. (Total—162) **Page S5985**

**Adjournment:** Senate met at 10 a.m., and adjourned at 6:58 p.m., until 9:30 a.m., on Wednesday, June 26, 2002. (For Senate's program, see the

remarks of the Acting Majority Leader in today's Record on page S6048).

## Committee Meetings

(Committees not listed did not meet)

### NOMINATIONS

*Committee on Agriculture, Nutrition, and Forestry:* Committee concluded hearings on the nominations of Phyllis K. Fong, of Maryland, to be Inspector General, Department of Agriculture, Walter Lukken, of Indiana, and Sharon Brown-Hruska, of Virginia, each to be a Commissioner of the Commodity Futures Trading Commission, and Douglas L. Flory, of Virginia, to be a Member of the Farm Credit Administration Board, Farm Credit Administration, after the nominees testified and answered questions in their own behalf. Mr. Flory was introduced by Senator Allen.

### NATIONAL TRANSPORTATION SAFETY BOARD

*Committee on Commerce, Science, and Transportation:* Committee concluded hearings on proposed legislation authorizing funds for the National Transportation Safety Board, after receiving testimony from Marion C. Blakey, Chairman, National Transportation Safety Board.

### OFFICE OF OMBUDSMAN (EPA)

*Committee on Environment and Public Works:* Committee concluded oversight hearings to examine the Environmental Protection Agency Inspector General's actions with respect to the Ombudsman, and S. 606, to provide additional authority to the Office of Ombudsman of the Environmental Protection Agency, after receiving testimony from Senator Alard; Representative Nadler; Nikki L. Tinsley, Inspector General, Environmental Protection Agency; David G. Wood, Director, Natural Resources and Environment, General Accounting Office; Robert J. Martin, Ashburn, Virginia, former National Ombudsman, Hazardous and Solid Waste, Environmental Protection Agency; Danielle Brian, Project on Government Oversight, Washington, D.C.; Kathy J. Zanetti, Shoshone Natural Resources Coalition, Wallace, Idaho; and Susan Shortz, Halt Environmental Lead Pollution, Throop, Pennsylvania.

### NOMINATIONS

*Committee on Foreign Relations:* Committee concluded hearings on the nominations of James Franklin Jeffrey, of Virginia, to be Ambassador to the Republic of Albania, Michael Klosson, of Maryland, to be Ambassador to the Republic of Cyprus, James Irvin

Gadsden, of Maryland, to be Ambassador to the Republic of Iceland, and Randolph Bell, of Virginia, for the rank of Ambassador during his tenure of service as Special Envoy for Holocaust Issues, after the nominees testified and answered questions in their own behalf.

#### PEACE CORPS

*Committee on Foreign Relations:* Subcommittee on Western Hemisphere, Peace Corps and Narcotics Affairs concluded hearings on S. 2667, to amend the Peace Corps Act to promote global acceptance of the principles of international peace and nonviolent coexistence among peoples of diverse cultures and systems of government, after receiving testimony from Gaddi H. Vasquez, Director, Peace Corps; Mark Schneider, International Crisis Group, former Director, Peace Corps, Dane Smith, National Peace Corps Association, and Barbara Anne Ferris, Peace Corps Fund, all of Washington, D.C.; and John Coyne, Pelham, New York.

#### OFFICE OF EDUCATION RESEARCH AND IMPROVEMENT

*Committee on Health, Education, Labor, and Pensions:* Committee concluded hearings on proposed legislation authorizing funds for the Office of Education Research and Improvement, Department of Education, focusing on organizational structure, budget, and technical assistance systems, after receiving testimony from Grover J. Whitehurst, Assistant Secretary of Education for Research and Improvement; Faye Taylor, Tennessee Department of Education, Nashville, on behalf of the Education Leaders Council; Michael Nettles, University of Michigan, Ann Arbor, on behalf of the National Assessment Governing Board; and LaMar P. Miller, New York University Steinhardt School of Education Metro Center for Urban Education and Region II Comprehensive Center, New York.

#### CHILDREN'S DENTAL HEALTH

*Committee on Health, Education, Labor, and Pensions:* Subcommittee on Public Health concluded hearings

to examine the crisis in children's dental health, focusing on creating an effective oral health infrastructure, increase access to dental care, and related provisions of S. 1626, to provide disadvantaged children with access to dental services, after receiving testimony from Lynn Douglas Mouden, Arkansas Department of Health, Little Rock, on behalf of the Association of State and Territorial Dental Directors; David Satcher, Henry J. Kaiser Family Foundation, and National Center for Primary Care at Morehouse School of Medicine, former Surgeon General, Department of Health and Human Services, Timothy Shriver, Special Olympics, Inc., and Gregory Chadwick, American Dental Association, all of Washington, D.C.; Burton L. Edelstein, Columbia University School of Dental and Oral Surgery Division of Community Health, New York, New York, on behalf of the Children's Dental Health Project, American Academy of Pediatric Dentistry, and the American Dental Education Association; and Ed Martinez, San Ysidro Health Center, San Diego, California, on behalf of the National Association of Community Health Centers, Inc.

#### HOMELAND SECURITY INFRASTRUCTURE

*Committee on the Judiciary:* Subcommittee on Technology, Terrorism, and Government Information concluded hearings to examine the President's proposal for reorganizing our homeland defense infrastructure, after receiving testimony from former Senator Warren Rudman, United States Commission on National Security/21st Century; David Walker, Comptroller General of the United States, General Accounting Office; former Virginia Governor James S. Gilmore III, Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, Richmond, Virginia; and Paul C. Light and Ivo H. Daalder, both of the Brookings Institution, and Ivan Eland, Cato Institute, all of Washington, D.C.

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## House of Representatives

### Chamber Action

**Measures Introduced:** 5 public bills, H.R. 5012–5016; and 4 resolutions, H.J. Res. 101; H. Con. Res. 425–426, and H. Res. 457 were introduced.

Pages H3927–28

**Reports Filed:** Reports were filed as follows:

Report on the Suballocation of Budget Allocations for Fiscal Year 2003 (H. Rept. 107–529);

H.R. 4687, to provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the



wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life, amended (H. Rept. 107-530);

H.R. 4481, to amend title 49, United States Code, relating to airport project streamlining, amended (H. Rept. 107-531);

H.R. 5010, making appropriations for the Department of Defense for the fiscal year ending September 30, 2003 (H. Rept. 107-532);

H.R. 5011, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003 (H. Rept. 107-533);

H.R. 4598, to provide for the sharing of homeland security information by Federal intelligence and law enforcement agencies with State and local entities, amended (H. Rept. 107-534 Pt. 1); and

H. Res. 458, providing for consideration of H.R. 4598, to provide for the sharing of homeland security information by Federal intelligence and law enforcement agencies with State and local entities (H. Rept. 107-535).

Page H3927

**Speaker Pro Tempore:** Read a letter from the Speaker wherein he appointed Representative Johnson of Illinois to act as Speaker pro tempore for today.

Page H3861

**Journal:** Agreed to the Speaker's approval of the Journal of Monday, June 24 by a ye-and-nay vote of 371 yeas to 40 nays with 2 voting "present," Roll No. 253.

Page H3874

**Recess:** The House recessed at 11:07 a.m. and reconvened at 12 noon.

Page H3865

**Suspensions:** The House agreed to suspend the rules and pass the following measures:

**Improved Access to Physicians in Medically Underserved Areas:** H.R. 4858, to improve access to physicians in medically underserved areas (agreed to by a ye-and-nay vote of 407 yeas to 7 nays, Roll No. 254);

Pages H3867-71, H3875

**Lifetime Consequences for Sex Offenders:** H.R. 4679, amended, to amend title 18, United States Code, to provide a maximum term of supervised release of life for child sex offenders (agreed to by a ye-and-nay vote of 409 yeas to 3 nays, Roll No. 255). Agreed to amend the title so as to read: "A bill to amend title 18, United States Code, to provide a maximum term of supervised release of life for sex offenders.";

Pages H3871-74, H3875-76

**Child Obscenity and Pornography Prevention:** H.R. 4623, amended, to prevent trafficking in child pornography and obscenity, to proscribe pandering

and solicitation relating to visual depictions of minors engaging in sexually explicit conduct, to prevent the use of child pornography and obscenity to facilitate crimes against children (agreed to by a ye-and-nay vote of 413 yeas to 8 nays with 1 voting "present," Roll No. 256); and

Pages H3876-84, H3913

**Silver Eagle Coin Continuation:** H.R. 4846, to amend title 31, United States Code, to clarify the sources of silver for bullion coins (agreed to by a ye-and-nay vote of 417 yeas to 1 nays, Roll No. 257).

Pages H3909-13, H3914

**Suspensions—Proceedings Postponed:** The House completed debate on the following motions to suspend the rules relating to the following measures. Further proceedings on the motions were postponed until Wednesday, June 26.

**Sex Tourism Prohibition:** H.R. 4477, amended, to amend title 18, United States Code, with respect to crimes involving the transportation of persons and sex tourism;

Pages H3884-86

**New Hampshire-Vermont Interstate School Compact:** H.R. 3180, to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact;

Pages H3886-88

**Social Security Program Protection:** H.R. 4070, amended, to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees and to enhance program protections; and

Pages H3888-H3900

**Patriotic Contributions of Roofing Professionals Who Replaced, At No Cost, the Pentagon's Slate Roof Destroyed on September 11:** H. Con. Res. 424, commending the patriotic contributions of the roofing professionals who replaced, at no cost to the Federal Government, the section of the Pentagon's slate roof that was destroyed as a result of the terrorist attacks against the United States that occurred on September 11, 2001;

Pages H3900-02

**Frank Sinatra Post Office, Hoboken, New Jersey:** H.R. 3034, to redesignate the facility of the United States Postal Service located at 89 River Street in Hoboken, New Jersey, as the "Frank Sinatra Post Office Building;" and

Pages H3902-05

**2002 Securities and Exchange Commission Authorization:** H.R. 3764, to authorize appropriations for the Securities and Exchange Commission.

Pages H3905-09

**Presidential Messages:** Read the following messages from the President:

***Sustainable Peace Process in Bosnia and Herzegovina:*** Message wherein he transmitted his report on the progress made toward achieving benchmarks for a sustainable peace process in Bosnia and Herzegovina—referred to the Committees on Appropriations, Armed Services, and International Relations and ordered printed (H. Doc. 107–233);

Page H3915

***Agreement Between the United States and the Netherlands on Social Security:*** Message wherein he transmitted the Second Protocol to the Agreement Between the United States and the Netherlands on Social Security—referred to the Committee on Ways and Means and ordered printed (H. Doc. 107–234);

Page H3915

***National Emergency Caused by the Lapse of the Export Administration Act:*** Message wherein he transmitted a 6-month periodic report on the national emergency to deal with the threat to the national security, foreign policy, and economy of the United States caused by the lapse of the Export Administration Act of 1979—referred to the Committee on International Relations and ordered printed (H. Doc. 107–235); and

Page H3915

***National Emergency re Iran:*** Message wherein he transmitted a 6-month periodic report on the national emergency with respect to Iran—referred to the Committee on International Relations and ordered printed (H. Doc. 107–236).

Page H3915

**Recess:** The House recessed at 7:28 p.m. and reconvened at 8:38 p.m.

Page H3926

**Amendments:** Amendments ordered printed pursuant to the rule appear on page H3929.

**Quorum Calls Votes:** Five yea-and-nay votes developed during the proceedings of the House today and appear on pages H3874, H3875, H3875–76, H3913, and H3914. There were no quorum calls.

**Adjournment:** The House met at 10:30 a.m. and adjourned at 8:39 p.m.

## Committee Meetings

### INTERIOR APPROPRIATIONS

***Committee on Appropriations:*** Subcommittee on Interior approved for full Committee action the Interior appropriations for fiscal year 2003.

### FIRST TEE: BUILDING CHARACTER EDUCATION

***Committee on Education and the Workforce:*** Held a hearing on the First Tee: Building Character Education. Testimony was heard from Duane Dedelow, Jr., Mayor, Hammond, Indiana; Jack Nicklaus, Professional Golfer; Joe Louis Barrow, Jr., Senior Vice

President-Executive Director, The First Tee; and public witnesses.

### FTC's FRANCHISE RULE

***Committee on Energy and Commerce:*** Subcommittee on Commerce, Trade and Consumer Protection held a hearing on the FTC's Franchise Rule: Twenty-Three Years After Its Promulgation. Testimony was heard from Howard Beales III, Director, Bureau of Consumer Protection, FTC; and public witnesses.

### DEPARTMENT OF HOMELAND SECURITY

***Committee on Energy and Commerce:*** Subcommittee on Oversight and Investigations held a hearing on Creating the Department of Homeland Security: Consideration of the Administration's Proposal, with emphasis on chemical, biological and radiological response activities proposed for transfer to the Department of Homeland Security. Testimony was heard from Tom Ridge, Assistant to the President, Office of Homeland Security Adviser; Claude Allen, Deputy Secretary, Department of Health and Human Services; John A. Gordon, Administrator, National Nuclear Security Administration, Department of Energy; Jan Heinrich, Director, Health Care and Public Health Issues, GAO; Harry C. Vantine, Program Leader, Counterterrorism and Incident Response, Lawrence Livermore National Laboratory; David Nokes, Director, Systems Assessment and Research Center, Sandia National Laboratories; Donald D. Cobb, Associate Director, Threat Reduction, Los Alamos National Laboratory; Lew Stringer, Medical Director, Division of Emergency Management, Department of Crime Control and Public Safety, State of North Carolina; and public witnesses.

### FAIR HOUSING ENFORCEMENT; FIGHTING DISCRIMINATION AGAINST DISABLED AND MINORITIES

***Committee on Financial Services:*** Subcommittee on Oversight and Investigation and the Subcommittee on Housing and Community Opportunity held a joint hearing on Fighting Discrimination against the Disabled and Minorities through Fair Housing Enforcement. Testimony was heard from Kenneth Marcus, General Deputy Assistant Secretary, Fair Housing and Equal Opportunity, Department of Housing and Urban Development; and public witnesses.

### DO WE NEED AN ANTI-DRUG MEDIA CAMPAIGN?

***Committee on Government Reform:*** Subcommittee on Criminal Justice, Drug Policy, and Human Resources held a hearing on De We Need an Anti-Drug Media Campaign? Testimony was heard from Representative Portman; and public witnesses.

**DOD FINANCIAL MANAGEMENT**

*Committee on Government Reform:* Subcommittee on National Security, Veterans Affairs and International Relations held a hearing on DoD Financial Management: Following One Item Through the Maze. Testimony was heard from Gregory Kutz, Director, Financial Management and Assurance Team, GAO; the following officials of the Department of Defense: JoAnn Boutelle, Director, Commercial Pay Service, Defense Finance and Accounting Service; Douglas Bryce, Program Manager, Joint Service Lightweight Technology Suit; and Bruce E. Sullivan, Director, Joint Purchase Card Program Management Office; and public witnesses.

**OVERSIGHT—CIVIL RIGHTS DIVISION**

*Committee on the Judiciary:* Subcommittee on the Constitution held an oversight hearing on the Civil Rights Division of the U.S. Department of Justice. Testimony was heard from Ralph F. Boyd, Jr., Assistant Attorney General, Department of Justice.

**OVERSIGHT—RISK TO HOMELAND SECURITY FROM IDENTITY FRAUD AND THEFT**

*Committee on the Judiciary:* Subcommittee on Immigration, Border Security, and Claims and the Subcommittee on Crime, Terrorism, and Homeland Security held a joint oversight hearing on "The Risk to Homeland Security From Identity Fraud and Identity Theft." Testimony was heard from Paul J. McNulty, U.S. Attorney, Eastern District of Virginia; James G. Huse, Jr., Inspector General, SSA; Richard M. Stana, Director, Administration of Justice Issues, GAO; and a public witness.

**HOMELAND SECURITY INFORMATION SHARING ACT**

*Committee on Rules:* Granted, by voice vote, an open rule on H.R. 4598, to provide for the sharing of homeland security information by Federal intelligence and law enforcement agencies with State and local entities providing one hour of general debate, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. 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 the Judiciary now printed in the bill. The rule waives all points of order against the committee amendment in the nature of a substitute. The rule provides that the bill

shall be open for amendment by section. The rule allows the Chairman of the Committee of the Whole to accord priority in recognition to those Members who have pre-printed their amendments in the Congressional Record. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Representative Chambliss.

**GREAT LAKES LEGACY ACT**

*Committee on Transportation and Infrastructure:* Subcommittee on Water Resources and Environment approved for full Committee action, as amended, H.R. 1070, Great Lakes Legacy Act of 2001.

**CORPORATE INVERSIONS**

*Committee on Ways and Means:* Subcommittee on Select Revenue Measures held a hearing on Corporate Inversions. Testimony was heard from Representatives Johnson of Connecticut, McInnis, Neal and Maloney of Connecticut; Richard Blumenthal, Attorney General, State of Connecticut; and a public witness.

## *Joint Meetings*

**COMBATING TERRORISM**

*Joint Hearing:* Senate Committee on Commerce, Science, and Transportation Subcommittee on Science, Technology, and Space concluded joint hearings with the House Committee on Science to examine the role of science and technology in combating terrorism, focusing on the National Academies' National Research Council's report, "Making the Nation Safer: The Role of Science and Technology in Countering Terrorism" in preparation for drafting legislation to set up a Department of Homeland Security, after receiving testimony from Lewis M. Branscomb, Harvard University John F. Kennedy School of Government Belfer Center for Science and International Affairs, Cambridge, Massachusetts, and Richard Klausner, Bill and Melinda Gates Foundation, Seattle, Washington, both on behalf of the National Academy of Sciences Committee on Science and Technology for Countering Terrorism.

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**NEW PUBLIC LAWS**

(For last listing of Public Laws, see DAILY DIGEST of June 20, 2002, p. D655 )

S. 2431, to amend the Omnibus Crime Control and Safe Streets Act of 1968 to ensure that chaplains killed in the line of duty receive public safety officer death benefits. Signed on June 24, 2002. (Public Law 107-196)

H.R. 3275, to implement the International Convention for the Suppression of Terrorist Bombings to

strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts. Signed on June 25, 2002. (Public Law 107–197)

## COMMITTEE MEETINGS FOR WEDNESDAY, JUNE 26, 2002

(Committee meetings are open unless otherwise indicated)

### Senate

*Committee on Banking, Housing, and Urban Affairs:* Subcommittee on Housing and Transportation, to hold hearings to examine the Transportation Equity Act for the 21st Century, focusing on investing in economy and environment, 10 a.m., SD–538.

*Committee on Commerce, Science, and Transportation:* Subcommittee on Consumer Affairs, Foreign Commerce, and Tourism, to hold hearings to examine issues and perspectives in enforcing corporate governance, focusing on the experience of the state of New York, 9:30 a.m., SR–253.

*Committee on Finance:* business meeting to mark up H.R. 4737, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, 10 a.m., SD–215.

*Committee on Foreign Relations:* to hold hearings to examine the current situation in Afghanistan, 10:45 a.m., SD–419.

Full Committee, to hold hearings on the nomination of Mark Sullivan, of Maryland, to be United States Director of the European Bank for Reconstruction and Development; and the nomination of Paul William Speltz, of Texas, to be United States Director of the Asian Development Bank, with the rank of Ambassador, 2:30 p.m., SD–419.

*Committee on Governmental Affairs:* to hold hearings to examine the relationship between a Department of Homeland Security and the intelligence community, 9:30 a.m., SD–342.

Full Committee, to hold hearings on the nomination of James E. Boasberg, to be an Associate Judge of the Superior Court of the District of Columbia, 3 p.m., SD–342.

*Committee on Health, Education, Labor, and Pensions:* business meeting to consider S. 2059, to amend the Public Health Service Act to provide for Alzheimer's disease research and demonstration grants; and proposed legislation concerning global AIDS, 9:30 a.m., SD–430.

*Committee on Indian Affairs:* to hold hearings to examine the status of tribal trust funds, 10 a.m., SD–628.

*Committee on the Judiciary:* to hold hearings to examine the President's proposal for reorganizing our homeland defense infrastructure, 9:30 a.m., SD–106.

Subcommittee on Immigration, to hold hearings to examine immigration reform and the reorganization of homeland defense, 2 p.m., SD–226.

### House

*Committee on Agriculture,* hearing to Review the Administration's proposed legislation on creating a Department of Homeland Security, 10 a.m., 1300 Longworth.

*Committee on Appropriations,* Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies, to mark up appropriations for fiscal year 2003, 1 p.m., 2362 Rayburn.

Subcommittee on Treasury, Postal Service and General Government, to mark up appropriations for fiscal year 2003, 10 a.m., 2358 Rayburn.

*Committee on Armed Services,* hearing on the Administration's proposal to create a new Department of Homeland Security, and its impact on the Department of Defense and defense-related aspects of the Department of Energy, 10:30 a.m., 2118 Rayburn.

Subcommittee on Military Readiness, hearing on Outsourcing: Review of the Commercial Activities Panel Report, 2 p.m., 2212 Rayburn.

*Committee on Energy and Commerce,* Subcommittee on Commerce, Trade and Consumer Protection, hearing on the Financial Accounting Standards Board Act, 10 a.m., 2123 Rayburn.

Subcommittee on Telecommunications and the Internet, hearing on Area Code Exhaustion: What are the Solutions? 10 a.m., 2322 Rayburn.

*Committee on Financial Services,* to continue consideration of H.R. 3995, Housing Affordability for America Act of 2002; and to begin consideration of H.R. 1701, Consumer Rental Agreement Act, 10 a.m., 2128 Rayburn.

*Committee on Government Reform,* Subcommittee on Civil Service, Census and Agency Organization, hearing on "Homeland Security: Should Consular Affairs be Transferred to the new Department of Homeland Security?" 1 p.m., 2203 Rayburn.

Subcommittee on the District of Columbia, hearing on Spring Valley Revisited—The Status of the Cleanup of Contaminated Sites in Spring Valley, 10 a.m., 2154 Rayburn.

Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations, "The Single Audit Act: Is it Working?" 10 a.m., 2247 Rayburn.

*Committee on International Relations,* hearing on H.R. 5005, Homeland Security Act of 2002, 10:15 a.m., 2172 Rayburn.

*Committee on the Judiciary,* hearing on "The Proposal to Create a Department of Homeland Security," 2 p.m., 2141 Rayburn.

*Committee on Resources,* to mark up the following measures: H.R. 4840, Sound Science for Endangered Species Act Planning Act of 2002; H. Con. Res. 408, honoring the American Zoo and Aquarium Association and its accredited member institutions for their continued service to animal welfare, conservation education, conservation research, and wildlife conservation programs; a resolution calling for the full appropriation of the State and tribal shares of the Abandoned Mine Reclamation Fund; H.R. 297, Abandoned Mine Lands Reclamation Reform Act of 2001; H.R. 2534, Lower Los Angeles River and San Gabriel River Watersheds Study Act of 2001; H.R. 2990, Lower Rio Grande Valley Water Resources Conservation

and Improvement Act of 2001; H.R. 3048, Russian River Land Act; H.R. 3223, Jicarilla Apache Reservation Rural Water System Act; H.R. 3258, Reasonable Right-of-Way Fees Act of 2001; H.R. 3401, California Five Mile Regional Learning Center Transfer Act; H.R. 3476, to protect certain lands held in fee by the Pechanga Band of Luiseno Mission Indians from condemnation until a final decision is made by the Secretary of the Interior regarding a pending fee to trust application for that land; H.R. 3534, Cherokee, Choctaw, and Chicksaw Nations Claims Settlement Act; H.R. 3813, Coal Accountability and Retired Employee Act for the 21st Century; H.R. 3815, Presidential Historic Site Study Act; H.R. 3917, Flight 93 National Memorial Act; H.R. 3937, to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California; H.R. 4141, Red Rock Canyon National Conservation Area Protection and Enhancement Act of 2002; H.R. 4620, America's Wilderness Protection Act; H.R. 4638, to reauthorize the Mni Wiconi Rural Water Supply Project; H.R. 4749, Magnuson-Stevens Act Amendments of 2002; H.R. 4795, Chronic Wasting Disease Support for States Act of 2002; H.R. 4807, Susquehanna National Wildlife Refuge Expansion Act; H.R. 4870, Mount Naomi Wilderness Boundary Adjustment Act; H.R. 4822, Upper Missouri River Breaks Boundary Clarification Act; and H.R. 4883, to reauthorize the Hydrographic Services Improvement Act of 1998, 10 a.m., 1324 Longworth.

*Committee on Rules*, to consider to the following: H.R. 5010, making appropriations for the Department of Defense for the fiscal year ending September 30, 2003 and H.R. 5011, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, 3 p.m., H-313 Capitol.

*Committee on Science*, Subcommittee on Energy, hearing on Future Car: Getting New Technology into the Marketplace, 10 a.m., 2318 Rayburn.

*Committee on Transportation and Infrastructure*, to consider the following: several GSA Fiscal Year 2003 Capital Investment and Leasing Program Resolutions; several U.S. Army Corp of Engineers Survey resolutions; H.R. 1070, Great Lakes Legacy Act of 2001; H.R. 4635, Arming Pilots Against Terrorism Act; the National Aviation Capacity Expansion Act of 2002; and the Kennedy Center Access Study and Authorization, 11 a.m., 2167 Rayburn.

*Committee on Veterans' Affairs*, Subcommittee on Health, hearing on H.R. 3645, Veterans Health-Care Items Procurement Reform and Improvement Act of 2002, 9:30 a.m., 334 Cannon.

*Committee on Ways and Means*, hearing on Creation of Homeland Security Department, 2 p.m., 1100 Longworth.

*Permanent Select Committee on Intelligence*, executive, briefing on Global Hot Spots, 1:30 p.m., H-405 Capitol.

*Next Meeting of the SENATE*

9:30 a.m., Wednesday, June 26

## Senate Chamber

**Program for Wednesday:** After the transaction of any morning business (not to extend beyond 11 a.m.), Senate will continue consideration of S. 2514, National Defense Authorization Act.

*Next Meeting of the HOUSE OF REPRESENTATIVES*

10 a.m., Wednesday, June 26

## House Chamber

**Program for Wednesday:** Consideration of H.R. 4598, Homeland Security Information Sharing Act (open rule, one hour of debate); and Consideration of Suspensions (rolled votes): (1) H.R. 4477, Sex Tourism Prohibition Improvement; (2) H.R. 4070, Social Security Program Protection; and (3) H.R. 3764, Securities and Exchange Commission Authorization.

## Extensions of Remarks, as inserted in this issue

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