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House of Representatives

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

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
July 10, 2002.

I hereby appoint the Honorable JOHN COOKSEY to act as Speaker pro tempore on this day.

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

PRAYER

The Reverend Robert W. Horner III, Senior Pastor, Peachtree Corners Baptist Church, Norcross, Georgia, offered the following prayer:

Our God and Father, we thank You for the privilege of life itself. And we are grateful that You have taught us that the essence of life is contained in knowing and following You. Thank You for this great Nation and the obvious Hand of God upon us.

May the challenge ahead for each of these Representatives be met with the strong help of the Almighty. Remind us that it is a clean life that is blessed by You, and grant grace, forgiveness, peace, wisdom, fortitude, and insight to each of these decision-makers today. May they seek Your truth as they make legislative steps that affect so many.

We honor Your presence here today. May the difficulties of deliberation be offset by Your mercy, which always leads to victory.

In Jesus' name, Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. MCNULTY led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill and joint resolution of the House of the following titles:

H.R. 2362. An act to establish the Benjamin Franklin Tercentenary Commission.

H.J. Res. 87. A joint resolution approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982.

WELCOMING REVEREND ROBERT W. HORNER III

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

Mr. BARR. Mr. Speaker, it is indeed an honor and a great personal pleasure to welcome today and invite to deliver the invocation seeking the blessing of our Lord God Almighty to these Chambers Pastor Robert W. ''Bob'' Horner III, Senior Pastor at Peachtree Corners Baptist Church in Norcross, Georgia.

One of the first entries in Pastor Horner's résumé is the fact that he is 6-foot-3. Now, for us folks of average height, 6-foot-3 is tall indeed, but the stature of this man of God goes far beyond 6-foot-3. He is indeed a giant among men. The strength and the height of his character and his stature is measured not in inches but in his great, deep, and abiding love for our Lord and his deep, abiding commitment to bring that message of salvation and redemption and commitment to those less fortunate, to all with whom he comes in contact, and many, many more all across this globe through the power of prayer.

It is indeed an honor to welcome today to these hallowed halls Pastor Bob Horner who leads the very large, very generous and committed congregation which I am proud to call part of my home in Georgia, Peachtree Corners Baptist Church in Norcross, Georgia.

MEMBERS RALLYING TOGETHER

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

Mr. FOLEY. Mr. Speaker, one of the beauties of being in Congress after September 11 was the Members, Democrats and Republicans, rallying together on behalf of this great Nation. It is regrettable what I have seen in the last 24 hours, the attack on the President relative to the recent corporate scandals.

If we want to point fingers and lay blame, we will never solve the problem for the average investors. We will not stabilize the stock market. We will use politics to ruin the economy of this Nation. We can work together as Democrats and Republicans to solve the problem or we can sit here and point fingers.

They pat the President on the back relative to the war against terrorism, and then they stab him in the back relative to this war against corporate waste, fraud and abuse.

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We have a significant problem in America. We need to get to the heart of it.

When the chief executive of this Nation lied to a grand jury, it was described as none of our business, that is personal, it does not matter if someone lies before the jury as long as it is about their personal life. Regrettably, what these CEOs are doing is lying to their shareholders. It is equally bad and they should be punished and sent to jail.

RECOGNIZING ED MEZEUL FOR 45 YEARS OF SERVICE TO FULLER BRUSH COMPANY AND ORANGE COUNTY

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

Ms. SANCHEZ. Mr. Speaker, today, I rise to honor Ed Mezeul for 45 years of service as a top-selling Fuller Brush man. Ed proudly served our Nation as a gunner on a ship patrolling the Atlantic coast during World War II, damaging his eardrums in the process. He could have collected disability, but instead, he wore hearing aids and has worked 6 days a week since the 1950s.

At the ripe young age of 55, he moved his family out to Orange County, California, to start a new life, and his hard work and dedication earned him a spot on the Fuller Brush Company's top sellers list each and every month. At a time when the troubles of large companies like Enron and WorldCom are causing American workers to feel insecure about their futures, it is refreshing to hear stories like Ed's that remind us of a time when employees dedicated their entire working careers to companies that were loyal to them also.

WALK FOR HOPE TO CURE BREAST CANCER

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

Ms. ROS-LEHTINEN. Mr. Speaker, in October thousands of south Floridians will participate in the City of Hope's Walk for Hope to Cure Breast Cancer at Aventura Mall and Sawgrass Mills. Walk for Hope Against Breast Cancer will help raise funds for life-saving research at City of Hope Medical Center and Beckman Research Institute, a National Cancer Institute dedicated comprehensive center.

This walk is just one step in what will be a successful journey toward a cure for breast cancer. This year in south Florida alone almost 3,000 women will die from breast cancer. In addition, over 13,000 women will be diagnosed with breast cancer in my area.

I congratulate event cochairs of the walk, Lauryn Gilliam, Billy Fischer, Suzanne Chesser, and Cathy Blanchard. I also commend the City of Hope and all involved with Walk for Hope for their dedication in our battle against breast cancer.

CORPORATE FRAUD

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

Mr. BROWN of Ohio. Mr. Speaker, yesterday, President Bush gave a major speech on his plan to curb executive greed and corporate misgovernance. Someone should tell the President, actions speak louder than words.

Responding to his corporate contributors, President Bush supported weak pension and accounting reform bills in the House. He refused to support legislation to close loopholes that allow American companies to avoid U.S. taxes by moving offshore. He has openly supported the idea of turning Medicare and Social Security over to the private sector. Apparently, the President and his Republican allies in the House believe Medicare would be better run by the health insurance industry, major Republican contributors; and Social Security would be safer in the hands of Wall Street, again major Republican contributors.

So my colleagues understand if I view the President's plan to deal with the recent spate of corporate scandals a bit skeptically. To borrow a famous line from a long-ago civil rights speech, ''Don't tell me what you believe; tell me what you do, and I'll tell you what you believe.''

SUPPORT FOR LESS-THAN-LETHAL PROVISIONS OF ARMING PILOTS AGAINST TERRORISM ACT

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

Mr. STEARNS. Mr. Speaker, today we will debate H.R. 4635, the Arming Pilots Against Terrorism Act. I urge my colleagues, of course, to support this; and I am especially pleased that Chairman MICA of the Subcommittee on Aviation has offered a manager's amendment that has a provision to give authority to flight deck crew to carry less-than-lethal weapons.

This sensible measure supports the National Institute of Justice's findings that less than lethal weapons may also play a role in flight security. The NIJ recently reported to the Subcommittee on Aviation that ''Electrical shock weapons show promise for use by the flight deck crew. However, substantial systematic testing in realistic settings of their effects is essential to ensure they will not damage or disable critical flight systems.''

So, Mr. Speaker, in addition to firearms, we should expand and explore weapons alternatives that are available to pilots to defend their aircraft.

WE NEED ACTION, NOT RHETORIC

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

Mr. DEFAZIO. Mr. Speaker, the President had an opportunity to show strong leadership and get tough with corporate crooks yesterday. His speech was long, 27 minutes, on rhetoric but is short on action.

The Business Roundtable and the National Association of Manufacturers applauded loudly; they endorsed it. Of course, they are the same people who fought every reform that was proposed over the last decade that could have prevented these abuses. They loved the President's proposal because it was short on action.

The aide to the White House said, well, the proposals were watered down over the last few weeks because the President did not want to hurt the economy by imposing too much regulation. Hurt the economy? What has WorldCom done by evaporating $80 billion of equity, thousands of jobs and people's IRAs and 401(k)s? What has Enron done by manipulating the energy market and driving up energy costs in the western United States by 40 percent, while Ken Lay, the President's favorite guy, stole $100 million? That is hurting the economy.

We need action, not rhetoric.

CORPORATE RESPONSIBILITY

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

Mr. PITTS. Mr. Speaker, a crook is a crook whether he is dealing drugs in an alleyway or cooking the books to cheat employees and shareholders. If someone commits a crime, they should do the time, and I am glad to say we have a President who understands this. Yesterday, President Bush went right to Wall Street to tell corporate America to clean up its act, and I believe they will.

We should all be clear about one thing, the vast majority of America's corporations are run by honest and trustworthy people. For every Enron and WorldCom, there are thousands of companies who have done nothing wrong at all, but when it comes to corporate executives who are willing to cheat their own employees out of their retirements just to add a couple of dollars to their stock prices, in those cases, we should have zero tolerance.

□ 1015

Somehow, during the 1990s, some executives decided it was okay to cook the books a little. Well, it is not okay to cook the books, and America's executives need to know if they do cook the books this government is going to come down on them hard.

I applaud the President for his leadership.

DO SOMETHING, CONGRESS

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

Mr. ROEMER. Mr. Speaker, there is an old saying about getting prepared enough to address a problem, and it goes something like this: Nero fiddled while Rome burned.

Well, the House Republican leadership has not even picked up the fiddle to address some of the problems that we have in the world today that are a result of the terrorist attack on 9–11.

Today, we have one single vote all day in the House of Representatives, when in fact there are three important pieces of legislation that are bipartisan that we could bring up today. One is the intelligence authorization bill that is languishing in the Committee on Rules.

Why does the House Republican leadership not bring up a bill that funds our intelligence community and begin some reforms to correct problems from the past?

Secondly, we have a defense emergency supplemental to pay for our troops in Afghanistan. That is not on the floor.

And thirdly, a bipartisan AmeriCorps bill to make sure that our volunteers that want to do something in America can respond to the concerns there.

Let us have the House Republican leadership tell us why these bills are not on the floor.

H.R. 3763, CORPORATE AND AUDITING ACCOUNTABILITY, RESPONSIBILITY, AND TRANSPARENCY ACT

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

Mr. PENCE. Mr. Speaker, yesterday the President of the United States offered a clarion moral call for corporate responsibility and personal accountability, yet we hear our colleagues on the other side of the aisle this morning lamenting that the President has spoken words but he has done little.

The gentleman from Ohio (Mr. BROWN) just said, tell me what you do, and it is a fair question. I would respond to the gentleman that what we did in April of this year, with the support of 119 Democrats in this institution, was to pass the Corporate and Auditing Accountability, Responsibility, and Transparency Act.

In so doing, we prohibited firms from providing consulting services that are doing auditing, we created a new oversight board, plain English requirements, criminality for interfering with audits, just to name a few. One hundred nineteen Democrats voted for this measure. This body has acted.

As the Democrat leadership yesterday lamented inaction in Washington, D.C., they ask us, as Groucho Marx did, Mr. Speaker, ''Who you gonna believe, me or your own eyes?''

ENOUGH IS ENOUGH

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

Ms. BALDWIN. Mr. Speaker, over the last several weeks, the voices in favor of sweeping corporate reforms have been loud. Now I believe it is time for Congress' actions to be tough.

Virtually every day brings another announcement in which a company has cooked their books, misled investors, or threatened the jobs of American workers. In my home State of Wisconsin, Enron and WorldCom's deceptions have caused the public employee retirement system to lose over $110 million. This retirement system is the safety net of nearly half a million current and former public employees, including thousands of hardworking teachers and policemen.

It is time that this House and this Congress say enough is enough and restore the confidence that investors had in the corporations of this Nation and the confidence that our constituents had in this government by walking the walk of all the talk.

HOUSE HAS ACTED, OTHERS ON THE HILL HAVE NOT

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

Mr. HAYWORTH. Mr. Speaker, there is much that my friend from Wisconsin had to say with which I agree. Now let us get to the rest of the story.

My friend from Indiana made it clear: On April 24, this House, the Republican majority, with 119 of our friends across the aisle in the Democratic Party, a strong bipartisan majority, came together to reaffirm accounting reforms, investor transparency, and to end the deception.

Mr. Speaker, I am aware that we cannot characterize action or inaction on the part of the other body, so, Mr. Speaker, let me say it this way: What are some on this Hill waiting for?

The President made it clear yesterday, Mr. Speaker. Whether an individual sits in a board room or is a common street thug, if they try to rob an American citizen, they will be convicted by a jury of their peers and they will go to jail.

Mr. Speaker, we put the robber barons of the 21st century on notice today that we will not stand for fraud and deception and deceit and theft from the American people. The House has acted, others on this Hill need to follow suit.

CORPORATE ACCOUNTABILITY SHAREHOLDERS' RIGHTS

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

Mr. STUPAK. Mr. Speaker, there is anger and indignation all across this Nation about corporate shenanigans. This anger has manifested itself in a wide range of legislative proposals.

But let us remember, Mr. Speaker, that it was this very House that gave the green light to corporate executives to lie to their board and their stockholders. The Private Securities Litigation Reform Act of 1995 was part of the Contract With America. It was vetoed by President Clinton but was passed over that veto.

Mr. Speaker, we turned these corporate carnivores loose by shredding the ability of shareholders to hold executives accountable for their misstatements and misdeeds. And we put the stake in the heart of shareholders' rights by passing the Securities Litigation Uniform Standards Act of 1998. This act threw all security fraud class action suits into Federal Court where they were subject to the terms of the PSLRA.

Anything we try is a legislative Band-Aid until and unless we restore shareholder rights. Support the Shareholder and Employee Rights Restoration Act of 2002, which the Republican leadership refuses to allow to come to this floor.

ESA REFORM 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, those of us in the West are in desperate need of some real reform to the Endangered Species Act. If we fail to implement commonsense changes to the Endangered Species Act, the act itself will be in danger.

Too often ranchers, farmers and local governments are finding themselves and their scientific data overruled by emotion, the emotion of the U.S. Fish and Wildlife, an agency often guided in their decision-making by well-funded, emotionally driven environmental groups.

I have seen firsthand the misuse of the ESA. In Nevada, the State Department of Wildlife had decades of biological scientific data recommending that the bulltrout in Elko's Arbidge River not be listed as an endangered species. Yet the State's scientific data was thrown out the window by the U.S. Fish and Wildlife, not because of competing Federal science but because of a petition drive by a special interest group instead of sound science.

We all want to protect endangered species. However, we should do so in a fair manner based on scientific evidence and not personal emotion.

Passing ESA reforms will restore integrity to the law, ensuring that both environment and the interests of our communities are protected.

SUPPORT SARBANES LANGUAGE

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

Mr. CLEMENT. Mr. Speaker, I heard what President Bush had to say, but I also want to say to the Bush administration, we have to get tough.

I say that we have to get tough because when we see what has happened with Enron and Global Crossing and WorldCom and all the others, we have a double standard in this country. If the average rank-and-file employee of Enron had stolen the trust funds of the top management, they would already be in jail today. I do not think there is any doubt about it.

But where are the top management of these corporations? They are still living in their fine homes as if they have done nothing wrong and business is as usual. We cannot let that happen in America.

Our entire economic system is based on faith, confidence and trust. That is what is important in America, and that is what the people of America want. That is what the people of Tennessee want. I travel all over the State of Tennessee and I hear them talking about it.

We need to do something about it now. Support the Sarbanes language. That is a lot tougher than what we passed in the U.S. House of Representatives.

H.R. 4635, ARMING PILOTS AGAINST TERRORISM ACT

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

Mr. BOOZMAN. Mr. Speaker, I rise today in support of H.R. 4635, the Arming Pilots Against Terrorism Act. This responsible legislation establishes a trial program to deputize pilots to carry guns in the cockpit, which would provide one last line of defense against terrorist attacks.

We have made great strides since 9–11 to ensure that air travel is safe from terrorist threat. However, heightened security and reinforced cockpit doors are not enough. And while I am in full support of the Federal air marshal program, the reality is that there are not enough air marshals for every flight.

I have spoken with a number of pilots who support the concept of guns in the cockpit, and a majority of my constituents have voiced their desire to have this added level of security on their flights.

Mr. Speaker, the terrorist threat is real and our aviation system is still vulnerable to attacks. I commend the gentleman from Alaska (Mr. YOUNG) and the gentleman from Florida (Mr. MICA) for their hard work in the Committee on Transportation to create this sensible plan and encourage my colleagues to vote ''yes'' on H.R. 4635.

CORPORATIONS MUST OPERATE WITH FAIR PLAY

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

Ms. DELAURO. Corporate scandals: Enron, WorldCom, Tyco, Rite-Aid, Xerox. These are part of a much bigger problem. People in powerful positions acting irresponsibly, hurting investors and employees, jeopardizing people's pensions and retirement systems, and they are not being held accountable. In fact, they are being rewarded.

It begs the question: How do we explain in this period that so many of our leading companies, like Stanley Works in New Britain, moves its corporate headquarters to the Bahamas to take advantage of a loophole in our tax laws? How do we explain to our children in these times that a WorldCom can create phony profitability along with CEOs' salaries rising which costs in an instant 17,000 jobs? How do we explain the executives of Enron who cash out for billions leaving their employees with worthless pensions? What values did these high executives bring to work every day? These are the people who told us to run the government like a business.

Democrats support legislation that would require honest accounting, independent investment advice, sensible regulation, and criminal penalties for those guilty of corporate wrongdoing.

We can have economic growth without corporate crime. That was not the legislation that was passed in this House by this Republican majority. Support the Sarbanes legislation in the Senate.

MAJORITY OF AMERICA'S CORPORATIONS AND AUDITING FIRMS ARE HONEST AND LAWABIDING

(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, I am simply outraged at the revelations day after day that corporations have cheated and betrayed the trust of investors and employees by seeking personal gain while their companies floundered. We must hold each one of these criminals accountable for the abuses they have committed.

I am pleased with the strong leadership that President Bush has shown by speaking bluntly and acting quickly. Businesses and corporate officers are not exempt from fair play and should be held to the utmost standards of ethics and decency of character. House Republicans on April 24 passed a responsible corporate reform bill, and it should be considered and enacted to restore confidence in the economy.

However, with all the scandals that are splashed across the media, I am confident that the overwhelming majority of companies and accounting firms are morally responsible and law-abiding organizations that deeply care about the welfare of their investors. It is my hope leaders will arise in these companies, people involved in their communities, in a positive way that will reclaim the respect and dignity of their positions.

□ 1030

TIME FOR REAL REFORM

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

Mr. WELLER. Mr. Speaker, I come to the floor in anger and outrage about the corporate scandals that we have seen in the newspapers over the last several months. I am outraged about Enron, Martha Stewart's insider trading, Global Crossing and the other companies that are demonstrating a lack of good faith in the free enterprise system, which I support. I stand in strong support of free enterprise and small business and giving every American worker the opportunity to move up the economic ladder. I commend what President Bush stated yesterday in his efforts to root out corporate corruption.

If we support free enterprise, we want to clean out the bad apples. Unfortunately, the greed of the 1990s has come home to roost.

Mr. Speaker, the House has acted. In April the House of Representatives passed accounting reform. Earlier this year, the House of Representatives passed pension reform to protect the pensions of American workers. Unfortunately, the Senate is only today beginning to act.

My hope is the House and Senate can work quickly together to pass accounting reforms, pass legislation to protect America's pensions. I would note that the Democratic leader of the House, the gentleman from Missouri (Mr. GEPHARDT), who yesterday called on the House to act, voted against accounting reforms in April. It is time for real reform. Fortunately, the House has acted. My hope is the Senate will act, and we will get the job done.

REFORM AUDITING STANDARDS

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

Mr. KINGSTON. Mr. Speaker, what is the difference between stealing from shareholders or stealing from people's retirement accounts and stealing a purse on the subway? It is no different. Lawbreakers ought to be punished by going to jail.

That is why the Republican Party, against the leadership of the Democrat Party, passed in April the Corporate and Auditing Accountability, Responsibility, and Transparency Act. This bill,

which was passed in April, opposed by the Democrats who are now crying for reform, included auditor independence, a new oversight body called the Public Regulatory Organization. It would have to certify any accounting wishes to audit the financial statements required from public issuers of stock. It also states that officials cannot interfere with audits. It would be unlawful for company officials to interfere with the auditing process. Finally, it has no executive training during blackout periods in order to protect 401(k)s.

This reform is now being held up by the Democrat leadership in the other body. Let it pass. Let us go to conference and do what is best for the American people and put partisan politics aside.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. COOKSEY). The Chair reminds Members to avoid improper references to the Senate.

ARMING PILOTS AGAINST TERRORISM ACT

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 472 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 472

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4635) to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII and except pro forma amendments for the purpose of debate. Each amendment so printed may be offered only by the Member who caused it to be printed or his designee and shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

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

Mr. REYNOLDS. Mr. Speaker, House Resolution 472 is a fair and balanced modified open rule providing for the consideration of H.R. 4635, Arming Pilots Against Terrorism Act, with 1 hour of general debate equally divided and controlled by the chairman and the ranking minority member of the Committee on Transportation and Infrastructure.

The rule waives all points of order against consideration of the bill and against the committee amendment in the nature of a substitute.

The rules also provides one motion to recommit with or without instructions.

Mr. Speaker, tomorrow will mark the 10-month anniversary of the horrific tragedy of September 11 when four airplanes were used against us as weapons, resulting in tremendous loss of life, significant property damage, and an immeasurable sense of vulnerability.

Since that time, this Congress has worked together to produce comprehensive legislation to improve, enhance and expand our Nation's aviation security system. President Bush signed the Aviation and Transportation Security Act into law on November 19, 2001.

Many of the changes from that law are already apparent throughout the country, both inside terminals and onboard planes. Yet incidents such as the shooting at Los Angeles International Airport on July 4 that killed two innocent bystanders reminds us that we must be vigilant in our efforts to combat acts of violence and terrorism on all fronts.

One critical way that we can provide a final layer of defense against terrorists gaining control of a commercial aircraft is by allowing pilots to carry firearms aboard aircraft in order to defend the cockpit from hijackers.

The legislation before us today will direct the Transportation Security Administration to deputize 2 percent of pilots, on a voluntary basis, for a 2-year test period. Participants will undergo extensive firearms training similar to that of the air marshals.

The Committee on Transportation and Infrastructure and the Subcommittee on Aviation produced this bill and worked closely with the airline pilots to craft the language. As a result, they have presented to this House a bipartisan package, a package that was reported out of full committee by voice vote and one that reflects the needs and concerns from Members on both sides of the aisle.

All of the major pilots' organizations support the measure, led by the Air Line Pilots Association, the world's oldest and largest pilot union representing more than 66,000 cockpit crewmembers at 43 airlines in the United States and Canada.

In fact, the chairman of the Air Line Pilots Association International's National Flight Security Committee, Captain Stephen Luckey, testified at a hearing held by the Subcommittee on Aviation on May 2, 2002.

As he outlined the continuing threat and dramatic economic repercussions of future terrorist attacks, Captain Luckey said the following: ''It is obvious, or should be, that protecting the flight deck and its occupants against hijackers is now tantamount to protecting our national economy. The Air Line Pilots Association strongly endorses and supports this bill and we urge Congress and the administration to work together to ensure its passage.''

It is imperative that we take every step possible to protect our aircraft, our citizens and our country. Arming pilots may be just one component of a larger plan to provide security, but it will play an integral role in deterring catastrophic terrorist acts.

Mr. Speaker, I strongly urge Members to support this rule and the underlying legislation.

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

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

Mr. Speaker, I thank the gentleman from New York (Mr. REYNOLDS) for yielding me the customary time. While I will support the rule, I must express slight disappointment with the majority. This is not a totally open rule.

We are just back from our Independence Day work period, but this rule requires Members to have preprinted any amendments in the CONGRESSIONAL RECORD at least one day before the bill is considered. Many Members have had little notice and opportunity to prepare amendments for this significant legislation. But having said that, I will support the rule.

The bill under consideration today, H.R. 4635, would authorize a 2-year test program allowing guns in the cockpit for a limited number of pilots. Prior to deputizing pilots, the Transportation Security Administration is required to establish within 2 months a plan for carrying guns, including the types of weapons allowed, types of ammunition, gun storage, interaction with air marshals, and limitations on removing the gun from the cockpit.

We are committed to providing as much security as possible for the flying

public. September 11 was a devastating day, and we must do everything in our power to try and prevent it from ever happening again. I commend the members of the Committee on Transportation and Infrastructure, particularly the gentleman from Alaska (Mr. YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Florida (Mr. MICA), and the gentleman from Illinois (Mr. LIPINSKI), for working hard to craft a bipartisan compromise in the long-standing tradition of that committee. The bill before us is certainly an improvement over what was originally introduced.

I also understand the feelings of many pilots who support this bill. As well-trained, dedicated professionals, they are committed to protecting their passengers and fellow crewmembers. But, Mr. Speaker, I do have some concerns.

The Aviation and Transportation Security Act, the law which created the Transportation Security Administration, gave that agency the authority to decide whether or not pilots should be armed. John Magaw, the Under Secretary of TSA, announced in a Senate Committee on Commerce hearing held on May 21, 2002, that TSA opposes arming pilots.

Mr. Magaw made clear that he had several concerns about introducing firearms in the cockpit, and he testified that his agency was still looking at a range of options for pilot protection, including nonlethal weapons.

It is unclear to me why, after granting the decision-making authority to the experts at TSA, that this body feels the urgent need to override those experts. To be honest, I would have preferred that this House fashion an approach that has the support of the Transportation Security Administration and has the support of the Bush administration. This is an important issue. We are talking about how best to provide security to the flying public, the pilots and the flight crew, and how to avoid a reoccurrence of September 11. We need to get this right and do what works. We need to be thoughtful and thorough.

Patchwork approaches that do little to reassure the flying public may compromise our ability to provide the best possible security for passengers and flight crews.

I know that some members of those flight crews, the flight attendants, have expressed strong reservations about the adequacy of the training measures for them contained in this bill, and I hope that their concerns will be addressed.

Our aviation system still has a long way to go before all of the security measures we mandated last year are fully in place. Cockpit doors need to be permanently strengthened. The air marshal program is not yet fully staffed, and training is not yet complete. Baggage screening procedures are still being worked out. And the feasibility of nonlethal weapons such as stun guns is still being studied.

Mr. Speaker, there are a lot of unanswered questions out there, and I am hopeful that this House will work in a thoughtful, bipartisan way to answer them. I look forward to a good strong debate, a debate that begins to address some of those questions. Again, I support this modified open rule.

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

□ 1045

Mr. REYNOLDS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

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

Mr. DREIER. Mr. Speaker, I thank my friend for yielding me time, and I rise in strong support of this rule.

Mr. Speaker, we are dealing with, obviously, a very difficult situation when it comes to the American people who travel by air. On July 4 at Los Angeles International Airport, the area near where I represent, we saw a tragic shooting take place at the El Al terminal. We, of course, have for literally decades seen the hijacking of aircraft, and the greatest change, of course, took place when the definition of hijacking changed on September 11. It changed from simply having an aircraft commandeered and taken to another spot, to having aircraft used as weapons. It was obviously a horrible time for us.

Since September 11, we have spent a great deal of time trying to figure out exactly what steps we can take, and I believe it is very apparent that we have taken positive steps that have dramatically improved the security concerns that exist for the traveling public.

This proposal that we are going to deal with today, and I would like to praise the gentleman from Florida (Mr. MICA) and the gentleman from Minnesota (Mr. OBERSTAR) who made an excellent presentation before our Committee on Rules yesterday, this proposal is one which is not by any stretch of the imagination a panacea to the challenges that exist when it comes to safety for those traveling. But it is, I believe, one step towards increasing the safety level.

The gentleman from Minnesota (Mr. OBERSTAR) in his testimony before the Committee on Rules yesterday talked about the fact that we wanted to ultimately get to the point where these pilots do not have to carry weapons, but allowing them to have the opportunity to do that at this point, when we do not have all of the safety measures put into place on aircraft, is clearly a correct step. So at the end of the day there will be many other things that are going to be done.

Increasing the safety of the cockpit itself is something we are working on doing, and other steps. But we cannot let the terrorists succeed in preventing the free flow of the American people around this country or people around the world. So that is why this step is a positive one.

We have offered a modified open rule which simply had the prefiling requirement for amendments, and we will now be in a position where we can have a free-flowing debate and pass what I think is a very important step to deal with a very, very serious situation.

Mr. MCGOVERN. Mr. Speaker, I yield 4 minutes to the gentleman from Oregon (Mr. DEFAZIO), a member of the Committee on Transportation and Infrastructure.

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

There is, as the gentleman preceding me in the well said, an ongoing threat. In fact, there are threats to all facets of transportation, and we cannot ignore one in favor of another. Unfortunately, we do not have that luxury. But in the case of aviation, I do believe there is an ongoing threat. It may not be the commandeering of aircraft and their use as weapons of mass destruction again. It may be more the threat of explosive devices, either individual or baggage or freight carried.

But we cannot ignore the fact that our planes were commandeered, that innocent people were slaughtered and civilian airliners were used as weapons of mass destruction; and we have not yet totally assured that that cannot happen again.

The flight decks are still vulnerable. On the flight I took on Monday, I just watched on my watch, they had a particularly lackadaisical pilot and flight crew; they left the door to the flight deck open for 15 minutes during one cross-country flight, while the flight attendant, who has not yet had any training from United Airlines, stood menacingly behind the food cart to ward off any attempts to overtake the flight deck. That is not real security.

The issue before the House today will be of arming pilots. Now, either we assess that there is a credible threat, or there is not. If there is a credible threat, the base bill before us today makes little sense. It would say that no more than 2 percent of the pilots might be armed, trained and armed; no more than 2 percent. Given pilots' flight schedules, that means on a daily basis less than three-fourths of 1 percent of pilots might be armed.

Now, if I was a terrorist intent on taking over a plane and causing murder and mass destruction, odds of 99-point-something to 1 would seem pretty good to me that there was not a weapon on that plane. I do not think that is enough. Why? If there is a threat and if it is good enough for 2 percent of the pilots, why not all of the pilots?

So I will be joining with the gentleman from Washington (Mr. NETHERCUTT) and others to offer an amendment today to not cap the program, to allow any pilot who wishes to volunteer, who is qualified, who can successfully complete the training and

qualifications, to be armed properly onboard planes.

Remember, this is the last point of defense. The standing orders of the Armed Forces of the United States are if a plane has been commandeered, if it is diverted toward a city, it is to be shot down. Now, you say there is risk with guns on the flight deck. That is true. But I will tell you, if I was sitting up there strapped in my seat, watching people commandeer a plane, at first I would try to stop them, but if they did take it over, I would much rather the pilot have the option to defend the flight deck than the United States Air Force having the option of taking that plane down. So I believe people should support that amendment.

There also should be an amendment today, although I believe now it is not going to be offered, but to mandate that the FAA stop dragging its feet, the TSA, and train adequately all the flight crews, including the flight attendants.

There is this attitude over at the FAA bureaucracy and the TSA of ''manana.'' We do not yet have the armored flight deck doors approved. Ultimately, we should be moving toward a redesign of the airplane where the pilots are up there with a lav, with food service, behind an armored flight deck door, like on El Al; and on El Al they do not arm the pilots anymore because they are in an invulnerable spot.

But you are still going to have the flight attendants back there with the passengers. The flight attendants need proper training. They need coordination training to deal with air marshals, to deal with the flight crews up on the flight deck. They also need some self-defense training.

It has been suggested that the airlines should do that sometime in the next 15 or 20 years. But, you know, it costs a little bit of money to train people, and you divert people from their schedules and you have got to pay them their salaries, so the airlines are not really very interested in doing that.

We need to mandate that much more assertively in this legislation. We thought we mandated it in legislation we passed last November, but it is being ignored by a number of the airlines and by the bureaucrats. We need to do better today.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. BOOZMAN).

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

As a member of the Subcommittee on Aviation, I rise in strong support of the rule and of the Arming Pilots Against Terrorism Act. The modified open rule provides for an equal debate on this fair and balanced legislation.

I would like to commend the gentleman from Alaska (Chairman Young) and the gentleman from Florida (Chairman Mica) for introducing the Arming Pilots Against Terrorism Act. With the input of the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI), I think we have come up with some very responsible legislation that establishes a pilot program for deputizing pilots to carry guns in the cockpit.

We have made great strides since 9–11 to ensure that air travel is safe from terrorists. However, we are years from equipping all planes with reinforced cockpit doors, and currently we do not have air marshals on every flight.

H.R. 4635 provides a strong layer of security and an important last line of defense against terrorist hijackings. It allows qualified pilots to volunteer to carry guns and to use deadly force to defend the cockpit against terrorist hijackings. Passengers entrust pilots with their lives every time they board a plane. In addition, many pilots have a law enforcement or military background and have experience with firearms.

Mr. Speaker, the terrorist threat is real and our aviation system is still vulnerable to attacks. The bill, as it stands, is the result of a bipartisan compromise which the Committee on Transportation and Infrastructure worked very hard to produce. I encourage my colleagues to support the rule and vote yes on H.R. 4635.

Mr. MCGOVERN. Mr. Speaker, I yield 4 minutes to the gentleman from Tennessee (Mr. CLEMENT), an effective member of the Committee on Transportation and Infrastructure, who has been very much involved in this issue.

Mr. CLEMENT. Mr. Speaker, I want to congratulate the gentleman from Massachusetts (Mr. MCGOVERN) on being the new member of the Committee on Rules. I know Mr. Moakley would be most pleased that you are on there, and you definitely deserve it.

Mr. Speaker, I stand as a senior member of the Committee on Transportation and Infrastructure in strong support of the rule as well as the bill. I want to congratulate the ranking member, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Alaska (Chairman Young), along with the gentleman from Florida (Chairman Mica) and the ranking member, the gentleman from Illinois (Mr. LIPINSKI), for their leadership and cooperation on this most important bill. The manager's amendment to H.R. 4635, the Arming Pilots Against Terrorism Act, is a testimony to the ability of both sides of our committee to find common ground and work together to address the concerns on all sides of this issue.

I want to briefly voice my strong support for the manager's amendment to H.R. 4635. Immediately following the attacks of September 11, which none of us will ever forget, I voiced my intention to provide qualified pilots the right to carry firearms in the cockpit. I believe that pilots must have the voluntary right to arm themselves to ensure the safety and security of their passengers and the aviation system. The manager's amendment to H.R. 4635 does just that, by allowing carefully screened, properly trained and equipped airline pilots to be commissioned as Federal law enforcement officers and to carry firearms for flight deck defense.

The American people trust the pilots of our Nation's airlines to safely transport them to their destination. I think they also trust them to carry firearms for domestic flights to help guarantee their safety. This bill sets up a 2-year test program that will deputize approximately 2,000 pilots following the completion of training set forth by the Transportation Security Administration.

While I would like to see that any eligible pilot who wants to be trained to carry a weapon in the cockpit is allowed to do so, I recognize that the compromise before us represents a thoughtful middle ground that will both enhance security and ensure a workable program. Voluntarily arming our pilots will give us a new last line of defense against hijackers and terrorists, and I hope that my colleagues will join me in supporting the manager's amendment to H.R. 4635.

I want to say to the gentleman from Florida (Mr. MICA), he has been outstanding on this and was vocal from the first day when the Bush Administration would not cooperate, would not support any consideration of firearms in the cockpit. We have just got to have common sense and good judgment prevail, whether it is on this issue or whether it is on screening, because we hear a lot of talk these days from passengers that fly all across this country and worldwide, and they are still very concerned that we are not back to normal, and we need to get back to normal as fast as we possibly can. Our economy is impacted by not getting back to normal.

Yes, we are the one and only superpower left on Earth. One of these days that probably will change; it will be the United States and China that will be the two great superpowers on Earth. Today, we are definitely a target, whether we like it or not.

Yes, we have to take precautions. Yes, we have to make some adjustments in our lives. But, yes, we can live normal lives as well. That is what we want to do in this legislation and that is so vitally important to us, because we do trust our pilots, because we trust them with our lives when we get on that airline, when we travel from pillar to post, all across the country.

□ 1100

So let us get behind this legislation, and let us support this legislation in order for it to pass, in order for it to be sent to the President and signed into law.

Mr. REYNOLDS. Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. MICA), the distinguished chairman of the Subcommittee on Aviation of the Committee on Transportation and Infrastructure.

Mr. MICA. Mr. Speaker, I appreciate the gentleman yielding me this time.

We do have before us the question of passing a rule and then going on to debating the question of allowing pilots to defend themselves.

First, I would like to speak in favor of the rule. I think this is a fair rule. We have tried to approach this issue in a fair manner to give both those on the subcommittee and the gentleman from Alaska (Mr. YOUNG) and the full committee, everyone, fair and equal opportunity to look at the situation, to contribute to the legislation, and to try to improve safety and security for the flying public.

Now, why are we here and why are we debating today? We are here because we are representatives of the people. We are here because the most terrible attack in the history of the United States took place against our Nation and our people on September 11. We are here because as representatives of the people, we have one responsibility as a primary responsibility, and that is to ensure our national security, our domestic security, and the personal security of every American citizen. We represent the people. We come here and we learn the facts dealing with security issues, and we have a responsibility to set the laws.

Now, we have heard that there may be some amendments offered here today, and there will be, and they need to be openly and fairly debated, and this rule gives that ability. Everyone will have their say. It is my hope that the end product will be something that can ensure the safety and security of the flying public. It can make each of us, whether we get on a plane individually or our family or our children or our friends, and know that they are secure.

Would I like to have different measures in place? Yes, I would. Would I like to have every pilot have the ability to defend himself or herself in the cockpit, the crew, the passengers, and the aircraft? Yes, I would. But this is a compromise, and this body is a body of compromise. We come from all over the Nation with different ideas and different opinions, and we meld them together here, again, hopefully in unity to do the best job possible to protect the American people. So that is what we hope to achieve today.

We have heard that there has been some opposition in the past from some in the administration, some bureaucrats. Well, bureaucrats set the rules. We set the policy and the laws, and we will today begin formulating the law based on what we know. We know that we are particularly vulnerable at this time of transition. We have taken an all-private aviation sector and airline-run security system into a federalized system, and it will be several years before we have all of the security measures we would like to see in place. So this is an interim measure; it is a backup measure. But again, we will have the opportunity to debate.

Now, I will say in closing here, I have agreed in a bipartisan fashion with the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI), the ranking members of the full committee and the subcommittee, to oppose any of the amendments that we do not all agree upon, and I think that is a gentleman's commitment that I will keep throughout this debate. There are some good amendments. There are some amendments I would personally favor, but I will oppose them.

Again, this is a fair rule and an open rule, and I urge the adoption of the rule.

Mr. MCGOVERN. Mr. Speaker, at this time I yield 3 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

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

I certainly want to thank our own ranking member, the gentleman from Minnesota (Mr. OBERSTAR); and I very much want to thank the gentleman from Alaska (Mr. YOUNG), the chairman of the full committee, and the gentleman from Illinois (Mr. LIPINSKI), the ranking member of the Subcommittee on Aviation, because they have worked very well together to get a bill that was much improved.

I regret that I must, nevertheless, oppose the underlying bill. I think I am in good company. I would say it is top-down company. It begins with the President of the United States and goes to the Secretary of Transportation, Mr. Mineta, the Secretary of the Transportation Security Agency, Mr. Magaw, and then to the flight attendants, and on and on it goes.

What do these experts know that we do not know? Or should we not be asking ourselves this morning, What is it that we do not want to know? We are rushing to the security blanket of guns in the cockpit that could do more harm than good, and that is the test. As transparent as it seems, will guns in the cockpit do more harm than good? Which is worse, guns or no guns? Why is it that every European nation, every nation in the world has decided to disarm its pilots? For me, the ultimate example is El Al, which disarms its pilots, but faces risks I hope we shall never look in the face.

Now, I could support this bill if it followed the El Al example. El Al, in fact, armed its pilots until it had put every single safeguard in place: locked cockpits, and everything on the ground that they needed to have done. And then what did El Al do? It disarmed its pilots.

Now, if this bill had a provision in it that said, our pilots will be disarmed when A, B, C, D and E go into effect, I could support this bill.

They disarmed their pilots, and everybody but us does so, because of the cost-benefit equation, and that is how policy should be made. Gun turmoil in the cockpit while keeping the plane flying, every nation in the world has concluded does more harm than good. One could prevail with the gun, but shoot the computer and still take the plane down.

The armed pilot, we are being told, is the last resort. According to everybody who knows, every nation who has had experience, every expert in our own government, the armed pilot is a very dangerous resort that risks passengers and planes.

We asked for a study of nonlethal weapons. That is not even in yet. We are hopping over that study to arm pilots.

I appreciate the work that has been done. I respectfully disagree.

Mr. REYNOLDS. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. DUNCAN), the former chairman of the Subcommittee on Aviation and now the chairman of the Subcommittee on Water Resources and Environment.

Mr. DUNCAN. Mr. Speaker, I want, first of all, to thank the gentleman from New York (Mr. REYNOLDS), my good friend, for yielding me this time. I rise today in strong support of the Arming Pilots Against Terrorism Act and the rule that brings this bill to the floor.

I want to commend the gentleman from Alaska (Mr. YOUNG), the chairman of the full committee; and the gentleman from Florida (Mr. MICA), the chairman of the Subcommittee on Aviation; and the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the full committee; and the gentleman from Illinois (Mr. LIPINSKI), the ranking member of the Subcommittee on Aviation, for bringing this very reasonable and very moderate bill and this pilot program to the floor of this House.

The Boston Herald editorialized about this and said, ''No one is proposing that a pilot be required to carry a gun, only that he or she have the option. There is probably no more professionally responsible group of people in America than airline pilots.''

They went on to say, ''If pilots will be reassured, if they will gain a little more confidence on the job from having a last-ditch defense before an F–16 shoots down the plane and kills everybody anyway, they should be allowed to carry arms. A large fraction have military backgrounds and will need little training.''

The Wall Street Journal editorialized about this issue and said, ''Arming pilots is an important security measure. Federal air marshals will never be able to protect more than a small fraction of flights. It shouldn't take another disaster before we get serious about keeping hijackers out of the cockpit.''

The Chicago Tribune said, ''The chief value of an armed pilot is to deter terrorists from getting on the plane in the first place. Even if they could get weapons past security, overcome air marshals, flight attendants, and passengers, and penetrate the cockpit

door, they would then find themselves staring down the barrel of a gun. That prospect would create a powerful incentive for terrorists to give up on the idea entirely.''

As we all know, the tragedies of September 11 have dramatically changed the way we look at aviation security. Now, more than ever, we need to make sure that we are doing everything we possibly can to protect the flying public. Mr. Speaker, I believe that includes arming pilots.

We passed the aviation security bill, and we did a lot through that legislation. This act will establish a pilot program that will allow only about 2 percent of the pilot workforce, about 1,400 pilots, to have guns in the cockpit.

I would just conclude, Mr. Speaker, by saying that these volunteer pilots would be trained by the Transportation Security Administration and would go through training similar to that of Federal air marshals.

I wish this bill could allow more than 2 percent of the pilots to participate, but I am glad to see this legislation at least moving forward. This is something that a majority of my constituents support as well as every pilots association group, and I think this Arming Pilots Against Terrorism Act will go a long way in protecting the American people by deterring terrorists and preventing future tragedies.

Mr. Speaker, I strongly urge that all of my colleagues support this very important legislation.

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

Mr. REYNOLDS. Mr. Speaker, we have had the privilege of hearing from two subcommittee chairmen, and I yield 3 minutes to the gentleman from Alaska (Mr. YOUNG), the chairmen of the Committee on Transportation and Infrastructure.

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman from New York (Mr. REYNOLDS) for his efforts and the Committee on Rules to bring forth a good rule, because really that is what we are supposed to be talking about.

Mr. Speaker, I would like to bring up a couple of points. Number one, when I originally sponsored this legislation, it is what I would like to have had adopted. There has been again this consultation, some agreements made, and I will oppose the amendments that will be offered, knowing full well that many of those amendments have great merit. But this is a small step forward, and it really should have been done a long time ago.

I would just like to ask my colleagues to think a moment. Do we really think that 9–11 would have happened if our pilots had been armed as they should have been armed, as they were armed in 1984? Do we think that those terrorists would have had a chance if they knew those pilots would have been armed and the pilots were trained, as they are under this bill, in knowing how to respond in case of an attack on the cockpit? Do we think for a second that the tragedy that occurred on 9–11 would have been a reality as it is today?

Now, I have heard people tell me, well, once we get all of the safety programs in place at the airports, we will not need to have an armed pilot. The captain of that ship is still responsible for the ship and his passengers, just as under maritime law, and I am one of those. Our duty is to protect the passengers, our cargo, and to maintain control of the ship at all times. The only way we can do that is make sure they are armed adequately to defend themselves and their passengers and their cargo against those who would take it away from them, such as a mutiny or a terrorist attack.

I suggest respectfully to those that oppose this legislation and those who say it is not necessary are not looking at the reality. We are not El Al. We are, in fact, having 20 million flights a day or a year take off from our airports. That is much more, it is much more than any other country. We are a nation of air travel. I think it is very, very important that we recognize that and pass this legislation and make sure that the President, the other body, and all of those involved in this understand that this is a final step to make sure that when I get on that airplane I will arrive safely at my destination, even if there is an attempt to take that airplane, because I know that pilot will have the ability to defend that cockpit and make my trip safer. That is what we are trying to do here today. It is a right, it is a necessity, it is what we should be doing on this floor for our flying people. It is important today to make sure we pass this legislation.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. WILSON).

Mr. WILSON of South Carolina. Mr. Speaker, it is a great honor for me to be able to be here today. I want to commend the chairman of the Committee on Transportation and Infrastructure, the gentleman from Alaska (Mr. YOUNG), for his leadership in having this bill presented to us today. I want to give the experience of State level, in that I was only elected in December, and I had previously served in the State senate of South Carolina. I had been the floor leader for the concealed weapons bill in South Carolina, which provided that persons who were trained, law-abiding citizens, could carry weapons in public places.

□ 1115

The effect of that over the last 8 years has been a reduction in crime. We have had tens of thousands of people who qualified to be able to carry weapons, and the effect has been to reduce crime. This bill will have the same effect; that is, it will reduce the hijacking potential at all times.

Of course, a lot of people will be concerned that maybe it will be a shootout at the O.K. Corral. That was what was stated about what occurred in South Carolina. It did not happen. Even the fiercest opponents of the concealed weapons bill now recognize that this was a positive move, one that reduced crime.

I again want to commend the chairman and also the gentleman from New York (Mr. REYNOLDS) for his leadership, and the gentleman from Florida (Chairman Mica) for his leadership.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. LIPINSKI), the ranking member on the Subcommittee on Aviation on the Committee on Transportation and Infrastructure.

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

Mr. Speaker, I want to thank the Committee on Rules for this very, very good rule dealing with this important piece of legislation. I sincerely appreciate it, and I am sure so does the chairman of the full committee, the gentleman from Minnesota (Mr. OBERSTAR). Also, the Committee on Rules has given us just about what we would like.

I also would like to put on the record that the Republican leadership of the Committee on Transportation and Infrastructure, the gentleman from Alaska (Mr. YOUNG) and the gentleman from Florida (Mr. MICA), have really gone out of their way to craft a bill that is really bipartisan. I appreciate that very much, and I am sure the gentleman from Minnesota (Mr. OBERSTAR) does also.

This is a bill that is, as is often said, finely crafted, and because of that, it is necessary for the leadership of the committee on both sides of the aisle to oppose any amendment that will break that finely crafted balance.

But I think it is a very good rule. I appreciate what the leadership of the committee on the Republican side has done to accommodate us on the Democratic side, and I have to say that even though I am happy to see that we have a number of amendments that will be presented, because I think they are very well-intentioned amendments, I will have to oppose each and every one of them.

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

Mr. Speaker, I would like to just again say that I expect we will have a good debate on this bill today. I am not sure what the fate of this measure will be once it passes the House, and I am not sure what the other body will do, whether it will take action on this, or even what the Bush administration would ultimately do if this were put on the President's desk.

But I would just hope that as we debate this that we will all be committed to urging the administration to move as aggressively as possible in implementing some of the other measures that have been passed and supported by this House and by the other body.

For instance, cockpit doors need to be permanently strengthened. The air marshal program is not yet fully

staffed, and training is not yet complete. Baggage screening procedures are still being worked out. There are other studies about ways to protect the cockpit and the flight crew. All these things need to be moved on aggressively, and I hope all of us will join together and urge the administration to move as expeditiously as possible, and certainly with greater speed than has been demonstrated up to this point.

Having said that, I support the rule, Mr. Speaker, and I yield back the balance of my time.

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

Mr. Speaker, this legislation represents the best of what our government is about, bipartisan coalitions working together not only to produce legislation, but to revisit issues that can be enhanced or improved as need be.

America is slowly regaining its confidence in traveling, in large part because of the swift action this Congress took last fall in the aftermath of September 11. But our work is not done. It is incumbent upon us to continue doing everything in our power to make sure that travel by any means, but especially by air, is as safe and secure as possible. Safe travel must include defenses on both the ground and in the air. Our vigilance today will provide a final layer of defense against terrorism in the skies and, more importantly, peace of mind for America.

I urge a yes vote on this rule and the underlying legislation.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. REYNOLDS). Pursuant to House Resolution 472 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4635.

□ 1120

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4635) to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Alaska (Mr. YOUNG) and the gentleman from Illinois (Mr. LIPINSKI) each will control 30 minutes.

The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

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

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Chairman, our Nation is stronger and better prepared today than on September 11. We have enacted numerous reforms which will make a repeat of last year's terrorist attack highly unlikely.

However, no system is perfect. We must remain vigilant in the face of the constantly evolving threat of terrorism. We are fighting an often invisible enemy, an enemy that appears to be preparing and training for additional terrorist attacks, and an enemy that seeks to obtain the most dangerous and deadly weapons to use against America.

This bill, H.R. 4635, will provide one last line of defense against terrorist hijackings. It will allow qualified pilots to volunteer to carry guns to use deadly force to defend the cockpit against terrorist hijackings. The pilots are already entrusted with the lives of every passenger on the airplane. Many of them have a law enforcement or military background and have experience with firearms.

The administration has been unwilling to act on this important matter, so I believe Congress must do so. The bill as it stands is the result of a bipartisan compromise. I believe it is one of the most important security issues we face today. I urge my colleagues to support this bill, and send a message with a strong bipartisan vote today.

There will be amendments, and the agreement has been put forth, so I will oppose all of the amendments. Although my original bill had many of those parts of the amendments to be offered, this is a bipartisan effort to try to get a bill to the Senate, the other body, and on to the President's desk.

Mr. Chairman, I heard in the debate on the rule that someone said the President probably will not sign this. I say he will sign it, because when people look at the logic of what we are trying to do today of arming the pilot, the captain of that ship, to defend that ship and his passengers against the terrorists, I think he will say that this has great wisdom.

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

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

Mr. Chairman, I rise in support of this legislation. I want to say that I thank first of all the ranking minority member of the full committee, the gentleman from Minnesota (Mr. OBERSTAR), for all the hard work that he put in, together with the chairman of the full committee and the chairman of the subcommittee, the gentleman from Alaska (Mr. YOUNG) and the gentleman from Florida (Mr. MICA), for the work that they put in to craft a truly bipartisan piece of legislation.

As I mentioned earlier when I was speaking on the rule, I sincerely appreciate the degree of cooperation that we received, both from the gentleman from Alaska (Chairman YOUNG) and the gentleman from Florida (Chairman MICA). I think they went out of their way to bring this bill to the floor in a manner that can be supported by the overwhelming majority of both the Democrats and the Republicans on the Committee on Transportation and Infrastructure.

Mr. Chairman, when this issue of arming pilots came up after the horrific September 11 attacks, there was considerable debate on both sides of the aisle as to whether or not we should allow pilots to be armed. The Aviation Transportation Security Act of 2001, which we passed in November of 2001, left a decision on lethal or nonlethal weapons in cockpits up to the Transportation Security Administration and the airlines by which the respective pilots are employed.

However, in May of 2002, the TSA decided against arming pilots with lethal weapons. About the same time, there was a movement within the pilots' union and the committee leadership on the other side of the aisle to force the TSA's hand and allow pilots to voluntarily arm themselves.

However, at a congressional hearing on the subject in May, many questions arose as to exactly how to arm the pilots. Subsequent conversation with the pilots' union brought forth the same questions, questions such as: Has there been full testing of bullets being fired in the cockpit and in the cabin to determine what damage might be done to the fuselage and the cockpit? Have there been simulated tests of where to best place and store the guns in or out of the cockpit so as to ensure that terrorists do not gain control of these weapons?

I and others believe that these and many other questions should be answered before we authorize pilots to carry guns in the cockpit. Subsequently, that is how we came to craft a pilot program that would answer these questions, and after a 2-year period of testing and evaluation, the decision would be made whether to terminate the program or open it up to all qualified pilots. Then all the pilots who volunteer can be better trained and prepared for any threat that might come their way.

What we all agree on in this body is that we should make airplanes safe and secure, and we do not want to put passengers in more danger, or to make weapons accessible to terrorists. This process of testing and evaluation before authorizing all pilots to carry guns in the cockpit will ensure just that.

Today, some amendments will be offered with good intentions of making the airplanes safe and secure. However, other than the manager's amendment, which the committee leadership has crafted to improve the measure, I will oppose all amendments that will tilt this carefully balanced compromise that we reached in the Committee on Transportation and Infrastructure.

In closing, again, I wish to thank the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Alaska (Chairman YOUNG), and the gentleman from Florida (Chairman MICA), for their work on this measure.

I would also like to thank all Members from my side of the aisle on the Subcommittee on Aviation for their contributions to the discussion, debate, and crafting of this measure. Hopefully, as the bill moves along with an open and fair process that includes everyone's input, we will send to the President's desk the best possible measure that will make our skies safer in the future.

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

Mr. YOUNG of Alaska. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. MICA), the chairman of the subcommittee, who has done an outstanding job on this piece of legislation.

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

Mr. Chairman, allowing pilots to defend themselves and their passengers, their aircraft, is absolutely fundamental to the safety and security of our aviation system in this Nation. Unfortunately, the United States of America faces a new and changing threat unlike anything we have ever experienced before. That is the threat of global terrorism. This threat will exist, unfortunately, for a long time, and we must take absolutely every action to protect America against those who would seek to kill innocent citizens.

Since September 11, we have enacted some sweeping security reforms. We have created a new Federal agency with unprecedented authority in transportation security measures. We have also been in the process of deploying Federal air marshals, federalizing our screener work force, mandating that all bags undergo explosive checks, and also requiring reinforcement of cockpit doors.

Unfortunately, Mr. Chairman, we do know that many of these reforms will not be in place for some time to come.

□ 1130

We know it will be impossible to place air marshals on all of the at-risk flights. Full cockpit doors security conversions will not be complete until sometime, I believe, late in the year 2003. And what is most disturbing, and we have seen this behind closed doors and now revealed in the media in the last few days, weapons are still getting through airport security.

This is the headline from July 1: ''Airport Security Failures Persist.'' A recent test by the TSA revealed that screeners failed to detect weapons nearly 25 percent of the time at our busiest airports. In fact, we found at our three major airports in the country screeners failed to detect potentially dangerous items in at least half of the tests. At a fourth location, and that happened to be Los Angeles International Airport which has also been in the news, the results were not much better. The failure rate there was 41 percent.

We know it is impossible again to protect ourselves with either a private workforce or a fully federalized screener workforce to catch all of these weapons and potentially dangerous items. And there is strong evidence to suggest that even more terrorist cells have been trained to take over commercial aircraft. At our subcommittee hearing, we showed these photographs, satellite photographs, of training camps. We know that terrorists are being trained to use both lethal and nonlethal methods of taking over aircraft, so the threat of another 9–11-type hijacking is, in fact, real.

NORAD, the North American Defense, has a standing order to shoot down any plane under the control of hijackers and that gives us the possibility of killing hundreds of innocent passengers to prevent a plane from being used as a weapon. I ask you, is that the only line of defense we should have? I strongly believe that under these circumstances armed, trained and qualified pilots who volunteer is, in fact, a necessary step towards ensuring the safety and security of the flying public.

Nothing, my colleagues, can provide a greater deterrence or effectiveness than having a weapon wielded by a highly trained individual, especially if we have the potential of armed terrorists taking over a plane, as we know they are being trained for.

Pilots have had the ability to arm themselves in less dangerous times. A photo has been provided to me by an individual who has a record here, photographic record of actual property of United Airlines, a gun that was issued by airlines in the past. So pilots have had the ability in much less dangerous times of arming themselves. In fact, they were even supplied these weapons, as we can see, by the airlines. So we have a situation where pilots are almost unanimous in asking for the ability to once again defend themselves, their passengers and their aircraft. There is no one that has more experience or no one that sees our aviation security shortfalls more on a daily basis than a pilot. Each day they see how the weaknesses of the system exist, and they are asking that they be allowed to arm themselves. Congress has a responsibility today to hear their plea in this important matter.

I believe this is one of the most vital issues we have as far as aviation security in the United States, and I ask for support of all colleagues today.

Mr. LIPINSKI. Mr. Chairman, I now turn over the management of the time on our side to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the full committee.

The CHAIRMAN. Without objection, the gentleman from Minnesota will control the balance of the time.

There was no objection.

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

Mr. Chairman, initially when this legislation was introduced and the idea proposed of arming the flight deck crew, I was very much opposed to the idea. I just felt this was not a good idea, that the flight deck crew under any circumstances ought to be paying its full attention to the very complex job of managing and integrating systems in the flight deck and managing the flight itself, a full-time job. You should not have to be distracted by the details of worrying about a gun and where it is going to be and how it is going to be used and under what circumstances.

But, as I discussed the matter further with the chairman of the full committee and the chairman of the subcommittee and the ranking member on our side, the gentleman from Illinois (Mr. LIPINSKI), and with the Airline Pilots Association and with individual pilots, I came to be persuaded that the case was being made that under the current circumstances of an incomplete aviation security system that the appeal for arms in the flight deck had at least some limited viability and an underlying rationale.

And that rationale is that not all of the protective measures that we have authorized in the Transportation Security Administration Act of last fall have been fully implemented. We do not yet have explosive detection systems deployed at all commercial airports. The trace technology for a backup system, a supplemental system of detecting explosives in checked luggage and carry-on luggage, is in its testing phase. It has not yet been authorized for full deployment.

We did not have positive passenger bag match for all checked luggage. We do not have deployment of the Federal security screener workforce at all security checkpoints at the Nation's airports. We do not yet have a biometrics system for frequent fliers or for detection of terrorists known to our intelligence systems. We do not yet have a program of training the cabin crew onboard aircraft against terrorist actions.

And furthermore, the pilots have said that in the ordinary course of events, the pilot in command and the first officer flying side by side, on the weekends that first officer is likely a member of the National Guard or Reserve and will be having flying duty on the weekend and could be ordered by the President of the United States under an executive order issued lasted year to NORAD to scramble military jets and shoot down that very aircraft that during the week the pilot now flying for the National Guard was co-pilot on.

The pilot said to me, I do not want to be in that position. I do not want the last resort to be U.S. National Guard

aircraft shooting down, or active military aircraft, shooting down my aircraft when I could be the force of last resort. That is a compelling argument.

In the process we have worked together, and I appreciate the forbearance of the Chair in the full committee and the participation of the Chair of the subcommittee, and particularly the splendid work that the ranking member on our side, the gentleman from Illinois (Mr. LIPINSKI), has done bringing the Democratic Members of the subcommittee and full committee together to discuss on numerous occasions concerns with the bill and changes to that legislation which have now been incorporated, and I can say this truly is a bipartisan piece of legislation.

And amongst the most significant changes are that there will be training for the pilots, significant training, comparable to that for flight sky marshals. There will be extensive review by the Transportation Security Administration of the type of weapon to be used in the flight deck, not just any gun, but what type of gun, and more importantly, what type of bullet. Not all bullets are appropriate for the flight deck. For example, armor-piercing bullets. We would not want those to be used in the flight deck.

Third, there will be testing done of an errant discharge into the control panel. I want to know what will happen, what will happen if the gun is accidentally discharged into the onboard computer, into the altimeter, into the glass cockpit of a 757, where all the controls are in one single panel; what will happen and how will you counteract the destabilization that will occur.

Those questions have to be answered before you go ahead with this program. And under this legislation, those issues will be addressed and assessed and alternative measures taken.

We have also, I think, perhaps the most important factor for me is that instead of a permanent program from the outset, we have a true test. This is a 2-year initiative. At the end of that period of time, it will be up to the Secretary of Transportation on the advice of the Under Secretary for the Transportation Security Administration whether to go ahead and make this a permanent program.

Now, if in the meantime the Department of Transportation does what it is directed to do under the Transportation Security Act of 2001 and puts in place all of the other protective measures that I have already cited, positive passenger bag match, explosive detection systems, training of cabin crew and trace proves to be an effective technology and can be deployed and we have the security check points administered by Federal security crew and we have the strengthened flight deck doors that have been designed, not yet certified, hopefully will be and also being put in place, when all of those protective measures, the interlocking web of security is deployed, then guns will no longer be necessary in the flight deck.

That has been the example of El Al, which initially armed flight crews, but after all the other protective measures were put in place and they were satisfied that a complex web of security was in place in the flight deck, then guns were removed; and that I think should be our example and our objective.

The legislation we have crafted and which we bring to the floor today is, I believe, a balanced responsible measure that takes into consideration the concerns of those who are in charge of the flight, the flight deck crew.

I do not think that we should have any amendments to this legislation either. We have gone about as far as I think we need to go. I think we have taken into account all the many concerns expressed. It is a fair and balanced bipartisan compromise, and I appreciate the work that our colleagues have done on both sides of the aisle.

□ 1145

I particularly want to express my great appreciation to the gentleman from Illinois for his splendid work and the many hours of time put in on this legislation and also, again, to the gentleman from Alaska (Mr. YOUNG) and the gentleman from Florida (Mr. MICA) for their cooperation throughout this very long process.

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

Mr. YOUNG of Alaska. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. SHUSTER), an outstanding member of my committee.

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

Mr. SHUSTER. Mr. Chairman, I rise today in support of H.R. 4635. The safety of airplanes has been in the forefront of our committee's work for the past 10 months, and I would like to commend the gentleman from Alaska (Mr. YOUNG) and the gentleman from Florida (Mr. MICA), as well as the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI), the ranking members, for their dedication to making our skies safe.

Since the tragedy of September 11, Congress has been dealing with the issue of security, and this Congress passed the Aviation and Transportation Security Act last year to revamp the entire transportation security system.

Included in that security act was a provision allowing pilots to carry guns pending administration approval. Since the passage of the bill, the administration has been publicly conflicted on the issue and nothing has been done. If my colleagues examine the Aviation Security Act they will notice that 99 percent of the enhanced security provisions are passive, from new x-ray machines to protective cockpit doors. Training flight crews on self-defense and allowing pilots to be armed are the only provisions that involve active defense of the plane.

The American public supports the arming of the cockpits, and additionally, over 40,000 pilots have signed a petition to the President asking him to allow them to carry guns. In my opinion, people realize that if a person cannot get into the cockpit they cannot take control of the plane.

I also hope today that we can improve this bill by passing the Thune amendment, which will raise the cap of armed pilots from 2 percent to 10 percent which will give greater peace of mind to the traveling public.

Today's debate should be about active defense versus strictly passive defense of a plane. I think it is time we allow the pilots to be the last line of defense of our planes rather than the current alternative, to shoot the plane out of the sky.

H.R. 4635 is a positive step to protect our air transportation system. I encourage all of my colleagues to vote yes.

Mr. OBERSTAR. Mr. Chairman, I yield 4 minutes to the gentleman from Oregon (Mr. DEFAZIO).

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

As the gentleman from Minnesota (Mr. OBERSTAR) and others who have preceded me have said, we passed an excellent aviation security bill last November. Unfortunately, it is yet a work in progress. There are many incomplete measures, some of which are moving along with acceptable speed, others which are not. I am particularly concerned about whether or not we can meet the deadlines for detecting explosives and do believe this is a very real threat, including individually carried explosives similar to suicide belts; and we need to be adopting new measures to deal with that.

The flight deck doors are of particular concern. The FAA is going along at its normal speed, which is 5, 10, 15 years to certify a minor change to an aircraft, in terms of approving these long-designed armored flight deck doors which are in use by foreign airlines.

Without those armored flight deck doors, flight decks are still vulnerable, including the vulnerability that will not even be accommodated then, which is to put them behind a door similar to El Al, which includes a lav and food service.

On my cross-country flight on Monday, I observed the door to be open for a total of more than 15 minutes, at one point for 8 minutes consecutively while the three people on the flight deck shuffled around to the bathroom, got a cup of coffee and shot the breeze with the flight attendant, who was standing menacingly behind the food cart to keep the terrorists from rushing the flight deck. That is not security. That is not decent security at all.

The issue now comes to, what about this last line of defense? We have already heard about the standing orders

to shoot down civilian aircraft that have been commandeered. That would be a horrible, horrible thing, but potentially less horrible than another guided attempt of using one of our civilian airliners as a weapon of mass destruction and killing thousands more on the ground. It should never get to that point. And when we fully implement the measures that we passed last November, it is improbable that someone will be able to access the airplane with sufficient weaponry to take it over. But until that is done, until we have the armored flight deck doors, I believe other measures are necessary, including the arming of pilots.

I am disturbed that President Bush is so strongly opposed to the arming of pilots. As a former part-time fighter pilot in the National Guard, he should certainly understand the gravity of the order that would be given to a full-time pilot or another National Guard pilot to shoot down a civilian aircraft that has been commandeered, and he should be appalled by that; and I cannot understand the President's absolute objection to the arming of pilots.

So I believe it is wise for the House to move forward and mandate that this go forward. I will, however, be supporting an amendment to make the program available to all qualified pilots who can qualify with the weapons and pass the training, including the other provisos about the testing of weaponry and the appropriateness of ammunition and things like that, because, to me, the issue here is, if the threat exists, why would we limit it to 2 percent of the pilots, because if we limit it to 2 percent or less of pilots, and since his administration, the President does not want to arm these people, we will expect they will move very slowly toward that 2 percent target. That would mean that on any given day less than 1 percent of the pilots in the air potentially would be armed as a last line of defense against a takeover.

A terrorist might think odds of 99 to 1 are pretty darn good. I would buy a lottery ticket if my odds of winning were 99 to 1.

So we are going to offer an amendment later with the gentleman from Washington (Mr. NETHERCUTT) and others to lift the cap and allow the administration to rethink its position and hopefully move ahead expeditiously with training with a much larger number of pilots, all those who volunteer. It would only be voluntary because some pilots do object to this procedure.

So I look forward to a vigorous debate over that amendment, but I certainly support the base bill.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. HORN).

Mr. HORN. Mr. Chairman, I thank the chairman for yielding me the time, and I rise to support H.R. 4635, the Arming Pilots Against Terrorism Act. I thank not only the gentleman from Alaska (Mr. YOUNG) but also the gentleman from Florida (Mr. MICA), because they have put together a fine manager's substitute.

This legislation will allow us to give the flying public peace of mind and the knowledge that the pilots and flight attendants aboard their commercial flights are prepared for challenges that the terrorists may present.

I am a strong supporter of arming pilots to defend the cockpit; and I appreciate what has been done to help the first resisters, and this is the Nation's flight attendants. I am pleased that the manager's amendment addressed those needs for those that serve us aboard, before and after.

As many of my colleagues know, I offered an amendment at the full committee that sought to strengthen flight attendant training. I later withdrew my amendment with the good faith that a reasonable compromise would be reached, and that would benefit flight attendants.

I commend the transportation leadership for that amendment. It strengthens many of the flight attendant proposals, and I am particularly pleased with the hands-on training, in making it mandatory.

With many important provisions added in the manager's amendment, I have decided against offering my amendment on the floor today. I have additional language which further strengthens flight attendant training, and I will offer these suggestions to the transportation committee leadership for consideration during a possible conference with the Senate.

I urge my colleagues to support H.R. 4635. This important legislation will improve the safety of the flying public.

Mr. OBERSTAR. Mr. Chairman, I yield 2½ minutes to the gentleman from California (Mr. HONDA).

Mr. HONDA. Mr. Chairman, I rise today to express my steadfast opposition to H.R. 4635, legislation that would unnecessarily and unwisely introduce lethal weapons into an airplane's sterile environment.

As we debate final passage of this bill, I remind my colleagues that the Congress considered this issue last November when it passed the Aviation and Transportation Security Act. Under that landmark aviation security legislation, a pilot of a commercial air carrier may carry an approved firearm while flying an aircraft if he or she receives approval from the Transportation Security Administrator or his or her employer. In other words, Congress deferred this critical decision to the experts who have since concluded that arming pilots may actually compromise aviation security and aviation safety.

Our Nation's security leaders, Homeland Security Director Ridge, Transportation Secretary Mineta and TSA Administrator John Magaw, have all made public statements signaling their opposition to arming pilots. Members who vote for final passage of this bill will vote to override the decision of those experts principally responsible for guaranteeing the security of air travel.

I join these experts in expressing my fundamental opposition to arming pilots, and I also oppose this particular bill because it mandates a pilot program before the completion of the most basic studies on the introduction of guns into the cockpit. No real studies have been performed on the consequences of an accidentally discharged bullet on a cockpit's computers. No real studies have taken place to determine where a gun should be stored in flight and between flights. No real evaluation has been made as to how this added responsibility would impact TSA's ability to meet significant but important congressionally mandated deadlines to bolster aviation security.

In proposing this legislation, the Congress is experimenting with the lives of the flying public, and furthermore, it is being careless with taxpayers' dollars. Under this legislation, armed pilots would be deputized by the Federal Government, exempting airlines and pilots from legal liability.

Instead of giving pistols to pilots, let us keep our focus on the fundamentals of aviation security, hardening cockpit doors, screening all checked baggage, vetting passenger manifests, ensuring a validated workforce and deploying Federal security screeners.

Let me conclude by reaffirming my utmost respect for our Nation's airline pilots. Each day, they safely transport thousands of passengers to destinations all over the world. The job requires great expertise and great diligence, and my vote today is to vote to keep pilots focused on what they do best, on flying airplanes.

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

I would like to suggest to my good friend from California, the experts which he referred to do not know squat. I have 60,000 and over of pilots who want this legislation. Again, as a captain myself, I know how it feels not to be armed. As history will show us, the protection of the wheelhouse and the cockpit are vitally important. The gentleman from Oregon (Mr. DEFAZIO) mentioned this.

The reality is that now there is an order to shoot down the airplane. If there is a hijacking with passengers aboard, to me that is a ridiculous solution when it can be stopped at the cockpit.

As was said before, this is nothing new. Until it became politically correct, the pilots armed themselves as they have done through history to defend that cockpit and defend that plane and defend those passengers. And now we have experts. Who are they? A man that belonged to the ATF, an individual very frankly that is being told very frankly what he should be saying. This is incorrect.

This is my bill. This is a bill for the American people. This is a bill, in fact,

to defend those people that fly every day. By the captain of the ship, they are his responsibility. If there is an infringement upon that cockpit by a terrorist, he has a right to eliminate that individual, to defend his passengers.

Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM).

□ 1200

Mr. CUNNINGHAM. Mr. Chairman, I would like to reiterate what the chairman just spoke about. I have got over 10,000 hours in military and civilian airplanes flying Lears, G–4s, every fighter that you can name. And I would tell my colleagues first of all it is hard enough to shoot down an enemy airplane with your psyche and if a pilot ever has to shoot down a civilian airplane, we ought to give that pilot a lot of support because not just during the act but after the act it will be very difficult for that individual.

But I tell my colleagues that as a pilot myself with thousands of hours, if I was going aboard an airplane either as a passenger or a pilot, I would want several things. The massive security that the gentleman spoke about before, including INS, to make sure that people are not available to do the bad things, but I would want the marshals. I would want a policy where airline hostesses are trained so that if an act takes place, then they are automatically going to strap themselves down because if someone tries to get through that cockpit, a 757 will take about two negative G's. I am going to put those guys on the top of the roof and try to break their necks and let them pick themselves up off the ground. But as a pilot, as in the Pennsylvania airplane, there is no pilot in the world that is going to take that airplane and fly it into a building. The bad guys are going to slit your throat and take over the airplane. And I want the Kevlar door. I want the marshals. But as a last line of defense to protect the passengers and myself, I would want to be armed.

Not everybody should be armed, but up until 1987 pilots were armed. A large portion of our aviation pilots today are military men and women. I know Air Force and Navy aviators, and they need this type of legislation. I think it ought to be a much higher percentage. Up to 1987, over 70 percent of our pilots qualified to be armed. Mail aircraft hauling pilots were forced to carry a weapon up to this time, but as the chairman says, until political correctness came to this Nation, our lives have been changed forever. Political correctness is going to get passengers and people killed.

I highly and strongly recommend this legislation, and I thank the chairman for it. But I would also say that we need lethal and nonlethal ordnance on those aircraft to support, in my opinion; and we need to support the legislation, not only this legislation but future legislation to protect passengers and the airlines and restore the confidence so that our public will fly the airways.

Mr. OBERSTAR. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-MCDONALD. Mr. Chairman, I stand strongly supporting H.R. 4635, and I say this because the events of September 11 have caused us to pause and reassess our security in the Nation's air travel. It has drastically altered the way we do business, and henceforth U.S. policies on safety and security must reflect a heightened awareness and preparation. September 11 events should keep us vigilant and aggressive in the development and deployment of new technologies and procedures.

Mr. Chairman, it would be a serious mistake not to believe that more terrorist attacks like those experienced on September 11 could occur again. In fact, the Permanent Select Committee on Intelligence and the Transportation Security Administration strongly indicate that the threat to aviation remains very high. Therefore, I believe that under these circumstances we must incorporate innovation in our approach to this very serious issue. We must support H.R. 4635, a pilot program that would allow trained and qualified pilots to serve as a last line of defense against such a potential disaster.

I know that there are some who feel that this measure does not go far enough, and there are some who feel it does nothing; but I believe that this measure is another means that we can use in protecting the traveling public. While I fully support this measure, I think it is critically important for us to remember that we are in the midst of hiring and expanding the air marshal program. The development of any new pilot program should not interfere with the established and proven air marshal program, nor should it interfere with research into nonlethal measures like stun guns and Tasers.

The proposed bipartisan bill has several key provisions to the original bill. First, it is important to note that this bill is a 2-year pilot program with a minimum of 250 pilots monitored by the Transportation Security Administration. Pilots will use firearms only in defense of aircraft after hijackers breach the cockpit door.

No man-made door is impenetrable to a determined attacker. The bill requires that certain testing and planning take place prior to armed pilots boarding aircraft, including testing the ramification of a misfire in the cockpit. We should allow for proper training and strengthened firearm training requirements prior to their deployment. This training will be similar to that we provide Federal air marshals. Finally, the TSA administrator has the authority to terminate the program after a 2-year test period.

I, like my colleagues, would agree that keeping an aircraft aloft during an attempted hijacking is of prime importance to the survival of the crew and passengers, and today we should pass this very important piece of legislation.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma (Mr. SULLIVAN).

Mr. SULLIVAN. Mr. Chairman, I rise today in support of H.R. 4635, the Arming Pilots Against Terrorism Act. It is vital that we give the pilots and passengers of American commercial aircraft a fighting chance against would-be attackers. An armed pilot is the final line of defense against terrorist hijackers. Under H.R. 4635, the use of force may be employed only in the defense of the cockpit.

At this point, Mr. Chairman, terrorists would have already seized the aircraft. In the last few moments before hijackers use this plane as a weapon, we have a difficult choice to make. Currently our Air Force has standing orders to shoot down any plane captured by terrorists.

Mr. Chairman, we are at our last resort. Why would we not allow our pilots the opportunity to protect themselves, their passengers, and thousands of American lives? Let us face it, the days of the hijacking thugs or terrorist thugs on our airplanes demanding money or the release of their cohorts is over. The airplane is now the coward's weapon of choice.

Therefore, Mr. Chairman, we must secure our airplanes from these cowards and protect our people from harm. The greatest way to fight off terrorists is to arm those who know the aircraft the best, and that is our pilots.

H.R. 4635 will augment the military background that many pilots already hold by providing rigorous training for all armed pilots. This training is much like the training that Federal air marshals receive with an emphasis on marksmanship, defensive maneuvers, and weapon retention.

Currently, Federal air marshals patrol our skies armed, and have done so since 1985. In addition, foreign airlines who arm their pilots are allowed to travel to our airspace and land on American soil. To suggest that American pilots are somehow incapable or less qualified than those who already carry arms aboard aircraft is ridiculous.

Mr. Chairman, our people want this legislation, our pilots want this legislation, and America deserves this last line of defense. I urge my colleagues to support H.R. 4635.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman for yielding me this time, and I want to address the issue the gentleman from California (Mr. HORN) raised in the well about the rest of the flight crew, the flight attendants, on board the plane.

It was absolutely positively the intention of the Members of this House and those who drafted the aviation security bill last fall that they would get

adequate training, both in the issues of self-defense and crew coordination, and all the things that are necessary for those people who are so exposed on the other side of those doors that are slightly reinforced at this point in time.

Unfortunately, many of the airlines, because of the expense and the inconvenience in scheduling involved, have chosen to either stiff or short that training requirement: a 15-minute video on self-defense. And having studied a number of martial arts, I can tell my colleagues that that is not going to do much for a lot of people.

As I spoke here earlier, we are using flight attendants directly. In the case of United's policy, they wheel out the food cart and they stand behind it, and they are supposed to defend the flight deck while that door is open against terrorists, after having watched the 15-minute video.

There has been no serious consideration by the administration of whether or not nonlethal devices or other things should be made available to the flight attendants. So the improvements in this bill should send a strong message to the TSA, to the FAA, and to the airlines that we do not want more delay; that the flight attendants are at risk, they are a critical part of solving this problem, and they need the training and the tools. It is a minuscule cost to the airline; certainly a lot less cost than the tragedy of another lost plane.

So I congratulate the leaders of the committee on the inclusion of some stronger language and hope we can even push that further and make certain that this gets done.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 3½ minutes to the gentleman from Kentucky (Mr. ROGERS), not a member of the committee, but of the important Committee on Appropriations.

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

Overall, this is a good bill. By establishing a demonstration program of limited duration and strict standards, we will be able to assess the benefits and risks of arming commercial airline pilots. The bill does not require pilots to carry guns but gives them the option up to a certain percentage and subject to training. They will be literally the last line of defense for our commercial aviation system. The terrorist attacks of September 11 demonstrated that this is something that should at least be evaluated in a systematic and limited manner.

However, I want to draw to the Members' attention one element of the bill that I hope will be addressed in conference with the other body. Section 2 of the bill requires that all costs for the training, supervision, and equipment, meaning guns, under this program shall be borne by the Federal Government. These costs have been estimated by the Congressional Budget Office at $47 million over the next 5 years.

These funds are not currently in the Transportation Security Administration's budget and could well cause the agency to cancel or defer other critical security activities to finance what is essentially an earmark on future budgets. In addition, training facilities at the Federal Law Enforcement Training Center, which are mandated to be the trainer of these pilots, are stretched thin already; and it is not clear whether the program could go forward immediately because of that.

There is a way out of this predicament. In my view, the Federal Government could just as easily specify the standards for this training and equipment, as we do for pilot training, and allow the airlines, who choose to participate in the program, to bear those costs. This is a voluntary program. Airlines who want to participate should bear these costs, rather than expanding the Federal Government even further than we already have.

I am concerned, as I know many Members are, over mission creep at the TSA. Many of us want to constrain the size and the scope of that agency and limit mission creep. Deputizing pilots and also paying for their training and firearms, I think, is a step in the direction of mission creep for TSA.

So, Mr. Chairman, I want to congratulate the chairman of the full committee, the gentleman from Alaska (Mr. YOUNG); the chairman of the subcommittee, the gentleman from Florida (Mr. MICA); the ranking member of the full committee, the gentleman from Minnesota (Mr. OBERSTAR); and others for a good job in the drafting of this legislation, with a couple of minor corrections that I hope can be made as we go along.

I hope as we proceed through the process that the managers of the bill will work to limit the direct Federal responsibility for the program and focus more on oversight of what I consider to be industry responsibilities.

Mr. OBERSTAR. Mr. Chairman, I would like to inquire of the time remaining on both sides.

The CHAIRMAN pro tempore (Mr. LINDER). The gentleman from Minnesota (Mr. OBERSTAR) has 4½ minutes remaining and the gentleman from Alaska (Mr. YOUNG) has 8 minutes remaining.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER).

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Mrs. TAUSCHER. Mr. Chairman, as a member of the Subcommittee on Aviation, I take my job very seriously. Making air travel secure is one of the most important and daunting challenges our country and this Congress faces.

It is unclear if the new Transportation Security Administration that Congress created last year will meet its deadlines for hiring and training federal screeners and deploying bomb detection equipment to airports this year. This prospect alarms me, and it should alarm other Members.

The TSA and the Bush administration have told us that there are more pressing security issues to address than arming pilots, and I hope that passage of this bill does not add to the TSA's full plate and delay implementation of these other vital security measures.

Mr. Chairman, I appreciate the willingness of the gentleman from Alaska (Mr. YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR) to work with me to address some of the concerns that I raised during the markup of this legislation in committee. I would also like to thank the committee staff for their efforts to incorporate some of my common-sense changes to the manager's amendment.

However, I do not believe this is the best bill our committee could have brought to the floor. I regret that this was the best bill we could get to the floor in an election year after the bill unnecessarily became more about guns than about safe air travel.

The FAA has taken too long to certify and install the reinforced cockpit doors than originally thought and pilots should have the means to defend the cockpit in the interim.

I support equipping all cockpits with nonlethal weapons to defend the cockpit. United Airlines, ATA and others have taken a leadership role in purchasing these devices and training all of their pilots to use nonlethal weapons, and now are only waiting for TSA certification. I commend them for their efforts.

I am pleased that the manager's amendment included some of my language setting a deadline for the TSA to certify these weapons, but I hope the TSA will act sooner to certify these nonlethal weapons so that companies can begin installing them immediately.

Another big security concern raised by this bill is pilots transporting firearms to, from, and through the airports. I am pleased the manager's amendment includes part of my amendment to have the TSA look at securing their weapons at airports during overnight stays.

I remain concerned about pilots being targeted outside of airports, and recent reports of uniform and ID thefts at hotels, and hope the TSA addresses this issue during its rulemaking process.

I think we can do a better job. I am hoping that we will see some of these amendments, and hope that I will be able to support this bill.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 2 minutes to the gentleman from Montana (Mr. REHBERG).

Mr. REHBERG. Mr. Chairman, I rise today in strong support of H.R. 4635, and my thanks go out to the gentleman from Alaska (Mr. YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), and the gentleman from Florida (Mr. MICA) for the fine work they have done in doing the work that we need to do in this Congress, and that is remain focused on benefits, not on policy.

As a father, a husband, a grandson, a brother, I can say that this Congress has remained fixed on doing everything they possibly can to make air traffic safety paramount for this country. I know after I leave this Congress some day, I will be able to look back and thank these gentlemen and this Congress for doing everything that they can to make my family safer when they fly.

Putting qualified, armed pilots onto planes is not a new idea. It was done successfully as recently as 1984. Today we have an opportunity to increase passenger safety, and the American people demand it. Through passage of this legislation, Congress will put future terrorists around the globe on notice that American air passengers are off limits. America's pilots will no longer be unarmed targets for terrorist aggression. Those wishing to interfere with the safe operation of U.S. passenger airlines are on notice that they will not succeed, and their evil efforts will be met with lethal force.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 2 minutes to the gentleman from South Dakota (Mr. THUNE).

Mr. THUNE. Mr. Chairman, I thank the gentleman for yielding me this time, and for bringing this important issue to the floor.

We have an opportunity today to do something that is critically important to the aviation security system in this country. As a member of the Subcommittee on Aviation and a cosponsor of the original version of H.R. 4635, I strongly support the creation of a voluntary Federal program to arm and train pilots to defend their cockpit against terrorist attacks. I believe the bill that we are considering today creates a good framework for the Transportation Security Administration to implement an effective flight deck officer program.

Later on we will have an opportunity to offer amendments, and I am happy to be part of an effort to amend this bill further to strengthen it and make it even stronger. Our amendment will attempt to lift the ceiling on the number of pilots that are eligible to volunteer for this important program. Secondly, it will require the Transportation Security Administration to begin training qualified, volunteer pilots more quickly. Finally, it will eliminate the sunset for the program. Clearly this is an important issue. It is an important program, and it should not diminish after 2 years.

By arming pilots, Congress can create a last line of defense against terrorist attacks. It is critical that we take every possible action to protect the passengers that fly the aviation system, and this legislation is an important component in that process. Since September 11, we have learned that we need to prepare for previously unthinkable acts of terrorism, and this common-sense legislation and the amendment we will offer later will give airlines and pilots an additional tool and create a last line of defense against future attacks.

This is a voluntary program. It is one that the pilots have asked for, and one I believe that the people in this country are very supportive of, and it is one that will send a strong message to terrorists around the world that they cannot mess with our system.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, I support this legislation as a groundbreaking test of 2 percent of pilots to be provided with arms.

When we fly in the Navy, we always fly armed. Most of the cadre of civilian pilots come out of the military, and would fly with a 9 millimeter in their SPU. This gives them a sense of confidence, and we will establish a track record.

I want to also talk about tasers in the cockpit. United Airlines has come forward with a proposal to have this nonlethal technology that would not involve having any bullets moving around in the aircraft, and I think this is a reasonable compromise position that the Secretary of Transportation should also look to and support.

I support this legislation, but also hope that we can go forward on the taser proposal for a nonlethal alternative, and I will engage in a colloquy with the chairman of the Subcommittee on Aviation later on that topic.

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

Mr. Chairman, I just want to correct some misimpressions that were left by previous speakers, talking somewhat enthusiastically about guns in the flight deck prior to this legislation. The actual history is that under general authority of the FAA to protect security aboard aircraft, it was permitted for pilots to carry guns. There is no record of the actual number of pilots who were armed prior to 1981.

In 1981, there was a specific regulation issued by FAA under its security authority to allow arming of pilots provided the airline company permitted the arming, and the pilot voluntarily chose to do so. Again, the FAA can produce no records of the number of pilots who were so armed.

It is ironic, however, that it was last year, last summer, in fact, the summer of 2001, that the authority for armed pilots in the flight deck was repealed by FAA. This is new authority, new legislation. I just want the record to be clear on this point that we are charting a very new course, and doing so, I believe, in a very responsible, thoughtful and careful manner.

This is a much bigger undertaking, much greater initiative than ever conceived of in the past. As previous speakers have said, there clearly is a case to be made, I believe, now for arming flight crews. It ought to be done in this careful, thoughtful manner to a point where the 2-year demonstration is undertaken, the questions are resolved, and then a further determination made on whether to proceed with a permanent program which, again, we can revisit in this body and enact should it be necessary to do so.

Meanwhile, I think we have crafted here a very fine piece of legislation that stands on its merits and ought to be adopted by this body.

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

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

Mr. Chairman, I compliment the gentleman from Minnesota (Mr. OBERSTAR) and his working with the gentleman from Florida (Mr. MICA), the chairman of the Subcommittee on Aviation.

I would like to remind Members of some things. Number one, I like the idea of possibly studying a taser weapon or futuristic weapon like what we see in movies, but I personally want that pilot to have a lethal weapon on board.

If I had a terrorist trying to take my ship, I want to have a lethal weapon in my hand. I want to make sure that person does not even have a chance. With a taser, he has a chance. I have some experience with those types of weapons, and if a person was a true terrorist, he would wear protective armament and would need to be struck in the head. Until that time, he would be able to circumvent a taser. A taser does not immobilize a person immediately. A lethal weapon would. Properly trained, that terrorist will be eliminated and my ship will be protected and my passengers will arrive safely.

This is a small step forward. We are not sure, and neither are the terrorists sure, which pilots will be armed. I believe that is a deterrent in itself. I believe there will be some hesitancy on that airplane. I will go back in history, and the gentleman from Minnesota (Mr. OBERSTAR) mentioned the FAA repealed this action last summer so they could not carry a weapon.

I would say if anyone should be criticized, it is the inactivity of the FAA. The inability to make a decision even today with the TSA, we have the FAA saying we have certified new equipment for screening of people or baggage so we are not going to use it. If there is any fault, it is with the two agencies: One old, outdated, antiquated, an agency that does not take steps forward in a positive fashion, the FAA; and a new agency which still follows that lead.

I think the gentleman from Kentucky (Mr. ROGERS) said it very correctly, we have to have more oversight and some demands for action instead of delay so we can implement what we thought we were doing in the Airline Security Act, that we thought we would have a slim and trim agency that would get the job done and the

passengers would be screened and put on the plane on time. That is not occurring because of the inactivity of both agencies.

I say to those who say no to this, I am not going to rely on the airlines. I am not going to rely on the TSA or those agencies saying, let us look at it. I am going to say this is going to be done with a small percentage of our pilots. And hopefully after 2 years, with a larger percentage of our pilots, because it is the last line of defense. I remind Members as one who has carried weapons most of his life, I will tell Members that 9–11 would not have happened if that pilot had a weapon at the time of that hijacking. That would not have happened. I say let us pass this legislation, let us go forward and protect passengers. I urge passage of this legislation.

Mr. GILMAN. Mr. Chairman, I rise in strong support of H.R. 4635, the Arming Pilots Against Terrorists Act of 2002 which will allow for a 2-year test period for selected and qualified airline pilots to carry firearms on board the aircraft they command. In confronting the threat of terrorism, we must ensure that our Nation is fully prepared. With many terrorist cells training followers to hijack and fly commercial airliners, providing our pilots with the authority to carry a firearm in order to protect our passengers and airliners is sound policy.

The 2-year trial period will begin when the first 250 pilots have been deputized to carry guns in the cockpit. The number of deputized pilots will be capped at 2 percent of their total workforce, or about 1,400 pilots. Preference will be given to pilots who have formerly served in the military or law enforcement, but participation will be voluntary.

Pilots have voiced nearly unanimous support for using firearms to protect their passengers, their planes and themselves. Moreover, reinforced cockpit doors won't be completed until next year and air marshals will not be riding on all flights. Pilots deserve the right to protect our skies from terror as the last line of defense. Accordingly, I urge my colleagues to support this practical and worthy measure.

Mr. MILLER of Florida. Mr. Chairman, on September 11th, terrorist hijackers killed eight unarmed pilots, hundreds of passengers, and thousands of innocent people. There is evidence that more terrorist cells have been trained to take over commercial aircraft. Our own armed services may be forced to shoot down a plane full of innocent passengers to thwart a terrorist takeover. The Federal Government has a constitutional mandate to provide for the common defense.

Mr. Chairman, we are failing! Our aviation system is still vulnerable, and we remain susceptible to unknown threats from an often-invisible enemy.

Arming trained and qualified pilots to defend their aircraft cockpits is a necessary step to ensure the safety of the flying public. Many pilots have a law enforcement or military background and have experience with firearms. Pilots are entrusted with the lives of the flying public, and arming them will serve as a significant deterrent. What hijacker will break into a cockpit not knowing whether he will face an armed pilot?

Mr. Chairman, some of my hoplophobic colleagues will urge us to give the current efforts at heightened security a chance. They will cite more metal detectors, sealed cockpit doors and the presence of air marshals. I ask them to explain that rationale to loved ones of the 9/11 victims.

Mr. Chairman, we would never ask a combat pilot to fly into battle without his side arm as a back up. On September 11th, the battlefield entered the cockpit of commercial aircraft. How can we deny the pilots of commercial aircraft the right to defend themselves and the passengers on their aircraft?

Mr. BARR of Georgia. Mr. Chairman, I rise today to support this very important legislation and urge my colleagues to support its passage. First, I would like to thank the Chairman of the Transportation and Infrastructure Committee, Mr. YOUNG, and the Chairman of the Subcommittee on Aviation, Mr. MICA, for their leadership in producing this legislation and getting it to the floor today. I was glad to sign on as a cosponsor of this legislation immediately, because it simply makes sense.

The events of September 11th were indeed a defining moment in our history. For the first time in 60 years, the enemies of freedom attacked our country on our very own soil. Unlike the attack on Pearl Harbor, these enemies used our own airplanes as a weapon to murder thousands of innocent civilians. Such actions cannot be allowed to happen again.

These terrorists were able to use box cutters and knives to take control of our planes, because they knew no one on the plane would be able to defend against even these rudimentary weapons. Since the events of September 11th, the Congress has acted swiftly to provide for air marshals, stronger doors, and better screening procedures, to reduce the terrorist threat to our commercial airlines and our citizens. All of these things make sense, but unfortunately, even these measures are not going to completely eliminate the possibility of terrorists seizing a plane.

So what is the safety net? In the event of terrorist takeover of the plane, it is possible U.S. military planes will track the plane and be forced to bring it down with a missile. This is really not an option which should be forced by our military onto the brave men and women serving our country and causing great harm, or an innocent American civilian.

There is a better option. Train pilots and allow them to carry arms, so they may serve as the last line of defense. It is a more effective option—a decision made by a trained pilot who is there to make the appropriate judgement and determine when lethal force is necessary. My only concern with the legislation is that it is too limited in scope. The bill, as it is presently written, allows only 2 percent of pilots to be trained and certified. Simply put: This cap is far too low. Why should passengers on the 98 percent of other flights receive less protection?

More than half of the commercial pilots today are military veterans who have been well trained in the use of weapons. These pilots are easily trainable to provide the extra security necessary on our planes. I will support the amendment offered by my colleagues from Oregon (Mr. DEFAZIO), Washington (Mr. NETHERCUTT), South Dakota (Mr. THUNE), and Texas (Mr. BARTON). Which removes the restrictive cap and ensures a much greater number of pilots can qualify for training and certification. This amendment makes a good piece of legislation even better.

Again, I urge my colleagues to support this legislation, support the amendment removing the 2-percent cap, and provide an even stronger line of defense against future attacks.

Mr. COSTELLO. Mr. Chairman, I rise today in support of H.R. 4635, the Arming Pilots Against Terrorism Act and the manager's amendment to this bill. This legislation is the bipartisan product of the Transportation and Infrastructure Committee and I thank my colleagues, especially Chairman YOUNG, Ranking Member OBERSTAR, Subcommittee Chairman MICA and Ranking Member LIPINSKI for their hard work on this issue.

Following the attacks of September 11th, there was an immediate and obvious need to increase aviation security. Congress passed the Aviation and Transportation Security Act, which took significant steps to improve our Nation's aviation security. One of these steps was to authorize the Transportation Security Administration to determine whether airline pilots should be armed in the cockpit. This legislation moves forward with plans to allow commercial, passenger pilots to be armed while flying. The bill establishes a 2-year pilot program which will arm up to 2 percent of our Nation's pilots after they have completed a training program providing firearms proficiency equal to that of what a federal air marshal achieves. It also increases and mandates self-defense and defense training for the flight attendants, who most likely would be the first individuals to recognize a threat in the cabin.

We all hope that we will never have a repeat of the events of September 11th. However, we must give our pilots an opportunity to defend themselves, the passengers and the plane, if another situation like this were to occur.

Mr. Chairman, I support this compromise legislation. It is good legislation, and I urge my colleagues to join me in supporting it.

Mr. WATTS of Oklahoma. Mr. Chairman, when 19 men hijacked four airplanes on September 11th, 2001, the terrorists had a tactical advantage—and ultimately, the final word. The last line of defense by the pilots on those planes was handicapped. The bad guys had weapons. The good guys did not.

What the House is proposing today is to allow a limited number of pilots who wish to have firearms in their cockpits have them. It is a pilot program for pilots. Critics of this legislation are quick to make excuses why pilots should not have firearms in the cockpit. Their favorite reason seems to be a myth concerning the decompression of the airplane from a stray bullet. What they are saying is quite preposterous. A plane is heading for a building—but a pilot shouldn't be allowed to stop the hijacker for fear of breaking a window. The bottom line is: if an aircraft is headed for destruction as a result of a hijacking, there is absolutely nothing to lose by giving the pilot a last-ditch effort tool to restore order to his plane.

Until 1987, pilots could have firearms in their cockpit. Can anyone in this chamber stand up and tell me it was the Wild, Wild West up there in the skies? Can anyone in this chamber give me one instance where a pilot misused a gun on a plane? This is a commonsense proposal supported by pilots, their unions, Democrats, Republicans and a clear majority of the American public.

We can pretend an ideal world will somehow prevent acts of terror. But cockpit doors

will open. Pilots are not immune from bathroom breaks. Air marshals will not be on every flight. A limited number of sky marshals for thirty-five thousand daily flights just does not cut it.

There will always be evil men seeking to accomplish evil deeds. For once, let's give the good ones a fighting chance. I urge my colleagues to vote for the Arming Pilots Against Terrorism Act and allow pilots to keep control of their planes.

Mr. STARK. Mr. Chairman, I rise today in strong opposition to H.R. 4635, the Arming Pilots Against Terrorism Act.

In responding to the horrific tragedy of September 11th, we've spent billions to put sensible measures in place to ensure the safety of our airlines and the airports they serve. We've implemented strict new standards for screening passengers and their baggage. We've beefed up security personnel, dispatched sky marshals to guard domestic flights, and reinforced cockpit doors to protect our pilots from dangerous intruders. These important security precautions are working and our skies are safer than they've ever been.

Yet, we're confronted today with legislation that would have us take the unnecessary step of arming pilots. After all we've done to make it nearly impossible for anyone to carry dangerous weapons on any plane, why would we put guns in every cockpit?

The gun lobby is peddling the illusion that having guns in the cockpit will boost the safety of our skies. But, in fact, arming pilots would only add a dangerously unpredictable element to air travel that endangers pilots, flight attendants, and passengers alike. Giving guns to pilots doesn't make us any safer. It only increases the chances for disaster.

This is why the President, with the support of a broad consensus of safety experts, law enforcement and all the major airlines, acted to prohibit guns being carried by pilots. We ought to vote today to reinforce this sound judgment and reaffirm the common sense notion that pilots are trained to fly not shoot.

Let's not turn the Red Carpet Room into the OK Corral or our planes into shooting galleries. I strongly urge my colleagues to vote no on this bill.

Mr. BLUMENAUER. Mr. Chairman, it is now widely acknowledged that our Government and our intelligence agencies were not properly prepared for dealing with the events that led up to September 11th and its aftermath. We are spending enormous sums of money to convince the public that we are taking action to make our country safer, in some instances we may actually be making things worse.

The project proposed by the bill from the Transportation and Infrastructure Committee was a cautious attempt to test a new approach to airline safety. As amended, however, it could potentially arm all airline pilots, removes the testing and automatic review of the new program and raises serious concerns about its operation. Furthermore, this bill has little support from the industry, law enforcement officials or the Bush administration.

There are simple and effective safety solutions that deserve our support. Over a decade ago, industry and security experts strongly recommended that cockpit doors be reinforced to prevent plane hijackings but to little avail. Although it was included as part of last fall's airline security bill, it will be another year before all cockpit doors are sufficiently reinforced.

We still have not completely dealt with the basic issues of airline security, such as baggage screening. The fundamental notion that we arm people, be they classroom teachers, pilots, or Members of Congress is no substitute for appropriate security. I am deeply concerned that we are concentrating on programs that give the illusion of security rather than focusing on doing our job to protect our country. I do not feel comfortable adding complex, controversial new programs over the objections of the administration and the airline industry. This bill, if enacted, will divert attention from existing programs and, given its current amended form, is unlikely to become law. In its present form, that is probably the best outcome.

Ms. KILPATRICK. Mr. Chairman, I had every intention to vote for this bill when I entered this Chamber. But now the bill has been substantially transformed from a demonstration program to allow pilots to carry guns aboard aircraft into a permanent program of arming every commercial pilot. The transformation of this bill is so substantial that I intend to vote against H.R. 4635.

As a Member of the House Appropriations Subcommittee on Transportation, I am very concerned about improving airline security, and I basically support allowing pilots to carry guns as a last line of defense against potential hijackers. Our subcommittee has held a number of hearings to determine the status of the Transportation Security Administration's (TSA's) progress in meeting the deadlines established under the Aviation Security Act. We have all followed the slow progress this new agency is making in meeting the timelines to improve the security of the nation's 429 airports and commercial airline carriers. It is unlikely that we will be able to equip all airports with the explosive detection equipment and magnetometers that are required to screen baggage and passengers. The TSA has not been able to satisfactorily determine security standards for cargo flights and the security standards of international flights has not been addressed at all. The TSA has fallen behind its own internal deadlines and its coordination with airports and airlines has been lacking. This is the wrong time to impose a new mandate on an agency that is struggling to meet it original mission.

I cannot in good conscience vote for legislation that imposes a new requirement on an agency that has yet to demonstrate its success in meeting the current legislative requirements. The airline industry must demonstrate to the traveling public that the security measures required of it are in place to protect passenger safety, not put it at risk. It is important that pilots demonstrate to passengers that they can safely pilot a commercial plane and still defend against hijackers. We must know more about how misfires from discharged weapons can affect the airworthiness of our crafts.

The amendment that transformed this bill assumes that the need for an additional level of security in the pilot's cabin outweighs the potential safety problems caused by the accidental misuse of firearms on board an aircraft. I respectfully disagree with that thinking, and for that reason, I urge my colleagues to join me in voting against the bill.

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

The CHAIRMAN pro tempore (Mr. LINDER). All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 4635

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 ''Arming Pilots Against Terrorism Act''.

SEC. 2. FEDERAL FLIGHT DECK OFFICER PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

''§ 44921. Federal flight deck officer program

''(a) ESTABLISHMENT.—The Under Secretary of Transportation for Security shall establish a pilot program to deputize volunteer pilots of air carriers providing air transportation or intrastate air transportation as Federal law enforcement officers to defend the flight decks of aircraft of such air carriers against acts of criminal violence or air piracy. Such officers shall be known as 'Federal flight deck officers'.

''(b) PROCEDURAL REQUIREMENTS.—

''(1) IN GENERAL.—Not later than 2 months after the date of enactment of this section, the Under Secretary shall establish procedural requirements to carry out the program under this section.

''(2) COMMENCEMENT OF PROGRAM.—Beginning 2 months after the date of enactment of this section, the Under Secretary shall begin the process of selecting, training, and deputizing pilots as Federal flight deck officers under the program; except that, if the procedures required under paragraph (1) are not established before the last day of such 2-month period, the Under Secretary shall not begin the process of selecting, training, and deputizing pilots until the date on which the procedures are established or the last day of the 4-month period beginning on such date of enactment, whichever occurs first.

''(3) ISSUES TO BE ADDRESSED.—The procedural requirements established under paragraph (1) shall address the following issues:

''(A) The type of firearm to be used by a Federal flight deck officer.

''(B) The type of ammunition to be used by a Federal flight deck officer.

''(C) The standards and training needed to qualify and requalify as a Federal flight deck officer.

''(D) The placement of the firearm of a Federal flight deck officer on board the aircraft to ensure both its security and its ease of retrieval in an emergency.

''(E) Analyze the risk of catastrophic failure of an aircraft as a result of the discharge of a firearm to be used in the program into the avionics, electrical systems, or other sensitive areas of the aircraft.

''(F) The division of responsibility between pilots in the event of an act of criminal violence or air piracy if only one pilot is a Federal flight deck officer and if both pilots are Federal flight deck officers.

''(G) Procedures for ensuring that the firearm of a Federal flight deck officer does not leave the cockpit if there is a disturbance in the passenger cabin of the aircraft or if the pilot leaves the cockpit for personal reasons.

''(H) Interaction between a Federal flight deck officer and a Federal air marshal on board the aircraft.

''(I) The process for selection of pilots to participate in the program based on their fitness to participate in the program.

''(J) Storage and transportation of firearms between flights, including international flights, to ensure the security of the firearms.

''(K) Methods for ensuring that security personnel will be able to identify whether a pilot is authorized to carry a firearm under the program.

''(L) Methods for ensuring that pilots (including Federal flight deck officers) will be able to identify whether a passenger is a law enforcement officer who is authorized to carry a firearm aboard the aircraft.

''(M) Any other issues that the Under Secretary considers necessary.

''(4) PREFERENCE.—In selecting pilots to participate in the program, the Under Secretary shall give preference to pilots who are former military or law enforcement personnel.

''(5) CLASSIFIED INFORMATION.—Notwithstanding section 552 of title 5 but subject to section 40119 of this title, information developed under paragraph (3)(E) shall not be disclosed.

''(6) NOTICE TO CONGRESS.—The Under Secretary shall provide notice to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate after completing the analysis required by paragraph (3)(E).

''(c) TRAINING, SUPERVISION, AND EQUIPMENT.—

''(1) IN GENERAL.—The Under Secretary shall provide the training, supervision, and equipment necessary for a pilot to be a Federal flight deck officer under this section at no expense to the pilot or the air carrier employing the pilot.

''(2) TRAINING.—

''(A) IN GENERAL.—The Under Secretary shall base the requirements for the training of Federal flight deck officers under subsection (b) on the training standards applicable to Federal air marshals; except that the Under Secretary shall take into account the differing roles and responsibilities of Federal flight deck officers and Federal air marshals.

''(B) ELEMENTS.—The training of a Federal flight deck officer shall include, at a minimum, the following elements:

''(i) Training to ensure that the officer achieves the level of proficiency with a firearm required under subparagraph (C)(i).

''(ii) Training to ensure that the officer maintains exclusive control over the officer's firearm at all times, including training in defensive maneuvers.

''(iii) Training to assist the officer in determining when it is appropriate to use the officer's firearm and when it is appropriate to use less than lethal force.

''(C) TRAINING IN USE OF FIREARMS.—

''(i) STANDARD.—In order to be deputized as a Federal flight deck officer, a pilot must achieve a level of proficiency with a firearm that is required by the Under Secretary. Such level shall be comparable to the level of proficiency required of Federal air marshals.

''(ii) CONDUCT OF TRAINING.—The training of a Federal flight deck officer in the use of a firearm may be conducted by the Under Secretary or by a firearms training facility approved by the Under Secretary.

''(iii) REQUALIFICATION.—The Under Secretary shall require a Federal flight deck officer to requalify to carry a firearm under the program. Such requalification shall occur quarterly or at an interval required by a rule issued under subsection (i).

''(d) DEPUTIZATION.—

''(1) IN GENERAL.—The Under Secretary may deputize, as a Federal flight deck officer under this section, a pilot who submits to the Under Secretary a request to be such an officer and whom the Under Secretary determines is qualified to be such an officer.

''(2) QUALIFICATION.—A pilot is qualified to be a Federal flight deck officer under this section if—

''(A) the pilot is employed by an air carrier;

''(B) the Under Secretary determines that the pilot meets the standards established by the Under Secretary for being such an officer; and

''(C) the Under Secretary determines that the pilot has completed the training required by the Under Secretary.

''(3) DEPUTIZATION BY OTHER FEDERAL AGENCIES.—The Under Secretary may request another Federal agency to deputize, as Federal flight deck officers under this section, those pilots that the Under Secretary determines are qualified to be such officers.

''(4) MAXIMUM NUMBER.—The maximum number of pilots that may be deputized under the pilot program as Federal flight deck officers may not exceed 2 percent of the total number of pilots that are employed by air carriers engaged in air transportation or intrastate transportation on the date of enactment of this section.

''(5) REVOCATION.—The Under Secretary may revoke the deputization of a pilot as a Federal flight deck officer if the Under Secretary finds that the pilot is no longer qualified to be such an officer.

''(e) COMPENSATION.—Pilots participating in the program under this section shall not be eligible for compensation from the Federal Government for services provided as a Federal flight deck officer. The Federal Government and air carriers shall not be obligated to compensate a pilot for participating in the program or for the pilot's training or qualification and requalification to carry firearms under the program.

''(f) AUTHORITY TO CARRY FIREARMS.—

''(1) IN GENERAL.—The Under Secretary shall authorize, while the program under this section is in effect, a Federal flight deck officer to carry a firearm while engaged in providing air transportation or intrastate air transportation. Notwithstanding subsection (c)(1), the officer may purchase a firearm and carry that firearm aboard an aircraft of which the officer is the pilot in accordance with this section if the firearm is of a type that may be used under the program.

''(2) PREEMPTION.—Notwithstanding any other provision of Federal or State law, a Federal flight deck officer, whenever necessary to participate in the program, may carry a firearm in any State and from one State to another State.

''(3) CARRYING FIREARMS OUTSIDE UNITED STATES.—In consultation with the Secretary of State, the Under Secretary may take such action as may be necessary to ensure that a Federal flight deck officer may carry a firearm in a foreign country whenever necessary to participate in the program.

''(g) AUTHORITY TO USE FORCE.—Notwithstanding section 44903(d), the Under Secretary shall prescribe the standards and circumstances under which a Federal flight deck officer may use, while the program under this section is in effect, force (including lethal force) against an individual in the defense of the flight deck of an aircraft in air transportation or intrastate air transportation.

''(h) LIMITATION ON LIABILITY.—

''(1) LIABILITY OF AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of a Federal flight deck officer's use of or failure to use a firearm.

''(2) LIABILITY OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the officer in defending the flight deck of an aircraft against acts of criminal violence or air piracy unless the officer is guilty of gross negligence or willful misconduct.

''(3) LIABILITY OF FEDERAL GOVERNMENT.—For purposes of an action against the United States with respect to an act or omission of a Federal flight deck officer, the officer shall be treated as an employee of the Federal Government.

''(i) DURATION OF PROGRAM.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the pilot program established under this section shall be in effect for a period of 2 years beginning on the date that the 250th pilot is deputized as a Federal flight deck officer under this section.

''(2) RISK-BENEFIT DETERMINATION DECISION.—Before the last day of such 2-year period, the Under Secretary shall determine whether the security benefits of the Federal flight deck officer pilot program outweigh the risks of the program.

''(3) TERMINATION OF PILOT PROGRAM.—If the Under Secretary determines under paragraph (2) that the risks outweigh the benefits, the Under Secretary shall publish a notice in the Federal Register terminating the pilot program and explaining the reasons for the decision to terminate and shall provide adequate notice of the decision to Federal flight deck officers and other individuals as necessary.

''(4) CONTINUATION OF PROGRAM.—

''(A) IN GENERAL.—If the Under Secretary determines under paragraph (2) that the benefits outweigh the risks, the Under Secretary shall publish a notice in the Federal Register announcing the continuation of the program, shall continue the program in accordance with this section, and may increase the number of Federal flight deck officers participating in the program.

''(B) NOTICE OF PROPOSED RULEMAKING.—Not later than 60 days after the date of publication of a notice continuing the program, the Under Secretary shall issue a notice of proposed rulemaking to provide for continuation of the program. In conducting the proposed rulemaking, the Under Secretary shall readdress each of the issues to be addressed under subsection (b)(3) and, in addition, shall address the following issues:

''(i) The use of various technologies by Federal flight deck officers, including smart gun technologies and nonlethal weapons.

''(ii) The necessity of hardening critical avionics, electrical systems, and other vulnerable equipment on aircraft.

''(iii) The standards and circumstances under which a Federal flight deck officer may use force (including lethal force) against an individual in defense of the flight deck of an aircraft.

''(5) REEVALUATION.—Not later than 3 years after the date of publication of a notice continuing the program, the Under Secretary shall reevaluate the program and shall report to Congress on whether, in light of additional security measures that have been implemented (such as reinforced doors and universal employee biometric identification), the program is still necessary and should be continued or terminated.

''(j) APPLICABILITY.—

''(1) EXEMPTION.—This section shall not apply to air carriers operating under part 135 of title 14, Code of Federal Regulations, and to pilots employed by such carriers to the extent that such carriers and pilots are covered by section 135.119 of such title or any successor to such section.

''(2) PILOT DEFINED.—The term 'pilot' means an individual who has final authority and responsibility for the operation and safety of the flight or, if more than 1 pilot is required for the operation of the aircraft or by the regulations under which the flight is being conducted, the individual designated as second in command.''.

(b) CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The analysis for such chapter is amended by inserting after the item relating to section 44920 the following:

''44921. Federal flight deck officer program.''.

(2) FLIGHT DECK SECURITY.—Section 128 of the Aviation and Transportation Security Act (Public Law 107–71) is repealed.

(c) FEDERAL AIR MARSHAL PROGRAM.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that the Federal air marshal program is critical to aviation security.

(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this Act, including any amendment made by this Act, shall be construed as preventing the Under Secretary of Transportation for Security from implementing and training Federal air marshals.

SEC. 3. CREW TRAINING.

Section 44918(e) of title 49, United States Code, is amended—

(1) by striking ''The Administrator'' and inserting the following:

''(1) IN GENERAL.—The Under Secretary'';

(2) by adding at the end the following:

''(2) ADDITIONAL REQUIREMENTS.—In updating the training guidance, the Under Secretary, in consultation with the Administrator, shall issue a rule to—

''(A) require both classroom and hands-on situational training in the following elements of self defense:

''(i) recognizing suspicious activities and determining the seriousness of an occurrence;

''(ii) deterring a passenger who might present a problem;

''(iii) crew communication and coordination;

''(iv) the proper commands to give to passengers and attackers;

''(v) methods to restrain an attacker;

''(vi) use of available items aboard the aircraft for self-defense;

''(vii) appropriate responses to defend oneself, including the use of force against an attacker;

''(viii) use of protective devices assigned to crew members (to the extent such devices are approved by the Administrator or Under Secretary);

''(ix) the psychology of terrorists to cope with their behavior and passenger responses to that behavior;

''(x) how to respond to aircraft maneuvers that may be authorized to defend against an act of criminal violence or air piracy;

''(B) require training in the proper conduct of a cabin search;

''(C) establish the required number of hours of training and the qualifications for the training instructors;

''(D) establish the intervals, amount, and elements of recurrent training;

''(E) ensure that air carriers provide the initial training required by this paragraph within 24 months of the date of enactment of this subparagraph; and

''(F) ensure that no person is required to participate in any hands-on training activity that that person believes will have an adverse impact on his or her health or safety.

''(3) RESPONSIBILITY OF UNDER SECRETARY.—In developing the rule under paragraph (2), the Under Secretary shall consult with law enforcement personnel and security experts who have expertise in self-defense training, terrorism experts, and representatives of air carriers, employees of air carriers, and educational institutions offering law enforcement training programs.''; and

(3) by aligning the remainder of the text of paragraph (1) (as designated by paragraph (1) of this section) with paragraphs (2) and (3) (as added by paragraph (2) of this section).

SEC. 4. COMMERCIAL AIRLINE SECURITY STUDY.

(a) STUDY.—The Secretary of Transportation shall conduct a study of the following:

(1) The number of armed Federal law enforcement officers (other than Federal air marshals), who travel on commercial airliners annually and the frequency of their travel.

(2) The cost and resources necessary to provide such officers with supplemental training in aircraft anti-terrorism training that is comparable to the training that Federal air marshals are provided.

(3) The cost of establishing a program at a Federal law enforcement training center for the purpose of providing new Federal law enforcement recruits with standardized training comparable to the training that Federal air marshals are provided.

(4) The feasibility of implementing a certification program designed for the purpose of ensuring Federal law enforcement officers have completed the training described in paragraph (2) and track their travel over a 6-month period.

(5) The feasibility of staggering the flights of such officers to ensure the maximum amount of flights have a certified trained Federal officer on board.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study. The report may be submitted in classified and redacted form.

SEC. 5. TECHNICAL AMENDMENTS.

Section 44903 of title 49, United States Code, is amended—

(1) by redesignating subsection (i) (relating to short-term assessment and deployment of emerging security technologies and procedures) as subsection (j);

(2) by redesignating the second subsection (h) (relating to authority to arm flight deck crew with less-than-lethal weapons) as subsection (i); and

(3) by redesignating the third subsection (h) (relating to limitation on liability for acts to thwart criminal violence for aircraft piracy) as subsection (k).

The CHAIRMAN pro tempore. No amendment to that amendment shall be in order except those printed in the CONGRESSIONAL RECORD designated for that purpose and pro forma amendments for the purpose of debate. Amendments printed in the RECORD may be offered only by the Member who caused it to be printed or his designee and shall be considered read.

Are there any amendments to the bill?

□ 1230

AMENDMENT NO. 10 OFFERED BY MR. MICA

Mr. MICA. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. LINDER). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. MICA:

Page 4, line 8, strike ''Analyze'' and insert ''An analysis of''.

Page 4, line 9, after ''discharge'' insert ''(including an accidental discharge)''.

Page 5, line 3, before the period insert the following:

, including whether an additional background check should be required beyond that required by section 44936(a)(1)

Page 5, line 6, before the period insert the following:

, focusing particularly on whether such security would be enhanced by requiring storage of the firearm at the airport when the pilot leaves the airport to remain overnight away from the pilot's base airport.

Page 6, after line 6, insert the following:

''(7) MINIMIZATION OF RISK.—If the Under Secretary determines as a result of the analysis under paragraph (3)(E) that there is a significant risk of the catastrophic failure of an aircraft as a result of the discharge of a firearm, the Under Secretary shall take such actions as may be necessary to minimize that risk.

Page 11, line 19, before the period insert the following:

under chapter 171 of title 28, relating to tort claims procedure.

Page 11, after line 19 insert the following:

''(i) PROCEDURES FOLLOWING ACCIDENTAL DISCHARGES.—

''(1) IN GENERAL.—If an accidental discharge of a firearm under the pilot program results in the injury or death of a passenger or crew member on an aircraft, the Under Secretary—

''(A) shall revoke the deputization of the Federal flight deck officer responsible for that firearm if the Under Secretary determines that the discharge was attributable to the negligence of the officer; and

''(B) if the Under Secretary determines that a shortcoming in standards, training, or procedures was responsible for the accidental discharge, the Under Secretary may temporarily suspend the program until the shortcoming is corrected.

''(2) AFFECT OF SUSPENSION.—A temporary suspension of the pilot program under paragraph (1) suspends the running of the 2-year period for the pilot program until the suspension is terminated.

Page 11, line 20, strike ''(i)'' and insert ''(j)''.

Page 13, line 6, strike ''proposed''.

Page 14, line 4, after the period insert the following:

The report shall include a description of all the incidents in which a gun is discharged, including accidental discharges, on an aircraft of an air carrier after the date of enactment of this section.

Page 14, line 5, strike ''(j)'' and insert ''(k)''.

Page 15, line 12, insert ''(a) IN GENERAL.—'' before ''Section''.

Page 15, line 22, insert ''effective'' before ''hands-on''.

Page 16, line 10, insert ''subdue and'' before ''restrain''.

Page 16, line 13, insert ''and effective'' after ''appropriate''.

Page 17, line 4, insert '', including the duty time required to conduct the search'' before the semicolon.

Page 17, line 8, strike ''amount'' and insert ''number or hours''

Page 17, line 9, insert ''and'' after the semicolon.

Page 17, line 13, strike the semicolon and all that follows through line 17 and insert a period.

Page 17, line 19, strike ''In developing'' and insert the following:

''(A) CONSULTATION.—In developing

Page 17, line 23, strike ''employees of air carriers,'' and insert ''the provider of self-defense training for Federal air marshals, flight attendants, labor organizations representing flight attendants,''.

Page 17, line 25, strike the closing quotation marks and ''; and''.

Page 17, after line 25, insert the following:

''(B) DESIGNATION OF OFFICIAL.—The Under Secretary shall designate an official in the Transportation Security Administration to be responsible for overseeing the implementation of the training program under this subsection.

''(C) NECESSARY RESOURCES AND KNOWLEDGE.—The Under Secretary shall ensure that employees of the Administration responsible for monitoring the training program have the necessary resources and knowledge.''; and

Page 18, after line 4, insert the following:

(b) ENHANCE SECURITY MEASURES.—Section 109(a) of the Aviation and Transportation Security Act (49 U.S.C. 114 note; 115 Stat. 613–614) is amended by adding at the end the following:

''(9) Require that air carriers provide flight attendants with a discreet, hands-free, wireless method of communicating with the pilots.''.

(c) BENEFITS AND RISKS OF PROVIDING FLIGHT ATTENDANTS WITH NONLETHAL WEAPONS.—

(1) STUDY.—The Under Secretary of Transportation for Security shall conduct a study to evaluate the benefits and risks of providing flight attendants with nonlethal weapons to aide in combating air piracy and criminal violence on commercial airlines.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Under Secretary shall transmit to Congress a report on the results of the study.

Page 19, after line 7, insert the following:

SEC. 5. AUTHORITY TO ARM FLIGHT DECK CREW WITH LESS-THAN-LETHAL WEAPONS.

Section 44903(i) of title 49, United States Code (as redesignated by section 6 of this Act) is amended by adding at the end the following:

''(3) REQUEST OF AIR CARRIERS TO USE LESS-THAN-LETHAL WEAPONS.—If, after the date of enactment of this paragraph, the Under Secretary receives a request from an air carrier for authorization to allow pilots of the air carrier to carry less-than-lethal weapons, the Under Secretary shall respond to that request within 90 days.''.

Page 19, line 8, strike ''**5**'' and insert ''**6**''.

MODIFICATION TO AMENDMENT OFFERED BY MR. MICA

Mr. MICA. Mr. Chairman, I ask unanimous consent that the amendment be modified in the form at the desk.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment offered by Mr. MICA:

In section 5, relating to authority to arm flight deck crew with less-than-lethal weapons, that is proposed to be inserted after line 7 on page 19:

(1) insert before ''Section 444903(i)'' the following:

''(a) IN GENERAL.—''; and

(2) insert at the end the following:

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in paragraph (1) by striking ''Secretary'' the first and third places it appears and inserting ''Under Secretary''; and

(2) in paragraph (2) by striking ''Secretary'' each place it appears and inserting ''Under Secretary''.

The CHAIRMAN pro tempore. Is there objection to the modification offered by the gentleman from Florida?

There was no objection.

Mr. MICA. Mr. Chairman, the modification that we just offered to my amendment is merely technical and does provide some conforming and consistent language. The manager's amendment that I have offered today does make some relatively minor changes. However, it does not change at all the fundamental thrust of the legislation, and that is to establish a pilot program under which about 2 percent, 2 percent specified and about 1,400 pilots, can arm themselves to stop a hijacking.

We chose that number because, again, we think during the next 2 years that will provide us a good test basis; and given TSA's track record and performance, I think that is probably about all they can do in that time frame to get this program under way.

The purpose of this amendment today is to address some of the issues that have been raised, but not totally resolved, during our committee markup. For example, the bill directs the Secretary of the Transportation Security Administration, TSA, to focus on the safest way to store guns between flights. This amendment also directs the TSA to decide whether a pilot should be subject to an additional background check before being allowed to be traveling armed.

This amendment also directs the TSA to minimize any risk that might occur from the accidental discharge of a weapon. It further makes clear that the pilot could lose the right to fly armed if that pilot is responsible for the accidental discharge of a weapon. Further, it requires a report compiling all the instances where a weapon was discharged on an aircraft.

Again, we have tried to incorporate constructive suggestions in this manager's amendment.

In addition, this amendment significantly beefs up self-defense training for flight attendants. Many flight attendants were concerned that the existing training provisions were inadequate. The bill approved by the committee already directs that improvements in their training should be made, and this amendment further specifies the type of training that should be provided to the flight attendants. It also urges TSA to make certain that it has the personnel in place who are capable of monitoring the training program.

One change in this manager's amendment that we reluctantly included was the deletion of the provision making hands-on self-defense training voluntary for flight attendants. It will be now, again by this amendment, mandatory.

We were concerned that some flight attendants might be reluctant to actively participate in the more physical aspects of self-defense training for fear it might adversely affect their health or safety. However, the representatives of the flight attendants organizations assured us they wanted all flight attendants to be required to participate in all aspects of self-defense training, so we have today honored that request.

Finally, this amendment changes existing law on less-than-lethal weapons. Existing law authorizes the government to permit pilots to carry less-than-lethal weapons, but it provides no deadline for the government's decision. This amendment does provide a deadline for the decision, but it leaves it up to the TSA to decide whether or not to allow those weapons. I will get into a colloquy with the gentleman from Illinois (Mr. KIRK) later on on that issue.

Personally, I do not believe that the less-than-lethal weapons will be effective in stopping a determined terrorist, and from the demonstrations we have seen, there is a lot to be desired and a lot lacking in using that as the only line of defense. But I think those who seek permission to carry that particular less-than-lethal type of protection are entitled to at least a timely answer.

In sum, this is a good manager's amendment. It improves the bill, it incorporates many constructive provisions, and it is a bipartisan compromise. I urge my colleagues to support the manager's amendment.

Mr. OBERSTAR. Mr. Chairman, I rise in support of the manager's amendment.

Mr. Chairman, we worked long and hard to negotiate the terms of this manager's amendment to complement the work done in subcommittee and in full committee to respond to a number of concerns that were raised subsequent to subcommittee action and during full committee consideration of the bill. The same bipartisan spirit that characterized the crafting of the bill that we considered in subcommittee and full committee characterizes the manager's amendment.

The bill requires the Transportation Security Administration within 2 months of enactment to conduct a study of the risk that a misfire in the cockpit will result in a catastrophic event. By that, I understand and intend, firing a bullet into the autopilot or firing into the navigational guidance system or any of the other onboard equipment that is essential to the navigation of the aircraft. We need to know before launching this program what will be the effects of such an accidental misfire.

The manager's amendment requires the Transportation Security Administration, should they have determined that there is a significant risk to the aircraft, to take necessary actions to minimize that risk. That is another, I think, important caveat and protective step that we must take in this process.

The amendment also provides authority for the Under Secretary for Transportation Security to suspend the program if an accidental discharge results in injury or death of a passenger or a crew member and requires the Under Secretary to revoke the deputation of the pilot who is responsible for that accidental discharge.

TSA must also report all incidents where a gun is discharged on an aircraft, including accidental discharge, and provide a report to the Congress within 3 years.

Issues were raised in subcommittee and full committee about the storage of weapons. The manager's amendment requires TSA to specifically address whether the storage of weapons at airports between flights would enhance security. It requires the under secretary to respond to requests from carriers to arm flight crews with nonlethal weapons within 90 days of each request.

It also addresses in detail that the gentleman from Florida (Chairman MICA) has already covered the provisions for training of flight attendants, including establishing a single contact person within TSA to oversee that training program; and it makes that training mandatory, as is evacuation procedure training mandatory and other safety measures mandatory for flight attendants.

I think the way we have crafted the training for cabin crew is very thoughtful and effective and should be carried out, if this legislation is enacted, with vigor by the Transportation Security Administration. As I think virtually every Member of the

House does, I fully sympathize with the concerns raised by flight attendants. They are the first line of safety on board an aircraft. They also now are the first line of security, along with Federal air marshals, on board an aircraft; and the legislation we are presenting today makes the pilots the last line of security aboard an aircraft.

So I think we have covered all the concerns and enhanced the legislation with the manager's amendment, and I support its adoption.

Mr. BOSWELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise very enthusiastically supportive of what is going on here today. I thank the gentleman from Alaska (Mr. YOUNG) and the gentleman from Florida (Chairman MICA), the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), of the full committee and the ranking member, the gentleman from Illinois (Mr. LIPINSKI), for moving the ball forward today. I think our country will be safer.

I would just like to kind of make a general statement. I will try to be short.

I appreciate what is going on here today. I, like many others in this body, am a current commercial pilot, and I suppose that by being so I am a little more critical at times of those that man the cockpits of the airplane and just kind of look them over without even thinking about it too much.

I submit that the people that fly our airliners, and I want to emphasize the airliners, that carry many, many what people in the business call SOBs, we call them ''souls on board,'' we are concerned about their safety. That has been in the vernacular for a long time, ''souls on board.'' How many souls are on board? You know, there may be 100, there may be 200, there may be 300, and it is an important thing, their safety.

The pilots come on in a briefing and they will tell you their main purpose is a safe arrival at the destination. So they are high-quality people, very high-quality people we can have a lot of confidence in.

So I think this is appropriate, to do what we are doing. If it were left up to me, I would have probably gone to a little higher percentage and so on. I think we are moving forward, and I think the public will be safer as we arm the pilots.

Last Monday, flying out here, how many times I have reflected on it, as I sat there in the airliner and looked at that door, and I know it can be reinforced and will be in due time, but it is still not going to be attached to a piece of reinforced steel. It will be attached to a bulkhead of aluminum, and I suppose some enterprising terrorist can figure out how to get through that, even though it is reinforced.

If for some reason a terrorist did manage to get into the cockpit and we had not armed him, I think we would feel a lot of remorse if an F–16 pulled alongside and we had not done everything we could have in the last-resort possibility. That last-resort possibility is to arm the pilots. There are two of them on board. Each of them, either one, can land that airplane safely, if required to do so.

So I think we are doing the right thing. It is unfortunate that we live in a time after September 11 that we even have to consider this, but we live in that time.

Mr. Chairman, I support the manager's amendment and I support the underlying bill. I just hope we can move it forward today. Those listening, wherever you might be here on Capitol Hill, support this bill. It is the right thing to do.

Mr. TOWNS. Mr. Chairman, I have recently proposed an amendment to H.R. 4635, the ''Arming Pilots Against Terrorism Act,'' which would establish a program for training pilots as Federal flight deck officers. This amendment enhances the bill by requiring the Under Secretary of Security to address the crucial issue of accidental discharges. I am very pleased that the gentleman from Florida has agreed to include my amendment in the Manager's amendment.

While all law enforcement officers are trained to handle their firearms with the utmost care, accidental discharges do occur, and are a cause of firearm-related injuries. Typically, accidental discharges result in the wounding of the gun carrier, or of a limited number of bystanders. But in an aircraft flying at 30,000 feet, an accidental discharge, which can potentially shoot out a window, or damage other vital technology, endangers many more people.

To address this concern, I drafted a two-part amendment. The first part instructs the Under Secretary to consider the potential risk of accident discharges prior to implementing the program. The second half requires the Under Secretary to include in his report to Congress, an account of the specific instances of accidental discharges, and the subsequent damage caused by them.

By requiring the Under Secretary to pay specific attention to the issue of accidental discharges, this amendment increases the security that the program proposed by the bill strives to provide to airline passengers. I therefore urge my colleagues to support the Manager's amendment, and I thank the Chairman and the subcommittee chair for its inclusion in the Manager's amendment.

The CHAIRMAN pro tempore. The question is on the amendment, as modified, offered by the gentleman from Florida (Mr. MICA).

The amendment, as modified, was agreed to.

□ 1245

AMENDMENT NO. 11 OFFERED BY MR. DEFAZIO

Mr. DEFAZIO. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. LINDER). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. DEFAZIO:

Page 2, line 12, strike ''pilot''.

Page 3, lines 8 and 9, strike ''selecting, training,'' and insert ''training''.

Page 3, line 9, after ''pilots'' insert ''who are qualified to be Federal flight deck officers''.

Page 3, line 10, strike the semicolon and all that follows through ''first'' on line 17.

Page 9, strike lines 3 through 9.

Page 9, line 10, strike ''(5)'' and insert ''(4).

Page 9, line 24, strike the comma and all that follows through the comma on line 25.

Page 11, strike line 20 and all that follows through line 4 on page 14.

Page 12, line 21, strike the comma and insert ''and''.

Page 12, line 23, strike the comma and all that follows through ''program'' on line 24.

Page 14, line 5, strike ''(j)'' and insert ''(i)''.

Mr. DEFAZIO. Mr. Chairman, today the gentleman from Washington (Mr. NETHERCUTT) and others and I rise in support of the base bill, but in the hopes of improving the legislation.

We are concerned that by specifying a cap on a reluctant administration, an administration, a President and a head of the TSA who do not want to arm pilots, that by setting a very, very modest goal of 2 percent, a cap of 2 percent, without mandates, that they move ahead expeditiously with that program, that we are not going to adequately meet the identified threat.

Virtually everyone who has spoken today basically subscribes to the idea that the flight deck should be defensible, the weapons in the bill would not come away from the flight deck, they would be used to defend the flight deck. But the point is that under this legislation, if this reluctant administration moved quickly and expeditiously to the cap of 2 percent, on a daily basis, given pilots' schedules, one could be certain that less than 1 percent of the pilots flying were armed.

Now, I do not believe a chance of one in 100 is a significant deterrent to a suicidal, homicidal terrorist intent on causing death and destruction. So I really feel that by putting that cap in the bill that we would be making a mistake. I do not see why we should not set a goal of saying in an orderly basis, as we are hearing from the gentleman from Kentucky (Mr. ROGERS), as much as we can afford to finance, and I believe that security is worth financing, we should move forward with training all pilots who meet the minimum qualifications, and then all pilots who pass the proficiency test and pass through the training should be allowed, until the day when we have armored flight decks, flight decks which are secure, and which provide for the necessities of food and lavatories for the pilots where they do not have to come out at all, that we would continue to have pilots armed until that point in time.

That is what El Al did. Their pilots were armed until they came up with these secure flight decks where the pilots do not have to come out at all. The door is locked. They do not come out until the plane lands and the engines are shut down.

Now, the FAA says it is impossible to design that kind of a flight deck, and they are going to take a few years to approve the design, so we are a long

way away from that here in the United States. Beyond that, we are not even envisioning one where they would have lav services, because that would cause some more money to redesign those planes. So we may be decades away from that.

So we should not have a bill that sunsets in 2 years. We should not have a bill that limits to 2 percent because, remember, the hard and fast bottom line here is there are standing orders from the President of the United States of America that if another plane is commandeered, that that plane will be shot from the sky. That is a horror beyond imagination for the pilot with the order to do that, but a horror that they would have, to avoid even more mayhem on the ground. It should not ever come to that. Why not have this adequate, last line of defense, and that is what it is, defense.

Some say, oh, we are worried about the pilot running down the cabin with the gun or wandering the airport with the gun. All of those problems can be resolved. It should be a defensive weapon in the flight deck. I urge people to try these stun guns. You get one shot, and it takes about 10 seconds to reload and you get another. That is not going to work against perhaps one or more than one determined terrorist trying to storm a flight deck.

A legal force to repel murderous intent, I believe, is justified. The bill recognizes that, but it has these defects. I urge the Members to support this amendment.

Mr. NETHERCUTT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to thank the gentleman from Oregon (Mr. DEFAZIO) and the gentleman from South Dakota (Mr. THUNE) and the gentleman from Texas (Mr. BARTON) and the gentleman from North Carolina (Mr. HAYES). All of us worked hard to craft this amendment that we think improves the bill substantially, because it brings more reason to the concept of arming pilots as the base bill does.

We think it is unreasonable, and I submit it is unreasonable, to limit the number of pilots who would voluntarily participate in this program of defense on airlines to 2 percent. What that means is that 98 percent of the other flights, the other pilots who are in the air every day, every hour, carrying us and our families and friends and others of the traveling public, are subject to less protection than the 2 percent which would be implemented under the base bill. So what we do is lift the cap of 2 percent, and we make this program permanent.

I would submit, Mr. Chairman, that as we looked at the concept of arming pilots, the committee and subcommittee of jurisdiction have approved the concept of arming pilots. So if it is a concept that is valid, and I believe it is, then we should not limit the time under which it would be implemented to the multiyear term that is contained in the bill. So lifting the cap, lifting the time limitation and making this program permanent, as it should be, I think makes all the good sense in the world to protect the traveling public.

I know the committee worked hard to negotiate the package that is part of the bill as we look at it today, but I also think that this is an improvement in that package; and I believe there will be a strong deterrent associated in making more pilots available to voluntarily participate in the program and arm themselves to protect the passengers, protect against terrorism.

So my sense is that while again, the concept is good in the bill, we really firmly protect and perfect the concept in our amendment. I think it makes all the sense to do that.

So we should make it permanent. I think if there are pilots as the last line of defense, then there should not be a limitation on numbers and time for providing that permanent line of defense to the traveling public. So our amendment achieves this.

Again, I thank the gentleman from Oregon (Mr. DEFAZIO), the gentleman from South Dakota (Mr. THUNE), the gentleman from Texas (Mr. BARTON), and the gentleman from North Carolina (Mr. HAYES). I am proud to be a part of this effort to make this change and make it in a commonsense fashion, in a reasonable way, to make sure the traveling public has all of the confidence in the world, as much as possible, in the dangerous world in which we live, that they are flying and that they are flying safe. Arming our pilots and lifting these restrictions will do just that.

Mr. LIPINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. I know that the sponsors of this amendment are very sincere and very genuine in what they want to do. I am personally very close to one of them, the gentleman from Oregon (Mr. DEFAZIO), as he and I have participated in a number of endeavors over the course of the years; and I know that his intentions are always for the benefit of all Americans. But in regards to this amendment, I must very strongly oppose it. It would just destroy the delicate balance that we have with this bill. We have come a long way in compromising on this bill, and I think that we finally have a bill that we can truly say represents the will of the American people.

Arming pilots with lethal weapons at the present time is opposed by the administration, opposed by the Secretary of Transportation, and opposed by the Under Secretary of Transportation for Security. So it is questioned whether or not our compromise, bipartisan piece of legislation is ever going to gain the support of those individuals. Certainly, if this amendment would be accepted, the chances of those individuals ever changing their position, the odds of their changing their positions would be much, much greater than they are today when they are not even in favor of it today.

Also, the American public is not totally sold on arming pilots. The issue definitely is in doubt. We should go about this slowly and in a very prudent manner.

There has been an awful lot thrown at the TSA since we passed our legislation establishing it. They are trying to do the best they possibly can with everything that we have given them to do, but they are moving slowly. It is very possible that some of the deadline dates will have to be extended. If we were now to give them the authority and direct them to start processing approximately tens of thousands of pilots, I honestly and frankly do not know how they could ever do it in a reasonable, responsible manner. Consequently, I say to everyone, stick with the bill that we have before us. It is the most prudent course of action, and we do not want to make the skies less safe and less secure; and I believe this amendment would do that.

Mr. THUNE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am proud to join with my colleagues, the gentleman from Washington (Mr. NETHERCUTT), the gentleman from Oregon (Mr. DEFAZIO), the gentleman from Texas (Mr. BARTON), and the gentleman from North Carolina (Mr. HAYES), to introduce this amendment to H.R. 4635.

We have an opportunity today with this amendment to improve a critically important piece of legislation that I hope becomes law as quickly as possible. As a member of the Committee on Transportation and Infrastructure's Subcommittee on Aviation and a cosponsor of the original version of H.R. 4635, I strongly support the creation of a voluntary Federal program that would arm and train pilots to defend their cockpits against terrorist attacks. I believe the bill that we are considering today creates a good framework for the Transportation Security Administration to implement an effective Federal flight deck officer program. However, I feel a more aggressive benchmark is needed.

In an effort to strengthen the role that pilots play in our airline security, this amendment will make three commonsense changes to the Arming Pilots Against Terrorism Act.

First, our amendment would eliminate the ceiling on the number of pilots that are eligible to volunteer for this important program. In an effort to move the bill through the committee, the current 2 percent limit was included in the bill; and I am certainly pleased, Mr. Chairman, and I admire the work of the gentleman from Alaska (Mr. YOUNG) and the gentleman from Florida (Mr. MICA) and the distinguished ranking member, the gentleman from Minnesota (Mr. OBERSTAR), for moving this bill through the committee. However, I strongly believe

that this program needs to allow all pilots to volunteer for this critical program.

Second, the amendment would require the Transportation Security Administration to begin training qualified volunteer pilots more quickly. Very simply, the sooner that there are armed pilots in the cockpit, the quicker they can respond to potential and future in-flight attacks.

Lastly, the amendment would eliminate the sunset for the Federal flight deck officer program included in the bill and make it permanent. Mr. Chairman, I believe the need for this important program does not go away after 2 years.

Mr. Chairman, by arming pilots, Congress can create a last line of defense against terrorist attacks. It is critical that we take every possible action to protect passengers in this country and the aviation system, and this legislation is an important component of that process.

Since September 11, we have learned that we need to prepare for previously unthinkable acts of terror. This commonsense legislation and this commonsense amendment gives airlines and pilots an additional tool and creates the last line of defense against future attacks.

Mr. Chairman, this is a voluntary program. This is a program that pilots can choose to participate in. It is something that the pilots of this country have asked for, and I would dare say that anybody who uses the aviation system in this country and flies on a regular basis, there is no person that we put more trust and more confidence in than the person who is piloting that airplane. From the takeoff to the flight and the many miles in between and to the landing, it is important that we support our pilots in what they are asking for, and also what I believe the majority of the people in the country are asking for, and that is providing the last line of defense, giving those pilots, those people that we entrust our lives to on a daily basis, an opportunity if it presents itself to be saved from an airplane having to be shot down or, worse yet, although there is not anything worse yet, but having been shot down or having to experience what we saw on September 11.

□ 1300

So it is critically important, I believe, Mr. Chairman, that this amendment be added to this important legislation; that we strengthen it, that we put in place a provision that does not limit or in any way put a ceiling on the number of pilots who can participate in this program. It is a voluntary program.

I ask that we expedite and accelerate the training process, and finally, that we eliminate the sunset provisions so this program can continue long after the 2 years has expired. I believe it will have a deterrent effect and it will send a very, very strong message to the terrorists around the world who would commit acts of terrorism against the people of this country that they are going to be dealing with a system that is completely armed and ready to deal with any type of terrorist attack.

So I ask my colleagues here to support this amendment to make this legislation stronger, and then to move it out of this Chamber and hopefully on the President's desk, and to get a signature so we can begin to implement these provisions.

Ms. BROWN of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

First of all, I want to thank the gentleman from Alaska (Chairman YOUNG) and the gentleman from Florida (Chairman MICA) and the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI) for their hard work and cooperation in developing this compromise, and I want to stress, compromise legislation. There are many tough decisions that had to be made by members of the Committee on Transportation and Infrastructure.

The terrible acts of September 11 changed our perspective on how we protect our air passengers and citizens. The traveling public wants and deserves to be safe while traveling. In my home State of Florida, we rely heavily on tourists as the base of our economy, and we need to ensure for people that it is safe to fly.

Arming our pilots is a monumental action by this Congress, and it is a perfect example of why it is so important for us to decide policy through thoughtful deliberation and debate. We are beginning to undertake one of the most significant changes in our Nation's government. As we begin to develop the Department of Homeland Security, we should not be concerned about when we get it done; we should be concerned about whether this new agency is going to serve the best interests of the American public.

We have seen too many examples where the TSA has lacked communication with the local government or the airports, and it is very important that we have communications working with the local governments as far as this new agency is concerned.

The high percentage of missed weapons in the recent TSA undercover operation shows us how much we need to improve passenger safety programs. Arming pilots is one small step, but we still have a lot of work to do. I look forward to working with my colleagues on the committee, as well as DOT and the airline industry, in striving to provide the safest and most efficient air transportation system for the traveling public.

Mr. PAUL. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. PAUL. Mr. Chairman, I rise in support of the amendment, but I would like to mention that this is essentially the same amendment that I had prepared to offer, an amendment that I put into the RECORD 2 days ago. But I will support this amendment because it is essentially doing what I was anxious to do.

Shortly after 9–11, as a matter of fact, on September 17, I introduced legislation into this body, H.R. 2896. It would have taken care of this problem in a more conclusive way, and it would have removed all the prohibitions and legalized, once again, the right of property owners to defend their property.

Of course, that would be the ultimate solution, as far as I am concerned, because we are moving in a direction, unfortunately, towards more dependence on government and government regulation, and government programs that allow weapons in a cockpit.

An example I like to use, which I think is an accurate example, if we look at the inner cities, guns are denied to the citizens. There are a lot of police and there is a lot of crime. If we look to the suburbs and the rural areas, there are essentially no police, there are a lot of guns in the homes, and there are essentially no crimes.

That principle should be applied to the airlines. It should be applied because guns can prevent crime, and we should allow them to be placed in the hands of the owners. I have a tie that is a favorite tie of mine, and it has a picture of the Bill of Rights, but it has a stamp over it which says, ''void where prohibited by law.'' I think we do too much of that around here.

A lot of times I get support from the other side of the aisle when they see the prohibitions that our legislation places on the First Amendment. Likewise, I get a lot of support when I would like to reduce the prohibitions on the Fourth Amendment in the area of privacy. Unfortunately, since 9–11, we have moved in the wrong direction. We are making more prohibitions by law on our Bill of Rights.

In this case we are moving in the right direction because we are trying to remove some prohibitions that are limiting our Second Amendment rights. Our job here in the Congress should be to protect the Second Amendment, never to get in the way of the Second Amendment. This is why, although this amendment improves the bill and the bill is moving in that direction, I can support it, but we ought to do a lot more.

Another example of how private property could work was the recent example at LAX Airport. Private owners of an airline assumed responsibility for security at the gate. Many lives were probably saved with El Al guards, private guards with private weapons, that tragically are denied to American airlines. Because of an agreement between one foreign airline and the U.S. Department of Transportation, it has been

given permission to protect their people better than we are allowed to protect ourselves. That to me just seems downright foolish, and I think we in the Congress should demand our rights of the Second Amendment and insist on the responsibility of property owners to protect their property and to protect our lives.

We are moving in that direction, and El Al deserves definite compliments, but we deserve deep scrutiny. Why do we permit a foreign airline to provide more security for their people than we are allowed in our country?

The best step in the world, of course, would be to pass my bill, H.R. 2896, which would just legalize once again the Second Amendment and allow our airlines to make the decision, and let the people decide. The airlines that say, we have guns in the cockpit, I would go fly that airline; if they say no, we do not believe in guns, let it be.

We need to, once again, believe in America, believe in freedom, believe in the Bill of Rights, and let the people take care of so many of these problems instead of getting in the way. This bill, fortunately, is helping to get the government out of the way. That is why I support it.

Mr. BARTON of Texas. Mr. Chairman, I move to strike the requisite number of words.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Chairman, I want to commend the Committee on Transportation and Infrastructure for bringing this bill to the floor. I want to commend the ranking member, the full committee chairman, the ranking subcommittee member, and the subcommittee chairman for this. It is an excellent piece of legislation, but, like most bills, it can be improved.

The district that I represent down in Texas includes D-FW airport, which is one of the hub airports in our great Nation. I am very close to Love Field, which is the hub airport for Southwest Airlines. I could be proven wrong on this, but I guess my estimate is that there are more pilots who live in my congressional district than any other district in the country.

As soon as we had the terrible tragedy back in September, my pilots began to come to me personally and collectively and in town meetings saying that they would like to have the right to carry a firearm in the cockpit. I support that right. It is guaranteed under the Constitution, the Second Amendment. We have had several pieces of legislation that have passed since September 11, and there have been numerous ways to try to give that right to the pilots.

The underlying bill before us would allow that in a limited fashion. The amendment that is sponsored by the gentleman from Oregon (Mr. DEFAZIO), myself, the gentleman from South Dakota (Mr. THUNE), and the gentleman from Washington (Mr. NETHERCUTT) would remove that 2 percent cap, it would make the program permanent, and it would accelerate the training of qualified pilots.

I would like to point out that this is a voluntary program. We are not forcing a pilot to carry a weapon if he or she feels that they do not need to or do not want to. The pilots have to be trained. The pilots have to be certified. But as someone who has flown over 3 million miles, air miles on commercial airliners since I became a United States Representative in 1985, I can tell Members that as a passenger, I feel more comfortable if I know that the pilots at a minimum have the right to carry a weapon, and hopefully, are carrying that weapon and exercising that right. It makes the terrorists' job that much more difficult, should they in some way gain entry into the airplane or into the cockpit.

Most of our pilots are former military flyers, so they are very comfortable with firearms. Again, they have to be trained.

I think this is an excellent amendment. I would point out that a survey that was done back in October by the Air Line Pilots Association and by United Seniors Association, USA, this was done by the Winston Group in October of 2001, shows that 75 percent of Americans favor arming airline pilots, and 49 percent say they would switch to an airline that allows its pilots to be armed. More than half said they would be willing to pay extra to fly on a plane where they knew the pilot had a firearm.

Interestingly enough, 78 percent of married women with children would support arming our pilots, and 77 percent of adults over 55.

So at least in this survey taken last fall, there was overwhelming support. I believe, if this amendment comes to a roll call vote, we will see overwhelming support on the House floor.

I want to commend the gentleman from South Dakota (Mr. THUNE), the gentleman from Oregon (Mr. DEFAZIO), and the gentleman from Washington (Mr. NETHERCUTT) for working with me to bring forth this amendment, and I hope we adopt it expeditiously.

Mr. Chairman, I include for the RECORD information on the survey I referred to earlier.

The document referred to is as follows:

ALLIED PILOTS ASSOCIATION, UNITED SENIORS ASSOCIATION,
October 17, 2001.

NEW NATIONAL SURVEY SHOWS OVERWHELMING PUBLIC SUPPORT FOR ARMING AIRLINE PILOTS

SUPPORT STRONGEST AMONG WOMEN, SENIORS; TRAVELERS WOULD SWITCH TO AIRLINES THAT ARM ITS PILOTS

WASHINGTON, DC.—A new national survey commissioned by the Allied Pilots Association and United Seniors Association and conducted by The Winston Group, will be released today, Wednesday, October 17, 2001. The survey reveals the biggest concerns of airline passengers and what security measures the government needs to take now to reassure the traveling public that it is again safe to fly.

75% of Americans favor arming airline pilots.

49% of those surveyed would switch to an airline that armed its pilots.

More than half (51%) would be willing to pay up to $25 per ticket to pay for new security measures.

78% of married women with children support arming airline pilots.

77% of adults 55 and older support arming airline pilots.

The Airline Passenger Security Survey was conducted October 9–10, 2001 with 800 registered voters across the nation. Margin of error is +/−3.46

Last week, the United States Senate passed the Aviation Security Act and the U.S. House of Representatives will be debating these issues shortly.

''We hope the House considers these important views of American people when crafting their bill on airline security,'' said Charlie Jarvis, President and CEO of United Seniors Association.

Mr. MICA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my heart is with the proponents of this amendment, but my vote must reluctantly be with those with whom I have agreed to compromise, so I rise in opposition to this amendment.

Some of the things that have been said by the proponents of this amendment are correct, and all pilots should have the ability to defend themselves. However, in our system, nobody gets their way 100 percent.

Although it has been delightful to see some of the Members who were on the other side of the issue scampering to get back to my original proposal, it is always great to see Members in this body do a 180-degree turn back in the direction of the proposal which I had advocated in the first place, but nonetheless, we have thought this out. We learned some experiences from passing legislation in the heat of passion and in the heat of circumstances post-September 11.

We have heard that the Transportation Security Administration, which we created, which we gave far too many tasks to, which we tried to argue against but we lost that debate, we do not want to make the same mistake now in giving TSA any more than they can put on their platter.

The chairman of the subcommittee on the Committee on Appropriations was quoted a month ago saying that TSA is in chaos. We do not want to add to that chaos. Members have already heard how their finances are stretched. Therefore, we came up with a compromise that allows 2 percent. It does not sound like a lot, but it can be as many as 1,400 pilots to be trained on a voluntary basis with the specifications of weapons, of storage of weapons, of every detail involved in the process of defending the cabin and the cockpit. I think that is a reasonable compromise. I think this is a reasoned and well-thought-out approach.

Mr. Chairman, my colleagues have to understand, too, that TSA, the Transportation Security Administration, has

the ability to put a rule in place today, before the day is out. We gave in our unprecedented legislation, signed by the President November 19, we gave them the ability to do this today. They have not done that, and shame on them for not doing that. That is why we are here as policymakers, to put that in place.

We have not eliminated that possibility, but we have only put in place a beginning program. I think the program will work. I think it is well thought out.

So, again, it is with reluctance that I oppose this to honor the agreement that we have come forward with, which I think is a good agreement.

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

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

Mr. BARTON of Texas. A friendly inquiry, Mr. Chairman. I am reading the underlying bill. In the bill that is on the floor, section 128, which has the section that the gentleman was alluding to that would give TSA the authority to do the rule, it is repealed.

Mr. MICA. Mr. Chairman, I would tell the gentleman that, no, we would repeal that, but we replace it with this provision.

Mr. BARTON of Texas. It is to be replaced?

Mr. MICA. Yes. So we do have that ability. I want to clarify that. That may appear to be contradictory, but in fact we are putting this in this particular provision.

□ 1315

Again, I think it is well thought out, I think it gives us the ability to defend the cockpit. And a terrorist will not know, a terrorist will not know which of these pilots are armed, but they will know that we as a Congress have acted and allowed some of those pilots to be armed. They will not know how many air marshals are on what plane either, but they will know there will be air marshals. They will know there will be another line of defense.

So, again, I think this is a good beginning. I think it is a good compromise. I want to honor the compromise that we have so carefully crafted. Again, I rise in reluctant opposition to the amendment offered by my friends, the DeFazio-Thune-Nethercutt amendment.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise without reluctance with great concern about this amendment in opposition to it. I have no hesitation at all in opposing this amendment, with great respect for the sincerity with which its authors come forward. But the road to destruction is paved with good intentions and sincerity, and we would be on a road to very serious problems with this amendment.

As the gentleman from Florida (Mr. MICA) has said and as the gentleman from Alaska (Mr. YOUNG) officially in his remarks has said, the bill before us today is the product of a very carefully thought through, debated, negotiated compromise, like most legislation that passes this House. In this case we have the benefit of the best ideas from both sides of the aisle coming together in support of a bill that both sides of the Committee on Transportation and Infrastructure can support this far and no farther.

Now, the idea of creating a permanent program to arm pilots as compared to the bill which has a 2-year experimental program would totally undo this agreement. I could not support the bill should this pass.

Then the bill, I think, would not pass because I think there is great reluctance among Members on both sides of the aisle about the issue of arming pilots. There is, as was expressed by a previous speaker, the gentleman from Illinois, the public is not at all sure about this idea of arming pilots. In fact, time and again travelers aboard aircraft have asked me with some trepidation in their voice about having guns in the cockpit.

We have achieved a balance between those in this body who are vehemently opposed to arming flight deck crews and those who are vigorously in support of it, those who are in between. There are reservations on both sides. I think the bill before us balances the equity. Expanding the basic program to an unlimited number of commercial pilots within such a short time frame would frankly undermine aviation security in general. This would mean, passage of this amendment would mean training tens of thousands of commercial pilots to carry guns.

The Transportation and Security Administration already is having a difficult time training the airport security check point personnel. They have not been deployed at airports around this country. How in heaven's name are they going to take on the additional task of training tens of thousands of commercial pilots? They have not fully trained the Federal air marshals necessary to put them on board all flights. There just simply is not going to be enough personnel. There is not going to be enough time or money to train such a vast number of personnel.

I listened with great interest as the gentleman from Kentucky (Mr. ROGERS), chairman of the Subcommittee on Transportation of the Committee on Appropriations, addressed the issue of costs. Based on Congressional Budget Office estimates of some 70,000, their estimate is 100 percent of the 70,000 pilots. That is a low number. I think there are more like 85,000 commercial pilots. If you do 100 percent training, the cost estimate is $560 million a year. Well, we do not have unlimited dollars to address this issue. There is not enough money in the aviation security charge that we have imposed upon air travelers to cover that cost. There is not enough money to do all the other things that we are attempting to do that I think have a much higher priority than training flight deck crews.

We have a solid approach, sensible approach, a step-by-step approach. Let us take this 2-year pilot program, make sure that it works, make sure that under the circumstances we have set forth it will be effective, and let us not go beyond that point. Oppose this amendment.

Mr. HAYES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in strong support of the DeFazio-Nethercutt-Thune-Barton amendment. I appreciate very much the effort that our chairman, the gentleman from Florida (Mr. MICA) and the gentleman from Minnesota (Mr. OBERSTAR) have put into crafting a compromise. Their efforts are well intended and we are moving in the right direction, but the amendment before us today will take their good work and expand it. This will provide true security at a moment's notice, deterrence that will mean something that can be clearly understood and will provide a tremendous boost to both the confidence and the security of the flying public.

There are three things I want to mention briefly here. When an airplane leaves the ground, all the passengers and the crew are entirely dependent on the ability of the pilot to maintain control of the aircraft. Over 70 percent of the pilots and the majority of the public at large overwhelmingly agree that properly trained pilots should have the opportunity to carry a firearm.

If I might address my friend, the gentleman from Minnesota's comments about the training part of the bill. As I understand it, it allows appropriate training for the pilots to be armed. Of course, they will be experienced. They will have proper training. Training for the pilot is far different. This is about someone coming through the cockpit door. This is not about someone unidentified rising in a seat, perhaps coming out of a lavatory. The type of training and level of training is far less and, consequently, in my opinion, far less expensive than it would be to train a sky marshal.

At the same time, let me stress that the training they would receive would be appropriate. It would be sufficient, and it would also be very relevant to the task that you hope that they would never be called on to perform. Also, this is volunteer pilots. It increases the number of participants in the program. It is clearly more effective and more helpful than asking passengers to take their shoes off in a random fashion and checking them.

A potential terrorist who knows that the pilot is armed and trained to deal with anyone who comes to the door to take over control of that aircraft and uses a weapon, that is a deterrent. That is a real deterrent.

Lastly, the amendment will accelerate the training of qualified pilots by

requiring TSA to begin training the qualified pilots within 2 months of enacting the legislation. I also might add this keeps the under secretary, who has expressed some disfavor for this project, from stopping it arbitrarily in 2 years.

This is a good amendment and it can make a good bill even better. I urge support for the Barton-Thune amendment.

Mr. KINGSTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wanted to enter into a colloquy with the gentleman from Florida (Mr. MICA). First of all, I wanted to thank the gentleman and the ranking member and all the committee members for what they have done and for the gentleman's leadership on this important legislation. I am proud to be a cosponsor of the bill so I certainly support the gentleman's efforts.

Our airline pilots are already entrusted with every passenger on their aircraft, so it stands to reason that they be entrusted to serve as responsible Federal flight deck officers. All we have to do is ensure they receive the proper training, and with that in mind, I would like to request that we clarify the training aspect of the bill.

As the chairman knows, the bill states ''the Under Secretary shall base requirements for training on the standards applicable to Federal air marshals.''

The Federal air marshals conduct their training at the Federal Law Enforcement Training Center, FLETC. However, this bill simply states that the pilots' training should be conducted at ''a facility approved by the Under Secretary.''

Since FLETC is already the approved Federal training facility for the Federal air marshals, I am sure the gentleman would agree that this is appropriate to designate FLETC as an approved training facility for the Federal flight deck officer program. I request that the record reflect our intent to designate the Federal Law Enforcement Training Center as an approved training facility for both the Federal air marshal program and the Federal flight deck officer program.

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

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

Mr. MICA. Mr. Chairman, I agree with the gentleman from Georgia on this important issue of training standardization for our Federal flight deck officers and also for our Federal air marshals. The Federal Law Enforcement Training Center should be designated as an approved training facility for both the Federal Air Marshal Program and also for the Federal Flight Deck Officer program.

Mr. EHLERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I first rise to state that I am opposed to the amendment, but as you will see in a moment, I am also opposed to the bill but not for the reasons you may think.

I am not fundamentally opposed to the idea of arming pilots in the cockpit as a last line of the defense against a terrorist attack on an airplane. The safety and security of the flying public is a central concern to us all, and a well-trained, armed pilot could be a valuable asset in defending ourselves against terrorist acts. Moreover, the bipartisan bill approved by the Committee on Transportation and Infrastructure addresses a number of the logistical and procedural issues for implementing a program for arming pilots, even if it leaves most of the sticky details to the TSA.

I must say that I am skeptical of the ability of the Transportation Security Administration to develop adequate procedures for this complicated process of safely getting a firearm on and off an airplane and securing it in the cockpit without incident. Let us hope that they can successfully answer many of the questions we do not firmly work out in this bill.

In summary, I am not fundamentally opposed to this bill. In fact, I have consistently voted against any measures to control firearms. But let me just say, having said all of that, that H.R. 4635 still has at least one fatal flaw and a few minor ones that prevents me from voting for it. The problem: the bill does not give the airlines a choice on whether their pilots, their employees, can carry guns on the airline's planes.

We have heard from the public. We have heard from the pilots. We have heard from the flight attendants. And we have responded to these groups, but we have shut out the airlines. This is entirely inappropriate.

The Federal Government should not mandate that a reluctant airline be required to allow one of its pilots to carry a firearm on board one of its planes. I acknowledge that we often tell employers what to do, such as how to treat employees and how to handle safety and security matters. However, I am not aware of any instance where the Federal Government has told an employer you have to let your employees carry guns to work if they want to.

We do not tell bus companies that they have to let their drivers carry weapons, but buses have been the subject of terrorist attacks. We do not tell rail service companies that they have to let their engineers carry weapons on their trains, but they are subject to terrorist attacks. We do not tell banks, gas stations or convenience stores that they have to allow their tellers or employees to carry firearms at work in case they face a robbery. In fact, my home State of Michigan, like the State of Texas, has passed a concealed-carry weapons law, but even those broadly permissive laws do not force an employer to permit an employee to carry a weapon while at work. In fact, they very specifically, in their language, allow employers to exempt the workplace as a place where employees may carry their guns.

□ 1330

This bill does precisely the opposite of what those concealed-carry permissive laws do.

The airlines have indicated that they are opposed to allowing guns in their cockpit. We are depriving them of their voice in this important matter. This is wrong, and for this reason I will not vote in favor of this bill.

I have two other concerns about this bill as well. One is the total cost for implementation of the test program which, according to the CBO estimate, is $47 million. This money could be better spent on other security measures, such as securing cockpit doors and bulkheads.

In addition, if this test program is broadened to include all pilots, how many millions of dollars will it cost to provide them the proper training and to implement the necessary procedures? The increased TSA spending that we are deciding today will result once again in higher taxes on the flying public, at a time in which we are already seeing the detriment to flying that security fees and taxes are having on the aviation economy.

My final objection to H.R. 4635 is that it exposes the Federal Government to massive amounts of potential liability. Under the bill's language, a Federal flight deck officer is treated as a Federal employee for purposes of liability. If an armed pilot accidentally shoots a passenger that posed no threat to the aircraft, the Federal Government could be on the hook for a huge amount.

There are a number of other situations that could lead to potential liability. For example, a pilot could improperly respond to a mentally deranged passenger attacking the cockpit. This very situation was faced by pilots on United Airlines Flight 855 from Miami to Buenos Aires in February of this year. Or a pilot could accidentally discharge a weapon in a scuffle with an intruder or injure an innocent passenger or flight attendant or, even worse, the pilot could use the weapon in a perfectly lawful manner to overcome a terrorist, but do so in an improper way which results in crew or passenger death or, in the worst possible case, the plane going down.

Coupled with the costs of implementing this program, this potentially enormous liability makes this bill financially irresponsible.

For these reasons, the fact that we are forcing airlines to allow their pilots to carry guns, the fact that the program is very expensive, and the fact that the Federal Government is exposed to extremely high liability, I am opposed to this bill. I urge its defeat.

Mr. HOSTETTLER. Mr. Chairman, I move to strike the requisite number of words.

First of all, I would like to commend the committee and the chairman of the

committee and the chairman of the subcommittee on this legislation for moving us in the right direction.

I would like to point out, however, first of all, I am in support of the Thune-DeFazio-Nethercutt amendment and I would like to suggest why.

As was stated earlier, that the underlying amendment makes a provision for 250 pilots to be trained, as such, if we use the lower number that was discussed earlier as to the total number of pilots that would be part of that overall pool, which would be 70,000 pilots, we are talking about training 0.4 percent of America's commercial pilots in this program. That would mean that 99.6 percent of pilots would not be trained. Therefore, a significant number and the overall majority of flights every single day would not be covered as a result of this training program.

It was mentioned earlier that the road to destruction is paved with good intentions, and I would agree with that, and I would like to share with the Members of the House one of those noble intentions that was discussed with me by General Ralph Eberhart, the commander in chief of the North American Aerospace Defense Command in a recent Committee on Armed Services hearing.

I asked General Eberhart what happened on September 11 when it was determined that the fourth plane, Flight 93, which crashed in Pennsylvania, may in fact have been aiming to target our Nation's capital. I asked, what were the actions that NORAD had contemplated?

General Eberhart stated the following: ''At that time, the authority was passed, if we believed that, in fact, it constituted a threat to people on the ground, that we could take action to shoot it down.

''The decision was made rather than to go out and try to meet this airplane to stay over New York City and Washington, D.C., in case, if we left it uncovered, there was another airplane coming. So had we seen it continue toward one of those metropolitan areas or we were sure it was going to another metropolitan area, be it Baltimore or whatever, we would have engaged the airplane and shot it down.''

He went on to say: ''Obviously, we're always hoping, and we do not want to do that until the last minute because we were hoping that, as those brave souls attempted, that maybe they regained control of the aircraft or that the skyjackers changed their mind. So we don't want to do this prematurely, and we want to see a hostile act, and we want to see it pose a threat.

''So we take this action after a lot of deliberation and to ensure that we have no other option. But we were prepared and we would have been able to shoot that aircraft down had we needed to.''

I then asked General Eberhart: ''General, there is still an action item that your command may be responsible for doing something similar to what was contemplated on September 11th, are you not? That is still a possibility?''

General Eberhart said, ''Regrettably, I'm afraid that's always going to be a possibility now. We redefined it on 9–11, and we now train for that. We've established the procedures for that. We exercise for that, hoping that that would never happen. But hope's not a good strategy.''

The road to destruction is, in fact, paved with good intentions. It is the intention of the North American Aerospace Defense Command to shoot down a commercial airliner, and they train for that if it is determined that that commercial airliner, if the pilots aboard have lost control of that airliner and that airliner is going to be used in a similar activity such as 9–11.

I think it would be a good intention today of Congress to take us down another road, not a path to destruction, as is the case with scrambled F–16s armed with Sidewinder and Sparrow missiles, but rather, takes us down a path that allows the pilots in the cockpit, not 0.4 percent of pilots in the cockpit, but 100 percent of pilots in the cockpit, who volunteer to be the last line of defense for passengers traveling across the air these days.

Mr. Chairman, I ask that the full House support the Thune-DeFazio amendment.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support not only the underlying bill but the DeFazio-Thune amendment, and let me tell my colleagues why.

I spoke a little bit on the bill itself. Two percent is a good step, and I commend the chairman and the ranking member. And we had 70 percent of our pilots qualified up to 1987; as a matter of fact, our mail planes required that a weapon was carried to protect it prior. And so that is in place.

I disagreed with one of the Members that spoke earlier that we do not mandate different folks. Very seldom can we take a car or in a post office or something like that and kill 3- to 10,000 people at one time. If we save one airplane, if we save one lawsuit, if one life that is lost, we are going to more than pay for this program.

I support, 100 percent. I do not think that we will ever get to 100 percent, but all that does is allow the airlines of those people that are qualified. And I would demand strict regimentation in the actual training because I do not believe everyone should be allowed to carry a gun on an airplane because they are not predisposed either psychologically or physically to do so. I do not believe everybody is. A large portion of our airline pilots today are former Air Force, Navy, Marine Corps, Coast Guard, and I think they are predisposed to do that; they have carried those kinds of weapons. But our passengers deserve to feel safe.

As my colleague mentioned, a wide array of security, starting with INS and Homeland Security, to when I go through, I had a knee preplacement I have to end up doing this every time at the airport and take my shoes off. It is a pain, but I have to look at the alternative, and I am glad they are doing that job. But on that airplane, once I get on that airplane, like the gentleman from Oregon (Mr. DEFAZIO) spoke about, I have seen the cockpit door open, and it is vulnerable.

As a pilot with over 10,000 hours of flying both civilian and military airplanes, I know that I would never take that airplane and fly it into a building. Al Qaeda knows that, also. So the first thing they are going to do is cut the throat of that pilot and kill him and they are going to take over the airplane.

As a pilot, I would want to feel a last line of defense. I hope they stop it in all the other places. I hope a marshal, which I support flying with the airplanes, would stop it. I hope a Kevlar door would stop it, but once that fails, if we have got a pilot inside that airplane that is armed, it is going to deter, as a last line of defense. Or even if those guys overtake the airplane and they are using an ax to get through that door, we know that airplane is not going to be used against New York or any other target in this thing.

I feel very, very strong about that, and the fact that we need to pass this kind of legislation.

The gentleman talks about costs. Tell me one family member in New York who would worry about costs or one passenger that jumps on these airplanes that would worry about costs. Our lives have changed for good in this country, forever, and unless we take up the challenge, these rascals are going to attack us.

I serve on the Permanent Select Committee on Intelligence, and I truly believe we stand a 100 percent chance this year of being struck by al Qaeda, 100 percent, because these rascals are out there collating in all these different countries and raising money and raising arms. And it may not be an airplane because we are vulnerable in other areas.

If this amendment does not pass, I hope it does, I have got an amendment to strike it to 25 percent. I am not going to offer that because I do not want to take away from the gentleman from Oregon's (Mr. DEFAZIO) and the gentleman from South Dakota's (Mr. THUNE) amendment and have people split off from it. But this is a well-crafted, well-designed amendment that will supply security for citizens of this country, not just airline passengers, but for the people on the ground as well.

I thank the gentleman from Oregon (Mr. DEFAZIO) and the Members that support this.

Mr. KIRK. Mr. Chairman, I move to strike the requisite number of words.

I would like to engage our distinguished chairman of the subcommittee in a colloquy, if I may.

The Aviation and Transportation Security Act, passed last year, provided airlines with the option of deploying less-than-lethal technology as part of their security procedure enhancements with the approval of the Transportation Security Administration. To date, have any airlines been granted permission to employ this nonlethal technology.

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

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

Mr. MICA. Mr. Chairman, I do not believe that the Transportation Security Administration has yet developed a process to review these applications at this time.

Mr. KIRK. As we today initiate this important pilot program to allow the use of firearms by flight crews, is it not also appropriate that the TSA expedite the implementation of less-than-lethal security plans when requested by the airlines?

Mr. MICA. Mr. Chairman, if the gentleman will yield, certainly the airlines and the flight crews should be given the tools they feel are appropriate to protect themselves and their passengers, and that is why we have set the 90-day deadline for the Transportation Security Administration to issue a decision on applications from carriers to utilize less-than-lethal technology.

Mr. KIRK. Mr. Chairman, is the gentleman aware of the request from United Airlines to the Transportation Security Administration to begin equipping properly trained flight crews with less-than-lethal technology in the form of Taser guns?

Mr. MICA. If the gentleman will yield again, I am aware that United has made such an application.

Mr. KIRK. Mr. Chairman, would the gentleman agree that in light of this important legislation we are preparing to pass today, it would be in the best interest of enhanced security at our Nation's airlines for the TSA to approve appropriate applications to allow flight crews this extra measure of protection while we undertake this additional pilot program to evaluate the use of firearms on aircraft?

Mr. MICA. Again, if the gentleman would yield, I absolutely agree that as long as an airline has developed the appropriate training program and has the proper protocols ready to implement, that the TSA should quickly approve the airline's application to enhance security of their personnel and their passengers.

Mr. KIRK. Mr. Chairman, I thank the gentleman for his responses.

Right now, an application is pending before the Department of Transportation Secretary Mineta. If approved, it offers an immediate way to upgrade flight deck security using nonlethal technology. And I thank the chairman for his leadership, and I hope and urge the Department of Transportation to move quickly on this application and approve the use of nonlethal technology on the flight deck.

□ 1345

The CHAIRMAN pro tempore (Mr. FOSSELLA). The question is on the amendment offered by the gentleman from Oregon (Mr. DEFAZIO).

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

Mr. BARTON of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Oregon (Mr. DEFAZIO) will be postponed.

AMENDMENT NO. 7 OFFERED BY MR. HOSTETTLER

Mr. HOSTETTLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. HOSTETTLER:

Page 5, strike lines 18 through 21.

Page 5, line 22, strike ''(5)'' and insert ''(4)''.

Page 6, line 1, strike ''(6)'' and insert ''(5)''.

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

Mr. HOSTETTLER. Mr. Chairman, once again I would like to thank the committee for the legislation that is before us and that we are moving in the right way.

The amendment that I offer at this time strikes the language in this bill that gives preferential treatment to pilots who were former military or former law enforcement personnel.

Mr. Chairman, in order for us to determine whether this program really works, I believe that we should have a better cross-section of pilots. I would like to open this legislation up to all pilots. Since this bill creates a training program, there is no reason to discriminate against those pilots who truly want to provide a safe environment for their passengers.

Why not allow all pilots to carry firearms if they so choose? Had the pilots of the four airplanes that were commandeered on September 11 been carrying side arms, the hijackers, armed with box cutters, might not have been successful in their mission.

The American people support the idea. In a Time-CNN poll conducted just weeks after the September 11 terrorist attacks, 61 percent said they favored allowing pilots to carry guns. Two more recent polls, conducted by the Wilson Center and the Winston Group, found support for arming pilots has risen to 75 percent. Airline pilots themselves overwhelmingly favor this option. The Nation's five largest pilots unions, representing 90,000 pilots, sent a letter to President Bush seeking his ''assistance in the immediate development and implementation of a program to defend the American traveling public with voluntary armed pilots.''

The pilots make the very good point that they are the first line of deterrence and the last line of defense for their aircraft. And few professionals are better equipped to be armed. Pilots endure rigorous screening before they can work for a major airline. There is every reason to believe that all of these professionals have the ability to protect their planes. Most importantly, we already entrust pilots daily with the lives of hundreds of men, women, and children on airplanes weighing 450,000 pounds, traveling 530 miles per hour, carrying 24,000 gallons of fuel, while flying 7 miles above the Earth.

Clearly, these are responsible and trustworthy professionals. And whether they have a background in the military or law enforcement, they should be allowed to carry weapons and to be trained properly to carry weapons and to defend their airliners from potential terrorist attack.

Mr. Chairman, I ask my colleagues to support the amendment.

Mr. MICA. Mr. Chairman, I rise in opposition to this amendment. Again, we have tried to work out a bipartisan agreement. I think the gentleman from Indiana is well-intended in offering his amendment; but unfortunately, it has not been agreed to as part of this package.

This amendment, as I understand it, would eliminate a key section of the underlying bill, the selection preference that is granted to pilots who have former military or law enforcement experience. We think this is extremely important because we know that many of our pilots have previous military experience. They already have handled weapons and arms. They know how to defend themselves and have had extensive training. The same is true with law enforcement individuals.

Those who have had experience more than likely have had experience with weapons, arming themselves, defensive measures; and we think that, again, this invaluable experience will be helpful in defending the cockpit, in learning the new procedures that are required as established under the guidelines of the TSA. So we think it is essential that having this selection process and giving preference to both military and law enforcement personnel, those who have had that experience, makes perfect sense.

When the determination as to which pilots are qualified to participate in the Federal flight deck program is being made, previous experience with a firearm should absolutely be taken into consideration. That is the agreement that we have reached, and that is the agreement we must stick to.

So, unfortunately, I must oppose the gentleman's amendment and urge Members also to oppose the amendment. We should leave the amendment as we have now passed it intact, and I think we will have a much better piece of legislation. So, again, I oppose this amendment by the gentleman from Indiana.

Mr. HOSTETTLER. Mr. Chairman, as a result of an error on my part, I ask unanimous consent to withdraw the amendment at this time and offer it at a later time.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

AMENDMENT NO. 8 OFFERED BY MR. HOSTETTLER

Mr. HOSTETTLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. HOSTETTLER:

Page 9, strike lines 3 through 9 and insert the following:

''(4) TIME LIMITS.—Not later than 180 days after the date of the enactment of this section, 20 percent of all pilots who volunteer to participate in the program within 30 days of such date of enactment shall be trained and deputized as Federal flight deck officers. Pilots may continue to participate in the program during the 2-year period of the pilot program. By the last day of such 2-year period, at least 80 percent of all pilots who volunteer to participate in the program must be trained and deputized as Federal flight deck officers.

Page 11, line 24, strike ''250th pilot'' and insert the following: ''last pilot of the 20 percent of all pilots who volunteer to participate in the program within 30 days of such date of enactment of this Act''.

Mr. HOSTETTLER. Once again, Mr. Chairman, the amendment I offer simply opens up the bill and the provisions of the bill to all the pilots that desire to take part in this program, that volunteer to take part in this program, and does not discriminate against them should they not have taken part in previous law enforcement activity nor been a member of the military.

Mr. OBERSTAR. Mr. Chairman, I rise in opposition to the amendment.

I am puzzled, however, by the gentleman's amendment. It apparently proposes to strike the 2 percent cap and establishes a new accelerated time line and requires the Transportation Security Administration to deputize 20 percent of pilots that volunteer in the first 30 days. Is that the gentleman's amendment?

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

Mr. OBERSTAR. I yield to the gentleman from Indiana.

Mr. HOSTETTLER. Mr. Chairman, I would advise the gentleman from Minnesota that we are currently considering amendment No. 8, which simply strikes the preferential treatment of individuals.

Mr. OBERSTAR. Reclaiming my time, Mr. Chairman. Is the gentleman's amendment the one that would strike the preference for pilots or the amendment that would strike the 2 percent cap?

Mr. HOSTETTLER. If the gentleman will continue to yield, this is the preference with regard to military service personnel and law enforcement.

PARLIAMENTARY INQUIRY

Mr. OBERSTAR. Mr. Chairman, the gentleman has already addressed that subject, and we have had some discussion on it. This is, apparently, further debate on the amendment previously offered and withdrawn and then offered again because of a technical mistake. Is that correct, Mr. Chairman?

The CHAIRMAN pro tempore. Could the gentleman from Minnesota restate his inquiry?

Mr. OBERSTAR. Is the gentleman offering under a technical change the same amendment that he offered apparently in error earlier?

The CHAIRMAN pro tempore. Right now, currently under debate, is amendment No. 8 offered by the gentleman from Indiana as reported in the CONGRESSIONAL RECORD.

Mr. OBERSTAR. Which was previously discussed in error because it was misnumbered?

The CHAIRMAN pro tempore. No. Amendment No. 7 was offered, and then, by unanimous consent, withdrawn by the gentleman from Indiana. Now pending is amendment No. 8 offered by the gentleman from Indiana.

Mr. OBERSTAR. Is a copy of the amendment at the desk?

The CHAIRMAN pro tempore. The amendment is printed in the CONGRESSIONAL RECORD and is available at the desk.

Mr. OBERSTAR. Mr. Chairman, I insist that the Clerk read the amendment so that we are clear on what we are debating here.

The CHAIRMAN pro tempore. Without objection, the Clerk will report the amendment.

There was no objection.

The Clerk read the amendment.

Mr. OBERSTAR. Mr. Chairman, again, just to be clear on what we are voting on here, because there is some great uncertainty, this is a very different amendment from the one on which I had an exchange with the gentleman. The gentleman from Indiana characterized his amendment as striking the preference for pilots. The amendment just read by the Clerk strikes the provisions of the underlying bill and would replace it with a different percentage of pilots and other requirements.

I just want to make sure. Is this the amendment the gentleman intends to offer? Is this the amendment the gentleman proposes to offer, the amendment that deals with the percentage of pilots who volunteer to participate in the program, et cetera?

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

Mr. OBERSTAR. I yield to the gentleman from Indiana.

Mr. HOSTETTLER. Yes, this is the amendment we are currently discussing, and I will talk to that.

Mr. OBERSTAR. Reclaiming my time, Mr. Chairman, the other amendment proposed by the gentleman from Indiana to strike the preference for pilots, that amendment has been withdrawn?

Mr. HOSTETTLER. If the gentleman will continue to yield, it has been withdrawn; but under unanimous consent, as the Chair has pointed out, it will be brought up at a later time, and that unanimous consent request has been granted.

Mr. OBERSTAR. Mr. Chairman, once again reclaiming my time, I rise in opposition to both this one and the previous amendment withdrawn and do so because both are mistaken.

To delete the preference for pilots who are former military or law enforcement personnel is a blow at the underlying premise of the entire concept of arming flight deck crews. It has been said time and again in advocating the legislation that pilots should be armed because they are former military, they have experience, they know how to handle a gun, and we ought to provide arms for them in the flight deck.

This is simply a preference. This is not a mandatory requirement, but because of that argument, that pilots have prior military experience, know how to handle a gun, we should therefore arm them. The bill goes on to say that we should then give them preference in the hiring scheme. It does not make sense to strike that preference for those personnel who are the ones most likely to have experience and would probably need the least amount of training.

□ 1400

The present pending amendment by the gentleman from Indiana (Mr. HOSTETTLER), we have already debated the issue of whether we ought to limit or remove the limits, the 2 percent cap on a number of pilots that can be sent through the experimental program. We have had an extensive debate on that issue already. It was defeated on a voice vote. We will have a recorded vote on it later. This simply is another amendment masquerading under different terms, but it is essentially the same amendment that we have already debated and I hope put to rest. But to expand the program to an unlimited number of commercial pilots goes against the compromise that we reached, against the concept of a pilot program, an experimental program where we work out all the issues and then decide whether or not to go ahead.

I cannot support an unlimited program. I cannot support just go full bore ahead. We must address the issues that have already been discussed at great length, and I need not repeat them, of assuring the type of gun, type of bullet, the accidental discharge in the flight deck, shooting through navigational equipment. Those issues all have to be resolved before we can go through with a permanent program, and just for reasons I have already expressed, the costs and the burden on the Transportation Security Administration to train 70,000 to 85,000 pilots in a relatively brief period of time, when we have not got the security screeners trained yet, defies the imagination. It just does not make sense at all. The amendment should be defeated.

Mr. MICA. Mr. Chairman, I move to strike the requisite number of words.

My good friend and colleague, the gentleman from Indiana (Mr. HOSTETTLER), I think is very well intended. I think he was probably well intended on his first amendment that he offered, and I see now what he was trying to achieve and what he is trying to achieve by these amendments, and he is saying we need to speed up this process. His amendment first, I think, was intended to have a larger body than just a smaller body of pilots trained, and I would concur with his intention. I appreciate his withdrawing that amendment.

His second amendment that we have this afternoon says that 20 percent should be trained in the first 6 months and I believe 80 percent by the end of the second year, and I think that is also well intended. I think the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), has pointed out that we looked at the tasks that have already been assigned to TSA and we said wait a minute, this agency was given much more than it can do, and usually when Government gets a program, it costs twice as much, takes twice as many employees and costs three times as much, and we are finding our prediction to be true, and some of my concerns about passing the full federalization without the private participation to also be accurate. We found already that TSA, just in a simple assignment, assigned 429 airport security directors. To my knowledge, they have only named about four dozen, about 48. They have actually only deployed a little over two dozen, and here we are in July. So this amendment, while well intended, and we would like to have more pilots trained, is a very difficult task.

If we look at another task that was assigned to TSA, and that is to train screeners, my latest knowledge is they might have had 3,000 possibly trained. We might have a dozen airports deployed and federalized at this stage, again in July, and they just cannot do it. And that is not to mention anything about the lack of having explosive detection equipment deployed, which we said would be difficult, which we said is impossible for manufacturers to even produce. We now find ourselves with the possible requirement of training some 20,000 to 25,000 hand wand trace detection Federal employees to complete another requirement by Congress.

So, unfortunately, this is not achievable. I would like to see it. I would like to get on a plane and know that a pilot is ready and capable of defending that cockpit, but we have reached a compromise here where we think the maximum they can do is this 1,400. They start out with a group of 250 and that is sort of the kick-in trigger that we have put in the bill, but we can get up to 1,400. We hope they can get this assignment accomplished.

Let me just say one word about the airlines' opposition to some of this. We have provided protection for the airlines in an unprecedented manner to protect them against liability. I know that is their concern. But my concern, and it should be their concern, is if we have one more incident, it will be fatal to airlines. If we have one more incident, it will be fatal to our economy. If we have one more incident, it will be fatal to potentially thousands and thousands of Americans, and we lost 3,000 of them on September 11. We cannot afford to lose one more. So we need to put these measures in place on a well-thought-out basis. I think that is the approach.

I commend the gentleman for coming out and adding to the debate, offering this amendment, but I must reluctantly stand in opposition.

Mr. LIPINSKI. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to both Hostettler amendment number 7 and number 8, and I also want to say that the gentleman presented his amendments in the correct order. I do not know what happened that we got confused over here, but he was right in the first place on the way he presented the amendments.

I happen to believe that he is not correct in presenting these amendments, so I oppose them. I oppose them because of what the chairman, the gentleman from Florida (Mr. MICA), has had to say about them; what the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), has had to say about them; and what I had to say about one of those two amendments really in dealing with the DeFazio amendment that we had here on the floor earlier.

I have said before, and it has been said a number of times on this floor, that this is truly a bipartisan bill. An awful lot of work went into it. A lot of compromise went into it. We spent an awful lot of time on it. I think it would be a tragic mistake to pass any amendment on this House floor today because I seriously believe it would jeopardize the possibility of passing this legislation.

Once again I reiterate that the administration is opposed to arming pilots with lethal weapons.

The Secretary of Transportation is opposed to it. The Under Secretary for Security of the Transportation Security Administration is opposed to it. So our pilot project bill that is reasonable, rational, and prudent is going to have a very difficult time passing. If we start enlarging this bill, it is going to spell the death of this bill and we will not be able to improve aviation security and safety.

Mr. COBLE. Mr. Chairman, I move to strike the requisite number of words.

I wanted to come to the House floor earlier to engage in debate on this significant legislation, but I have been tied up in a Committee on the Judiciary hearing most of the day. I do not want to portray myself as a naysayer, but I am confident there is evidence to suggest that additional terrorist cells have been trained to take over commercial aircraft, and in the event of another terrorist hijacking, the Department of Defense will be forced to make the difficult decision to shoot down a plane filled with passengers to prevent that plane from being used as a weapon. We have gone through that before, and we do not want to do it again.

As far as the amendment of the gentleman from Minnesota (Mr. OBERSTAR), I think the chairman of the Subcommittee on Aviation and the ranking member from Illinois may have said this, I think it is well-intentioned, and I do not see the gentleman on the floor, but what bothers me is the possible or probable additional cost that might have to be absorbed in the training of those additional pilots to qualify them to be armed in the appropriate cockpits.

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

Mr. COBLE. I yield to the gentleman from Illinois.

Mr. LIPINSKI. Mr. Chairman, I would advise the gentleman that we are not discussing the amendment by the gentleman from Minnesota (Mr. OBERSTAR). We are discussing an amendment by the gentleman from Indiana (Mr. HOSTETTLER).

Mr. COBLE. Mr. Chairman, I thank the gentleman for that clarification. I appreciate that, and I will confine my remarks to the bill generally.

Our aviation system, it seems to me, oftentimes is based upon redundancy. When all else fails, we need a last line of defense. Providing pilots with firearms, it seems to me, affords additional assurance that the hijackers can no longer be assured of success. It is a significant deterrent since a potential hijacker will no longer know whether or not a pilot is armed prior to breaking into that cockpit. I regret that I missed the debate on this bill, and I thank the gentleman for setting me straight.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the two amendments, but I also rise in opposition to the bill, H.R. 4635. Although the program has been modified from the original version, I do not believe that it is prudent to deputize pilots as law enforcement officials and to arm them with lethal weapons, even on a pilot program basis.

But before I discuss the reasons for my opposition, let me first commend the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), and the ranking member on the Subcommittee on Aviation, the gentleman from Illinois (Mr. LIPINSKI) for negotiating a much-improved bill. I also thank the gentleman from Florida (Mr. MICA) for incorporating language in the bill and the report to address some specific concerns I raised. Even though the final compromise is not an acceptable

one to me, I appreciate the good faith, and it is a much-improved bill.

The central issue in this debate is what is the proper role of an airline pilot in aviation security. The proponents of H.R. 4635 believe that pilots can serve in a dual capacity as navigators and as Federal law enforcement officers. I appreciate the desire and willingness of pilots to assume additional responsibilities. However, I am not convinced that law enforcement is an appropriate role for the airline pilots.

In the aviation security area, there are already Federal air marshals specially trained to deal with violent situations in the air. This is a full-time job that requires individuals' individual attention. They must undergo vigorous training, and after initial qualification, they still must spend a great deal of time to maintain their proficiency.

H.R. 4635 would essentially establish a Federal flight deck officer program that authorizes volunteer pilots to serve as adjuncts to the Federal air marshal program. The main reason why I oppose this idea is I have grave doubts about whether pilots whose primary duty and experience involves manipulating complex electronic equipment can devote the time and attention necessary to reach a level of proficiency that is equivalent to that of a Federal air marshal.

Let me also remind Members that passenger cabins are relatively small, and they are a confined environment where gun battles are very likely to cause damage to bystanders and damage the aircraft instruments.

□ 1415

For this reason, Federal air marshals must undergo a training regimen that is far more demanding than the training programs for other law enforcement officials.

I would like to point out that the bill provides no role for the employers of the individuals who would become Federal flight deck officers of the airlines. Candidates for the Federal flight deck officer program apply directly to the TSA. Airlines might not even find out whether one of their pilots has applied for the program until after TSA requests a history of their work record and other background information. I know of no other private sector employee-employer relationship where the employees can seek authorization to carry a lethal weapon without the employer's knowledge and consent. After all, if something happens on a plane, it is the airline that is most likely to be sued, and yet they have no role to play in this program.

During the question-and-answer period at a Senate Commerce Committee hearing, the head of TSA, John Magaw, indicated that the agency is opposed to arming pilots with lethal weapons. TSA are the experts in this area, and they recognize the complexities involved. They know what it takes to train a Federal air marshal. It goes far beyond just training someone in basic gun safety and firing a weapon accurately.

Security tasks should be left to dedicated security professionals. We should not be second-guessing the TSA program and their judgment. At best, arming pilots increases security only marginally, while diverting precious time and resources that TSA could spend on more important endeavors.

TSA is already having great difficulty reviewing and coordinating plans with airports deploying detection systems. I am particularly concerned that requiring TSA to focus on developing procedures to arm pilots will make it virtually impossible to comply with the December 31 deadline for 100 percent deployment in this area.

I just want to remind Members, Mr. OBERSTAR, that two pilots were arrested for being drunk as they were getting ready to go fly a plane. I would hate for them to have had lethal weapons.

Mr. HOSTETTLER. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

The CHAIRMAN pro tempore (Mr. DAN MILLER of Florida). Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. HOSTETTLER. Mr. Chairman, we are currently considering Amendment No. 8, and that amendment does the following: The amendment ensures that the program proposed by this act will be carried out expeditiously by requiring that at least 20 percent of the pilots who volunteer during the first month be trained and deputized not more than 6 months after the program is enacted.

Also this amendment provides that at the end of 2 years, at least 80 percent of all those pilots who volunteered during those years will be trained and acting as Federal flight deck officers.

With our Nation's present safety concerns, time is of the essence to get this program up and running. Those who would cause harm to our citizens need to know that there are pilots who are trained and ready to defend their passengers against harm.

The Transportation Security Administration recognizes the deterrent and life-saving effect armed personnel can have in a terrorist incident at an airport. Just this past weekend, following the shooting deaths of two people at the El Al Airlines ticket desk at Los Angeles International Airport, the TSA, or Transportation Security Administration, announced that armed agents will begin patrolling the ticketing areas of the Nation's airports. According to press accounts, a TSA spokesman said these armed agents could react quickly to an incident, preventing additional deaths and injuries like the armed guard did in Los Angeles.

On Saturday, according to numerous press reports, the TSA issued a press release that said, ''Had this event occurred at another airline counter without armed security guards, the situation, unfortunately, would have been worse.''

This incident emphasizes that we cannot be complacent about any of the security measures that we put in place at our airports and at the other modes of transportation. I wish that I could verify these press reports with an actual copy of the TSA statement. However, the TSA and the Transportation Department will not make them available to my office, despite repeated requests.

Nevertheless, in the case of airport terminals, the TSA is absolutely right. Having firearms in the hands of people can thwart terrorists and save lives. Today we have an opportunity to apply that same logic to the airplanes themselves, the very place where the attacks took place on September 11.

Tom Heidenberger, a pilot for U.S. Airways, lost his wife Michelle, a flight attendant on American Airlines Flight 77, when terrorists hijacked the plane and flew it into the side of the Pentagon on September 11. Tom, who continues to fly, told me why arming pilots is so necessary. ''Had the terrorists known there were means to protect the cockpit, had the crew been able to defend against the takeover, my wife would be here today,'' he said.

Let us learn from the horrible events of that day and make sure they can never happen again by arming as many pilots as soon as possible.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not going to take the whole 5 minutes, but I would like to counter some of the things the gentlewoman preceding spoke about.

First of all, it is almost laughable when you talk about the tight confines. Have you ever flown an A–4 Skyhawk or an F–14? I had 20-millimeter Gatling guns in those airplanes, I could disintegrate this building in a half-second burst, and I could operate it fine. If I was landing or taking off at a Naval airfield, I can assure you, I could use it.

When I was shot down over Vietnam, I had a .357 Magnum, I had a .38 flare pistol and a 9 millimeter Luger. I used them. I did not want to. When the time came, I used them, and they were effective. It let the enemy know I was armed. I probably did not hit anybody, but they knew I was armed.

I want to tell the gentlewoman that just a terrorist knowing that someone in that cockpit is armed is going to deter them. If I was a terrorist and I thought only 2 percent of these pilots were armed, I might take the bet. But if I knew between 25 and 100 percent of those guys were armed, I am probably not going to play those odds because I know I am not going to win.

I would like to enter into a colloquy with the gentleman from Minnesota (Mr. OBERSTAR), because I want to clarify something in the bill, if the gentleman does not mind.

It is my understanding that someone other than a military or policeman is not eliminated from participating in the armed pilots program, is that correct? They were just given a preference?

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

Mr. CUNNINGHAM. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, yes. The intention of the language in the bill is to give a preference to pilots who have previous military experience or law enforcement experience, but it is a preference only.

Mr. CUNNINGHAM. Mr. Chairman, reclaiming my time, it does not eliminate someone else?

Mr. OBERSTAR. It is only a preferential consideration.

Mr. CUNNINGHAM. Mr. Chairman, reclaiming my time, I thank the gentleman for clarifying that.

Mr. Chairman, if the DeFazio amendment fails, I am going to offer an amendment to put it at 25 percent. I will not do that if that passes. I cannot imagine it not passing, because the public has spoken, the airline pilots have spoken, and I think this House has spoken as far as that position.

I understand that, in drafting a bill, you have got to work in a tight way to craft a bill that you think is the best, but I think looking at what the needs are, we need more than a 2 percent chance of these pilots bearing arms.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. HOSTETTLER).

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

Mr. HOSTETTLER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Indiana (Mr. HOSTETTLER) will be postponed.

AMENDMENT NO. 7 OFFERED BY MR. HOSTETTLER

Mr. HOSTETTLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. HOSTETTLER:

Page 5, strike lines 18 through 21.

Page 5, line 22, strike ''(5)'' and insert ''(4)''.

Page 6, line 1, strike ''(6)'' and insert ''(5)''.

Mr. HOSTETTLER. Mr. Chairman, there has already been a significant bit of discussion about this amendment, but I would like to clarify what this amendment does, one more time.

The amendment strikes the language in this bill that gives preferential treatment to pilots who were former military or former law enforcement personnel. It is correct, Mr. Chairman, that there is a preference only, but if we want a cross-section, a complete cross-section, of pilots who volunteer to take part in this plan, the question is, why do we have a preference in the first place?

The underlying bill calls for, at this time, a rigorous training program, a rigorous training program that would result in a pilot who has much responsibility in the safety of the crew and passengers of the flight already, a program that he or she would have to take part in in order to become a flight deck officer and wield a weapon potentially on board a flight.

Mr. Chairman, if we truly want a cross-section, then I believe that the preference is not necessary. There are thousands of pilots who desire to carry firearms on to the flight deck, lethal force to protect the crew and passengers of their plane, of the flight, that have never been in the military or in law enforcement. If they are so willing to go through the rigorous training program and to adequately be able to wield lethal force aboard a plane, why should we give a preference to others?

So, Mr. Chairman, once again, this simply strikes the language that grants a preference for individuals who have been currently military or law enforcement personnel.

I think it is a good amendment. I think it does what the underlying premise of this bill would do, and that is to not only deter potential hijackings, but also to thwart those hijackings should they attempt to take place. Likewise, we would know that more pilots would be part of the pool of individuals that would be considered for volunteering to serve us.

So, Mr. Chairman, once again I ask that the full House accept this amendment.

Mr. MICA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, again, we have presented in a slightly altered technical fashion, I believe, this amendment which we have talked about before. I must reluctantly rise in opposition.

I think the gentleman, again, is well-intended in that he is saying, why not go to the full body of pilots and train them? We have though, again, as I have said before, tried to think through this bill how we could achieve training those who have the best credentials, the best experience, on an expedited basis. Certainly those with military and law enforcement backgrounds meet those criteria. So we will actually harm the bill by passing this amendment.

Mr. Chairman, I urge my colleagues to vote against it. Again, I think the gentleman is well-intended, both by this amendment and his previous amendment, in trying to get many pilots trained on an expedited basis and get many pilots, a large percentage of them, armed within a certain period of time.

I also realize his mistrust of the bureaucracy. We have seen that sometimes we assign tasks, and that task is not fulfilled or somehow gets distorted. Again, I understand his motivation, but must reluctantly oppose his amendment.

□ 1430

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

I would like to inquire of the offerer of the amendment, the gentleman from Indiana (Mr. HOSTETTLER), why he withdrew the amendment in the first place, Mr. Chairman, and I yield to the gentleman.

Mr. HOSTETTLER. Mr. Chairman, I would be glad to answer that question. The fact is that staff of the House had a different form, had a different paper that had transposed the numbers 7 and 8 on their sheets and had said that when I initially offered amendment No. 7, which is the amendment that is pending before us now, which is No. 7 and has always been No. 7, according to their paper was No. 8. So they spoke to the amendment No. 8 and all of us, including myself, were considering No. 7, that is actually No. 7. So I offered, because that was the best information at the time and was informed that we should do that, and so I asked unanimous consent to withdraw it and then to bring it up at a later time.

Then it was found out between that time and the previous amendment No. 8 that, in fact, the transposition had taken place, and so that is where we find ourselves now.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for explaining the circumstances which caused a great deal of consternation on the floor and caused us to debate this amendment twice.

As I said in debate the first time the amendment was offered, it goes contrary to the underlying principle of this entire bill, which is armed pilots. Because they have previous military or law enforcement experience, they know how to handle guns, they know how to handle a turbulent situation that clearly would be the case in the attempt of a hijacking of a lethal nature and, therefore, one of the principal motivating factors for this legislation.

Now the gentleman proposes to strike the preference in the bill which emerges from that underlying premise. I find it a contradiction in terms.

Furthermore, the language that the gentleman seeks to strike is a preference. It is not a prohibition, as I discussed in exchange with the gentleman from California. It is not an exclusion of anyone else, any person other than those in the two categories of previous military or law enforcement experience. So it just seems to me to be a puzzlement as to why we would. Notwithstanding the gentleman's explanation, I find it contrary to the amendment, contrary to the purpose of this legislation; and I urge my colleagues to defeat it.

The CHAIRMAN pro tempore (Mr. DAN MILLER of Florida). The question is on the amendment offered by the gentleman from Indiana (Mr. HOSTETTLER).

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

Mr. HOSTETTLER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Indiana (Mr. HOSTETTLER) will be postponed.

AMENDMENT NO. 9 OFFERED BY MR. HOSTETTLER

Mr. HOSTETTLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. HOSTETTLER:

H.R. 4635

Page 11, after line 9, insert the following:

''(i) LIMITATION ON AUTHORITY OF AIR CARRIERS.—No air carrier shall prohibit or in any way refuse or discourage a pilot employed by the air carrier from becoming a Federal flight deck officer under this section. No air carrier shall—

''(1) prohibit a Federal flight deck officer from piloting an aircraft operated by the air carrier, or

''(2) terminate the employment of a Federal flight deck officer,

solely on the basis of his or her volunteering for or participating in the program under this section.

Page 11, line 11, strike ''(i)'' and insert ''(j)''.

Page 13, line 20, strike ''(j)'' and insert ''(k)''.

AMENDMENT NO. 9, AS MODIFIED, OFFERED BY MR. HOSTETTLER

Mr. HOSTETTLER. Mr. Chairman, I respectfully ask unanimous consent to modify amendment No. 9 with the text that I have now and will deliver.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Amendment No. 9, as modified, offered by Mr. HOSTETTLER:

Page 11, after line 19, insert the following:

''(i) LIMITATION ON AUTHORITY OF AIR CARRIERS.—No air carrier shall prohibit or in any way refuse or discourage a pilot employed by the air carrier from becoming a Federal flight deck officer under this section. No air carrier shall—

''(1) prohibit a Federal flight deck officer from piloting an aircraft operated by the air carrier, or

''(2) terminate the employment of a Federal flight deck officer,

solely on the basis of his or her volunteering for or participating in the program under this section.

Page 11, line 20, strike ''(i)'' and insert ''(j)''.

Page 14, line 5, strike ''(j)'' and insert ''(k)''.

The CHAIRMAN pro tempore. Is there objection to the modification offered by the gentleman from Indiana?

There was no objection.

Mr. HOSTETTLER. Mr. Chairman, this amendment that I am proposing today would clarify what I believe this bill infers. Air carriers would simply be prevented from firing or otherwise discouraging those pilots who join the flight deck officer program. It also ensures that air carriers cannot prohibit Federal flight deck officers from flying their aircraft.

This amendment simply ensures that the brave pilots who volunteer to protect the citizens of this country will not be discriminated against by airline carriers.

I want to ensure that terrorists know that if they attempt to hijack one of our airliners, in all likelihood they will not succeed. Given that pilots are not yet armed at this point, we have to ask: If an armed pilot is not the last line of defense against hijackers, where does that leave us?

In a recent Committee on Armed Services hearing, I asked the commander in chief of the North American Aerospace Defense Command, General Ralph Eberhart, about what happened on September 11 when it was determined that the fourth plane, Flight No. 93 which crashed in Pennsylvania, may in fact have been aiming to target our Nation's capital.

I asked, ''What were the actions that NORAD contemplated?'' General Eberhart stated, ''At that time, the authority was passed, if we believed that, in fact, it constituted a threat to people on the ground, that we could take action to shoot it down.

''The decision was made rather than to go out and try to meet this airplane to stay over New York City and Washington, D.C., in case, if we left it uncovered, there was another airplane coming. So had we seen it continue toward one of those metropolitan areas or we were sure it was going to another metropolitan area, be it Baltimore or whatever, we would have engaged the airplane and shot it down.''

He went on, ''Obviously, we're always hoping, and we don't do that until the last minute because we were hoping that, as those brave souls attempted, that maybe they regained control of the aircraft or that the hijackers changed their mind. So we don't want to do this prematurely, and we want to see a hostile act, and we want to see it pose a threat.

''So we take this action after a lot of deliberation and to ensure that we have no other option. But we were prepared and we would have been able to shoot that aircraft down had we needed to.''

I then asked General Eberhart: ''General, there is still an action item that your command may be responsible for doing something that was similar to what was contemplated on September 11, are you not? That is still a possibility?''

General Eberhart said, ''Regrettably, I'm afraid that's always going to be a possibility now. We redefined it on 9–11, and we now train for that. We've established the procedures for that. We exercise for that, hoping that that would never happen. But hope's not a good strategy.''

General Eberhart's remarks are obviously very telling. If terrorists get control of a commercial airline, the only alternative is for the Air Force to shoot it down. Does it not seem reasonable to insert one more preventive step before an F–16 launches a missile at a passenger plane? We allow law enforcement officers, animal control officers, and forest rangers to carry their weapons on airplanes. Why not the individuals entrusted with the safety of the plane itself? These are the people we entrust with our lives every time we board a flight, and the majority of them possess distinguished military backgrounds. These are the ones who are trained in responding to life and death situations in a moment's notice.

Several months ago, I had the opportunity to join several commercial pilots and pilots associations in a press conference to agree that they, not F–16 missiles, are the preferred last line of defense against an attempted terrorist takeover of a commercial aircraft. They strongly prefer firearms to stun guns to do the job most effectively. In fact, every law enforcement official who uses a Taser backs it up with lethal force; no one depends on Tasers alone.

I will add that the open market currently offers some ammunition suitable for firing onboard aircraft.

These facts, combined with the fact that this bill shields the airlines from liability, leave no reason for the airlines to prohibit pilots from protecting their planes and passengers. This amendment simply ensures that pilots are able to do just that. I ask the House for its acceptance.

Mr. MICA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am pleased to rise in support of the amendment of the gentleman from Indiana. I strongly support his amendment before us.

I would like to thank the gentleman from Indiana for his making changes that have allowed us to support this amendment. While we have not received any indications from airlines that they would prohibit pilots from participating in the program, we feel pilots deserve ample protection in this matter. Pilots should not be punished for their desire to protect their aircraft, their crews, or their passengers from terrorists. I urge support of this amendment.

I might also say, since this will probably be the last amendment, I believe, offered, that it is important to respond to a couple of other items relating to the airlines and their participation in this program.

The very distinguished gentleman from Michigan (Mr. EHLERS), whom I greatly respect, a member of our committee, he rose in opposition. His opposition is primarily centered around giving the airlines the ability to opt out of this program. The gentleman from Indiana's amendment restrains the airlines from interfering with a pilot participating in this program; and we think that that approach, that provision is good.

I do think that the gentleman from Michigan is well intended to allow airlines to opt out, and that is something

they requested before. However, we have given them unprecedented exemption and liability, and I think that that should cover them. Again, my concern is that if we had one more incident of an airliner being taken out that we would not have to worry about airline survival; we would not have to worry about the economy, because they would all be going down the tubes. We have seen what the incidents of 9–11 have brought to us, and we are still trying to recover economically, and our airlines are trying to recover. So this is a good provision. It protects the pilots.

We have also heard in the debate today about the pilots, and I want to remember today some of the captains that flew those planes on September 11. If they had had the ability to defend themselves, if even one of them had had the ability to be armed, we could have saved destruction; we could have saved lives.

Some of those brave captains were Captain Jason Dahl, and he was the pilot on United Flight 93. On United Flight 175 was Captain Victor Saracini. On American Flight 11 was Captain John Ogonowski, and on American Flight No. 77 was Captain Charles Burlingame. If even one of those captains had had the ability to defend himself, history today might be entirely different.

We do not want anything to interfere with pilots' ability to defend themselves. Yes, I would like to have more pilots trained, and I would like to expedite this whole program. But again, our compromise does not allow that.

Finally, let me respond to the gentlewoman, also a distinguished Representative who serves on our committee, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), and she referred to the TSA experts. Well, I will tell my colleagues, I would rather put my trust and faith in the pilots. We have to understand that sometimes we get letters from our constituents around the country and we get maybe 100, sometimes many hundreds of letters on a particular issue. As chairman of the Subcommittee on Aviation, I was presented with petitions from 58,000 pilots and many of their families who signed petitions asking us for this legislation. As I have said in the past, this is not something we just cooked up in the back room; this is not something that I sprung out. In fact, I was kind of lukewarm at the beginning. But the more I saw, the more I heard from pilots who see the weaknesses in our aviation security system. I put my trust in those pilots, and that is why we have moved forward with this bill.

□ 1445

It is not a perfect measure, by any means, but it is a good bill, a good start. I support the gentleman's amendment, and urge its adoption.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment of the gentleman from Indiana (Mr. HOSTETTLER), as further amended in the version just read by the Clerk, is acceptable. I did not think it was necessary to take this step, but I think we have agreed on both sides of the aisle to accept the gentleman's amendment.

Mr. Chairman, on the overall measure before us, since this is apparently the last amendment, and hopefully we will vote in the next 10 or 15 minutes, it is a good time to reflect back on where we are and where we have come with this legislation.

The gentleman from Florida (Chairman MICA) has already referenced the strong support of the commercial airline pilot community for this legislation, and that certainly has become evident in the months since the tragic events of September.

When first approached with the idea of arming flight deck crews, I was opposed to the idea. I have mentioned this in my opening remarks on the legislation. But as I weighed the progress being made by the Transportation Security Administration in putting in place the many provisions of our Transportation Security Act of last November, it became very clear that the interlocking web of security measures that we envisioned in that legislation is not in place.

Secondly, pilots are concerned about the order of the President to NORAD to scramble, whether active Air Force units or Air National Guard units, to intercept a plane on which there may be a skyjacking of the September 11 type.

Pilots rightly have said if that occurs, the pilot in command of the attacking jet could well be my right-hand pilot on the weekday, and on the weekend he would be ordered to scramble to shoot down my aircraft and my passengers, and I do not want that to happen. I want to be, if that is the case, the obstacle of last resort.

Now, in aviation security, as in aviation safety, the entire structure is dependent upon a web of redundancies. We have backups for virtually every aviation safety system, and so we have done in crafting the Transportation Security Administration Act to establish a web of redundant security measures that back up and overlap one another.

Those measures are now being put in place with great vigor by the Department of Transportation, by Secretary Mineta, Under Secretary Jackson or Deputy Secretary Jackson and Under Secretary McGaw, but it is a huge and daunting task.

They have gone through spring housecleaning and they have cleaned out the old system while still keeping its structure in place and preparing to replace it. They have established a training curriculum for the instructors of the security screeners. They have established a system to recruit screeners who comply with the requirements of our law. They are in the process of training those security screeners, and have already put the first increment in place at Baltimore-Washington International Airport to test out the training curriculum, the operation of the new Federal security screeners, and to take those lessons into the classroom for the next wave of security screeners.

They have moved vigorously at TSA to work with the industry producing explosive detection systems, the two companies that produced the two versions of explosive detection systems, and are encouraging them and are helping, with all the resources of the government, to have multiple production of these units by other companies.

The CHAIRMAN pro tempore (Mr. DAN MILLER of Florida). The time of the gentleman from Minnesota (Mr. OBERSTAR) has expired.

(By unanimous consent, Mr. OBERSTAR was allowed to proceed for 5 additional minutes.)

Mr. OBERSTAR. Mr. Chairman, that is under way, but it is proving very difficult to manufacture this equipment in the time frame envisioned. We knew that a year ago. We knew very well it was going to be difficult to comply with, but this House, with an overwhelming vote, supported that legislation, supported those deadlines, because the public insisted on security in our aviation system.

The protection for the flight deck, there was an interim measure that has now been in place for securing all flight deck doors, as an interim measure. There is under way with Boeing and Airbus a development of the ultimate flight deck secure door that has yet to be certified by the FAA, although the FAA is in the process of final evaluation, and hopefully yet by the end of this summer they will be able to certify that the flight deck doors proposed by the two aircraft manufacturing companies will be able to withstand all of the assault measures envisioned on board an aircraft. So that piece of the web security is not in place.

We do not have positive passenger bag match required on all flights in the domestic service.

We do not have a universal biometric system for identifying potential problem travelers. I think that, too, needs to be put in place.

Absent all of those measures being put in place to provide the ultimate security for aviation that we envisioned in the Transportation Security Act, this bill before us does provide the next logical and responsible step of a test program to arm and to train pilots in the use of those armaments on board aircraft.

I hope that the amendments offered will be rejected. They are not in conformity with the spirit of the legislation. If they are not rejected, I will be constrained to oppose this bill. I do not want to oppose it, but if these amendments or if any one of them is adopted, except the one on which we have agreed, then I feel the bill and the bipartisan spirit will have failed and I

will not be prepared to go forward with this legislation.

I know that the chairman of the subcommittee and the chairman of the full committee have expressed their opposition to all but this one amendment, and we anticipate that there will be a satisfactory outcome, that the amendments will be rejected, and that the underlying bill can then be adopted by the House and be sent on to the other body, and hopefully to the President.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, not very often do we find ourselves trying to stretch out the time. I guess leadership is downtown and they want to stretch it out until 3 o'clock.

One of the enjoyable things about this debate, and I see my friend, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Florida (Mr. MICA), but I have seen some people that, in my opinion, do not know what they are talking about. But even in that light, they were offering constructive types of legislation or comments that were in good faith. I think that is why this debate has been so healthy.

Quite often on this floor we sit here, and because it is an election year, there is partisan rancor. I want to thank my colleagues on the other side that that has not been the case. There has not been a partisan issue on this, and although we may disagree, it is based on wanting to help the American public.

With that, I would say that I disagree with my friend, the gentleman from Minnesota (Mr. OBERSTAR), on the amendment. I would say that it has been established that it is a benefit to have our aviators armed in the cockpit. If that is the case, should we only arm 2 percent of our Capitol Police? I think not, because 100 percent of our Capitol Police armed gives us better protection.

Should we arm 100 percent of our aviators? No, because I also agree with the gentleman that not 100 percent of aviators should carry a weapon, or even qualify for that. But I think a goal of that would be correct.

Of those that are allowed to do that, I think the training should be very, very intensive, with modern techniques, in the problems they may incur in a highly pressurized aircraft at elevation.

Our marshals carry weapons, 100 percent of them. I think we ought to achieve that goal, and the DeFazio-Thune amendment I believe should pass. I would be sad if the gentleman that has tried so hard to craft a good bill, the gentleman from Minnesota (Mr. OBERSTAR), would oppose it because of that; but I think that the American people have spoken, the airline pilots have spoken, and I think this body will speak, and I expect that overwhelmingly to pass. I would hope the gentleman would join us in this with enthusiasm.

Mr. Chairman, I would take a look at professional aviators. I looked at the one amendment as far as preference. The reason I asked my friend if military and law enforcement had preference, but did not eliminate, I want to tell the gentleman, I have known some aviators that the only pistol they have ever handled was a .38 during qualifications when they were going through the AOC program in training; so again, they may have precedents, but there are people that I hunt and fish with that have far more experience.

If we look at Suzie Brewster, a former Member's wife, I would trust her in a cockpit with a weapon, and she has never been in law enforcement or been an aviator, more than I would some of my pilot friends. I would not want those individuals eliminated. I was glad to see that they are not.

I think there needs to be a real close look at the requirements and the capability and the overall experience, not just because they are in the military or in law enforcement.

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

Mr. CUNNINGHAM. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, on the matter of the cap and the last point the gentleman made, the point of the bill, of doing a 2-year test and then evaluating, was to work out some of the very concerns the gentleman expressed.

The gentleman is quite right, that not all pilots that we know are qualified to handle a gun. That is why there is the training requirement in the legislation, to prepare and hopefully to weed out people who really do not qualify.

The idea of undertaking this limited program to test out these ideas and to ascertain the effects of a misfired gun in the cockpit that might send a bullet through the autopilot or through the flight deck computer are necessary preconditions. Then we stop, take stock, and the Secretary or the under secretary could make the determination to open it up to all pilots. But I think this is a matter of walking before we run.

□ 1500

Mr. CUNNINGHAM. Mr. Chairman, I thank the gentleman and I understand his argument except the fact that I know, I do not have to study it, I know if I was in a cockpit of an airplane, I would want to be armed as protection because that guy is going to cut my throat and I want to be able to defend not only myself but the pilots in the back, and I do not need a pilot program.

Mr. LIPINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise at this time to reluctantly support the Hostettler amendment No. 9. I have said repeatedly I was opposed to all amendments that would be offered to this piece of legislation. But fortunately amendment No. 9 is an amendment which I do not believe breaks the delicate balance that we have achieved in this bipartisan piece of legislation. So I am reluctantly willing to support it.

I would like to go on to say, though, that the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), mentioned that if the DeFazio amendment were to pass that he would reluctantly have to be opposed to the bill, and I would want to say that I would have to be also.

The gentleman from Florida (Mr. MICA), the gentleman from Alaska (Mr. YOUNG), the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), and myself and our staff, particularly the staff, have worked enormously hard on putting this bill together. All of us in this body are interested in improving security and safety in our skies. But until we really get into a piece of legislation, we will not understand what ramifications it can have. And that is why it is so important that this bill that we have put together be passed without any amendments that would harm it, because these amendments that have been proposed have very serious ramifications which we who deal with aviation on a day-in and day-out basis and our staff that does it on a day-in, day-out basis realize what these ramifications will be in trying to implement this program if the program is changed.

So I ask all my colleagues to support the bill, the manager's amendment that was brought here to the floor, and oppose all the other amendments that are opposed by the ranking member of the full committee, by myself, by the chairman of the Subcommittee on Aviation, and by the chairman of the full committee.

Mr. Chairman, I also remind my colleagues if they really want to do something for aviation safety and security, support this bill in its present context without amendments because, once again, I say the administration is really opposed to arming pilots with lethal weapons. The Secretary of Transportation is and the Under Secretary for Security is also. And if we expand this bill too far, you can rest assured that the administration ultimately will veto this piece of legislation. So to prevent that from happening, please defeat all amendments.

The CHAIRMAN pro tempore (Mr. DAN MILLER of Florida). The question is on the amendment, as modified, offered by the gentleman from Indiana (Mr. HOSTETTLER).

The amendment, as modified, was agreed to.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: Amendment No. 11, offered by the gentleman from Oregon

(Mr. DEFAZIO); amendment No. 8, offered by the gentleman from Indiana (Mr. HOSTETTLER); amendment No. 7, offered by the gentleman from Indiana (Mr. HOSTETTLER).

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

AMENDMENT NO. 11 OFFERED BY MR. DEFAZIO

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Oregon (Mr. DEFAZIO) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 250, noes 175, not voting 9, as follows:

[Roll No. 288]

AYES—250

Abercrombie
Aderholt
Akin
Armey
Baca
Bachus
Baird
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Berry
Biggert
Bilirakis
Blagojevich
Blunt
Boehlert
Boehner
Bonilla
Boozman
Boswell
Boucher
Boyd
Brady (TX)
Brown (OH)
Brown (SC)
Bryant
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Chabot
Chambliss
Clement
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeLay
DeMint
Deutsch
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Engel
English
Everett
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hobson
Holden
Hostettler
Houghton
Hulshof
Hunter
Isakson
Issa
Istook
Jenkins
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kerns
Kind (WI)
Kingston
Knollenberg
Kolbe
LaHood
Lampson
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Luther
Manzullo
Matheson
McHugh
McInnis
McIntyre
McKeon
McNulty
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mollohan
Moran (KS)
Nethercutt
Ney
Northup
Nussle
Ortiz
Ose
Otter
Owens
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tiahrt
Tiberi
Toomey
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Whitfield
Wicker
Wilson (SC)
Wolf
Wu
Young (FL)

NOES—175

Ackerman
Allen
Baldacci
Baldwin
Becerra
Bentsen
Bereuter
Berkley
Berman
Bishop
Blumenauer
Bono
Borski
Brady (PA)
Brown (FL)
Burr
Capps
Capuano
Cardin
Carson (IN)
Castle
Clay
Clayton
Clyburn
Conyers
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
DeLauro
Dicks
Dingell
Doggett
Dooley
Doyle
Ehlers
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Frelinghuysen
Frost
Gephardt
Gibbons
Gonzalez
Goss
Gutierrez
Harman
Hinojosa
Hoeffel
Hoekstra
Holt
Honda
Hooley
Horn
Hoyer
Hyde
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
King (NY)
Kirk
Kleczka
Kucinich
LaFalce
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Mink
Moore
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Oberstar
Obey
Osborne
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Quinn
Radanovich
Rangel
Rivers
Rodriguez
Roemer
Rogers (KY)
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Skeen
Slaughter
Smith (MI)
Snyder
Solis
Souder
Spratt
Stark
Tauscher
Thomas
Thornberry
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weller
Wexler
Wilson (NM)
Woolsey
Wynn
Young (AK)

NOT VOTING—9

Andrews
Barrett
Bonior
Delahunt
Hastings (FL)
Norwood
Olver
Roukema
Traficant

□ 1534

Messrs. WYNN, SKEEN, CROWLEY, PALLONE, ACKERMAN, RUSH, CLYBURN, and BISHOP, Ms. McKINNEY, Mrs. CAPPS, and Mrs. NAPOLITANO changed their vote from ''aye'' to ''no.''

Messrs. POMBO, TERRY, COSTELLO, FORD, SESSIONS, ENGLISH, McHUGH, GREENWOOD, STUPAK, GILCHREST, and Mrs. NORTHUP changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

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

AMENDMENT NO. 8 OFFERED BY MR. HOSTETTLER

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Indiana (Mr. HOSTETTLER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 169, noes 256, not voting 9, as follows:

[Roll No. 289]

AYES—169

Akin
Armey
Baca
Bachus
Barcia
Bartlett
Bass
Berry
Biggert
Blagojevich
Blunt
Boehner
Bonilla
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Burton
Buyer
Cannon
Cantor
Capito
Carson (OK)
Chabot
Chambliss
Clement
Coble
Collins
Condit
Cooksey
Costello
Cox
Cramer
Crane
Cubin
Culberson
Davis, Jo Ann
DeFazio
DeLay
DeMint
Diaz-Balart
Doolittle
Duncan
Ehrlich
English
Everett
Flake
Fletcher
Foley
Forbes
Gallegly
Gilchrest
Goode
Goodlatte
Gordon
Graham
Granger
Graves
Green (TX)
Green (WI)
Grucci
Gutknecht
Hall (OH)
Hansen
Harman
Hayes
Hayworth
Herger
Hill
Hilleary
Hilliard
Hinchey
Hobson
Holden
Hostettler
Hulshof
Hunter
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kerns
Kind (WI)
Kingston
Knollenberg
Kolbe
LaHood
Lampson
Latham
Leach
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Luther
Manzullo
Matheson
McCrery
McInnis
McIntyre
McKeon
McNulty
Miller, Gary
Miller, George
Miller, Jeff
Mollohan
Moran (KS)
Nussle
Ortiz
Ose
Otter
Paul
Pence
Peterson (MN)
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Radanovich
Ramstad
Regula
Riley
Rogers (KY)

Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shows
Skelton
Strickland
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Thune
Tiberi
Toomey
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (PA)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf

NOES—256

Abercrombie
Ackerman
Aderholt
Allen
Baird
Baker
Baldacci
Baldwin
Ballenger
Barr
Barton
Becerra
Bentsen
Bereuter
Berkley
Berman
Bilirakis
Bishop
Blumenauer
Boehlert
Bono
Boozman
Borski
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Burr
Callahan
Calvert
Camp
Capps
Capuano
Cardin
Carson (IN)
Castle
Clay
Clayton
Clyburn
Combest
Conyers
Coyne
Crenshaw
Crowley
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
Deal
DeGette
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Emerson
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Ford
Fossella
Frank
Frelinghuysen
Frost
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goss
Greenwood
Gutierrez
Hall (TX)
Hart
Hastings (WA)
Hefley
Hinojosa
Hoeffel
Hoekstra
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
King (NY)
Kirk
Kleczka
Kucinich
LaFalce
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Mink
Moore
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Oberstar
Obey
Osborne
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (PA)
Petri
Price (NC)
Putnam
Quinn
Rahall
Rangel
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (MI)
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Serrano
Shaw
Sherman
Sherwood
Shuster
Simmons
Simpson
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Stupak
Tauscher
Tauzin
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thurman
Tiahrt
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (FL)
Wexler
Whitfield
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—9

Andrews
Barrett
Bonior
Delahunt
Hastings (FL)
Norwood
Olver
Roukema
Traficant

□ 1546

Mr. DAN MILLER of Florida, Ms. PELOSI, and Mr. FRANK changed their vote from ''aye'' to ''no.''

Messrs. BRADY of Texas, CULBERSON, ROHRABACHER, and LEACH changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 7 OFFERED BY MR. HOSTETTLER

The CHAIRMAN pro tempore (Mr. DAN MILLER of Florida). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Indiana (Mr. HOSTETTLER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 49, noes 376, not voting 9, as follows:

[Roll No. 290]

AYES—49

Akin
Baird
Bonilla
Bono
Boucher
Cannon
Cantor
Combest
Condit
Cooksey
DeLay
DeMint
Doolittle
Flake
Goode
Goodlatte
Gordon
Graves
Gutknecht
Hayes
Hostettler
Hulshof
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kerns
LaHood
Linder
Lucas (OK)
Miller, Gary
Miller, Jeff
Ney
Paul
Pence
Peterson (MN)
Platts
Pombo
Rehberg
Rogers (MI)
Royce
Schaffer
Sessions
Shadegg
Shimkus
Tancredo
Toomey
Vitter
Wilson (SC)

NOES—376

Abercrombie
Ackerman
Aderholt
Allen
Armey
Baca
Bachus
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Boozman
Borski
Boswell
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Conyers
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
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
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)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Northup
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Sherwood
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
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)

Wolf	Wu	Young (AK)
Woolsey	Wynn	Young (FL)

NOT VOTING—9

Andrews	Delahunt	Olver
Barrett	Hastings (FL)	Roukema
Bonior	Norwood	Traficant

□ 1556

Mr. HEFLEY changed his vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. Are there any further amendments to this bill?

Mr. OBERSTAR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time simply to state the case of the status of this legislation. With passage of the first amendment, the DeFazio, et al. amendment, the House has voted to make all 70,000-plus commercial airline pilots eligible immediately to be armed and trained to carry guns in the flight deck. That is fine. I am just stating the case of where we are.

The House has voted to delete the requirement for a 2-year pilot program, a test program, after which the plan was to stop, take stock and decide what issues needed to be addressed, what problems need to be fixed, and then to proceed with a permanent program if the Transportation Security Administration decided to do so.

Under this legislation, even if the initial deployment demonstrates that there are safety problems, even if we learn in the initial going in a year or so in this initiative that there are safety problems or the program is ineffective in preventing a skyjacking, or if doors are installed to make the flight deck secure, as will happen next summer, according to the current schedule, this program is permanent. There is no stop, take stock, and decide whether to go permanently with it.

□ 1600

At a cost of $8,000 of training per pilot per year, the cost is in excess of $500 million a year. The Transportation Security Administration will have to start training within 2 months of enactment of the legislation.

Mr. Chairman, in the end, the current status of this bill violates, in my opinion and in reality, the agreement that we worked out on a bipartisan basis to bring to the floor measured, responsible, stop, take stock, before you go ahead, assess the effect of this program in a 2-year initiative and then decide whether to go ahead on a permanent basis.

That is now gone. I can no longer support the legislation in this form, and I urge a no vote on passage.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this has been one of the more honorable debates that I have taken part in, and my utmost respect goes to the gentleman from Minnesota (Mr. OBERSTAR). You will not find very many times that I vote with the gentleman from Oregon (Mr. DEFAZIO), so you know when I do it, it is pretty bipartisan.

But I want to tell Members that although it makes 100 percent allowable, that will never be reached. The only people that are going to be allowed in those cockpits are people that are qualified, that are trained and that complete the training; and that will never reach 100 percent, and it should not. All this did was raise the cap. If it is true that we should only have 2 percent, then why do we not just arm 2 percent of our Capitol Police? Arming 100 percent of them that are qualified makes it safer for all of us.

This is a bipartisan agreement. I think that you will see the vote on the DeFazio amendment was one of the most bipartisan votes we have had this year. Not just committee members, but of this body, of this House.

It is a good amendment. It makes our airways more safe. For that reason, I strongly support this. I ask Members to support the bill.

And I would also like to again express my appreciation to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member.

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

Mr. CUNNINGHAM. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I appreciate the gentleman's kind remarks. He said that previously.

It was a very balanced debate and one that stuck to the issues, and in the interest of sticking to the issues, I just want to point out further that while the underlying bill had a 2-year program, stop, take stock before going ahead, the bill, as now constructed, does not have that stop, take stock provision. That is my concern.

Mr. CUNNINGHAM. Mr. Chairman, reclaiming my time, the reason I did not vote for the Hostettler amendment, it required 30 percent within 30 days. There was no way to do that if the percentage was increased. I think that is why the DeFazio amendment strikes a good balance on this and gives us the maximum amount of protection.

I urge my colleagues on both sides to support this bill. It is a good bill for the American people. They want it, the American Pilots Association wants it.

God bless you.

Mr. DEFAZIO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is not often I disagree with the gentleman from Minnesota (Mr. OBERSTAR), who knows more about aviation than probably everybody on the floor of the House put together, but I do respectfully rise to disagree with his conclusion that Members should vote against this bill. Let me quickly lay out a case.

The threshold was crossed on a bipartisan basis by the Democrats and the Republican leaders of the Committee on Transportation and Infrastructure that there is a credible threat that continues in aviation. I can tell you it is going to be a very, very long time, if ever, before we have flight decks similar to what El Al, has where the pilots can go in and stay there until they land because they have a lav and food service. We are not even anticipating that.

We are seeing the FAA drag their feet on just giving us a door that can't be battered down by a deranged individual from Brazil with his head. They are dragging their feet on that, so it is going to be a long time before those flight decks are as secure as we want. At El Al, until they reached that point in time, they did arm their pilots. They never had an incident.

These are highly trained people. These are people you trust with your lives every week when you fly in those planes. These are people who do not want to feel helpless in losing control of their airplane to terrorists.

I am not going to say this is the most credible threat. Personally, I believe explosives are the most credible threat to killing people, maybe even personal explosives.

This continues to be a threat, and the leaders of the committee decided it was a threat, so the question becomes, why should we at that point restrict to 2 percent, which would be known to every terrorist in the world, of the pilots, on a daily basis? That would mean that less than one-half of 1 percent of the pilots flying would be armed because of the flight schedules they keep on a monthly basis.

So if you are a terrorist intent on mayhem and your chances are 99.5 to 1 that you are going to be successful, you might just take a chance. But with this amendment, we have created the uncertainty.

I would suggest that we will classify the number of pilots who have undergone the training and qualified, and it will be just like the sky marshals. You are not going to know how many of them are up there or whether they have a gun or do not have a gun. You are going to create that element of uncertainty for these people, so then they will try maybe some other place in the system to get us, and we have to be closing those gaps with explosives and maritime and all those other things.

So I respectfully disagree with the gentleman's conclusion that because of that we should vote against this bill. There is still administrative discretion. There will still be a conference with the Senate. If the gentleman finds horrible problems in terms of the pace or whatever, we can work on those things. But to kill the bill now would be to deny the threat that was identified on a bipartisan basis by the leaders of the committee and the American public and deny the American public this credible protection.

Mr. LIPINSKI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from Oregon (Mr. DEFAZIO) and I have fought many, many fights on this floor,

and in subcommittee and full committee, and on most occasions, unfortunately, we lost. Today I am sorry to say that he won and I lost.

I think that the people who really lost here are the American flying public. We had a bill that the leadership of the committee on both sides agreed to. It was a balanced bill, it was a prudent bill, it was a cautious bill, it was a bill that really would be effective in the long run.

The Senate was not even interested in that bill. It was our hope that we could pass this bill here today by overwhelming numbers so that the Senate would be forced to take up that bill.

By passing the DeFazio amendment today, it ensures that you are not going to have the Senate take up this bill. If, through some miracle, the Senate does take up the bill, the Secretary of Transportation and the Under Secretary of Transportation for Security, has already come out against weapons of this nature being on planes with pilots. The administration has said nothing on this because their Secretary of Transportation has already come out in opposition.

If we really want to do something for aviation safety and security, we will now defeat this bill so we can come back with a bill that has a chance of ultimately becoming law. If we want to improve aviation safety and security in this Nation and not make a point for a special interest group along political lines, we will vote against this bill and we will come back with a new one very shortly that has a chance.

The CHAIRMAN pro tempore (Mr. DAN MILLER of Florida). Are there any further amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. NETHERCUTT) having assumed the chair, Mr. DAN MILLER of Florida, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4635) to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes, pursuant to House Resolution 472, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. OBERSTAR. Mr. Speaker, I demand a separate vote on the so-called DeFazio amendment.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment?

If not, the Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment No. 11 offered by Mr. DEFAZIO:

Page 2, line 12, strike ''pilot''.

Page 3, lines 8 and 9, strike ''selecting, training,'' and insert ''training''.

Page 3, line 9, after ''pilots'' insert ''who are qualified to be Federal flight deck officers''.

Page 3, line 10, strike the semicolon and all that follows through ''first'' on line 17.

Page 9, strike lines 3 through 9.

Page 9, line 10, strike ''(5)'' and insert ''(4).

Page 9, line 24, strike the comma and all that follows through the comma on line 25.

Page 11, strike line 20 and all that follows through line 4 on page 14.

Page 12, line 21, strike the comma and insert ''and''.

Page 12, line 23, strike the comma and all that follows through ''program'' on line 24.

Page 14, line 5, strike ''(j)'' and insert ''(i)''.

Mr. OBERSTAR (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

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

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

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 251, nays 172, not voting 11, as follows:

[Roll No. 291]

YEAS—251

Aderholt
Akin
Armey
Baca
Bachus
Baird
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Berry
Biggert
Bilirakis
Blagojevich
Blunt
Boehlert
Boehner
Bonilla
Boozman
Boswell
Boucher
Boyd
Brady (TX)
Brown (OH)
Brown (SC)
Bryant
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Chabot
Chambliss
Clement
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeLay
DeMint
Deutsch
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Engel
English
Everett
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hobson
Holden
Hostettler
Houghton
Hulshof
Hunter
Isakson
Issa
Istook
Jefferson
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kerns
Kind (WI)
Kingston
Knollenberg
Kolbe
LaHood
Lampson
Latham
LaTourette
Leach
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Luther
Manzullo
Matheson
McHugh
McInnis
McIntyre
McKeon
McNulty
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mollohan
Moran (KS)
Nethercutt
Ney
Northup
Nussle
Ortiz
Ose
Otter
Owens
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Sanchez
Sandlin
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tiahrt
Tiberi
Toomey
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (SC)
Wolf
Wu
Young (FL)

NAYS—172

Abercrombie
Ackerman
Allen
Baldacci
Baldwin
Becerra
Bentsen
Bereuter
Berkley
Berman
Bishop
Blumenauer
Bono
Borski
Brady (PA)
Brown (FL)
Burr
Capps
Capuano
Cardin
Carson (IN)
Castle
Clay
Clayton
Clyburn
Conyers
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
DeLauro
Dicks
Dingell
Doggett
Dooley
Doyle
Ehlers
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Frank
Frelinghuysen
Frost
Gephardt
Gibbons
Gonzalez
Goss
Gutierrez
Harman
Hinojosa
Hoeffel
Hoekstra
Holt
Honda
Hooley
Horn
Hoyer
Hyde
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
King (NY)
Kirk
Kleczka
Kucinich
LaFalce
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Mink
Moore
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Oberstar
Obey
Osborne
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Quinn
Rangel
Rivers
Rodriguez
Roemer
Rogers (KY)
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Skeen
Slaughter
Smith (MI)
Snyder
Solis
Souder
Spratt
Stark

Tauscher
Thomas
Thornberry
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wynn
Young (AK)

NOT VOTING—11

Andrews
Barrett
Bonior
Delahunt
Hastings (FL)
Norwood
Olver
Radanovich
Roukema
Traficant
Waters

□ 1628

Mr. COX changed his vote from ''nay'' to ''yea.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated against:

Ms. SANCHEZ, Mr. Speaker, today I cast a vote in error on rollcall No. 291. It was my intention to cast a no vote on this rollcall.

□ 1630

The SPEAKER pro tempore (Mr. NETHERCUTT). The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

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

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 310, nays 113, not voting 11, as follows:

[Roll No. 292]

YEAS—310

Ackerman
Aderholt
Akin
Armey
Baca
Bachus
Baird
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Berkley
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Brady (TX)
Brown (OH)
Brown (SC)
Bryant
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (OK)
Castle
Chabot
Clement
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Engel
English
Eshoo
Everett
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hobson
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kind (WI)
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Matheson
McCarthy (NY)
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meeks (NY)
Mica
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mollohan
Moore
Moran (KS)
Murtha
Myrick
Nadler
Napolitano
Nethercutt
Ney
Northup
Nussle
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ryan (WI)
Ryun (KS)
Sanchez
Sanders
Sandlin
Saxton
Schaffer
Schiff
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Turner
Udall (NM)
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—113

Abercrombie
Allen
Baldacci
Baldwin
Becerra
Bentsen
Bereuter
Berman
Blumenauer
Borski
Brady (PA)
Brown (FL)
Burr
Capuano
Carson (IN)
Clay
Clayton
Clyburn
Conyers
Coyne
Crowley
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
DeLauro
Doggett
Dooley
Doyle
Ehlers
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Frost
Gephardt
Gibbons
Gonzalez
Gutierrez
Hinojosa
Hoeffel
Hoekstra
Honda
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kaptur
Kilpatrick
Kleczka
Kucinich
LaFalce
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Markey
Mascara
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McKinney
Meek (FL)
Menendez
Millender-McDonald
Mink
Moran (VA)
Morella
Neal
Oberstar
Obey
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rangel
Rivers
Roybal-Allard
Rush
Sabo
Sawyer
Schakowsky
Scott
Serrano
Skeen
Slaughter
Smith (MI)
Snyder
Solis
Souder
Spratt
Stark
Thomas
Tierney
Towns
Udall (CO)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey

NOT VOTING—11

Andrews
Barrett
Bonior
Chambliss
Delahunt
Hart
Hastings (FL)
Norwood
Olver
Roukema
Traficant

□ 1646

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. ANDREWS. Mr. Speaker, I was unable to travel to Washington, DC on July 10, 2002 because I was attending the burial of Firefighter Thomas G. Stewart III, who died in the line of duty on July 4th, 2002 in Gloucester City, New Jersey.

Had I been present, I would have voted ''yea'' of rollcall No. 292, H.R. 4635, the Arming Pilots Against Terrorism Act.

Mr. CHAMBLISS. Mr. Speaker, on rollcall No. 292, I was unexpectedly detained.

Had I been present, I would have voted ''yea.''

Ms. HART. Mr. Speaker, on rollcall No. 292, I was unavoidably detained.

Had I been present, I would have voted ''yea.''

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 4635, ARMING PILOTS AGAINST TERRORISM ACT

Mr. MICA. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 4635, the Clerk be authorized to make technical corrections and conforming changes to the bill.

The SPEAKER pro tempore (Mr. NETHERCUTT). Is there objection to the request of the gentleman from Florida?

There was no objection.

GENERAL LEAVE

Mr. MICA. 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. 4635.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4865

Mr. QUINN. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 4865, the National Forest Roadless Area Conservation Act of 2002.

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

There was no objection.

ELECTION OF MEMBER TO COMMITTEE ON SCIENCE

Mr. QUINN. Mr. Speaker, I offer a resolution (H. Res. 477) and I ask unanimous consent for its immediate consideration in the House.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 477

Resolved, That the following Member be and is hereby elected to the following standing committee of the House of Representatives:

Science: Mr. J. Randy Forbes.

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4600

Mr. SIMMONS. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 4600.

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

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ROSS) is recognized for 5 minutes.

(Mr. ROSS 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 North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES of North Carolina addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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 Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

(Mr. DUNCAN 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 Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

(Mr. GUTKNECHT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

(Mr. PALLONE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

PUNISH UNETHICAL CEOS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GANSKE) is recognized for 5 minutes.

Mr. GANSKE. Mr. Speaker, I am outraged by the corporate scandals that are causing so much pain to Americans. I have listened to fellow Iowans who worked for the natural gas company that merged into Enron tell me with tears in their eyes that most of their pensions were wiped out in the Enron collapse.

Workers are taking it on the chin. WorldCom is laying off more than 17,000 people. Many more at other companies are legitimately worried. Besides the workers and pensioners directly affected, almost 50 percent of Americans now invest in the stock market and some are looking at their lifetime investments become pennies in a matter of days. The stories of greedy executives who cut corners to make themselves a profit at the expense of everyone else are becoming a daily occurrence. This has become such a problem that the loss of faith of investors in the capital markets threatens our Nation's security.

So how did the capitalist threaten capitalism? For the CEO's victory is measured in profits to boost stock prices to enable them to cash in options. It is clear that some CEOs overaggressively pursued paper profits, even if it meant cheating the investors who provided the capital. These CEOs used various strategies to cheat others. Let me simplify their executive self-dealing.

I am indebted to columnist Paul Krugman of the New York Times for this example. Imagine the manager of an ice cream parlor who wants to get rich the easy way. First there is the Enron strategy. The ice cream manager assigns contracts to provide customers with an ice cream cone a day for the next 30 years. He deliberately underestimates the cost of providing each cone. This ice cream CEO then books all the projected profits on those future ice cream sales as part of this year's bottom line. Suddenly he appears to have a highly profitable business and sells shares in his store at inflated prices.

Then there is the Dynegy strategy. Ice cream sales are profitable. But the ice cream manager convinces investors that they will be profitable in the future. He enters into a quiet agreement with another ice cream parlor down the street, each to buy hundreds of ice cream cones from the other every day or, rather, pretend to buy, no need to go to the trouble of actually moving all those cones back and forth. The result is that this ice cream manager now appears to be a big player in the ice cream cone business world and sells shares at inflated prices.

There is the Adelphia strategy. The ice cream scam artist signs contracts with customers and gets investors to focus on the volume of contracts rather than their profitability. This time he does not engage in imaginary trades. He simply invents lots of imaginary customers. With his subscriber base growing so rapidly, analysts give his ice cream business high marks and he sells his shares at inflated prices.

Finally there is the WorldCom strategy. Here the greedy ice cream manager does not create imaginable sales. He simply makes real costs disappear, pretending the operating expenses like the cost of cream, sugar and flavorings are part of the price of the new refrigerator. So his unprofitable business looks like it is highly profitable and is borrowing money only to purchase new equipment. Once again, the ice cream executive sells his stock options at inflated prices.

Mr. Speaker, back in the Great Depression Congress passed the Securities and Exchange Act of 1933 and 1934. We created the SEC to enforce those laws. The results were protections like boards of directors, independent accounting firms, government regulators. But the system still relied on trusting the competence of the directors, the integrity of the CEOs, the accuracy of the accountants and the abilities of regulators.

It is clear that today the foundation of personal integrity has been eroded by the lure of huge personal profits.

I have been concerned about the need to separate an accountant's consulting function from his auditing work for several years. I supported former SEC chairman Arthur Levitt on his proposal to do that 2 years ago.

So, you ask, what is Congress doing to fix this serious problem? Well, we have held a series of hearings in my committee. Most of time the CEOs take the Fifth. But the House of Representatives has now passed two important pieces of legislation. First, we passed the Pension Security Act, and I will amend this statement with the details of that. Then we passed in the House in a bipartisan fashion the Corporate and Auditing Accountability,

Responsibility and Transparency Act. I will also add some material to my statement on the details of that legislation.

These bills, Mr. Speaker, wait to be acted on by the Senate.

President Bush has also outlined a plan and many of his suggestions we need to look at. Those that cannot be implemented by SEC regulation we should act on.

I think that the rule of law requires that those CEOs who have committed malfeasance, who are no better than street thugs, should spend time in jail. Now that would send a real message. Those responsible for fraudulent strategies like the hypothetical ice cream manager I have talked about should end up in the slammer.

I am outraged by the corporate scandals that are causing so much pain to Americans. I've listened to fellow Iowans, who worked for the natural gas company that merged into Enron, tell me with tears in their eyes that most of their pensions were wiped out in the Enron collapse. Workers are taking it on the chin. WorldCom is laying off more than 17,000 people. Many more at other companies are legitimately worried.

Besides the workers and pensioners directly affected, almost 50% of Americans now invest in the stock market and some are looking at their lifetime investments become pennies in a matter of days. The stories of greedy executives who cut corners to make themselves a profit at the expense of everyone else are becoming a daily occurrence. This has become such a problem that the loss of faith of investors in the capital markets threatens our nation's security.

How did the capitalists threaten capitalism? For the CEOs, victory was measured in ''profits'' to boost stock prices to enable them to cash in options. It is clear that some CEOs over-aggressively pursued paper ''profits,'' even if it meant cheating the investors who provided the capital. These CEOs used various strategies to cheat others. Let me simplify their executive self-dealing. Imagine the manager of an ice cream parlor (example courtesy of Paul Krugman, New York Times) who wants to get rich the easy way:

First there's the Enron strategy: The ice cream manager signs contracts to provide customers with an ice cream cone a day for the next thirty years. He deliberately underestimates the cost of providing each cone. This ice cream CEO then books all the projected profits on those future ice cream sales as part of this year's bottom line. Suddenly he appears to have a highly profitable business, and sells shares in his store at inflated prices.

Then there's the Dynegy strategy. Ice cream sales aren't profitable, but the ice cream manager convinces investors that they will be profitable in the future. He enters into a quiet agreement with another ice cream parlor down the street: each to buy hundreds of cones from the other every day. Or rather, pretends to buy—no need to go to the trouble of actually moving all those cones back and forth. The result is that this ice cream manager now appears to be a big player in the ice cream cone business world and sell shares at inflated prices.

And there's the Adelphia strategy. The ice cream scam artist signs contracts with customers, and get investors to focus on the volume of contracts rather than their profitability. This time he doesn't engage in imaginary trades, he simply invests lots of imaginary customers. With his subscriber base growing so rapidly, analysts give his ice cream business high marks, and he sells shares at inflated prices.

Finally, there's the WorldCom strategy. Here the greedy ice cream manager doesn't create imaginary sales. He simply makes real costs disappear by pretending that operating expenses, like the cost of cream, sugar, and flavorings, are part of the price of the new refrigerator! So his unprofitable business looks like it is highly profitable and is borrowing money only to purchase new equipment. Once again, the ice cream executive sells his stock options at inflated prices.

Back in the Great Depression, Congress passed the Securities Exchange Act of 1933 and 1934 and created the SEC to enforce those laws. The results were protections like boards of directors, independent accounting firms to ensure that the numbers were correct and government regulators to supervise the rules. But the system still relied on trusting the competence of the directors, the integrity of the CEOs, the accuracy of the accountants, and the abilities of regulators.

It is clear that today that foundation of personal integrity has been eroded by the lure of huge personal profits.

Most corporations are honest, but the bad apples have severely damaged the reliability of the reported data upon which people make investment decisions. There is no question that the malfeasance of Arthur Anderson, the schemes of CEOs, and the ineptitude of the boards of insular directors of huge companies like Enron, Global Crossing, Xerox, Dynegy, and our second largest long distance carrier WorldCom, has spooked investors.

I have been concerned about the need to separate an accountant's consulting function from his auditing work for several years and supported former SEC Chairman Arthur Levitt on his proposal to do that two years ago.

What you ask, is Congress doing to help fix this serious problem? Well, my Committee has held numerous hearings on these scandals, even taking testimony under oath from these CEOs (most have taken the Fifth).

The House of Representatives has now passed two important pieces of legislation with bipartisan votes to address the security of retiree's pensions and to help secure the financial future of America's investors and employees.

First we passed the Pension Security Act (H.R. 3762). This bill:

Bars company insiders from selling the own stock during ''blackout'' periods when workers can't make changes to their 401(k)s.

Give workers new freedoms to sell their company stock within three years of receiving it in their 401(k) plan.

Fixed outdated federal rules that discourage employers from giving workers access to professional investment advice.

Empowers workers to hold company insiders accountable for abuses.

Requires that workers be notified 30 days before the start of any ''blackout'' period affecting their pensions.

Then we passed in the House, in a bipartisan manner, The Corporate and Auditing Accountability, Responsibility and Transparency Act (H.R. 3763). This legislation works to end abuses like those made by Enron and Global Crossing. It strengthens corporate responsibility, reforms accounting oversight, and increases corporate disclosure. It will:

Restore confidence in accounting standards.

Increase corporate disclosure and responsibility.

Protect 401(k) plan participants.

Reduce analyst conflicts of interest.

These bills wait to be acted on by the Senate.

President Bush has also outlined a plan that Congress should act on such as requiring corporate CEO's to personally vouch for the veracity of their companies' financial disclosures, prohibiting CEO profit from false financial statements, setting up an independent accounting regulatory board and requiring accounting best practices, not simply minimum standards. Where these proposals can't be implemented by SEC regulation, Congress should act to do so.

Capitalism will survive this latest onslaught. It is clear, however, that government has a hand in making sure that the average investor gets information that isn't ''cooked.'' Honesty is, ultimately, the best policy.

I also think that the rule of law requires that those CEOs who have committed malfeasance, who are no better than street thugs, should spend time in jail. Now that would send a real message to CEOs, CFOs, boards, and accountants in the future that these types of schemes will not be tolerated. Those responsible for fraudulent strategies, like the ice cream manager I hypothesized earlier in this letter, should end up in the slammer.

The SPEAKER pro tempore (Mrs. CAPITO). Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addresssed 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 Minnesota (Mr. KENNEDY) is recognized for 5 minutes.

(Mr. KENNEDY of Minnesota addresssed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR addresssed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

EQUITY IN FARM SUBSIDIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of Michigan. Madam Speaker, today I rise to discuss the farm bill that will be up in full Committee on Appropriations tomorrow, and I suspect the plans are to bring

that legislation before this Chamber next week.

I would like to discuss my and many others' beliefs that a great inequity exists in our farm policy that has been passed in the farm bill, and the fact that we have a chance to correct that inequity in this appropriations bill.

This is not a new topic in Congress and, as well, it is not a new topic on the floor of the House. As a farmer and a former administrator of farm programs at USDA, as a member of the Committee on Agriculture, I, like most of us, know the importance of providing help to our family farms. The inequity of farm subsidies, because there is no limit on price support subsidy guarantees, results in giving the very large farmers a greater advantage. That means they have price protection on all of the total acreage of the particular crops that they grow that were subsidized by the farm program. That means that we encourage more production and that means that the smaller farmers have a harder time surviving and that means that the larger farmers tend to buy out the smaller farmers.

While reasonable limits have been set for direct price support payments to farmers, these limits are meaningless to large or corporate farms. Why? Because of the creative use of generic certificates. Certs, as they were called, were introduced in 1999 as an amendment to the 1996 farm bill.

□ 1700

They are negotiable certificates which CCC, the Commodity Credit Corporation, exchanges for a commodity owned or controlled by CCC. They were designed to let producers receive the price support subsidy rather than forfeit their crop to the government, but it gives that farmer a loophole, an end run, if Members will, to have the same price supports even though in the farm bill we were told that there are limits of $75,000 on price support payments. But the fact is that there is no limit on that larger farm that owns whatever, 40, 50, 60,000 acres, because he can end up receiving certificates that end up giving that particular landowner the same value as the rest of the price support loans that are subject to the $75,000 limitation.

Sadly, farmers quickly figure out the loophole in the use of certificates that allows these unlimited price supports on the crops that a farmer grows. The more land one farms, the more certificates one can purchase, bypassing any limits that are otherwise existing in the farm bill in current law. The availability of this creative mechanism to bypass limits encourages overproduction and, as I mentioned, the buying up of land from smaller farms.

This is the acquisition of as much land as possible to maximize payments from the government, and I think the bottom-line request is, why should 17 percent of the farms in America get over 80 percent of the commodity payments?

I understood this principle long ago. I understood how forfeitures and certificates became literally overnight methods to circumvent payment limits. I introduced the reform of farm subsidy payments during the House debate on the farm bill last October; however, our farm policy, driven by our agricultural committee leadership favors the certificates that can be used as the loophole or end run to those very large farms.

The Senate, however, successfully implemented reasonable payment limits and curtailed the unlimited use of generic certificates by a vote of 66 to 31.

Then the farm bill came to conference, and on April 18, after days of stonewalling and nonresolution, I introduced a successful motion to instruct farm bill conferees to accept real subsidy payment limitations like the Senate had and limit the unbridled use of generic certificates; and a bipartisan majority of the House overwhelmingly passed that motion by a vote of 265 to 158. It was ignored in conference, and I am still working with Senator GRASSLEY.

Tomorrow, when the Committee on Appropriations meets to discuss this bill, I hope they will look at the effects on the small farmers, the traditional family-size farms, and have some kind of a payment limitation when this bill comes to the floor next week.

CORPORATE RESPONSIBILITY

The SPEAKER pro tempore (Mrs. CAPITO). Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Madam Speaker, the strength of our United States economy is built on the honesty, integrity and transparency of our financial institutions. But right now the confidence of the American public and international investors is truly shaken.

We must restore confidence in our economy before it is rocked any further so we can continue to attract capital investment for the future health and prosperity of our economic system. The spate of deregulation over recent years has left us with a system that benefits the powerful and the wealthy above all others. We cannot allow this to continue.

Weakened Federal regulation of accounting practices has allowed corporate greed to run rampant and has led to failure of some of our very largest corporations and businesses. Enron, Global Crossing, Owens Corning, ImClone, Merrill Lynch, Arthur Andersen, Tyco, WorldCom, the list grows every single day. When these big businesses fail, thousands of employees lose their jobs and pensions while, undeservedly, many of the corporate executives become rich. They become not only millionaires, they become billionaires. These captains of industry do not stay with the sinking ship. They jump off first and with all the treasures.

This is not a simple problem about a few bad apples. The problems are systemic, and the accounting practices of America must be changed so we will be able to restore our economic health. We must support legislation like that in Senator SARBANES' bill, legislation that will provide real corporate responsibility. His bill calls for a strong, independent board to oversee the auditing of public companies, assures the independence of auditors, and provides for reform that will protect investors.

And in the House we must support the gentleman from New York's (Mr. LAFALCE) bill, H.R. 4083, the Corporate Responsibility Act of the Year 2002. His bill deals directly with the conduct of company officers and restores corporate credibility. Business executives must aspire to a higher business ethic because investors and employees are entrusting them with, oftentimes, their entire life savings; and business executives who break the rules must be punished.

The first step in restoring our Nation's confidence would be for the President, the President himself, to release records of the SEC's 1992 investigation of his trading in Harken Energy shares. In fact, we can talk about markets, economies, capital, and financial systems until we are blue in the face, but what is important to remember is that when a corporation fails, workers lose their jobs, families hit hard times, and children suffer.

The American economy is built on confidence and an expectation of fairness. If one works hard and plays by the rules, they deserve to share in a secure future. Unregulated business practices have allowed private-sector titans to act irresponsibly, and personal gain has tarnished the reputation of the American market as well as the confidence in our economy.

There must be zero tolerance for corporate corruption.

The SPEAKER pro tempore (Mr. BOOZMAN). Under a previous order of the House, the gentlewoman from New York (Mrs. MALONEY) is recognized for 5 minutes.

(Mrs. MALONEY of New York addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

TRIBUTE TO BISHOP VICTOR CURRY, PASTOR OF NEW BIRTH BAPTIST CHURCH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Mrs. MEEK) is recognized for 5 minutes.

Mrs. MEEK of Florida. Mr. Speaker, I stand here in the well of the Congress of the United States to pay distinct honor and tribute to one of Miami's young great leaders, Bishop Victor T. Curry.

Victor T. Curry is now pastor of a New Birth Baptist Church in Miami. I want to evoke the same sentiments of joy and gratitude that the 10,000 members of the New Birth Baptist Church in Miami lifted up to Almighty God this past weekend at the inauguration of the New Birth Cathedral.

Mr. Speaker, Bishop Curry truly represents the best and noblest of our community. As a bishop, pastor, and teacher, he exudes a remarkable wisdom in leading his congregation in the ways of God, and has tirelessly worked to enlighten our community on the agenda of spiritual wisdom and good governance impacting our duties and responsibilities.

It is indeed fitting for those of us who subscribe to the Judeo-Christian faith to acknowledge the important role that Bishop Victor Curry plays in the day-to-day affairs of our community.

I want to commend his tremendous work in guiding not only the members of his church, but also the residents of our entire community. He has exemplified the example of Christ as the Good Shepherd and has led his flock of believers by sharing with them the words of God's wisdom and the good news emanating from the gospel.

Bishop Curry's motto is from vision to victory. This motto has positively impacted the lives of countless people. Along with many others in our community, I am indeed a fortunate beneficiary of Bishop Curry's televised teachings and radio ministry through the church-owned radio station, WMBM 1490 AM.

He is especially effective in demonstrating both by way of word and example and unconditional love for and commitment to the children and the elderly, the poor and the disenfranchised. He reaffirms the centrality of God in our daily lives, conscious of the fact that the mandate of our faith must characterize our attitudes toward those who could least fend for themselves.

Our weekly paper, the Miami Times aptly describes Bishop Curry as a forceful, courageous and visionary leader not only of the religious community, but also of our wider society, with the recognition that our churches are a part of larger network of institutions that are the pillars of our community.

Bishop Curry is fully living up to his vocation as a caring and effective pastor. His standard for learning, sharing and achieving has won the accolades of our ecumenical community. Public and private agencies have often cited Bishop Curry for his untiring consecration to the truth and his uncompromising stance on simple justice and equal opportunity for all.

Moreover, Mr. Speaker, Bishop Curry's mission in teaching many a wayward youth has become legendary. He has gained the confidence of countless parents and teachers who see him as a no-nonsense motivator. They are willing to entrust him with the future of their children, fully cognizant and genuinely confident that they would learn from him the pursuit of academic scholarship and the desire for personal excellence under the tenor of a faith-based, conscientious commitment and rigorous discipline.

With the recent inauguration of the New Birth Cathedral, our community is deeply touched and will benefit greatly by his undaunted leadership and perseverance. As head of one of the fastest growing churches in Florida, Bishop Curry preaches and lives by the adage that under God's providence our quest for personal integrity and spiritual growth is not beyond the reach of those willing to dare the impossible.

As a man of God and as an indomitable leader, he has indeed earned our deepest respect and genuine admiration.

This is a magnificent legacy, Mr. Speaker, of Bishop Victor T. Curry. I am truly privileged to enjoy his friendship and confidence, and I am grateful that he continues to teach us to live by the noble ethic of loving God by serving our fellow man. Bishop Curry has lived by the adage that service is a price we pay for the space which God has let us occupy.

TRIBUTE TO CLARENCE E. LIGHTNER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. ETHERIDGE) is recognized for 5 minutes.

Mr. ETHERIDGE. Mr. Speaker, I rise today with my colleagues, the gentleman from North Carolina (Mr. PRICE), and the gentleman from North Carolina (Mr. WATT), to call attention to my colleagues to the passing of a most distinguished North Carolinian, really one of the most prominent North Carolinians as it relates to the civil rights and a pioneer in that area.

Clarence E. Lightner, 80 years of age, died on July 8 of heart failure. He was the first and only African American to serve as mayor of our capital city in Raleigh. In a quiet and yet determined way he brokered the hundreds of compromises that moved Raleigh from a small segregated southern city to the growing metropolitan city that it is today. We have truly lost a giant in North Carolina.

As the son of an achiever, Clarence Lightner proved to be an achiever himself from the beginning. He graduated from a segregated school in Raleigh, North Carolina, where he went on to what is now North Carolina Central, to get a degree. And Clarence was an outstanding quarterback; most of us who knew him, he never talked about athletics, but he was an outstanding quarterback in his day on the football team.

□ 1715

After that he served in World War II, went on to get a degree in mortuary service in Philadelphia, and then returned to Raleigh, opened a business, his family business, and started to get involved in politics.

He was one of the leaders in that area. As I said, he was quiet spoken, always well dressed, of a courtly manner, and keenly intelligent. Clarence was a man for his time. He understood what needed to be done. He was a man of good will who attracted other people of good will in that very trying time that we found ourselves in.

He spoke softly and listened well. The issues of the day called for vision, hard work, determination, negotiation and compromise; and he proved to be great at all those. He followed his father in the Lightner funeral home business and he ran it successfully. He then became a Raleigh city councilman in those trying days. He saw his business grow and followed his footsteps and became a city council member in 1967.

He served in that post for 6 years, during which time Raleigh moved forward with equality for all of its citizens in a fair and, what many thought were, a justifiable way. But Clarence Lightner said it was time to move forward to the next level, and so Clarence Lightner was elected mayor in 1972, having put together a coalition of suburban precincts with African American precincts to capture city hall, being the first African American and the only African American to serve as mayor of the city of Raleigh. His election as mayor really became national news immediately. His election was a precursor to what would happen across the South in later years.

As the son of an achiever, Clarence Lightner proved to be an achiever from the beginning. He graduated from a segregated Raleigh High School, then from what is now North Carolina Central University, where he was an outstanding quarterback. After service in World War II, he completed a course at Echols College of Mortuary Science in Philadelphia and returned to Raleigh to take over the family funeral business. He immediately became involved in the political questions of the day in a period that marked the Civil Rights Movement in the segregated South.

Quiet spoken, always well dressed, courtly, keenly intelligent, Lightner was the quintessential man for the times in which he found himself. He was a man of good will who attracted other people of good will in that most trying of times. He spoke softly and listened well. The issues of the day called for vision, hard work, determination, negotiation and compromise. Lightner proved to be adept at all.

Lightner, whose father established Lightner Funeral Home, had run unsuccessfully for the Raleigh City Commission in 1919 in the tightly segregated city. Calvin Lightner then saw his businesses suffer because of a white backlash. Clarence Lightner, following in the footsteps of his father, ran successfully for the Raleigh City Council in 1967. He served in that post for 6 years, during which Raleigh moved toward equality for all its citizens. It is fair, perhaps, to say that Lightner was the "go to" person on any question that involved racial equality during that period. The Raleigh of today is testimony that his decisions were good ones.

Lightner was elected mayor of Raleigh in 1972, having put together a coalition of suburban precincts with African-American precincts to capture a City Hall that had been run previously by bankers, merchants, and longtime established neighborhoods. His election as mayor of a capital city was national news. His election was the precursor to what would happen across the South in later years.

Defeated for re-election in 1975, Lightner never again ran for public office, though he was appointed by Governor James B. Hunt to the State Senate in 1977 to complete a term for developer John Winters, a close friend. He remained on the forefront of every question that had to do with Raleigh development and, in particular, with anything that would affect the south and southwest parts of the city.

Lightner's contribution after his service as mayor was of major importance. He was, in a sense, the power broker with whom politicians had to deal if they wanted to be successful in Raleigh and Wake County. He served as a model for—and mentor of—other African-American young people in whom he saw promise. Former State House Speaker Dan Blue, now running for the U.S. Senate, was a protégé. So was Brad Thompson, state director for U.S. Senator JOHN EDWARDS. Most of Raleigh's current African-American leaders share the Lightner stamp.

Clarence Lightner was a successful businessman, husband and father. He served his business profession at all levels, including as president of the National Morticians Associations. He served the Raleigh Citizens Associations, Rex Hospital, the Raleigh Human Relations Council, the NAACP, the Southern Policies Board and dozens of other organizations. He was chairman of both the Saint Augustine's College Board of Trustees and that of North Carolina State University.

Mr. WATT of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. ETHERIDGE. I yield to the gentleman from Charlotte, Mecklenburg County, North Carolina (Mr. WATT), who knew Clarence well.

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentleman for yielding to me, and I thank my colleague, the gentleman from North Carolina (Mr. ETHERIDGE), and my colleague, the gentleman from North Carolina (Mr. PRICE), for taking the time out to do this tribute to Clarence Lightner.

For African American politicians in North Carolina, there are a number of people on whose shoulders we believe we stand as Members of Congress, as mayors of cities, as city council people. Clarence Lightner was among the first of those on whose shoulders we stand and on whose shoulders a number of politicians in North Carolina have stood over the years.

I remember very well back in the early 1970s when I started getting into politics, managing Harvey Gantt's campaign. Harvey Gantt went on to become, in later years, the first African American mayor of Charlotte, North Carolina, but he did that on the history and with the history there that Clarence Lightner had broken that barrier in Raleigh some years earlier.

He was just a magnificent man whom we all looked up to, respected, and admired; and his memory will certainly live on for years and years. He is the person who gave us advice and who mentored us.

TRIBUTE TO CLARENCE LIGHTNER

The SPEAKER pro tempore (Mr. BOOZMAN). Under a previous order of the House, the gentleman from North Carolina (Mr. PRICE) is recognized for 5 minutes.

Mr. PRICE of North Carolina. Mr. Speaker, I yield to the gentleman from North Carolina (Mr. WATT) to continue with a few comments on this tribute to Clarence Lightner.

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentleman for continuing to yield to me. I know I am kind of butting in on others' time, but the one thing I do want to say about Clarence Lightner, that I think both of my colleagues will acknowledge, is that all of us went to him for advice, but Clarence did not always tell you what you wanted to hear. He was sometimes blunt, he was sometimes humorous, but every time he gave advice, he did it in the context of a story that was based on some experiences that had shaped his life in many ways. And he did it with humor and with a smile, and he was always giving in that respect.

That is the thing that I will remember about Clarence Lightner above all else.

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman for those recollections, and also my colleague, the gentleman from North Carolina (Mr. ETHERIDGE), for taking the time to pay tribute to our friend, Clarence Lightner, who was a friend and a mentor to me and to so many others.

He was a prominent businessman, he was a ground-breaking political leader. Clarence Lightner, Raleigh's first and only African American mayor, died this week at the age of 80. He served a single term as mayor, as the gentleman from North Carolina (Mr. ETHERIDGE) has pointed out, from 1973 to 1975; and then he played a critical leadership role in North Carolina politics for decades to follow.

I have experienced firsthand Clarence's exceptional talent for bringing disparate groups together to effect positive change in both official and unofficial capacities. He led the city of Raleigh during a tumultuous period of expansion and development. His success was directly attributable, I believe, to his ability to relate as easily to people on the street as he did to business and community leaders.

Clarence was frequently sought out for his insight and his guidance. It was often said, and was actually reported again in the News and Observer of Raleigh this week, that any candidate seeking voter support in Raleigh had better secure Clarence Lightner's support first. That was the truth, and I can attest to it.

Clarence was a mentor to me personally as I attempted to lead our State Democratic Party and then to represent the fourth district in Congress. I valued his wise counsel very much. It was always delivered with unfailing good humor, and his spirit was a generous one and a cooperative one.

Clarence Lightner offered leadership to organizations ranging from the National Funeral Directors and Morticians Association to the National League of Cities to the Democratic National Committee, the Raleigh-Wake Citizens Association, the Board of Trustees of St. Augustine's College, North Carolina Central University, and North Carolina State University.

He had a huge impact for good in Raleigh and throughout North Carolina and across the Nation. We will continue, Mr. Speaker, to feel this impact long after he is gone. We will miss him. We treasure his legacy.

Mr. Speaker, I enter into the RECORD at this point the editorial tribute to Clarence Lightner from the Raleigh News and Observer from July 10, 2002.

A PATHFINDER FOR RALEIGH

Clarence Lightner was a gentle, soft-spoken man of resolve. At his core he possessed a strength and a courage that helped him overcome racial barriers—and then he helped Raleigh overcome them, too. That is but one of the legacies he leaves following his death Monday at the age of 80.

Lightner, long-time proprietor of a funeral home that bears the family name, was the Capital City's first and thus far only African-American mayor, serving from 1973 to 1975. He also was the first mayor to be elected under a then-new procedure whereby the mayor is chosen directly by the people and not by the City Council.

Lightner grew up in a segregated city, the son of a prominent businessman, Calvin Lightner, who had run for the city commission in the early 1900s. In Clarence Lightner's lifetime, Raleigh was to change dramatically, and he was to help achieve that change.

Though he served just one term as mayor following a period as a council member, Lightner remained a powerful force in politics through his influence in Southeast Raleigh. Long after his term was over he continued to advise candidates whom he favored and to help shape issues in citywide campaigns.

Lightner was always unfailingly gracious, and keen in his remembrances of his growing-up in Raleigh. He had, after all, belonged to a family that was active in helping the city grow. He also served by spotting those young people he felt one day could serve in leadership roles. Many of them did not disappoint him, and in their service especially, Clarence Lightner's legacy is a living one.

Mr. ETHERIDGE. Mr. Speaker, will the gentleman yield?

Mr. PRICE OF North Carolina. I yield to the gentleman from North Carolina.

Mr. ETHERIDGE. Just briefly, Mr. Speaker, let me thank both my colleagues, because Clarence Lightner was an exceptional man; and my colleague was right when he said that if you ran for public office, as he and I did, and others, we are here to attest to the fact that you sought Clarence Lightner's counsel. You really wanted his support;

but you sought his counsel first, as we well know.

He was honest, he was blunt, but he did it in such a nice way. Let me share what Webster's Dictionary defines as a Renaissance man, because I really think Clarence Lightner is one. It says, a Renaissance man is one who has wide interests; is an expert in several areas. And certainly Clarence Lightner fully met these descriptions. He earned that designation again and again, and he showed in many ways that he really did value liberty, equality, and human kindness; and he exhibited it every day.

Mr. PRICE of North Carolina. Mr. Speaker, I thank my colleague, and I hope that what is coming through these tributes today is the human qualities of Clarence Lightner. There was no question he exerted strong leadership and a visionary leadership. But one reason he had the impact that he did, and that so many people, like us, who regarded him as a mentor and a friend and a shaping force in their lives, is because of his human warmth and generosity of spirit and extraordinary sense of humor and an ability to bring out the best in people, and a desire to see people do their best. He did not need to claim the credit himself. He was very good at bringing along people and letting them shine.

There are many, many people in North Carolina whose lives have been enriched by this man and who join us in mourning his passing. So, Mr. Speaker, I appreciate the time to offer this tribute today; and it is entirely fitting that we gather here to honor Clarence Lightner, to testify as to what he has meant in our lives and to bear witness to what he has meant to North Carolina and the Nation.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MEEKS) is recognized for 5 minutes.

(Mr. MEEKS 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 Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

(Mr. STRICKLAND 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 Ohio (Mr. BROWN) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

OMNIBUS CORPORATE REFORM AND RESTORATION ACT OF 2002

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, we have heard over the last 48 hours a pronouncement of a crisis in corporate America; that many employees and pensioners and other people have been impacted negatively by the crumbling confidence in corporate America and the procedures by which we invest in that system which have gone on for a very long time.

Let me simply recount a story, Mr. Speaker, that probably has been heard over and over again, but it bears telling again, and that is the story of many of my constituents and those that live in Houston. For a moment, we thought that the failings were indicative of a particular industry, the energy industry. We felt that something had gone awry with one of the companies that had been one of our most civic-minded corporate citizens. But just over a weekend we were able to see what happens when things go awry and the integrity of the process of running a large business is not adhered to.

Within a weekend's time, after the continued undermining and crumbling of Enron Corporation, $105 million was given as retention bonuses to many of the executives. That probably happened on a Friday. On Sunday, bankruptcy occurred. On Monday, 4,500 employees were laid off, and investors around the country were finding out that they had lost millions and millions of dollars due to the largest bankruptcy filing in this Nation.

So it is more than a crisis of 48 hours; it is more than a crisis that has been acknowledged by this administration. It is an ongoing crisis. And I personally have said that the inertia and inaction of this Congress must stop and this Congress must move forward and ensure that we respond to the American people. My colleague, the gentleman from New York (Mr. LAFALCE), is attempting to do that, along with the distinguished gentleman from the other body, Mr. SARBANES, with a bill that really attacks the problem, particularly as it relates to the issues of accounting and consulting. This is so key.

But I want to say that the Omnibus Corporate Reform and Restoration Act of 2002 is a bill that is crucial. This is a bill that I hope will bring some attention and that will respond to all of the issues that we are addressing. It concerns the oversight of boards of directors. It concerns the idea of investor integrity. It concerns the protecting of employee stock options and pension plans.

This bill may not pass tomorrow or next week. This bill has no pride of authorship, because I believe that the key element for this Congress is to act. It is a bill I intend to file, the Omnibus Corporate Reform and Restoration Act of 2002.

□ 1730

Mr. Speaker, the $4 billion that was lost by WorldCom is an indication that this is not industry-specific, this is systemwide. This is attacking all of us more than where it hurts because certainly money lost hurts, but it has to do with the integrity of our system of governance and economy, the capitalistic system that we have attempted to promote throughout the world, that if you work hard, you have an opportunity in this Nation to succeed.

We encourage developing nations to look at our system of democracy and the economy. We provide incentives for particularly small businesses around the world, but nothing serves us in a worse way than to continue to have a system that does not have integrity and trust.

There is a crisis. It did not just occur in the last 48 hours. It has been going on for a while. It is a crisis when the stock of WorldCom sold for $64 just 3 weeks ago and 7 cents in the last couple of days, and now in my terminology, it has been disenrolled off of NASDAQ. It is a crisis when we can construct SPEs in order to hide funds, and those are separate companies within where executives can in fact own a part of those companies within another company or the larger company and siphon off funds to the extent that boards of directors do not know what is going on.

Mr. Speaker, I simply say that in the course of having the responsibility of responding to an ongoing crisis, I am sad to say we have waited too long. But I am proud that we are speaking now in a voice that will be heard by the Democratic leadership, and I simply say that it is important that we all look to stand ready to force an issue that addresses the needs of American people, and the sadness of losing your home, of not being able to pay tuition, losing your pension, and trying to avoid going under. I do not think we can do any less other than trying to respond to corporate infractions, the corporate undermining of the economic system of this Nation.

INSTITUTIONALIZED DISCRIMINATION OF BLACK FARMERS

The SPEAKER pro tempore (Mr. BOOZMAN). Under a previous order of the House, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, first I would like to join my former colleague from North Carolina who acknowledged the contributions of a dear friend who died recently, Clarence Lightner.

Mayor Lightner was a friend to us in North Carolina who worked in the early 1970s, 1980s and 1990s. He was a pioneer not only because he became the first African American to become the mayor of the capital of North Carolina, but also because of his ability to raise issues that were controversial and get them on the table. He also inspired other people to do likewise. I certainly will miss him personally as a friend. I got to work with him on various committees that we served together on,

and know of his beloved position in his community and church and family, and I personally acknowledge what he has meant to me and meant to our State.

Mr. Speaker, I rise today to talk on another subject as well. I rise just 6 days after we celebrated Independence Day to call attention to the plight of our Nation's black and minority farmers, small business people, who continue to struggle for their own independence against the forces of institutionalized discrimination at the hand of field offices of the United States Department of Agriculture, despite modest gains in some recent legislative and legal victories.

Only days before we celebrated July 4, a group of 150 black farmers felt it necessary to stage a sit-in in a regional office of the Department of Agriculture to protest the continued discrimination practices used by Federal employees to deny them a Federal farm loan.

This follows on the settlement of a class action lawsuit in 1999 which all of us thought would bring remedies. That was a consent decree in which the government agreed to stop these practices and the court provided relief in the way of priorities and loans, and agreed to pay $50,000 where there were acts of discrimination proven, and to provide other assistance.

But many who have applied for this relief have been denied, and the consent decree expires in 2 years. The government has paid more than half a billion dollars to farmers, while denying and refusing to assist many of the original plaintiffs. There is not a consistency in the application of the relief. So many of the farmers are finding this consent decree to be an empty victory or remedy that has no value to them whatsoever.

In a recent ruling by the U.S. Appellate Court in Washington, D.C., Pigford v. Ann Veneman, the Court clearly stated that the farmers had suffered a double betrayal, first by the Department of Agriculture and then by their own lawyers.

The protest by black farmers in the State of Tennessee demonstrates that the Department of Agriculture continues to ignore minority farmers who are small and disadvantaged. Secretary Veneman's response, to establish a high-level review of the issues within the department and to meet personally with these minority farmers, is indeed a positive step. However, there have been numerous studies, regulatory reviews, adjudication by the courts, and legislative direction by this Congress. The patterns of discrimination have been documented. The courts have decreed remedies. Congress has enacted specific reform, and it is past time for the Department of Agriculture to act and end discrimination.

The Committee on Agriculture committed here on the floor to hold hearings where they will examine the issues of black farmers. The committee is considering a full hearing in September.

The recent legislative victories for civil rights within the farm bill must be implemented immediately to ensure that past and present practices of discrimination and denials are prevented and corrected.

Those victories included: An Assistant Secretary for Civil Rights at USDA; language that requires the Secretary of Agriculture to document and to track program participation for minority farmers; and also the county committee elections be open and fair, and where there is not minority participation, there would be.

Mr. Speaker, I call on Congress indeed to pass the resources necessary for these funds, and I call on the administration to implement these policies so we can end discrimination and act in good faith for these small farmers who are struggling to make a living for themselves.

CORPORATE REFORM NEEDED

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from New York (Mr. LAFALCE) is recognized for 60 minutes as the designee of the minority leader.

Mr. LAFALCE. Mr. Speaker, this morning I was very pleased to join with the gentleman from Missouri (Mr. GEPHARDT) and other Members to file a petition for discharge of H.R. 3818, the Comprehensive Investor Protection Act of 2002. I introduced this bill in February. When I introduced it, I wanted to provide a serious and credible alternative to a very weak industry-drafted, industry-driven bill that had been introduced by the Republicans. I later introduced another bill basically codifying the concept of President Bush's own 10-point plan on corporate responsibility.

As I discussed at the press conference this morning, at every single point in the debate, whether it was in the House Committee on Financial Services, whether it was in the House Committee on Rules, or whether it was on the floor of the House of Representatives, I sought to offer the provisions of my bills as amendments to the Republican initiative so we could strengthen the oversight of accountants, so we could make auditors more independent, so we could improve corporate governance, so we could hold executives responsible for the financial statements their companies issue, and many other absolutely necessary improvements.

On every single issue, on every single occasion, President Bush said no and the Republicans voted no. They opposed even the provisions of my bills that sought to codify President Bush's own proposals. They voted against them on the floor of this House. Instead of producing a strong bill that could set the terms of debate for the Senate, the House instead produced a very weak bill, a cosmetic bill, that delegated major issues of accounting industry reform and corporate governance reform to the SEC. Basically, they codified the status quo.

Let me give some specifics. The Republican bill allowed the SEC to designate an accounting oversight board. But it did nothing to define the powers and duties of that board created under the bill, ensuring that it would be at best a weak institution without the authority to stand up to the accounting industry. Further, it did not specify the nature of the membership of that board. It is not just what powers the board has, it is who is going to serve on the board. Will they be zealots for investor protection? Or will they be protecting corporate America rather than the private individual investor?

The Republican bill also failed to address the conflicts faced by auditors in a meaningful way, allowing auditors to continue to provide the same consulting services that they do today. The Republican bill did nothing to enable the SEC to effectively bar guilty officers and directors from serving at other public companies because it preserved and codified the high burden of proof that even the SEC has said makes it virtually impossible to bar officers and directors even in the case of criminal misconduct.

The Republican bill prescribes studies, not legislative action, on issue after issue, even on whether corporate executives responsible for accounting fraud should be required to forfeit their bonuses and stock sale profits and whether the ties between analysts and investment banking should be restricted. We do not need to study that issue, we need to bar those conflicts.

At the time that the Republican bill passed, there was already a clear need for strong and reasoned legislation to protect workers and shareholders, but the House Republicans squandered that opportunity. While the House Republicans blocked any improvements to legislation in the House, and while the House Republicans voted against my substitute, while the House Republicans voted against my motion to recommit with instructions to report out stronger legislation, I was nevertheless gratified that at the very least our efforts, our bill, provided a model for Senator SARBANES as he developed his legislation now being considered by the Senate.

Unlike the House Republican bill, Senator SARBANES' bill provides for a strong accounting oversight board and significantly enhances auditor independence by limiting the consulting services auditors can provide to their audit clients and improving corporate governance. He has brought that bill to the floor of the Senate with strong bipartisan support and strong bipartisan cooperation I wish we had in this House.

□ 1745

As the Senate continues the debate on the Sarbanes bill, however, I have been dismayed to note that the administration continues to resist strong legislation, and particularly continues to

resist the creation of strong oversight for auditors of public companies. While the administration complains that the new organization may duplicate the efforts of the SEC, they continue to resist providing the SEC with the funding necessary for it to perform these functions itself. Moreover, they ignore the comprehensive authority provided to the SEC over the new oversight board.

Despite the administration's protestations, there is no reason to expect that the new board will not be able to work with the SEC in the same manner that the securities' self-regulatory organizations do at the present.

The administration and House Republicans must recognize what most Senate Republicans and even corporate leaders have already recognized, that the need for strong legislation that will restore the confidence of investors in our markets and public companies is urgent. I look forward to working with each and every one of my colleagues in the House or Senate on either side of the aisle and with the administration to produce a legislative product that can restore the integrity of our financial reporting system and our markets, that can provide the confidence needed to let our economy recover from the serious blows it has already been dealt; and I extend my hand to anyone who wants to work with me in that effort.

Mr. Speaker, I yield to the gentlewoman from California (Ms. LEE).

(Ms. LEE asked and was given permission to revise and extend her remarks, and include extraneous material.)

Ms. LEE. Mr. Speaker, I thank the gentleman from New York for yielding and for his leadership on this and so many issues that we face and address in this House.

As the gentleman from New York (Mr. LAFALCE) has indicated, we are facing a crisis of confidence in this country, a crisis in corporate America. In the last 9 months we have seen major corporation after major corporation fall because of greed, fraud and mismanagement. From Enron to Global Crossing to WorldCom, the failures of these businesses mean that millions of Americans are hurt. Workers lose their jobs, investors lose their profits in the stock market, retirees lose their pensions. It seems that we have a culture, really, of deceit in the corporate world.

From what we have learned recently, there apparently is collusion oftentimes between the corporation, the auditors and the analysts, who at the very least turn a blind eye to misdeeds and at most are really committing serious crimes that are defrauding the public, the government and investors.

What message are we really sending to the rest of the world when we in the United States so often criticize them for their corporate corruption? At the same time people are losing their jobs and life savings, greedy executives are managing not only to survive, but to flourish. They are taking huge bonuses and, in some cases, even hundreds of millions of dollars in loans, while the rest of their workers are being forced out with nothing. This is just downright criminal.

The corporations themselves are committing fraud by engaging in creative accounting. The auditors, such as Arthur Andersen, who are entrusted with ensuring the financial stability of these businesses, are really turning a blind eye to this fraud because of conflicts of interest between their auditing and consulting functions. And Wall Street analysts are compromising their integrity by recommending their customers buy stocks even when they have information that the companies are not in good shape because of their own conflict of interest between investment banking and analyst functions.

We must pass true accounting reform. In April, the House of Representatives passed really a sham accounting bill, H.R. 3763, the so-called Corporate and Auditing Accountability and Responsibility Act. This Republican corporate cover, that is what it is, this legislation does nothing to protect employees and investors. It allows corporate auditors to continue to perform both accounting and consulting functions. It does not hold corporate wrongdoers accountable if they knowingly release misleading financial statements. It does not increase oversight of the accounting industry.

We need to support the bill of the gentleman from New York (Mr. LAFALCE), which would, among other things, ban auditors from consulting services that create conflicts of interest.

Just this week, the Committee on Financial Services, on which I serve, held a hearing on the issue of the WorldCom failure. I was shocked, quite frankly shocked, to witness the total disregard for our oversight responsibility by the former CEO, Bernard Ebbers, and the former CFO, Scott Sullivan. Their consistent invoking of the Fifth Amendment did not allow for much insight into what happened. Their reluctance to provide our committee with necessary information so that we could be better prepared to put into place statutes to ensure corporate accountability was very, very disturbing.

What more are they hiding? We know that Mr. Ebbers received a $400 million loan, which he has not repaid, from WorldCom because of some bad investments he made. When he became subject to market calls, instead of selling his WorldCom stock, which he reportedly used as collateral, he went to his company and asked for loans so it would not look bad that the CEO was dumping tens of hundreds of millions of dollars of company stock.

When a working parent wants to send their child to college, they cannot go to their boss and expect a handout to cover the cost. When an adult child needs help to help their parents buy prescription drugs, their employer does not hand them thousands of dollars. When a family member gets in an accident and runs up thousands in medical costs and they end up in bankruptcy, they are unable to secure loans from their employer. Most ordinary working people do not have access to loans from their employer, let alone over $400 million in loans, and CEOs really should not either. We need to prevent CEOs and other top executives from securing huge loans from their own companies to bail them out of bad investments.

Many corporations are using offshore locations, including those in the Caribbean, to avoid paying United States Federal income taxes. Allowing U.S. corporations to avoid their tax liability is not only unfair, but also contributes to our deficit. I have cosponsored, along with many, H.R. 3884, the Corporate Patriot Enforcement Act, which prevents corporations from avoiding U.S. income taxes by reincorporating in a foreign country.

Now what about corporate ethics? Isn't there a moral or ethical code in the business world? Shouldn't there be? We heard at the WorldCom hearing about a "close personal relationship" the chief analyst at Salomon Smith Barney, Mr. Jack Grubman, had with former WorldCom CEO Bernard Ebbers. I asked Mr. Grubman if his relationship with Mr. Ebbers was a working relationship as he stated, or a personal relationship as had been reported. He danced around his answer.

At this week's hearing, Representative JAY INSLEE from Washington asked the witnesses very pointedly about whether it was time to punish corporate criminals the same way people convicted of drug offenses are. I have always been opposed to mandatory minimums for drug offenses, which mostly affect low-income, urban minorities. However, if we are to be tough on crime, why don't we pass mandatory ten-year prison sentences for those convicted of fraud and other corporate crimes for the mostly upper-income executives? President Bush yesterday called for a doubling of maximum sentences—but what about strong minimum sentences? This President supports mandatory minimums for those convicted of drug offenses and he should support them for corporate criminals who defraud their corporations and our Nation.

As a member of the International Relations Committee, I participated in a hearing on international corruption and how U.S. companies were harmed when unfair practices were prevalent in other nations. Our then-Chairman and Ranking Member both talked about how corruption "undermines the basis of growth and stability," "deters investment," "demoralizes entrepreneurs and ordinary citizens who deserve good government." They also testified about how in Asia and Africa, "democracies are threatened by corrupt practices of the government." I would argue that the United States is facing such a problem today. We must also clean our own house. One last quote from the 2000 hearing was: "If we believe in democracy, and we want to build a system where the world has faith in its elected leaders, we need to make sure that we get rid of corruption." I for one want to have faith in the elected leaders in this Nation, starting at the top—President Bush and Vice President CHENEY.

The American people must be able to trust the leadership in this country—the leaders of

major corporations which are so important to our economy, but also to our political leadership. We know that last year, President Bush authorized his energy task force, headed by Vice President CHENEY, with participation by Kenneth Lay, the former Enron CEO. In my home state of California, we know that there was manipulation of rates in the energy market and all signs point to Enron. The question remains what role the Bush Administration—both the President and Vice President—may have played in the California energy crisis as a result of their close relationship with Enron and its CEO.

More recently, we have discovered that President Bush, while serving on the auditing committee and Board of Directors for Harken Energy Corporation in 1990, sold over 200,000 shares of that company's stock just 2 months before it announced losses. That stock subsequently lost ¾ of its value by the end of that year—well after George W. Bush was informed that there was a cash "crisis" at Harken. In addition, President Bush neglected to report this transaction with the SEC until almost a year later, a violation of SEC rules, stating the SEC "lost" the file, although the SEC stated in 1991 that it never received it.

We, as elected officials, need to set a good example. I hope that President Bush and Vice President CHENEY will be forthcoming with the details of these disturbing incidents.

However, instead of coming clean with the details of these irregularities, the Bush-Cheney team seems to be more intent on offering its "Corporate Protection Plan." At yesterday's press conference, the President announced a weak plan for corporate responsibility. We need to make clear how his plan falls far short of what's needed to reform the inherent flaws in our capitalist system, which seems to be exacerbating corporate fraud and crime.

President Bush asked for $100 million additional dollars for the SEC. However, the House already passed a bipartisan bill providing an extra $195 million above that amount for the SEC. This includes over $70 million for pay parity so that the SEC can attract and retain qualified investigators to look into this corporate crime.

The President also asked for doubling the maximum jail sentence for corporate offenders—from 5 to 10 years—but only for mail and wire fraud, not for securities fraud. This is simply not enough. We need systemic change to prevent the crimes. An ounce of prevention is worth a pound of cure.

I call on the President to put some teeth into his proposal.

The American public needs to be able to count on their political leadership and corporations to be honest. Workers must have faith in their companies for their livelihood. Stockholders must have faith in the companies they invest their hard-earned money in. And retirees must have faith in the companies their pensions are invested in. We need true reforms. Let's restore the faith of the public. Let's end this corporate corruption now!

Mr. LAFALCE. Mr. Speaker, I yield to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. I thank the gentleman for yielding.

Mr. Speaker, obviously in light of the financial mismanagement of some of the major corporations of this country and the investor losses we have seen, this Congress has got a lot of work to do. Thank goodness we have our ranking member, the gentleman from New York (Mr. LAFALCE), still at the helm of the minority in the Committee on Financial Services as we undertake these difficult challenges.

We are called a nation of investors in light of the broad participation of private retirement dollars in the stock market. What that means is, as you look at the Enrons, as you look at the WorldComs, as you look at the other failed corporations due to executive mismanagement, we are a nation of financial losers because we have not had adequate protections in place to protect the investing public. And something needs to be done.

Let us take a look at the dollars lost. Today's Washington Post headline, "Workers' 401(k)s Lost $1.1 Billion" on the misstatement of liability with WorldCom and the attendant misstatement of their stock price.

Their egregious accounting practices have impacted retirement income portfolios across the Nation. Accumulated losses from this one company will impact holdings in State pension funds from Maryland to California in the amount of $52 million. Government workers and retirees in my home State of North Dakota held $350,000 worth of WorldCom stocks and bonds and $2.5 million in their pension fund.

What all of this means is that the failed private-sector checks and balances have caused a lot of damage to workers' retirement accounts, money they are counting on for their income security in retirement years. We need to fix it.

One area that I would hope this Congress addresses in particular involves having company financial balance sheets reflect the stock options that they have awarded by posting the liability. I believe presently you have an awful lot more out there in terms of potential liability and stock dilution impact than is reflected on the balance sheet, and I would urge this Congress to consider carefully the words of Chairman Alan Greenspan, former SEC Commissioner, Arthur Levitt, as we address the stock options issue.

In conclusion, I would say that it is extraordinarily important that we have the leadership of the gentleman from New York (Mr. LAFALCE) and others as we restore worker protections. Our pension dollars are at stake. We have to have greater accountability.

Mr. LAFALCE. Mr. Speaker, I yield to the gentlewoman from Wisconsin (Ms. BALDWIN).

Ms. BALDWIN. Mr. Speaker, there is a crisis in America. People are out of work and are worried about losing their jobs.

In Wisconsin, I hear from the families that I represent. Wisconsin families' investments, college funds and retirement savings have been losing money for almost 2 years now. Without action to shore up the confidence of the American public, our faith in the stock market will be shattered and, along with it, the backbone of our country's financial system.

This crisis is rooted in one thing, and that is greed, the greed of the corporate CEOs that cooked their books, falsely reported earnings, exercised stock options and, when the bubble burst, walked away with millions in guaranteed salary payments and bonuses.

But the crisis goes deeper than a dozen CEOs and the crooked accounting firms that are hoping to pad their pockets. It stretches right into the halls of Congress and the Oval Office, where corporate CEOs have sought to roll back investor protection legislation and gain access to the Social Security funds.

WorldCom's recent announcement that it had overstated company profits by $3.8 billion over the last five quarters gives it the dubious distinction of being the largest case of false corporate bookkeeping, or, simply put, fraud. Companies like Enron, Rite Aid, Merck, Tyco International, Global Crossing and Adelphia Communications are currently under investigation for a variety of reasons, such as insider trading, avoiding taxes and using fraudulent accounting practices, as Enron did.

I believe that we have come to the point where Congress and the administration must come together and take swift action to stop the corporate abuses that have infected our country.

The enormity of the Enron collapse alone sent shock waves throughout our economy. In Wisconsin, the Public Employee Retirement System lost an estimated $40 million in stock and $38 million in bonds because of Enron's illegal actions. The WorldCom debacle is estimated to have cost the Wisconsin Public Employees Retirement System $29 million through the sale of WorldCom bonds.

Nearly half a million current or former employees of Wisconsin State agencies, school districts and local governments participate in the Wisconsin retirement system, which is also the tenth largest public pension fund in the United States. This does not even begin to account for the millions of Americans, and you know that 52 percent of Americans are stockholders, and the institutions that invested retirement savings in Enron or WorldCom or any of the numerous other companies who have cooked their books to show false profits or hide their debt.

□ 1800

While most corporate abuse has hit individual and institutional investors the hardest so far, I think it is important to realize that the same corporations that are under investigation have had a tremendous amount of influence in government and, essentially, over the very policies that matter to people most. In fact, just one week before the revelation by WorldCom of their financial impropriety, they were handing

over $100,000 for a dinner featuring President Bush and benefiting the National Republican Congressional Committee and the National Republican Senatorial committee. That makes me question will these same officials really go after these CEOs and accounting companies and also pass legislation that will prevent future Enrons and WorldComs.

Mr. Speaker, it is time for accountability; it is time for the administration and the Republicans in Congress to say to their traditional base of big business and corporate CEOs, ''Enough is enough.''

There is a crisis in America. People are out of work or are worried about losing their jobs. In Wisconsin, I hear from the families that I represent. Wisconsin families' investments, college funds, and retirement savings have been losing money for almost two years now. Without action, to shore up the confidence of the American public, our faith in the stock market will be shattered and along with it, the backbone of our country's financial system.

This crisis is rooted in one thing—greed. The greed of the corporate CEOs that cooked their books, falsely reported earnings, exercised stock options, and when the bubble burst, walked away with millions in guaranteed salary payments and bonuses. But this crisis goes deeper than a dozen CEOs and crooked accounting firms hoping to paid their pockets. It stretches right into the halls of Congress and the Oval office, where corporate CEOs have sought to roll back investor protection legislation, and gain access to Social Security funds.

WorldCom's recent announcement that it had overstated company profits by more than $3.8 billion over the last five quarters, gives it the dubious distinction of being the largest case of false corporate bookkeeping, or simply put, fraud. Companies like Enron, Rite Aid, Merck, Tyco International, Global Crossing, ImClone, and Adelphia Communications are currently under investigation for a variety of reasons such as, insider trading, avoiding taxes, and using fraudulent accounting practices as Enron did. I believe we have come to the point where Congress and the Administration must come together and take swift action to stop the corporate abuses that have infected our country.

The enormity of Enron's collapse alone sent shock waves through our economy. In Wisconsin, the public employee retirement system lost an estimated $40 million in stock and $38 million in bonds because of Enron's illegal actions. The WorldCom debacle is estimated to have cost the Wisconsin public employee retirement system $29 million through the sale of WorldCom bonds. Nearly half a million current or former employees of Wisconsin state agencies, school districts and local governments participate in the Wisconsin retirement system, which is also the tenth largest public pension fund in the United States. This doesn't even begin to account for the millions of Americans (you know, 52 percent of us are stockholders) and institutions that invested retirement savings in Enron or WorldCom, or any of the numerous other companies who have cooked their books to show false profits or hide costs and debt.

Perhaps the biggest accomplishment for corporate America this year was during the debate of passage of an economic stimulus bill. Their provision in this bill was so shocking it is a moment that I will not be able to forget for a long, long time. Our country was languishing in recession, and every day I heard from friends, neighbors, and constituents who said they were experiencing trauma in our struggling economy. They told me how important extending unemployment benefits would be in helping them to meet the next month's mortgage payment and keeping food on the table. At the time, no one knew how long our economic downturn would last; the genuine fear they expressed to me is something I'll never forget.

During this debate, the House leadership refused to consider a bill that would extend unemployment benefits for an additional 13 weeks. I urged the House to follow the State of Wisconsin's lead and pass a bill to extend unemployment benefits so displaced workers would have more time to get back on their feet and look for another job. Instead, the leadership put the concerns of huge corporations first. Valuable time was wasted as the House passed three bills that the Senate refused to consider because they centered on giving huge corporations millions of dollars in tax breaks instead of helping those who needed immediate relief. The bills included a provision that would have given energy-trading giant, Enron, a tax rebate check worth more than $250 million—even though the corporation hadn't paid taxes in 4 out of the last 5 years.

It is time to return the confidence that investors once had. It is time to make corporate CEOs pay for their crimes and serve time for their crimes while strengthening the oversight ability of Congress and the Securities and Exchange Commission (SEC) so that we never again have to hear tale of illegal accounting practices and massive CEO payouts. It is time that the rest of Congress stand with me and my Democratic colleagues and return investor confidence to the free market system.

Mr. LAFALCE. Mr. Speaker, I thank the gentlewoman for her great comments. I now call upon the distinguished gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, let me thank the ranking member of the Committee on Financial Services for calling this Special Order. The gentleman has been on point on the subject of the crisis of confidence that we have in our public markets long before many, and he needs to be commended for that. He has worked diligently to craft legislation that would go a long way towards restoring that confidence.

I must say, it was somewhat ironic that yesterday, when the President addressed the luncheon in New York and outlined his proposals, that a large number of the proposals he outlined were those that the gentleman from New York himself had outlined and had proposed in our committee back in April, almost I guess every one, every single one, which had been voted down, unfortunately, mostly on a party line vote. But as things go on, just as some of the executives from WorldCom, the ones who did testify before our committee the other day, said that hindsight is really 20–20 vision and, as some of them said then, that they would not have voted to give the loans to the CEO that they did a year earlier, it now appears that some of our friends on the other side of the aisle have determined that some of the ideas of the gentleman from New York (Mr. LAFALCE) are worthy of consideration. So we are glad that he has received that recognition.

Mr. Speaker, we do have a crisis of confidence in our markets. The United States has the most efficient market system in the world. Yet it is a system that operates through transparency; it is a system that operates through rules, rules which have to be followed. What has occurred, unfortunately, over the last several years, is that executives have come to the conclusion that they do not always have to follow those rules, whether it is trying to meet earnings targets or revenue targets, or whether it is trying to increase the value of stock because of stock options that they own to increase the amount of revenues that they will personally earn. The fact is that we have ended up with very lax accounting, very lax standards; and as a result of that, in large part, investors have seen more than $7 trillion of value wiped out.

In fact, as of the close of the markets today, the S&P index is now back below where it was in 1997. Last week, the NASDAQ gave everything back to 1997, and the Dow Jones closed today below 9,000 for the first time since October in the aftermath of the attacks on 9–11. More than $30 billion of foreign investment in the United States, which helps fuel our current account deficit, has been pulled out of the U.S. markets, not because there is necessarily more value in investing in Europe and Asia so much as investors no longer feel confident with the information that they are being provided of investments in the United States.

Mr. Speaker, this is a tragedy for the history of American capitalism; and until such time as our government speaks with one voice concerning corporate governance, concerning true independent auditing standards, this crisis of confidence will not evaporate, it will not go away.

Now, the House passed a bill in April, and it was a first step; but, quite frankly, it came up too short. The Senate, the other body, is working on a bill which may have things that Members do not completely agree with, but it is a step more in the right direction. It would be helpful, it would be helpful if the executive branch would begin to speak more forcefully on this issue. It would be helpful if the executive branch, which again, as I stated at the outset, has started to come around, perhaps a latter-day conversion, would speak more clearly about what standards it would have for establishing oversight of the auditing.

As the gentleman from New York will recall and the gentleman from Pennsylvania who was there the other day, we had the lead auditor, independent auditor for WorldCom and we

asked him repeatedly, how come you did not find the overstatements of earnings and the fact that expenses were capitalized that should not have been capitalized? You are the auditor. You look at the books that are given to you by the CFO. And he said, well, we just take the numbers that are given to us. We do not actually look at them; we look at the system to see if they work.

If we do not pass significant legislation to restore confidence in the markets, our economy will continue to suffer from this malaise. The burden is now on the House, along with the other body and the executive branch, to speak with one voice to restore confidence to the markets, to ensure that we can have sufficient economic growth in our economy.

I commend the gentleman from New York for putting on this Special Order.

Mr. LAFALCE. Mr. Speaker, I thank the gentleman from Texas. Let me now yield to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman from New York for yielding and for his outstanding leadership on this important issue.

Before Enron Corporation's bankruptcy filing in December of 2001, all of us knew that the firm was widely regarded as one of the most innovative, fastest-growing, and best-managed businesses in the United States. With the swift collapse, shareholders, including thousands of Enron workers who held company stock in their 401(k) retirement accounts, lost tens of billions of dollars. It now appears that Enron was in terrible financial shape as early as 2000, burdened with debt and money-losing businesses, but manipulated its accounting statements to hide these problems. Now, WorldCom, the Nation's second largest long-distance telephone company, has been charged with fraud by the Securities and Exchange Commission. Reports have revealed that WorldCom defrauded investors by improper accounting practices of $3.9 billion in expenses during 2001.

We are discovering that publicly traded companies have contributed to bilking American investors and taxpayers out of $4 trillion since 2000 due to unaccountable financial filings, accounting errors, misinformation, and mismanagement of funds. Where were our watchdogs? They were nowhere to be found.

In order to ensure corporate accountability, we need to establish under the jurisdiction of the Securities and Exchange Commission ways to regulate accounting firms that audit SEC registrants. This type of structure could be empowered to charge registrants with annual fees to pay for the cost of staff to carry out the suggested plan of surveillance of auditors.

This concept would intervene between a registrant and its auditor before, during, and at the end of an audit. It would be more effective than the current regulatory system in, one, achieving an early warning of potential financial disasters such as Enron and WorldCom; two, requiring a change in auditors when the SEC deems it appropriate; three, require pre-approval of consulting engagements for a registrant to be conducted by its auditor; and, four, improve the format and content of financial and auditor reports by including information about labor relations, research and development, marketing programs, and new products.

I believe that these kinds of safeguards would go a long way towards helping to rectify the situation.

Again, I commend the gentleman from New York (Mr. LAFALCE) for his outstanding leadership, and I thank him for the opportunity to participate in this Special Order.

Mr. LAFALCE. Mr. Speaker, I thank the gentleman very much.

Our next speaker will be someone who has been a full partner with me in the crafting of the strongest possible legislation to deal with this problem. He serves as the ranking Democrat on the Subcommittee on Capital Markets, which is the subcommittee of legislative jurisdiction over the entire field of securities. He is the distinguished gentleman from Pennsylvania (Mr. KANJORSKI).

Mr. KANJORSKI. Mr. Speaker, first of all, may I say how we are going to miss the gentleman's leadership after he completes his final term in Congress, because certainly he has been a stalwart supporter of transparency, accountability, and responsibility, both in government and in private business.

Mr. Speaker, I guess I want to talk to the President of the United States. I had the opportunity to watch his speech yesterday. I have watched my colleagues struggle over these last 6 months with the disclosures that have occurred in American business, and I have talked to a lot of my constituents. I guess I want to set certain perspectives that I view this from.

First and foremost, it is one thing to lose money in the stock market if one is a direct buyer in the stock market, if one is wealthy enough to be a speculator or trader in the stock market. But unfortunately, the people that have really lost this money are pensioners and 401(k) owners, millions and millions of Americans that were persuaded over the last 20 or 30 years to become part of democratic capitalism; and they, through their pension funds and through their 401(k)s, bought into the idea that America is indeed a great capitalistic Nation and had the wherewithal to participate in the growth of that capitalism, in the creation of that wealth; and they entrusted their meager funds, their retirement funds to managers that primarily are located in and around Wall Street.

To a large extent, during the flaming years of the 1990s, it got to the point that one had to be a fool not to invest in the stock market. I used to run across constituents of mine that would receive a settlement in a personal injury case or a workman's compensation case and I asked them how they were protecting the money they had that they needed for the rest of their lives; and an unbelievable number used to tell me, oh, I am in the market and I am going to constantly make money and eventually be wealthy. Well, I think about a lot of those people in a lot of those coffee-house chats that I have had with them over the last 5 or 10 years, and I cannot imagine the tragedies their families and themselves suffer today as they see this deterioration in the market.

The question is, Is America sliding into a depression because we are not productive, because we are not profitable? I think not. I think the gentleman from Texas (Mr. BENTSEN) made a great point. This is the most vibrant economy in the world, in the history of the world; and yet the market is reflecting a loss on a daily basis, and I think it is an expression of a loss of confidence. Total confidence? No. But a sufficiently large portion of confidence to take some of the usual available purchasing money that is in the market out of the market, and that loss of money reflects the downward trend of prices.

Has it been discriminatory? Not really. It is not the bad actors that are paying the loan; it is business across the board. It is our very substantial capital system that is contracting right before our eyes.

I heard the President say yesterday that one of his solutions would be he is going to double the sentences for the scoundrels. Well, first of all, we have not seen any convictions of any scoundrels, so we cannot assume any sentences at this point. But I wonder why it is so important, what kind of relief will this give the American pensioner or 401(k) owner if a scoundrel goes to jail for 10 years instead of 5 years?

□ 1815

Does it really matter? Does it get one cent back for the pensioner or the person who needs this money for retirement, or for the senior citizen who is indeed using this money in retirement? I think not.

So as we look at this issue, I get little solace as an individual or as a representative of so many of these pensioners and senior citizens than to think we are going to fill up the jails with these scoundrels. That is not going to give them one dollar more for them to have the quality of life that they have become used to.

I think we have to look prospectively into the future, to what this means and what it can mean, and what is this disease or infection that is affecting the capital markets of America.

I come to the conclusion that the most important thing is that we stabilize the capital markets of the United States, and the most important way of doing that is to find a way, either by statute or regulation or by the

industries themselves, of disclosure of what the facts are.

So I think, first and foremost, we have to find a short period of time and make sure the corporations, most of them that are traded on the exchanges, go back and do proper auditing and accounting, and make a full restatement and disclosure of what they have there.

We cannot afford a daily, weekly, or monthly bleed of major corporations failing because of improper accounting procedures or other internal procedures, to take the respect and integrity out of those institutions and infect and affect the other institutions with a loss of credibility among the investing public.

Secondly, once we stabilize the markets, it seems to me that we have to move forward with a program, and hopefully this is what I address to the President.

I would say, Mr. President, we do not need a weak legislative response or a weak executive response, and 2002 is not a lot different from 1902. What we need is a member of the President's own party to make a revisit to America. We need a Theodore Roosevelt. We need someone who responds with looking at what the problem is, recognizing that it is systemic in some respects, it is dangerous, it could ultimately lead to a deep recession or, in fact, depression, and could destroy the quality of life we have known in this country over the last 10 years.

It is up to the leadership of the President, together with private industry and the private market, to structure a response to this problem that is sufficient not to be overbearing and strangle our capital market system, but sufficient to send the word and the message and the standards that the type of activities that have been uncovered in the last several months will not be tolerated in the future; they will be disclosed to the American public, the investing public; and that, where necessary, government will set parameters to stabilize our markets, bring us back to relative security that truth is known, and to reinforce a very successful capital system.

I add only one respect: I agree with Secretary O'Neill in regard to the fact that this is not a crisis that all businessmen or executives are crooks. There are just a small number, but there are more than a few. This is not a total failure of the capital markets of America, but it is a bumpy road, and could be serious if not patched.

This is not a time for us to wring our hands and try and do as little as possible to prevent disturbance to our friends or our supporters; this is a time to rise above politics and recognize that the very structure and position of the United States of America is at risk.

We need the strength of a strong Commander in Chief. We need a second Theodore Roosevelt.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GUTKNECHT). The Chair would advise all Members to direct their remarks to the Chair.

Mr. LAFALCE. Mr. Speaker, one of the most important subcommittees of the Committee on Financial Services is the Subcommittee on Financial Institutions and Consumer Credit, and the ranking Democrat on that serves as the chief voice for consumer protection within the committee and the House of Representatives. That is the gentlewoman from California (Ms. WATERS).

Mr. Speaker, it is my pleasure to yield to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I thank the gentleman from New York (Mr. LAFALCE) for taking this time out for us to come to this floor and talk about one of the biggest crises confronting this country today.

I would like to start with an observation. Yesterday, the President of the United States of America was on Wall Street. He was up on Wall Street, and he was expected to give a very, very tough speech. He had signaled the press that he would give a very tough speech on Wall Street on corporate responsibility.

Well, the President went to Wall Street, and it was staged very well. The curtain that hung behind him, the backdrop, had ''corporate responsibility'' written all over it, and he had great opening statements.

Of course, before getting into the subject matter, he talked about terrorism and how we were hunting down the terrorists who seek to sow chaos, and talked about his commitment. And, of course, he got a big applause on that, because Americans are concerned about terrorism, and the President knows when he speaks about terrorism, especially in New York, where we experienced terrible devastation, that that will soften up any crowd.

But then he went on into the speech, and many people sat watching, I am sure, as I did, wondering when was he going to get tough. He mentioned in the speech that we have learned of some business leaders obstructing justice and misleading clients, falsifying records, and business executives breaching the public trust and abusing power.

He kind of talked about that, and the CEOs that he had learned about earning tens of millions of dollars in bonuses, but he did not call any names. He did not call any names, despite the fact that we had just come from the Committee on Financial Services, where we had the top management and ex-management of WorldCom before us. We had very well documented that there had been accounting tricks where the operating expenses had been moved over to the capital column, which made the bottom line look bigger than it was, and the company look healthier than it was.

However, he did not call the name of Enron. He did not call the name of WorldCom. He did not mention the names of any of those who have been prominent in the news. He could not let it come out of his mouth. He could not say anything about Arthur Andersen and Tyco and Rite-Aid and Global Crossing and Xerox.

I think people expected him to call names and to talk about what we really have learned thus far, and to talk about what we were going to do about it. But as we further examine the speech, we found that the President talked a lot about more bureaucracy. He is going to create a new corporate fraud task force, headed by the deputy attorney general, which will target major accounting fraud and other criminal activities in corporate finance. The task force will function as a financial crimes SWAT team, overseeing the investigation of corporate abusers and bringing them to account.

Now, I am considered a liberal, a progressive. I am the one that they point the finger at and talk about creating bureaucracy. They say that people who believe as I do oftentimes do nothing but spend government money, create more bureaucracy, and we have to get rid of government; too much government.

Not only did he create more bureaucracy in his speech, he asked for $100 million, $100 million to give to the SEC. Now, this is a conservative spending money. Well, of course, this President has shown since he has been in office that he sure knows how to spend money. We are back into a deficit situation.

So he went to Wall Street, he talked about spending $100 million more, talked about creating again another task force, but I forgot to tell the Members, at the top of his speech he said to the business people who were there, do not forget, in so many words, I have done tax reform, and I am now making it permanent. So at the same time that he is spending money, he is talking about how he is going to allow them not to be able to pay more taxes.

Mr. Speaker, I would just like to say, we have to get tough on corporate crime. We have to call it for what it is. We have got to put people in jail. They have to do some time. This business of having all of these stock options, this exorbitant pay, the severance pay, like the executive of Tyco who left with $100 million in severance pay, this business of corporate heads being able to borrow huge sums of money, like Mr. Ebbers, who got $408 million, we do not know what the terms are. We do not know if that was collateralized. All we know is they sit in the board rooms and they pass the money among themselves while the workers lose their jobs, the investors lose their investments, and the companies get driven in the ground.

Enough is enough. No, Mr. President, you were not tough enough. You were not believable. You did not send the real signal. You did not do anything. As a matter of fact, Wall Street did not pay any attention to you. There was no rally. As a matter of fact, I think we

lost some points on Wall Street after you spoke. Get real, Mr. President. If you want to get tough, the American people are waiting.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KIRK). The Chair will remind Members that they will direct their remarks to the Chair and not to the President.

Mr. LAFALCE. Mr. Speaker, I thank the Chair for his reminder.

Mr. Speaker, I yield to the distinguished gentlewoman from California (Ms. SANCHEZ).

Ms. SANCHEZ. Mr. Speaker, I thank my ranking member, the gentleman from New York (Mr. LAFALCE), who has been doing such a great job, for yielding to me. I am going to miss him at the end of this year.

Mr. Speaker, I am a businesswoman, and I am really alarmed and saddened about what is going on, not just on Wall Street and in American business in particular, but how it is affecting us in our own hometowns, the confidence of people investing in the market.

As a former person in the financial markets, I am just dismayed at how this is affecting what I think is really a great institution and something that really marks our country apart from others, and that is the whole idea of American business.

I know what it feels like to start a business, to find dollars, to grow the business, to make it a corporation, to hand that company over to professional management when it is time as an entrepreneur to get out and seek for more. I know what it feels like to see my product on the grocery shelves when I go shopping. I know how excited I get when I first see my ads on national television about the product or the service I am doing. I think that is a great thing.

I think that is what marks America as such a different society than any historically or any currently. But there are always these excesses, and these questions and these demands, these questions that pop up: Why should corporations pay taxes?

I always have to sit back and think, corporations should be happy to have the type of system that we have in the United States. They should be happy that we have infrastructure; that we have railways, freeways; that we have ports, that we have the Internet; that we have banking; and that we train employees by sending them to universities, and that we pay for that with government funds.

They should be happy that we have information systems. If we go to do business in another country somewhere in the world, we do not necessarily have that. I remember doing business in Mexico, and every afternoon at 2 or 3 p.m. the electricity would shut off, and we were dead for a couple of hours' worth of business time.

We should be happy as corporations that we have this type of infrastructure. We should understand that we need to pay for that. We should be paying for it. They do in other countries. They have to put in their own road in other countries. They have to put in their own sewer system in other countries. Here we are doing it as a people to keep American business going, to keep these jobs.

□ 1830

But what happens with these corporations that want to do off-shore, that would take them off Stanley brands? We do not want to pay taxes here, let us make it a foreign corporation, tell everybody we are still American made but we do not want to pay taxes. Why do these corporations not want to pay their fair share?

My father used to say we do not get something for nothing. Everything in the long run costs. I took a look these last 3 or 4 years at this market, every business going up, well, every business that did not have a product, their stock going up and up and up and everybody getting in and people telling me at cocktail parties, ''You are stupid for not having your money in there, Sanchez.'' And there I stayed with these companies that had a product. I could see it. I could feel it. I could eat it. And I understand the pressures on those managers. Everybody else was getting money, everybody was getting bonuses, their stock options were going up, and these people making a real product, they were not seeing these increases. But to fake increases in one's own company in order to compensate oneself, that is also wrong. I mean two wrongs do not make a right. We do not get something for nothing.

And auditors, my God, what happened? I mean I was trusting them as an investor, that they were telling me the numbers of what was going on in the company. I have never believed in all these off balance-sheet transactions and loans and things that only had to be footnoted and one had to do 14 different inquiries until they got the information on what kind of deal was going on behind what. And, yes, things get more complicated and financing comes from all around the world and people take different pieces and corporations buy each other and everything going on, but we need to get back to the basics. We need good rules. That is a part of Congress. We need good rules. We need to set good rules. We need real regulatory agencies, and we need to fund them so that they are doing the work. We need to anticipate conflict of interest, and we need to ensure a way to stop that from happening, and we need to make examples of the bad guys.

Mr. President, I call on you, make examples of these bad guys.

Mr. LAFALCE. Mr. Speaker, I yield to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Speaker, first let me say what an honor it has been under the gentleman from New York's (Mr. LAFALCE) leadership over the last 4 years on the Democratic side of the Committee on Financial Services.

Second, let me express some disappointment in the President's speech yesterday. In his preview of his speech that was picked up by AP and other news stories, he said that he was planning to create a ban on huge loans to corporate executives; but when he actually delivered the speech, he simply called upon the corporations not to make such loans, which is like calling on a pack of wolves to become vegetarians.

It was indeed a disappointing speech, but what was more disappointing was the President's belief based on his own experience at Harken that the SEC is engaged typically in reviewing the materials filed with them and then, when they need to be restated, demanding that restatement. The fact is that the Chair of the SEC has refused to provide our committee with even a cost estimate of what it would take to engage in the very kinds of activities only as to the top thousand corporations in America that the President states in his press conference that he believes that the SEC is already engaged in.

In answering questions about Harken, the President said he thought the SEC was engaged in these activities. The fact is the SEC did not read Enron's financial statement for 4 years in a row. So we need an SEC that rises to the President's image of what they do, and in order to do that we might need a chairman who actually wants to achieve that objective.

Mr. LAFALCE. Mr. Speaker, I yield to the gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Mr. Speaker, I thank the gentleman, and certainly his leadership will be missed.

Mr. Speaker, I represent a middle-class, middle-income district on Long Island, New York. The people I represent play by the rules. They pay their taxes. They pay their dues. They raise their kids with the values of hard work and fairness. They know the value of real punishment for real crimes. And they know there is no difference between stealing with a gun and stealing with an accountant's pencil.

The worst crime that was committed in this crisis was the theft of time. The worst crime is that people's retirements were stolen away from them because the value of their 401(k)s, their pensions, their retirements will plummet as a result of this scandal, adding more time of hard work and paying taxes. This was the theft of time and that cannot be forgiven. People's retirements have been stolen. And where is the punishment? Ken Lay and his cronies continue to walk freely. There have been no personal bankruptcies for senior management. There have been no jail sentences, no disgourgements. There has been no accountability, but plenty of American corporations even today will continue to register themselves in Bermuda to escape paying their fair share of American taxes to support our troops in Afghanistan.

The American people will be looking at this House of Representatives wanting an assurance that we will return this country and its businesses to fair play and playing by the rules.

Mr. LAFALCE. Mr. Speaker, I thank the gentleman.

We have lost 5 to $7 trillion. Now a significant portion of that, not all of that, is because of corporate mismanagement, earnings manipulation by officers, by directors, by the auditors, by the research analysts having conflicts of interest, by inadequate regulation from the self-regulatory organizations, by inadequate regulation from the SEC.

We need to correct the problem. We need strong legislation to correct the problem. We do not need a powder puff effort. We do not need a cosmetic approach. And I urge everyone in this House to get behind strong meaningful legislation such as the bill that I have introduced that has been endorsed by so many consumer groups across America.

OVERPRICED PRESCRIPTION DRUGS

The SPEAKER pro tempore (Mr. KIRK). Under the Speaker's announced policy of January 3, 2001, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 60 minutes as the designee of the majority leader.

Mr. GUTKNECHT. Mr. Speaker, let me say first before I begin on the issue that I really want to talk about tonight, I listened to much of my colleagues' Special Order for the last hour. And I have to say on behalf of most Republicans, and I think most Americans, we agree with what they have said.

The truth of the matter is when there have been frauds, and we have seen fraud committed against shareholders and against corporations, those people need to go to jail. And I think we are all in agreement on that. Frankly, I think just for the theater of it I would like to see some of these corporate executives that have been charged with crimes and will be charged with crimes, I would like to see them arrested and taken away in chains. I would like to see handcuffs on them. I think I speak for the overwhelming majority of people in this Congress.

I will say this: the one thing we have to be careful of is that we do not try to turn this into a partisan thing. I do not think this is a partisan issue. I think all of us can stand and talk about our moral outrage for some of the things that have gone on in corporate America, and the time has clearly come to clean them up.

I rise, though, tonight to talk about another crisis that all of us know about; and, frankly, we in Congress have done too little to really resolve, and that is the whole issue of about how much Americans pay for prescription drugs. It is a crisis particularly for those seniors, but not just seniors but for all Americans who do not currently have some kind of drug coverage in terms of insurance. And as we speak tonight, there are literally hundreds, if not thousands, perhaps even millions, of Americans who are having to make very, very difficult decisions about whether or not they can afford the drugs that the doctors say they need to regain their health. And I brought with me, and these charts are becoming all together too familiar to many of my colleagues, but I think they need to be restated because we have learned the more you learn about this issue, the more we can come together with some kind of a solution.

But I want to point out this chart because as I was going through my closet here about half an hour ago, I found this chart from last year. This is dated 2001. And I wanted to bring this with me to show you a couple of examples, and what we have here is a chart that demonstrates the price that Americans pay, the average U.S. price versus the average European price.

The source of this, these are not my numbers. This is from the Life Extension Network. It is an independent foundation that has been studying this issue for more than 10 years. They continue to come to the same conclusion and that is that for prescription name-brand drugs Americans pay more than anybody else in the world for the same drugs. There are a lot of reasons for that, and we will talk about that during this Special Order. But what is interesting to me is to see how prices have changed just since last year.

Now, this chart is about a year and a half old. And what you see, for example, let us take a couple of these drugs, Claritin, a very commonly prescribed drug, a lot of people are taking it now for allergies. It is about to go off of patent so you will see the price come down dramatically in the United States in all probability, although I will tell you the pharmaceutical company that makes it is trying to replace that with a drug called Clarinex. Now according to at least one report, Clarinex is a better drug than Claritin. It is 2 percent better. That is not a huge improvement for the difference in price. But the thing that bothers me is that the average price for Claritin in the United States was about $63.06 for a 30-day supply. That same drug sold on average in Europe for $16.05.

Another commonly prescribed drug is one we have talked about here on the House floor because my 84-year-old father takes this drug every day. In fact, many senior take it. It is called Cumadin. It is a blood thinner. It is a very good drug. It is more effective than asprin, and if you have had a stroke or if you have had a heart attack, if you have got a problem with blood clotting and platelets and so forth, it is a very effective drug.

Let me say from the outset, I am not here tonight to beat up on the pharmaceutical industry. I am not here to say shame on the pharmaceutical industry. They are only doing what any free enterprise company would do in terms of exploiting a market opportunity that we have given them. No, I am not here to say shame on them. I am here to say shame on us because we have created this situation and we need to change it.

Let us talk about Cumadin. Last year the average price, a year and a half ago in the United States was about $37.74. The average price in Europe was $8.22. Now, that price has changed.

I will pull up the next chart, which is this year's prices; but as we go down the list, we have seen the big differences. When you get into some of the very expensive drugs, Zithromax 500, United States price for a 30-day supply, $486. The same drug in Europe made in the same plant under the same FDA approval sells for $176. Huge differences.

There are some where the differences are less. You look at, for example, Lipitor. The average price for Lipitor in the United States, $52.86. In Europe, $41.25. Again, these prices are about a year and a half old.

Let me show some of the current prices because some of these drugs have changed dramatically in just a year and a half. I mentioned last year that Cumadin in the United States the average price was $37.74. In just a year and a half that price has gone to $64.88. Now, that makes me angry to see that huge difference because nothing has changed. It is exactly the same drug, put in exactly the same capsules, under the same FDA approval and the same FDA plants.

The interesting thing, too, is as far as I know there have been no major lawsuits so they have not had this tidal wave of litigation that we sometimes hear about. So the price has almost doubled in just about a year and a half.

Now, it makes me feel just a little better that the price in Europe has doubled as well. The price has gone up uniformly, but the price is Europe today is a little over $15. The price in the United States is $64.

□ 1845

One that has really gone up as well is glucophage. Glucophage is a marvelous drug. If a person suffers from diabetes, glucophage has changed their lifestyle. It is a fabulous drug, and the manufacturers deserve credit for what they have done for all of the millions of people, not only here in the United States, but around the world, who suffer from diabetes.

The price has gone up now to an average of $124.65 for a 30-day supply in the United States. The average price in Europe, $22, $22. Some people will say, well, how can that be, how can it be that the prices are so much different? Let me just, first of all, say that many other countries do have various forms of price controls. We have price controls on hospitals and doctors and medical providers under Medicare as well. We determine how much they can charge, and essentially with some of

the countries that is what they have done. They have price controls on these drugs, but that is not universally true.

If we look at countries like Germany and Switzerland, where a number of the big pharmaceutical companies are based, Germany and Switzerland, as far as I can tell, do not have what we would describe as price controls. Let me give my colleagues a couple of examples, and these again, these are charts, the numbers are provided by the Life Extension Foundation. If any of my colleagues would like to take a look at these charts, they can just go to my Web site at gil.house.gov and we have this chart up there and have more information about the differences between what Americans pay for prescription drugs and what the rest of the world pays.

I was not completely satisfied just to use the numbers that we had received from the Life Extension Foundation, so we had one of our friends, or some friends in Europe, buy some drugs for us, so according to the FDA what I am holding up right now are illegal drugs. The FDA holds that it is illegal to bring these otherwise FDA-approved drugs, made in FDA-approved facilities into the United States. They do not always enforce their rules. For personal use, if a person brings them back with them from Europe or Canada or other industrialized countries, generally speaking, the FDA will not enforce what they believe are their own rules.

Let me show my colleagues this drug. It is a drug called Zocor, and this drug was bought about 3 weeks ago in Europe. In fact, I think I can even tell my colleagues where it was purchased. In fact, the story of Zocor is even more interesting because it is manufactured by a subsidiary of the Merck pharmaceutical companies. It was manufactured and distributed in Italy, and this was bought in a pharmacy in Como, Italy. The price for this Zocor in Como, Italy, was 13.94 Euros. The day that this was purchased, the American conversion on that was $14.77.

I am sorry, it was 14.77 Euros; the American price is $13.94.

I have a good friend who runs a pharmacy in Northfield, Minnesota, and so we called him and asked how much this exact same package of Zocor would sell for here in the United States in Northfield, Minnesota. The price, as I say again, in Europe was $13.94. This drug bought at the pharmacy in Northfield, Minnesota, is $45. I am not good in math, but that is more than five times the price, I am sorry more than four times the price for the same exact drug.

We also checked on another drug, Claritin. Interesting story about this particular drug. This drug is manufactured by, actually, a Swiss company by the name of Schering Plough. Many of us know the name of Schering Plough, but many do not know that it is a Swiss company. But the interesting thing is, this drug was actually manufactured in Spain and it was reimported into Germany where, as I say, they do not have price controls, but they do have open markets, and the Germans have the right to shop where they can get the best price.

This Claritin, manufactured by Schering Plough, a Swiss company, manufactured in Spain, was bought in Germany at a pharmacy in, let me get the name, in Riegensburg, Germany. It was purchased for 14.8 Euros; the American conversion that day was $13.97. Again, we called my favorite pharmacist in Northfield, Minnesota, and asked him how much this package of Claritin would sell for in Northfield, Minnesota, and the answer is $64.97; $13.97 in Germany where they have no price controls, $64.97 for the same drugs.

We have to ask ourselves, why do we permit this to happen? We have open markets for almost everything else. How can it be that we are paying so much?

Let me come back to something else. Let me talk about open markets and what open markets do for us every day. Some people say, well, if we open markets and if we allow Americans to purchase these drugs in other countries, there is a risk they may get the wrong drug or they may get a drug that has been adulterated or they may get a drug that is counterfeit. Well, that is true.

I must tell my colleagues that is true, but every year we, as Americans, consume enormous amounts of food that comes in from other places. For example, last year in the United States of America, we imported 500,000 tons of pork. I love pork. In fact, we produce a lot of pork in my part of the district. In fact, we produce one of the world's finest luncheon meats. It comes in a blue can with yellow lettering. It is called Spam. Every day in Austin, Minnesota, we turn 16,000 pigs into Spam.

I love pork. It is a wonderful product, and if it is managed properly, as far as we know, no one has ever gotten sick of any food-borne disease from eating Spam. It is a wonderful product. But the truth is, by eating imported pork, which is almost never inspected, and again, I want to give my colleagues that number, 500,000 tons of pork is imported. If a person eats pork that has not been properly refrigerated and so forth, they can get salmonella from pork, they can get trichinosis; and either one of those diseases can kill a person.

So some people say, well, if we import these drugs people might die. We keep records. In the last 10 years, according to the Food and Drug Administration, and the FDA that is responsible, that literally has built this wall, that says Americans cannot import or reimport legal, FDA-approved drugs into the United States, they are the ones who have literally made it possible for the drug companies to have one pricing strategy for Americans and another pricing strategy for people around the rest of the world. Our own Food and Drug Administration admits in their own studies that of the hundreds of thousands of tons of fruit and produce that come into the United States every year, at least 2 percent of them are contaminated with food-borne pathogens, including salmonella. Salmonella can kill a person. It is a very dangerous food-borne pathogen.

At the same time, they keep records, though, of how many Americans have become ill or died from taking legal, FDA-approved drugs that came in from other countries. Do my colleagues know what the answer is? Zero. No one, no one has gotten sick or died from taking legal, imported drugs from other countries.

I have had town hall meetings around my district, and I can tell story after story, but I would like to share at least one of them with my colleagues.

It is about a lady who was traveling in Europe and was traveling in Ireland, and she has a special skin condition. I think it is called eczema. She has to take a special cream, and it works very well, and again we thank the pharmaceutical companies for coming out with these marvelous drugs that help us all live better, but she ran out of that cream while she was traveling in Ireland, and she stopped in to just a local pharmacy.

She was a cash customer. She walked in and she happened to have her prescription with her. She walked up to the pharmacist and said, could I get this prescription refilled here at this pharmacy, and he looked at it and he said, well, absolutely, and he sold her the cream. The price was $30 American. The price she says in the United States, and she uses about one tube every month, is $130. The difference in Ireland, $30; in the United States, $130.

She got back to the United States, and as is always the case, on the outside of the little box of the prescription ointment was the name, the address and the telephone number of that pharmacy back in Ireland, and so as she began to get low on that tube of ointment, she did what a lot of us would do. She picked up the phone and she called that pharmacy in Ireland and asked if she could have the prescription refilled, and he said, sure, and I think she gave him her credit card number.

He put it in a package and shipped it. I do not know whether it was FedEx'd or UPS'd or Parcel Post. I am not sure but when the package came through Customs, our own Food and Drug Administration intercepted that package, and they just opened it and they put a threatening letter in that package and ultimately sent it on its way to the lady and said this may be an illegal drug here in the United States, and in a sense they said if you try to do this again, you could be prosecuted.

If a person is a retired single woman and they get a threatening letter from their own Federal Government, that is a pretty intimidating thing and that is what the FDA has been doing. They have been concentrating on honest, law-abiding citizens who are trying to

save a few bucks because, for her, if she could buy that drug in Ireland, it would save her $1,200 a year, and for her, $1,200 is a lot of money. Let us be honest, for all of us, $1,200 is a lot of money.

My vision, I want to make this clear, too. I want to include pharmacists in this whole thing. I want to be able, so that my dad or my wife or anybody who may be watching this particular C-SPAN program would be able to go to their local pharmacy and they would talk to their local pharmacist and say, listen, I need to renew my prescription for, pick one of these drugs, just name it, Claritin, I need a 3-month supply.

The pharmacist ought to be able to say to them, listen, I can fill it out of my inventory of United States supply, and they force me to charge $89, or I can go on line and I can order it for you out of the pharmaceutical supply house in Geneva, Switzerland. We will have it shipped to you FedEx in about 3 days, and your price will not be $89 or $64, your price will be $16, plus about $8 shipping and handling.

Which one would my colleagues prefer?

If we multiply that by a 3-month supply, we are talking about 3 months. We want to keep the pharmacists involved because pharmacists play a very important role in the health care delivery system here in the United States, and we must not forget that.

I want to show my colleagues some other charts here because I think they deal with some of the arguments that we hear around this building which, in my opinion, are pretty much nonsensical, and I have already talked a little bit about. Some say that importation jeopardizes consumer safety, but as I said, the truth is, there is no known scientific study that demonstrates a threat of injury to patients importing medications with a prescription from industrialized countries. Zero, zero.

As I say, more people have gotten sick from eating imported strawberries. Thousands of people have gotten sick from eating imported strawberries, and we bring thousands of tons of strawberries into the United States every year and people get sick, and the Food and Drug Administration does almost nothing to stop it.

What is more, millions of Americans have no prescription drug coverage. Stopping importation of FDA-approved drugs threatens their safety. A drug that a person cannot afford is neither safe nor effective, and millions of Americans today, because they cannot afford the drugs, are going without the drugs, and so that drug is neither safe nor effective.

Let me go to the next question people raise. Some say that the FDA lacks the resources to inspect mail orders. The truth is the FDA is focusing on the wrong problem. They are putting all their resources, instead of stopping illegal drugs imported by illicit traffickers, they are spending all their time enforcing their so-called rules on approved drugs imported by law-abiding citizens. We are again talking about FDA-approved drugs from FDA-approved facilities, and let me just say this for the benefit of Members.

There are only about 600 FDA-approved drug-making facilities in the world, and they inspect them regularly. We know what they are doing. They want to have FDA-approved facilities so that they can sell not only in the United States, but around the world.

So far, last year, the FDA detained 18 times more packages coming in from Canada than Mexico. Why are we putting so much emphasis on trying to stop imports from Canada rather than Mexico? I am not saying anything disparaging about Mexico, but if we have a problem with drugs, counterfeit drugs, drugs that have been adulterated in some way, it strikes me that we have a bigger problem with Mexico than we do with Canada, and yet we have stopped 18 times more packages from Canada than we have from Mexico.

Worse, last year, this was a year and a half ago, Congress appropriated $23 million for border enforcement, but the Secretary of Health and Human Services at that time ultimately decided not to enforce that particular provision and refused to spend the funds.

Let me go to this next chart. Some say that a Medicare drug benefit will eliminate the need for importation, and we passed a pretty important bill in the House last week. I voted against it for a variety of reasons, but the truth is simply, shifting high drug prices on the government only transfers the burden to American taxpayers. It does not solve the problem.

□ 1900

Americans are paying far too much. Moreover, Medicare coverage will not help the millions of Americans that do not have prescription drug coverage in their health insurance plan.

Let me finally just show this last chart. Some say that importation is merely an indirect way of enacting price controls. But the truth is importing prescription drugs into the United States will lower prices here and, in the long run, force Europe to pay more of the drug research and development cost. The best way to break down price controls is to open up markets.

I did not say that. That is not a quote from me. That came from Steve Schondelmeyer, who has a Ph.D. and is a pharmacology professor and director of the Prime Institute at the University of Minnesota. He is the one who said the best way to bring down or to end price controls is to open markets.

And for those who do not believe it, look back at what happened to the former Soviet Union. When President Reagan went to Berlin and said, Mr. Gorbachev, if you mean what you say, come here to Berlin and tear down this wall. And he knew better than anybody that markets, and as he said, markets are more powerful than armies. What ultimately brought down that wall more than anything else was they could not hold back free markets. And, my colleagues, neither can we.

Finally, let me just say that when we talk about how much Americans pay for research, and the drug companies are all saying, well, if we bring down the prices in the United States, and incidentally we believe that if we just open up markets we will see prices of prescription drugs in the United States come down by at least 35 percent, but some people say, well, if that happens, we are not going to have any money to spend on research. My colleagues, people need to know how much we subsidize research in the United States.

We often hear that the United States, the American people, represent roughly 4 percent of the world's population, and we consume 20 percent of the world's energy, and we consume 30 percent of the world's paper, and 30 percent of this and 22 percent of that. But, my colleagues, most people do not know this. We may represent 4 percent of the world's population, but we represent 44 percent of all the dollars spent on basic research. Americans are paying more than their fair share for the cost of research.

We subsidize that research in three separate ways here in the United States, and we all need to be aware of this: first of all, we subsidize it through government-paid research. This year, we will spend roughly $21 billion in basic research through the NIH, the National Science Foundation, and others. Twenty-one billion for basic research will come out of this Congress and go into research, which ultimately the pharmaceutical companies know much of that research they can use to their benefit at no cost. The results of that research is published on the Internet and is available to everybody essentially free of charge.

The second way we subsidize them is through our Tax Code. Now, if they are profitable companies, and these are the most profitable companies in the Fortune 500, they are at a 50 percent tax bracket. So 50 percent of the research right off the top is written off on their Federal tax forms. Now, on top of that, many times they get tax credits. Some of them have moved their operations to Puerto Rico, where they pay no taxes; and as a result, we are subsidizing them through the Tax Code in several ways.

Finally, we subsidize in the prices we pay. When we are paying two, three, four, five times as much as they pay in Europe for exactly the same drugs, we are paying more than our fair share for all of the cost of research. We ought to pay more. And let me just say that, and I have said this on the House floor, and I will say it again and again. I am more than willing as an American consumer, and as a public policymaker and

a Member of Congress I think Americans ought to pay our fair share. I appreciate what the pharmaceutical industry has done. I appreciate the miracle drugs they have come out with. I am willing to pay more than the starving people of central Africa, but I am unwilling to continue to subsidize the starving Swiss.

The time has come for Europe, for Canada, for Japan, and the other industrialized countries around the world to pay their fair share. And the easiest, simplest, fastest, least bureaucratic way to do that is to open up the markets. I will repeat again to congressional leaders: If you mean what you say about free trade, whether we are talking about blackberries, whether we are talking about blueberries, whether we are talking about bananas, whether we are talking about pork bellies, or whether we are talking about Biaxin, then come here to the floor of this House, come here and tear down that wall, because that is the way we are going to bring down prices.

When we do that, it will be much easier for us to provide the kind of coverage that Americans need, particularly seniors in Medicare, if we can come up with a plan that will reduce those prices.

Mr. Speaker, with that, I yield to my close friend and dear colleague, the gentleman from the great State of Georgia (Mr. KINGSTON), who has been a fighter in this battle for a number of years with me.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman from Minnesota, and I wanted to say that I did not catch all of the gentleman's remarks on the way over here, so some of this may certainly be repetitive; but first of all, I think we need to say a word of thanks to the chairman of the Committee on Energy and Commerce, the gentleman from Louisiana (Mr. TAUZIN), and also to the House Republican leadership for scheduling some hearings on the drug reimportation issue. I am very excited about the hearings.

Because when people around America see some of the differences in the costs, and I see the gentleman has his latest chart up there, for instance with Premarin, and if I am reading it correctly, it is $55.42 in America compared to $8.95 in Europe. A statistic that our friend and colleague, the gentleman from Vermont (Mr. SANDERS) has brought up is that the Boston University School of Public Health, a particular professor there, says that America could save $38 billion a year if American consumers could buy medications at Canadian prices. Of course, the gentleman has European prices on there, but we have also other charts with Canadian prices, and they are just as attractive as the European prices.

What is odd, and I just want to enter into a dialogue with the gentleman, does the gentleman know how many people it is that have died because of drug reimportation? Surely it must be thousands upon thousands, given the great resistance some Members of Congress have to this.

Mr. GUTKNECHT. I mentioned this earlier. The Food and Drug Administration does keep pretty good records, and we know that thousands of people have become ill and died as a result of eating imported foods that were contaminated with some kinds of foodborne pathogens. As best we know, with the latest numbers we have over the last 10 years, the number of people who have died as a result of taking a legal drug imported from an industrialized country, that number is zero.

Mr. KINGSTON. Zero people.

Mr. GUTKNECHT. Zero. Not one. And let me say that we pay a very dear price for what apparently is no real protection.

Mr. KINGSTON. So for $38 billion more in expenses a year, it appears that there was no real difference in public health.

Mr. GUTKNECHT. We do have to ask, Who are they protecting us from?

Mr. KINGSTON. Now, there is a statistic, though, that the Secretary of Health and Human Services gave to the gentleman and myself recently that 98,000 people a year actually do die from misapplication of prescription drugs, not taking their medicine properly or timely. And I know that the University of Minnesota, which I think is not in the gentleman's district, has done a study to find something like 40 percent of prescription drugs are used incorrectly. Is that the gentleman's understanding?

Mr. GUTKNECHT. I believe that is correct. That was a study that was done at the University of Minnesota, and I believe the gentleman's numbers are correct; that literally tens of thousands of Americans become seriously ill or die every year from not taking their medications correctly.

And we do not know at this point, based on that study, how many of them were cutting their pills in half or were mixing medications that they should not have mixed. Which brings me back to the point I did make before the gentleman came over, and that is our vision is to keep the pharmacists involved. We believe that the pharmacist is a very important component in the health care delivery system. They are the ones who know how drugs interact and how these drugs should be taken; whether they should be taken at mealtime or before bed, whether they should take a whole glass of water or drink with milk.

There are a number of different things that are important; and we know an awful lot of people do become ill, thousands, tens of thousands, because they take the drugs incorrectly or they mix and match drugs they should not.

Mr. KINGSTON. I believe the last vote we had on this was July 10, 2000, which was, well, 2 years ago today, but at that point out of 435 Members, 363 voted in favor of drug reimportation. And, again, that was July 10, 2000.

To make sure folks understand, we are talking about drugs that have strict FDA oversight, proof of FDA approval of imported medicine. There must be a paper chain of custody so people know that they are not counterfeit drugs. We are also stating that only licensed pharmacists and wholesalers can import medicines for resale, not just somebody who decides to open up a shop somewhere. Importers would have to meet requirements for handling as strict as those already in place for existing manufacturers, and a registration of Canadian pharmacies and wholesalers who would be selling or exporting to America would need to be registered with Health and Human Services. And we would need to have lab testing to screen out counterfeits.

And counterfeit drugs can happen under the current market. This does not change the threat of counterfeit drugs.

Mr. GUTKNECHT. If the gentleman would yield, we know of at least one example that was well publicized of a pharmacist in the Kansas City area who was adulterating drugs. He was a licensed pharmacist, and he was ultimately caught. We do not know how many Americans ultimately died or lives were shortened or lost their health as a result of what he was doing. But that did not happen because of drugs that were being imported from a pharmaceutical supply house in Geneva, Switzerland. That happened right here in the United States of America, in Kansas City, Missouri.

Mr. KINGSTON. Well, I think that is important to point out, because people often bring up this counterfeit drug situation, and it is something that certainly scares us. My mother had breast cancer this year and has to take Tamoxifen, and I certainly want to know that the pill she is taking is as represented. I do not want any counterfeit pill for any American.

But it is a red herring to mix that with the reimportation question, because counterfeiting is taking place today without reimportation.

But another issue that I wanted to mention to the gentleman is one about the patent bill that our colleagues, the gentlewoman from Missouri (Mrs. EMERSON) and the gentleman from Ohio (Mr. BROWN), have been pushing. Now, as I understand it, and I do not know if the gentleman has covered this already, but most drugs have a 17-year patent. When that patent expires, in order for a generic company to get to make that name-brand drug, they have to file, I guess with the FDA.

If the gentleman has a definition for generic drug, maybe he could share that with us.

Mr. GUTKNECHT. Let me share with my colleagues and those who may be watching, because this is something I did not know until a few years ago.

Before somebody can begin to make a generic drug, the patented drug, the name-brand drug, that patent will have had to expire. Or sometimes they will

turn them back. Occasionally, they will turn them into an over-the-counter drug before the patent expires. But the point is, they have to go to the FDA and ask for approval just as if it were a new drug they were making, a brand-new drug.

What they are doing is they are copying the recipe for that drug, and they have to prove to the FDA beyond a shadow of a doubt that the difference between their drug, the generic drug, and the name-brand drug will be no more than the difference between one batch of the name-brand drug and the next batch.

Sometimes there is an impression left with people that, oh, if you take the generic drug, that is inferior to the name-brand drug. It simply is not true. The active components are identical in every way to the name-brand drug. And the savings can be 60, 70, 80, or 200 percent.

Mr. KINGSTON. So if I follow the gentleman, it is not going to be a substitute, for instance, Coca Cola with Pepsi Cola, two products that are very similar and neither one would cause any problems. The gentleman is not saying that at all. What the gentleman is saying is that we are simply taking the Coca Cola that is in this nice traditional Coca Cola can and pouring it into a cup, but it is the same content inside. The same brand-name inside that pill, is what a generic drug is, then.

Mr. GUTKNECHT. I will give an even better example. Go down to the Mint here in the United States capital, just a few blocks down here. They print $1 bills. What I am saying is the difference between one sheet of $1 bills will be no different than the next sheet.

Mr. KINGSTON. So that is it. I think it is very important because there is this stigma promoted by the name-brand drug companies, and I certainly can understand why they want to do it, but there is a stigma about generic drugs.

But getting back to the patent issue, when the patent expires on a drug, the generic company files with the FDA to say that they want to start making that drug. The FDA can say yes or no.

□ 1915

And if the name brand company protects it and says we are changing this drug, then they get a 30-month extension; is that correct?

Mr. GUTKNECHT. Mr. Speaker, that is my understanding, that almost any minute change, including changing the color of the tablet, if they say we are going to change the color of the tablet because it will increase the effectiveness of the drug or its shelf life, they almost automatically get a 30-month extension. And a 30-month extension is worth an enormous amount. But from the other side, that is an additional expenditure that American consumers have to make.

Mr. KINGSTON. And seniors who have to choose between drugs and food, in many cases they are going without medicine.

Prozac went off patent last August; is that correct?

Mr. GUTKNECHT. I am not sure if it has, or is in the process of going off patent.

Mr. KING. How much has the price fallen?

Mr. GUTKNECHT. Mr. Speaker, according to these charts, we have not seen a dramatic reduction.

But Claritin and Clarinex are a good example. Claritin is going off patent and so the drug company that manufactures it is in the process of converting people from Claritin to Clarinex. According to one published report, the improvement, if you can say the quality or the effects of moving from Claritin to Clarinex, and Claritin will soon be available in generic if they do not get a 30-month extension, which I do not think that they should, but the difference is 2 percent. One of the published reports says there is a 2 percent advantage in taking the Clarinex over Claritin.

What the drug companies try to do as they have a drug coming off patent, they try to come out with a new and improved version, which I appreciate, but a 2 percent improvement hardly justifies a $60 a month difference in price.

Mr. KING. Mr. Speaker, the patent issue is a separate issue from reimportation, but we are all interested in making drugs affordable and accessible to the seniors of America. The Republican Party has made that one of its top issues this year.

To just review the patent situation, if you invent a computer chip like Steve Jobs, the proverbial dot.com success story, if you do that tinkering away in the midnight hours at your house, you get a patent. That patent helps you recoup the costs and all your time and pays you off for your ingenuity and genius mind.

With a drug company, they are a little different. The research is subsidized by the taxpayers, so why are we giving them such a long, 17-year patent when in fact so much of the research is subsidized?

Mr. GUTKNECHT. Mr. Speaker, I think that is a fair question and I am not sure I can completely answer the question. That has happened with the taxpayers have underwritten most of the cost of developing at least the basic formula for a new drug, and then the company has gone out and patented that, and they have reaped all of the benefits. In fairness, they probably pay over the life of that drug, they pay an awful lot of taxes and so we recoup some of that through taxes. But the question is a fair one.

If a drug is developed mostly with taxpayer-funded research money through the NIH or other Federal grants, the taxpayers should get some kind of royalty and that is a question that we have not resolved. Frankly, we may need some help from the Secretary of Health and Human Services, the people at NIH, the National Science Foundation, as well as some of the folks at the Patent Office.

I am delighted to hear that we may have a hearing on this whole issue in the Committee on Energy and Commerce, and I hope we can bring some of those people in to explain to us as policymakers and to the people of the United States how it is that we can get shorted on both ends. In other words, we pay for the research and we pay exorbitantly high prices for the drugs relative to the rest of the world.

Mr. KINGSTON. I think the patent issue is one that we should discuss. On Glucophage, which is for diabetes, has the 17 years on that patent run out?

Mr. GUTKNECHT. I do not know about that one. I know some of the most important drugs for diabetes have literally been off patent for several years, or had their patents renewed. A number of these drugs were developed 50 years ago and are still being sold at relatively high prices, and the company has recovered all of what you could remotely suggest is a cost, and still have received additional patent protection from the U.S. Patent Office.

Mr. KINGSTON. So a patent, if it is gamed properly, it can be a government-sanctioned monopoly for drug companies.

Mr. GUTKNECHT. I think it was Glucophage that originally you had to take twice a day. There is a legitimate question whether or not they should have gotten an extra 17 years simply because they went from a two-a-day capsule to a once-a-day capsule.

Mr. KINGSTON. I think we should look at that with a very large magnifying glass because with what we are seeing with corporate greed, and there are a lot of great corporate citizens and CEOs, but the accounting games which seem to have been pulled by the Global Crossings of the world, and the Enrons and the Arthur Andersens, it seems like big corporations are just in it for themselves and are not worrying about the good of humanity.

One of the things that we in the Republican Party did April 24, we passed an accounting accountability act to separate accountants from consultants and put things at arm's length. I am glad to hear that the Senate is waking up to this. I am glad to hear that Mr. DASCHLE and the other body has discovered there is an issue out there. We did ours on April 24. The Democratic leadership voted against it. It is time for the Senate to act on it. Let us get a bill into conference and hammer out the differences.

I think right now it is time for corporate goodwill to be exhibited. It is not time to game the accounting procedures and patent procedures. Maybe we as a Congress should look at an issue of patents and when are they legitimate and when are they not legitimate.

I know one thing that we have also done, switching back to the prescription drug issue, is shortened the drug

approval time for FDA. FDA under the Clinton administration was taking about 8 years to approve a new drug. Today that is down to 2 to 3 years, and a lot of that progress was actually made under the Clinton administration as well, so I want to give them a compliment where compliments are due.

Mr. Speaker, 3 years is probably as short a time as we are going to get. I believe 2 years and 1 month on an average, and generics sometimes can take a little longer. But one of the things that our constituents complain about is a drug for cancer or epilepsy that is being used in France or another country, it has a track record and has been on the market for 15 or 20 years but it is not approved in America. I think for that reason we have to keep the heat on the FDA to get drugs approved faster.

Mr. GUTKNECHT. Mr. Speaker, I think the whole issue of reimportation will begin to force that issue. The question we are really asking today is how safe is safe. What is the FDA protecting us from? In their effort to make us absolutely safe from any imported drug that is clearly legal in the United States, and to keep us safe from drugs that have already been approved in other parts of the world, they are putting roadblocks in the way, and in many cases are costing American lives and not improving their health.

I think the question we have to ask as policymakers is how safe is safe enough. As I mentioned earlier, we import 500,000 tons of pork every year. You can get sick and die from bad pork, and yet 500,000 tons is imported every year with very little inspection by the Food and Drug Administration.

I think we have to be honest with ourselves. Even with all of the time and research that goes on, some people are going to have an adverse reaction to some drugs. That is just absolutely going to happen. Some people are going to take a drug, and they are going to get well. Some other people may get sick, and some might die from taking that drug.

There were some studies that came out on Premarin and Prempro. They are female hormone drugs. They come from horses. We have known about them for literally years and years. What we did not know, that by taking these two drugs, either of these drugs, you may begin to develop and have a significantly higher rate of breast cancer, heart disease and other diseases. I do not know what the future is going to be, but the point is we studied these hormone replacement therapies for years, and yet we did not know what we now know today about those drugs.

I think we have to ask ourselves how safe is safe. Is the FDA really protecting us from serious injury, and we want them to do that, or are they being so careful, both on the reimportation side and on the approval side, that they are endangering American lives? We are asking them for a serious analysis, and compare what we do in the United States with what they do in Europe. Ultimately I think we will get drugs on the market faster, we will get generic drugs on the market faster, and if we have reimportation, we will get much cheaper drugs.

Mr. KINGSTON. In terms of tort reform, what the drug companies are also telling us is in the two examples the gentleman gave us, if a woman is taking a hormone-enhancing drug and because of research down the road, for whatever reason, that drug develops or accelerates the development of breast cancer, the drug company, of course, is going to get sued. What kind of protection should the drug company have, if any, in terms of tort reform or liability?

Remember, when you go to court and you sue, you can get compensatory damages for the money you have lost. Then there is noncompensatory damages, and that is for pain and suffering. And that is harder to calculate, but still possible, it is an agreed-upon figure.

A third kind of damage is a punitive damage where the State holds up the tortfeasor, in this case the drug company, as an example to others who would exhibit negligence, and punitive damages really was more for intentional or gross negligence, but lately it has not been.

It would appear to me that limiting punitive damages at some point is sensible because the victim is already going to get compensatory and noncompensatory damages. We have not had much success with tort reform. Is that going to be part of the solution?

Mr. GUTKNECHT. Mr. Speaker, I think it definitely needs to be part of the solution. I think part of the reason that health care costs are so high in the United States relative to the rest of the world is the fact that we have literally allowed this jackpot justice.

Now, I do not think that the manufacturers of any of these drugs have intentionally put those drugs on the market knowing that they were going to have these adverse consequences to whatever percentage of the people who take them. I think they have put these drugs on the market in good faith believing that the patients would receive a real health benefit from taking these drugs.

My view of tort liability is much more restrictive. I am not an attorney. I do not play one here in Congress. I do not think the gentleman is one, either. I think we have allowed this whole system to go out of control, and we all pay for it. They have a much more restrictive system in Europe, and that is part of the reason the drug companies are willing to sell the drugs for considerably less in Europe than in the United States. So long term, this needs to be part of the solution.

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Mr. KINGSTON. Mr. Speaker, may I say the gentleman has brought back his chart on the cost of drugs, and that is an astronomical figure, $1.8 trillion. In fact, there is a book that was written in Georgia several years ago that is called The Coming Economic Earthquake. You may have read it, a Georgia author, so I have to brag on him.

He is saying the difference between 1 million and 1 trillion is that if you took $1,000 bills, to stack them up to get to $1 million, stack one $1,000 bill on top of another $1,000 bill, it would be about 4 inches high. That would become $1 million at 4 inches. To get to $1 trillion, it would be 33 miles high. People do not understand that.

Mr. GUTKNECHT. One million $1,000 bills would be 4 inches high?

Mr. KINGSTON. $1 million, 4 inches.

Mr. GUTKNECHT. Of $1,000 bills.

And to get to $1 trillion, how high?

Mr. KINGSTON. Thirty-three miles.

Mr. GUTKNECHT. Thirty-three miles?

Mr. KINGSTON. Thirty-three miles. That is from Larry Burkett in The Coming Economic Earthquake.

Mr. GUTKNECHT. Again, these are not my numbers, I am not making these things up. The only thing we have done in terms of real raw research is we had these drugs brought in Europe, and we found out what they were in Northfield, Minnesota, for the same drugs. But the other charts came from the Life Extension Foundation.

This number comes from the Congressional Budget Office, and they are the official scorekeeper of what they think things are going to cost as we go in the future. Now, they could be wrong. They could be high, they could be low. But this is their best guess in terms of how much seniors will pay for prescription drugs over the next 10 years. That is $1.8, and then a zero - zero - zero - zero - zero - zero - zero - zero - zero - zero. It is $1.8 trillion.

Mr. KINGSTON. Excuse me, but that is just seniors.

Mr. GUTKNECHT. That is just people over 65. That is just seniors. That does not include you and me and our kids and grandkids and whomever, all the other people.

Mr. KINGSTON. How many people are over 65 are on a fixed income? Is it not about 70 percent?

Mr. GUTKNECHT. Yes.

Mr. KINGSTON. That $1.8 trillion is going to be paid by 70 percent of the people on a fixed income. That is incredible.

Mr. GUTKNECHT. Here is what is interesting. Again, this is not my number, but this is what outside experts have told us, that if you just do reimportation, just reimportation, allowing seniors or anyone to go to their local pharmacy and at least price-shop from country to country to get the best price on the same drug, our estimate is you could save 35 percent.

Now, 35 percent of $1.8 trillion is $630 billion. That would go a long ways to helping to pay for the prescription drug coverage for those people who are currently falling through the cracks. We are talking about real money.

I think Everett Dirksen said a billion here and a billion there, and pretty soon you are talking about real money. $1.8 trillion times 35 percent, $630 million is a whole lot of money.

I want to congratulate our colleagues for the bill we passed last week. There are a lot of good things in it. But I do want to chastise them on this. The author of that bill stood here in front of this very microphone and said his plan would save about $18 billion over 10 years. Well, that is good. $18 billion versus $630 billion. I will ask America which program they want.

Mr. KINGSTON. Well, I think that it is sensible to explore both options.

Mr. GUTKNECHT. Right.

Mr. KINGSTON. I did support the Tauzin bill, the Thomas bill, the one the gentleman from Ohio (Mr. PORTMAN) and the gentlewoman from Connecticut (Mrs. JOHNSON) and so many others on the Committee on Ways and Means and Committee on Energy and Commerce, the gentleman from North Carolina (Mr. BURR), have championed.

The way I understand that bill, it is basically for a premium of about $35 a month, seniors on a voluntary basis would enroll in a program where they would take a $250 deductible, and from $250 to $1,000 Medicare would pick up 80 percent of the cost of drugs; then from $1,000 to $2,000, Medicare would pick up 50 percent; and then there is a gap, and there is a reason for that.

Most of the people are going to fall under $2,000, but from $2,000 to about $3,800, the senior would pay for 100 percent. Beyond that, Medicare picks up the tab. So you have catastrophic coverage. Unfortunately, there are a lot of people these days having to pay $6,000, $7,000, $8,000, $10,000, $20,000 a year on drugs. But so many people are in a lifestyle now where they have to take three, four, five, six pills a day.

I talked to a man over the weekend or over last week at one of my 11 town meetings, and he is actually having to take 2 pills a day, $17 each. So he is having to spend each and every day $34 on just two pills. He is only 51 years old. I hope he lives 50 more years at least, but the reality is, can you imagine at age 51 having to pay $34 each and every single day?

These miracle drugs are important. They have done a lot. They reduce our pain, they give us a better quality of life, they keep us out of the hospital, so there is no argument about you are going to take your medicine. But the cost of it is phenomenal.

I do think that the Republican Party took a very significant first step on a bipartisan basis the week before last with the prescription drug plan. I hope that the other body will act on theirs and maybe we can get together. But the point is, we have taken a very significant step. But I certainly agree with the gentleman that the next logical step is drug reimportation.

Mr. GUTKNECHT. We only have about 1 minute left. I want to thank the gentleman for joining us for this special order tonight. I certainly agree with the gentleman. I think it is time we do something in terms of covering those seniors falling through the cracks, but I think as I said, and the gentleman and I both said at a news conference a few days before the vote on that bill, that the real issue is affordability. If we are to do our job and effectively deal, we cannot sustain this kind of a chart. With 19 percent increases in the costs of prescription drugs and 3.5 percent increases in Social Security cost-of-living adjustments, that just cannot last.

We have to do more on the affordability side so that we can do more on the coverage side, and reimportation, reforming the FDA, reforming the tort liability laws, making it easier for generic drugs to come on the market, all of those things will go a long ways toward making prescription drugs affordable here in the United States.

We are willing to pay our fair share in terms of the research for those prescription drugs, but the time has come to say to the rest of the world, we are not going to continue to subsidize the starving Swiss.

HELPING HAITI TO MOVE PAST CURRENT POLITICAL CRISIS

The SPEAKER pro tempore (Mr. OSBORNE). Under the Speaker's announced policy of January 3, 2001, the gentleman from Michigan (Mr. CONYERS) is recognized for 60 minutes.

Mr. CONYERS. Mr. Speaker, I will insert some materials in the RECORD about the plight of the African American farmers in this country who, having won a wonderful court decision that resulted in a consent decree, are still faced with discrimination, delayed payments and all other kinds of problems which were really the basis of them bringing the suit in 1999. So I will insert in the RECORD the Federation of Southern Cooperatives' statement, the statement of our colleague the gentlewoman from North Carolina (Mrs. CLAYTON) and my own statement.

Black farmers demands:

1. To Meet with Secretary of Agriculture Ann M. Veneman before July 16, 2002 We want confirmation of her agreement to meet by 3:30 pm today, EST.

2. An immediate moratorium on all farm foreclosures by Secretary Veneman.

3. The immediate termination of all USDA officers who have been found guilty of discrimination.

4. The Federal Court halt of all proceedings in the Pigford Consent Decree until the mess can be straightened out.

5. That the USDA ceases and desists on intercepting the federal farm program payments to farmers in the *Pigford* v. *Glickman* Class Action.

6. That the USDA cease and desist on claiming tax return payments to farmers who are part of the *Pigford* v. *Glickman* Class Action.

7. That USDA tells us the loan status of Tennessee farmer James Hood, Gerald Pettaway, Coach Perkins, Barton Nelson, Ernest Camel and Robert Young.

8. The immediate firing by Judge Paul Friedman of Al Pires and Phil Frans as lead counsel in the *Pigford* v. *Glickman* Class Action.

9. Settle the Matthew Grant (deceased), Richard Grant, Dexter Davis and Howard Coates (deceased) administrative cases by August 1, 2002 in a fair and equitable manner.

FEDERATION/LAF SUPPORTS BLACK FARMER PROTEST AGAINST USDA IN TENNESSEE DEMANDS MEANINGFUL ACROSS THE BOARD RESPONSE FROM USDA AND CONGRESS

Atlanta, GA.—This week Black farmers occupied the US Department off Agriculture's Haywood County Agricultural Extension Agency in west Tennessee. They decried the fact that even in spite of the recent law suit against the USDA, grievous violations against Black farmers continue. As the primary organization working in support of Black farmers across the south for 35 years, the Federation of Southern Cooperatives/Land Assistance Fund (Federation/LAF) supports the efforts of the ''Black Farmers and Agriculturalist Association'' as it's members occupy the USDA offices.

''We support this effort because it highlights the appalling lack of justice to Black farmers over the past century and clearly demonstrates the need for immediate and corrective steps by Mr. Bush's Agriculture Secretary, Ann Veneman'' said Ralph Paige, Executive Director of the Federation/LAF.

In 1999, Black farmers settled their suit against the USDA after years of struggle to receive information, technical assistance and loans from this agency that was touted as being the lending institution of last resort. The irony is that the USDA policies invariably are in place to support huge corporate farms at the expense of family farmers everywhere, and, in particular, Black family farmers who now struggle to hold on to their dwindling land base. In fact, in 1982 the US Commission on Civil Rights reported that the primary reason Blacks have lost land is because of the USDA itself. These facts were supported by the USDA in it's Civil Rights Action Team report in the late 1990's.

When Black farmers sued the USDA, 22,692 farmers filed claims. To date more than $615 million has been dispersed to class members. Currently only 60% of those who filed claims have received payment along with injunctive relief and thousands who were denied class status are appealing to the Monitor in the case for reconsideration. An additional 68,000 farmers filed late claims. The Federation/LAF has assisted the farmers as they struggled with the severe complications and delays in the law suit settlement process. To date, thousands of farmers who have filed late claims have yet to be processed and many of the initial claimants are still suffering from bureaucratic entanglements as they await their payment or other compensation.

Perhaps one of the most disturbing aftermaths of the law suit settlement is the assumption that things would change at USDA. This was not to be. While there is a Monitor in place to assist class members should they suffer discrimination in USDA offices, the same USDA staff that over the years has wreaked havoc on Black farmers still sit in USDA offices across the South. They have not been reprimanded or made accountable in any way for their discriminatory practices. These are the same staff who farmers face daily in USDA offices as they seek services and loans.

All this is further compounded by a USDA and Congress that continue to support corporate farmers rather than family farmers

that have always been the backbone of American agriculture. The recently passed Farm Bill is a prime example of these policies, which provides for huge subsidies to benefit the largest corporate farmers in America. There is little in the 2002 Farm Bill that will assist small farmers.

For example, after the 1982 US Commission on Civil Rights cited the USDA violations against Black farmers, the Federal/LAF formed a coalition to address this issue. The Federation/LAF wrote the Minority Farmers Rights Act which, thanks to the Federation/LAF and coalition support, was incorporated into the 1990 Farm Bill. It is now known as the ''Outreach and Technical Assistance Program'' (Section 2501). This marked the first time that federal monies were to be devoted to provide technical assistance to minority farmers. Initially Congress authorized $10 million annually for the program, and in the 2002 Farm Bill Congress raised the authorized to $25 million. Yet the Congressional appropriations committee has never even come close to appropriating the authorized amount for this important program, which serves thousands of black and other minority farmers.

Out of the huge federal budget, not more than $3.2 million has ever been appropriated for Section 2501, which must be distributed among numerous community based organizations and land grant colleges. Once again, this year Congress appears to be denying the needed funding for this program, suggesting an appallingly low $3.4 million appropriation. This will yet again severely dilute the resources and technical assistance that could be provided to farmers. Many view funding for this program as a hand-out to African American community based organizations and historically Black land grant colleges, while at the same time Congress distributes billions of tax payers dollars into the coffers of corporate agriculture.

''The $3.4 million appropriation for thousands of minority farmers is too limited in comparison to the millions given to the top five corporate farmers in America'' said John Zippert, Director of Programs for the Federation/LAF. ''Where, we ask, is the justice and democracy in a system that builds the wealth of the top 5 farmers in a country of 270 million people? A program, such as 2501, however, serves thousands of farmers and insures pluralism and equity for all farmers and not just a few.'' The success of the Minority Farm Outreach and Technical Assistance Program cannot be overestimated. In virtually every area where the program has been implemented on a sustained basis there has been an increase in the number of Black farmers as well as farmer sustainability and profits.

Additionally, there needs to be a speedy implementation of other sections of the 2002 Farm Bill that deal with equity for minority farmers which include: the appointment of a new USDA Assistant Secretary for Civil Rights; sections of the bill that address a more equitable selection of the County Committees that govern agriculture policy at the local level; making more USDA direct and guaranteed loans available to family farmers; insuring that injunctive relief available through the Black farmer law suit is effectively disbursed which is, for one, priority consideration for USDA loans.

Even in spite of the law suit and now the on-going complaints by Black farmers due to the egregious treatment they continue to receive from USDA, Congress does not seem to open its eyes to programs already in place that could alleviate many of the problems experienced by minority farmers. Clearly, Congress needs to support programs that have a proven track record and the USDA needs to address the problems of its staff and the continuation of their discriminatory practices.

Finally, notwithstanding the huge number of farmers who have not been processed in the case as mentioned above, there are thousands of Black farmers across the country who learned about the suit too late to participate. It is also clear that the Black farmer settlement should have been stronger in addressing the systematic discrimination in the implementation of USDA programs. We urge U.S. District Court Judge Paul Friedman to seriously consider all of these issues as he reviews the problems in the law suit settlement and ways in which the case could still be used to improve the USDA's performance and services to minority farmers.

''Organizations that support Black farmers are often accused of playing the race card, but we have to play the card that we are dealt. It seems clear that race and size of farm operation are the reasons for the lack of support and assistance from Congress and the USDA and we demand a change in these policies toward an equitable and just agriculture system in America'' said Jerry Pennick, director of the Federation's Land Assistance Fund.

Mr. CONYERS. Mr. Speaker, more than 200 black farmers in Tennessee stormed the U.S. Department of Agriculture (USDA) and occupied the agency's offices last week for six long days to protest the mistreatment they've suffered at the hands of USDA county officials. Agriculture Secretary Ann Veneman has reportedly agreed to meet with the farmers this Friday, July 12th, to address their grievances. In my opinion, something had better come out of this meeting to address the wrongs these farmers have suffered for so long.

We thought we had settled this problem in 1999 when the black farmers signed a race discrimination settlement with the Department of Agriculture. That law suit, *Pigford* v. *Glickman*, charged that the Department had wrongly denied black farmers loans, crop subsidies and other farm program benefits because of discrimination. The Department was so indifferent to its responsibility to guard against discrimination that it had no procedural mechanism in place to deal with discrimination complaints; indeed, it had disbanded its Office of Civil Rights years earlier, in 1983.

The settlement was supposed to address a variety of past racial injustices. It was supposed to pay $50,000 each to any black farmer who had suffered discrimination. It was also supposed to forgive those debts the Department of Agriculture had unfairly assessed against black farmers from 1983 to 1999. Incidentally, the sum of $50,000 payments and forgiven debt was estimated to be about $2.2 Billion. This agreement was supposed to assure black farmers discrimination-free access to USDA programs in the future. It was supposed to guarantee an expedited procedure designed to resolve quickly those claims that black farmers had pending with USDA for years.

The settlement might have been heralded today as a terrific agreement except for the fact that the Department's performance, meaning its execution of the agreement, did not live up to its promise.

Past wrongs were not redressed fully and timely.

Black farmers continued to get significantly lower program yields than their white counterparts in the same counties.

Without attributing blame here, there was some question of whether the filing deadlines were well publicized, and, when the deadlines were extended, it still reportedly remained difficult to know when or how to get or file the appropriate application.

As a result, the Department has only paid out about $650 million of the $2.2 Billion in damages estimated at the time of the settlement.

At the very least, the Secretary has to put in place immediately a moratorium on foreclosing black farmers. Justice requires a waiver for those farmers who lost their farms or who could not repay their loans because they suffered discrimination or natural disaster.

The Secretary has to institute policies that assure us that career employees at the USDA are taking seriously the promises USDA made to the farmers, namely, that USDA intended to remedy decades of discrimination. Among those policies, the Secretary must track the extent to which black farmers are participating in these programs. She must ensure that black farmers are being treated fairly and respectfully at the County level. She must therefore assure us that the county committee elections are democratic—and that means fair and open elections. She must appoint minority voting members if minorities are not otherwise represented.

Finally, it is high time that we have an Assistant Secretary for Civil Rights at the Department of Agriculture. It was wrong that that office was disbanded in 1983. It is a shame and a disgrace that nothing has been done to remedy that omission after the signing of this so-called settlement.

If the Secretary does these things that I've respectfully suggested are the bare minimum, and addressed the remaining demands of the black farmers, then the protest last week in Tennessee will not have been in vain and the meeting this Friday will not be the empty gesture the black farmers have grown accustomed to expect from the USDA.

Mrs. CLAYTON. Mr. Speaker, the plight of the Black Farmers continues to be fragile and uncertain in spite of the Black Farmer's Law Suit or because of it. The recent ruling by the U.S. Appellant Court in Washington, DC. *Pigford* v. *Ann M. Veneman*'', clearly said that the farmers have suffered double-betrayal first by the Department and then by their own lawyers.

The Recent protest of Black Farmers in the State of Tennessee demonstrates that the U.S. Department of Agriculture continues to ignore minority farmers who are small and disadvantaged.

The recent legislative victories for Civil Rights within the Farm Bill must be implemented immediately to ensure that passed practices of discrimination and denials are prevented and corrected. Those victories included:

(1) An Assistant Secretary for Civil Rights at USDA

(2) Language that required the Secretary to track program participation of minority farmers; county committee elections to be fair and open; the appointment of a minority voting member when not represented

(3) Provide waivers for farmers who lost their farms or who could not repay their loans due to discrimination or natural disaster.

Additionally the Section 2501 Outreach Program to assist disadvantaged farmers was reauthorized and an annual funding level increased from $10 million to $25 million with

approved increased funding for research and extension for Historical Black Land Grant Colleges.

I call on the House of Representatives to fully fund these programs and on the Administration to immediately implement these policies and administrative changes.

Mr. CONYERS. Mr. Speaker, this particular special order is brought about because of the circumstances in Haiti, which a number of us have been working on in this body for many years, both Democrats and Republicans. We have followed with great interest the attempts to get the democratic, both political and economic, bases in place in Haiti, so we want to discuss this program and these efforts with the membership today.

First of all, there has been what we call a political stalemate that arises from alleged irregularities in an election held in May 2000. As a result, there has been a freezing of needed financial aid that we think maybe there is a new effort coming forward to unblock. So we have new hope that the political part of this problem will be resolved and that Haiti will begin to receive funds from international organizations, the International Monetary Fund, the World Bank, the Inter-American Bank and others that are anxious to help Haiti, which is in a very serious economic crisis.

Mr. Speaker, I will put my statement in the record and also background information on Haiti. In addition, I will include a letter to the distinguished Attorney General, John Ashcroft, which expresses the strong dissatisfaction toward the Haitian asylum seekers who are singled out and returned without any interviews or determination of whether they are at risk in going back to their country.

Today I rise to support Haiti in their ongoing efforts to end the political stalemate and move past the political crisis. Haiti's political stalemate stems from alleged irregularities in the May 2000 legislative elections. Efforts to reach an accord have been hampered by waves of violence which culminated with the December 17, 2000 attack at the National Palace. The continuing dispute has kept Haiti isolated on the international front freezing badly needed financial aid from abroad. According to the U.S. the OAS and many foreign governments, the Provisional Electoral Council unfairly tabulated results from Senate districts, which resulted in ten contested seats. It is the Congressional Black Caucus' position that the issue of electoral crisis should not be tied to these humanitarian funds. The political haggling between the U.S. and Haiti is killing the people of Haiti.

We must be encouraged with the movement on the political front, even though it may not be as much as we would like. For the first time in two years the President and the Opposition party met though they were unable to come to an agreement. However, OAS Assistant Secretary General Luigi Ennui met with President Aristide on Monday and insisted that "The government is assuming its responsibilities." This is especially positive in that it is an indication by the representative of the U.S. that the Government of Haiti is responding appropriately. This acknowledgment overcomes a great hurdle for the Government of Haiti and indicates significant progress. It is reported that Aristide has proposed elections for all 83 House of Assembly seats and two-thirds of the 27-seat Senate in November. Local elections would be held next year. We must encourage all parties to continue to come to the table to work out agreement for the good of all Haitians.

Also, we must end the unfair treatment of Haitians. Under the current policy in Miami, most people who arrive in the U.S. seeking asylum remained free after showing credible fear of persecution until their requests are decided. Before December, the INS routinely released refugees who passed credible-fear interviews—unless they were deemed special security risks connected to September 11. That is still the case for asylum seekers from Colombia, Venezuela, Central America and almost any place else—for everyone except Haitians. Unlike others, Haitians seeking a chance to prove that they deserve asylum status are immediately imprisoned even if they, like others are able to demonstrate initial grounds of credible fear for an asylum claim.

[Memo from Cynthia Martin, Legislative Director and Counsel, Cong. John Conyers, Jr., to CBC AAs/COS; CBC Contacts; CBC LDs; CBC Press Scys; CBC Schedulers, July 10, 2002]

HAITI SPECIAL ORDER

Please join us for the special order on Haiti. We have the second Democratic hour—it should begin at approximately 7:30.

Let's support Haiti in to efforts to move past the current political crisis.

A. BACKGROUND

Haiti's political stalemate stems from alleged irregularities in the May 2000 legislative elections. Efforts to reach an accord have been hampered by wave of violence which culminated with the Dec. 17, 2000 attack at the National Palace. The continuing dispute has kept Haiti isolated on the international front freezing badly needed financial aid from abroad. According to the U.S., the OAS and many foreign governments, the Provisional Electoral Council unfairly tabulated results from Senate districts, which resulted in ten contested seats. It is the Congressional Black Caucus' position that the issue of electoral crisis should not be tied to these humanitarian funds. The political haggling between the U.S. and Haiti is killing the people of Haiti.

The U.S. Congress suspended aid with the following language which was a part of the Legislative Affairs Appropriation bill in July of 2000. In July of 2000, Mr. Conyers attempted to thwart efforts to have direct aid to Haiti suspended by introducing a motion to strike the language which precludes assistance to the government of Haiti unless it met the two following preconditions: (1) The Secretary of State reports to the Committee on Appropriations that Haiti has held free and fair elections to seat a new parliament; and (2) The Director of the Office of National Drug Policy Control reports to the Committees on Appropriations that the Government of Haiti is fully cooperating with the United States efforts to interdict drug traffic through Haiti to the United States.

Mr. Conyers stated, "This language limited assistance to the Government of Haiti and continues to represent a double standard. In effect, we are holding Haiti to a higher standard than we are holding other nations including ourselves. Lest we forget, it was only a few years ago that we had to send in federal re-enforcement to allow people to vote in my own backyard of Flint, Michigan and we, the great democratic country of the world had to enact not one but two voting rights acts to give blacks and other minority's unfettered access to the polls. And even today, this access continues to be undermined by court determinations of gerrymandering. But for those of us who are uncomfortable examining our own struggle with democracy as we are the beacon of democratic values, let us examine how we have dealt with other countries in similar straits, such the country of Peru."

The Inter-Development Bank also weighed in to preclude the distribution of aid when Executive Director of the United States, Larry Harriman, sent a letter to the President Igglesias of the Inter-American Bank requesting the Bank not to authorize disbursement of the 145.9 million in loans which has been approved prior to this legislation. This was an unprecedented step—never taken at this stage before by the Bank.

These loans are designated for the social sector: Rural roads and rehabilitation program, $50 million; reorganization of the health sector, $22.5 million; potable water and sanitation, $54 million; and basic education program, $19.4 million.

B. ENCOURAGING SIGNS

(a) IDB has agreed to send mission to Haiti to investigate the re-institution of extending loans to Haiti.

(b) Political crisis end in sight—For the first time in two years President and the Opposition party met though they unable to come to an agreement. However, OAS Assistant Secretary General Luigi Ennui met with President Aristide on Monday and insisted that "The government is assuming its responsibilities." This is especially positive in that it is an indication by the representative of the U.S. that the Government of Haiti is responding appropriately. This acknowledgement overcomes a great hurdle for the Government of Haiti and indicates significant progress. It is reported that Aristide has proposed elections for all 83 House of Assembly seats and two-thirds of the 27 Senate seats in November. Local elections would be held next year. We must encourage all parties to continue to come to the table to work our agreement for the good of all Haitians.

(c) Haiti Gains full integration into Carioca.

C. IMMIGRATION

Under the current policy in Miami, most people who arrive in the U.S. seeking asylum remain free after showing credible fear of persecution until their requests are decided. Before December, the INS routinely released refugees who passed credible-fear interviews—unless they were deemed special security risks connected to Sept. 11. That is still the case for asylum seekers from Colombia, Venezuela, Central America and almost any place else—for everyone except Haitians. Unlike others, Haitians seeking a chance to prove that they deserve asylum status are immediately imprisoned even if they, like others are able to demonstrate initial grounds of credible fear for an asylum claim.

[Memo from Bob Corbett, June 16, 2002]

HAITI'S PRESIDENT, OPPOSITION LEADERS MEET

From: Greg Chamberlain

(By Michael Deibert)

PORT-AU-PRINCE, HAITI, June 15 (Reuters)—Haitian President Jean-Bertrand Aristide met with opposition leaders on Saturday for the first time in two years to resolve a two-year-old electoral crisis, and both sides made positive remarks afterward.

One of the opposition figures who attended the meeting said Aristide told them he would act to address their concerns. An Aristide

aide said the president wanted to put an end to the dispute that has resulted in the freezing of some $500 million in international aid.

Aristide met with officials of the Democratic Convergence opposition coalition at the Port-au-Prince residence of Haiti's papal nuncio, Luigi Bonazzi, the same location where they last met two years ago.

The Convergence has charged that legislative elections held in May 2000 were tabulated unfairly to favor Aristide's Lavalas Family political party. Convergence member parties then refused to participate in presidential elections that saw Aristide gain the presidency for a second time in November 2000.

After an apparent coup attempt in December 2001 during which gunmen stormed the National Palace, Aristide partisans took to the streets of the capital, burning down offices and homes affiliated with the opposition.

''Aristide has assured us that he will act to satisfy the conditions needed to restart the negotiations,'' said Luc Mesadieu of the Convergence-affiliated MOCHRENA party, who attended the meetings along with opposition figures Gerard Pierre-Charles and Hubert de Ronceray.

''He said that he will act against impunity and address the issues of reparations and insecurity.''

The Convergence's conditions for restarting substantive electoral negotiations include the holding of new elections for several disputed seats, the payment of reparations for property destroyed during the December unrest and the disarming of individuals they charge are pro-government militants.

''President Aristide feels that it's time to step forward,'' said National Palace spokesman Luc Especa. ''He would like to put an end to this crisis so we can concentrate on development and improving the lives of the people of Haiti.''

The meeting was arranged by Luigi Eniadi, assistant secretary-general of the Organization of American States, who arrived in Haiti on June 10 to push for a resolution to the electoral dispute, sources close to the two sides said.

OAS officials were not immediately available for comment.

[Memo from Cliff Stammerman to Cynthia Martin, Paul Oostburg, Michael Riggs, July 10, 2002]

OAS OFFICIAL TO BREAK POLITICAL IMPASSE IN HAITI

(Dow Jones International News Service via Dow Jones)

PORT-AU-PRINCE, HAITI (AP)——Abandoning what may be the last OAS attempt to mediate an end to Haiti's 2-year-old political impasse, Assistant Secretary-General Luigi Einaudi left Wednesday, empty-handed.

''The way we have approached the problem has not produced the expected results,'' Einaudi told reporters as he prepared to fly back to the Organization of American States headquarters in Washington, D.C.

''We need a new formula,'' he said, without spelling out an alternative.

But Einaudi's impatience with opposition politicians filtered into his brief comments, leading some to conclude that the OAS may bypass the opposition in the future.

''The curtain has fallen on the sorry farce of OAS-mediated talks,'' said former President Leslie Manigat, who withdrew from the opposition negotiating team earlier this year.

Now, the OAS probably will use the pretext of an upcoming electoral deadline to go with an elections timetable set by President Jean-Bertrand Aristide's Lavalas Family party, Manigat suggested.

Einaudi's visit, which began Friday, was his third this year and his 24th since the crisis arose over flawed 2000 legislative elections swept by Aristide's party.

The international community blocked hundred of millions of dollars in aid that it says will not be released until both sides agree on new elections.

Einaudi said he would ask the OAS Permanent Council for new instructions later this month.

[Memo from Misty Brown to Keenan Keller, Cynthia Martin, Kathleen Sengstock, John Schelble, Noelle Lusane, Brandi Hilliard, Michael Riggs, Paul Brathwaite, June 19, 2002]

HAITI—IDB ISSUE

Hey guys, I'm happy to report that the IDB's Full Board of Directors approved the waiver requested by the bank's management to allow a mission to travel to Haiti to discuss reformation of the four loans. ''Go CBC!!''

Of course my next question became ''how soon?.'' I was informed that logistically the IDB will move post-haste. However, this mission will also include input from the OAS as well as the World Bank and therefore the need to coordinate efforts might delay the trip a bit. Nonetheless, it is the IDB's intention to move forward and to express the CBC's desire to the other parties that the mission is to move as thoroughly and quickly as possible to review conditions for renewed lending to Haiti.

As I pointed out in my earlier e-mail, receiving this conformation in writing will take just a minute. However, we can be reassured this time this information is on point. Good work!!!

[Memo from Paul Brathwaite, Policy Director, Congressional Black Caucus, to Misty Brown, Keenan Keller, Cynthia Martin, Kathleen Sengstock, John Schelble, Noelle Lusane, Brandi Hilliard, Michael Riggs, June 19, 2002]

Misty, Thanks for the clarification and for your work on this issue. And, thanks to everyone for helping out this. We'll keep our fingers crossed.

[Memo from Misty Brown to Keenan Keller, Cynthia Martin, Paul Brathwaite, Kathleen Sengstock, John Schelble, Noelle Lusane, Brandi Hilliard, Michael Riggs, June 19, 2002]

In a follow-up conversation with the IDB, I wanted to clarify the e-mail I sent out on yesterday. My Member was told on yesterday that the mission to Haiti was a go, to which I immediately relayed to you. However, as your e-mail pointed out only the Programming Committee deliberated on the management's proposal re: sending a mission from the IDB to Haiti to address or redress the loans. Support of this mission will require a suspension of the rule that states that ''as long as a country is in the arrears, missions as well as loans will remain suspended.'' Nonetheless, the Programming Committee forwarded the Management's proposal to the Committee as a whole with a favorite response.

The Committee as a whole (which includes all 14 Countries) meets today. They will either ratify, amend, or veto (for lack of a better term) the measure. It is my understanding that given the pressing nature of the issue and the strong support from the CBC for the mission, the Committee is expected.

I was told that we might have a verbal answer as early as this afternoon. However, a written response from the Board will take some time.

Let's stay in touch as events unfold. Thanks, Misty.

JUNE 20, 2002.

Hon. JOHN ASHCROFT,
Attorney General, Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL ASHCROFT: We write to express our strong dissatisfaction with the current policy towards Haitian asylum-seekers which we believe is discriminatory and falls short of the law and principles according to which the American government should act. Under the current policy in Miami, asylum seekers from Haiti are treated differently from—worse than—asylum seekers from any other country solely on the basis of their national origin. This policy is highly discriminatory and supported by questionable legality and justifications.

As we understand the policy of your department in Miami, most people who arrive in the U.S. seeking asylum remain free after showing credible fear of persecution until their requests are decided. If the request is granted, they are allowed to stay. If the request is denied, they are subject to deportation and may be held in detention pending their removal. But beginning in December of last year, the INS has followed a sharply different and more restrictive policy regarding those people who arrive here from Haiti. Unlike others, Haitians seeking a chance to prove that they deserve asylum status are immediately imprisoned even if they, like others, are able to demonstrate initial grounds of credible fear for an asylum claim.

When the INS implemented this policy after the arrival of a boat carrying Haitian refugees in December of last year, your department explained that the policy was intended to ''discourage further risk taking and avoid an immigration crisis of the magnitude which existed during the early 1980's and 1990's with the Haitian and Cuban mass migrations.'' But this explanation would appear to be contradicted by the simple fact that the policy does not apply to Cubans and there are many more potential refugees from Cuba than Haiti, due to Cuba's closer proximity for a risky sea voyage and larger population. Furthermore, we understand that Haitians arriving by airplane are also subject to this policy, with Haitians already approved for asylum being indefinitely detained. These reports make the deterrent justification deeply suspect.

Thus far, pursuant to this policy, we are aware of more than 250 Haitian asylum seekers now detained in Florida. This causes particular problems with regard to children who are separated from their parents and placed in separate facilities. In some cases the children are released without their parents, and the parents are not always able to ascertain the whereabouts of their children. In addition, many complaints have arisen regarding the conditions in which the asylees are held. There is extreme overcrowding at the Krome Detention facility, and some women are being held in maximum security county jails with violent criminals.

Many of the detainees—probably most—do not have legal representation. And those that do have counsel often face cases so expedited that the lawyers assisting them have insufficient time to adequately prepare the detainee's claims, thus leading to increases in denials of asylum and orders of removal since the policy went into effect. Indeed, the very fact that these Haitians are confined under these difficult conditions makes it less likely that they will be able to prove their claims, regardless of whether the claims are legitimate. The policy seems clearly designed to warehouse and then deport Haitians as quickly as possible, regardless of the merits of their cases and regardless of the

law on asylum claims which gives all asylum-seekers an equal chance to prove their claims without regard to their national origin.

We would like you to include in your response to this letter, answers to the following questions:

How many Haitians are currently being detained by the INS in Miami and in which facilities? How many have been detained since December when the new policy went into effect?

How many Haitians have been intercepted on the high seas on a monthly basis over the last year? How many were brought to United States? How many were returned to Haiti?

How many Cubans have been intercepted on the high seas on a monthly basis over the last year? How many were brought to United States? How many were returned to Cuba?

Why does this policy apply only to Haitians and not to Cubans or people of any other nationality? How is this distinction singling out Haitians justified by law?

What was the rate of approval for Haitian asylum seekers prior to the institution of this policy? What is the rate of approval since the policy came into effect?

As the number of detainees appears to be small, though significant, it does not appear that a mass exodus of Haitians is taking place. And we stress again that there do appear to be fewer Haitians in this asylum category than Cubans. Thus, the decision to single out Haitians for this harsh treatment while they are seeking to avail themselves of the American tradition—and law—of granting refuge to people who face unjust persecution at home is discriminatory and unfair.

We see absolutely no justification for this policy. We strongly urge you to reverse this policy in Miami and treat Haitian asylum-seekers equally to the way we treat asylum seekers from other countries, as is required by law.

Representatives Barney Frank, John Conyers, Jr., Joseph Crowley, Howard L. Berman, Barbara Lee, Rosa L. DeLauro, Xavier Becerra, Corrine Brown, Carrie P. Meek, Alcee L. Hastings, Michael E. Capuano, Maxine Waters, Scherrod Brown, Michael M. Honda, Maurice D. Hinchey, José E. Serrano, William D. Delahunt.

Mr. CONYERS. Mr. Speaker, it is now with great pleasure that I yield to the gentlewoman from California (Ms. LEE), whose concern with Haiti I think has preceded her coming to the Congress. She has worked diligently on the subject.

Ms. LEE. Mr. Speaker, I want to thank my colleague from Michigan (Mr. CONYERS) for his leadership and for organizing tonight's special order on the humanitarian crisis in Haiti. I also want to acknowledge the leadership of the gentlewoman from Florida (Mrs. MEEK), the chairperson for the Congressional Black Caucus' Haiti Task Force, for her strong commitment to the people of Haiti.

For the past several months I have worked with my colleagues here in Congress to communicate to the White House that it is really time to revisit, now, United States policy toward Haiti. Since the 2000 elections, Haiti has been in a political impasse, as the gentleman from Michigan (Mr. CONYERS) mentioned. This impasse has framed U.S. policy in such a way that very little bilateral assistance is being sent to Haiti and all multilateral assistance has totally been blocked.

Despite the political problems, we have been increasingly aware of the humanitarian crisis which is brewing in Haiti. Much of this crisis can be directly pinned to the social sector resources being blocked from the small island nation. In fact, the United States representative to the Inter-American Development Bank directed the bank's president to block disbursal of four social sector loans to Haiti. These loans had been approved by the bank's board of directors and were ratified by the Haitian parliament. Considering Haiti's current crisis, this action is really inexcusable.

In April, I was joined by the gentleman from Michigan (Mr. CONYERS) and all 38 of my colleagues in the Congressional Black Caucus as we introduced legislation that would decouple political impasse from the humanitarian crisis in Haiti. This legislation is called the New Partnership for Haiti Resolution, which now has over 60 cosponsors. So I strongly urge my colleagues to join us by signing on as a cosponsor on a bipartisan basis to this resolution.

I have learned today in a Dow Jones International news report that what may be the last attempt by the OAS Secretary General to mediate an end to a 2-year-old political impasse has failed. It is clear that efforts to come to a resolution are not working.

Furthermore, we really cannot wait to end the political impasse, because humanitarian relief must be sent. We cannot wait any longer. The time has come for the United States to demonstrate strong leadership by reforming its policy toward Haiti. The United States policy of stalling the delivery of international humanitarian aid to Haiti is fostering instability and anarchy in this struggling democracy. Haiti's miserable poverty is indisputable. Furthermore, we can no longer bury our heads in the sand on this issue.

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Without strong United States leadership, the crisis will continue to spiral out of control.

Already, the national rate of persons with HIV and AIDS has risen to 300,000, or 4 percent of the entire population, leaving 163 children orphaned. The infant mortality rate has increased to 74 deaths out of every 1,000 babies born, and now, five mothers will die out of the same number of births. Mr. Speaker, 125 patients die daily of disease-related illnesses.

While most of the Western world has eradicated diseases like polio, health officials report that many Haitians do not have the resources to pay for life-saving vaccinations for their children. This is just morally unacceptable. We must remember that many diseases know no boundaries. The doctor-to-patient ratio has fallen to 1 to 11,000, leaving very little chance that sick persons in the rural areas will ever get even the basic health care.

So it is unacceptable to simply stand by and watch a season of misery inflict pain, suffering, and death on human beings right here in our own neighborhood. We must address this injustice. We must release IBD funds to Haiti. It is really our moral imperative, and we must urge President Bush to step up to the plate.

Mr. CONYERS. Mr. Speaker, I want to thank the gentlewoman for her excellent exposition of the circumstances there.

Am I correct in thinking that there is a ray of hope, that it looks like the political differences are being resolved to the satisfaction of the World Bank authorities and that we may be moving toward a resolution of the problem?

Ms. LEE. Mr. Speaker, I am cautiously optimistic. I believe that there is a team that went down to Haiti to begin to look at what is going on in the four sectors and we have urged, and I believe the gentleman participated in the meeting, the bank officials to really understand why these loans should be released, and regardless of whatever the political situation is, that the humanitarian assistance is very important to prevent misery and untold deaths which are now occurring as a result of no funding being there.

Mr. CONYERS. So the gentlewoman is saying that regardless of what the political position is, people should not starve or become destitute, subject to the ravages of extreme poverty, merely because there is a political dispute between the parties.

Ms. LEE. Absolutely. People have a right to basic health care, basic food, and basic shelter. There is no way that we should be party to creating more misery, and by our blocking funds which have already been negotiated; these are contracts that have already been signed off on, and for us to block that creates even more misery which creates even more instability, so it becomes a vicious cycle. And I believe, as all Members of the Congressional Black Caucus, as does the gentleman, that we must make sure that we take the moral high ground on this and encourage the loans to be released so that we can move forward to assist the people of Haiti, because they so deserve to be assisted.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. UNDERWOOD (at the request of Mr. GEPHARDT) for today on account of a typhoon in Guam.

Mrs. ROUKEMA (at the request of Mr. ARMEY) for July 8 and the balance of the week on account of illness.

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. CROWLEY) to revise and extend their remarks and include extraneous material:

Mr. ROSS, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mrs. MALONEY of New York, for 5 minutes, today.

Mrs. MEEK of Florida, for 5 minutes, today.

Mr. ETHERIDGE, for 5 minutes, today.

Mr. PRICE of North Carolina, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. MEEKS of New York, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

The following Members (at the request of Mr. QUINN) to revise and extend their remarks and include extraneous material:

Mr. GUTKNECHT, for 5 minutes, today.

Mr. GANSKE, for 5 minutes, today.

Mr. KENNEDY of Minnesota, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes, today and July 11.

Mr. JONES of North Carolina, for 5 minutes, July 11.

The following Member (at her own request) to revise and extend her remarks and include extraneous material:

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

ADJOURNMENT

Mr. CONYERS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 50 minutes p.m.), the House adjourned until tomorrow, Thursday, July 11, 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:

7797. A letter from the Secretary, Department of Housing and Urban Delvelopment, transmitting the Department's report entitled, ''Measuring ''Need'for HUD's McKinney-Vento Homeless Competitive Grants''; to the Committee on Financial Services.

7798. A letter from the Managing Director, Federal Housing Finance Board, transmitting the Board's final rule — Federal Home Loan Bank Consolidated Obligations-Definition of the Term ''Non-Mortgage Assets'' [No. 2002-19] (RIN: 3069-AB10) received June 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7799. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Correction of Typographical Errors and Removal of Obsolete Language in Regulations on Reportable Quantities [FRL-7241-8] received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7800. A letter from the Secretary, Department of State, transmitting a report on verification of the Treaty between the United States of America and the Russian Federation on Strategic Offensive Reductions, pursuant to 22 U.S.C. 2577; to the Committee on International Relations.

7801. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-384, ''Capitol Hill North Expansion and Expansion of Business Improvement Districts Amendment Act of 2002'' received July 10, 2002, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

7802. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-385, ''Washington Convention Center Authority Oversight and Management Continuity Amendment Act of 2002'' received July 10, 2002, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

7803. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-387, ''Excepted and Executive Service Domicile Requirement Amendment Act of 2002'' received July 10, 2002, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

7804. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-388, ''College Savings Program Temporary Act of 2002'' received July 10, 2002, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

7805. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-389, ''Mental Health Commitment Clarification Temporary Act of 2002'' received July 10, 2002, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

7806. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-398, ''RLA Revitalization Corporation Amendment Act of 2002'' received July 10, 2002, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

7807. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-399, ''Human Rights Amendment Act of 2002'' received July 10, 2002, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

7808. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-403, ''Fiscal Year 2003 Budget Support Act of 2002'' received July 10, 2002, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

7809. A letter from the Director, Office of Government Ethics, transmitting the Office's final rule — Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture; Financial Disclosure Requirements for Interests in Revocable Inter Vivos Trusts (RIN: 3209-AA00) received June 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

7810. A letter from the Acting Chair, Federal Subsistence Board, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule — Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D — 2002-2003 Subsistence Taking of Fish and Wildlife Regulations (RIN: 1018-AI06) received June 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7811. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Inspection Under, and Enforcement of, Coast Guard Regulations for Fixed Facilities on the Outer Continental Shelf by the Minerals Management Service [USCG-2001-9045] (RIN: 2115-AG14) received June 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7812. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Act Provisions; Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures [Docket No. 011231309-2090-03; I.D. 121301A] (RIN: 0648-AO69) received June 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7813. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Mangement Area [Docket No. 011218304-1304-01; I.D. 050802A] received June 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7814. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area [Docket No. 011218304-1304-01; I.D. 051002A] received June 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7815. A letter from the General Counsel, National Tropical Botanical Garden, transmitting the annual audit report of the National Tropical Botanical Garden, Calendar Year 2001, pursuant to 36 U.S.C. 4610; to the Committee on the Judiciary.

7816. A letter from the Paralegal, FTA, Department of Transportation, transmitting the Department's final rule — Clean Fuels Formula Grant Program [Docket No. FTA-2001-9877] (RIN: 2132-AA64) received June 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7817. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Special Local Regulations for Marine Events; Nanticoke River, Sharptown, MD [CGD05-02-013] (RIN: 2115-AE46) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7818. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Regulated Navigation Area; Kill Van Kull Channel, Newark Bay Channel, South Elizabeth Channel, Elizabeth Channel, Port Newark Channel and New Jersey Pierhead Channel, New York and New Jersey [CGD01-02-069] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7819. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zones; Tampa Bay and Crystal River, FL [COTP TAMPA -02-053] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7820. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Oil Pollution Prevention and Response; Non-Transportation-Related Onshore and Offshore Facilities [FRL-7241-5] (RIN: 2050-AC62) received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7821. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Extension of Test of Arbitration Procedure for Appeals [Announcement 2002-60] received June 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7822. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Administrative, Procedural and Miscellaneous [Revenue Procedure 2002-44] received June 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7823. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Imposition of Tax [Revenue Ruling 2002-34] received June 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7824. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Qualified Pension, Profit-Sharing, and Stock Bonus Plans [Revenue Ruling 2002-42] received June 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7825. A letter from the Regulations Officer, Social Security Administration, transmitting the Administration's final rule — Collection of Supplemental Security Income Overpayments from Special Benefits for Certain World War II Veterans (RIN: 0960-AF53) received June 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7826. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the Administration's proposed legislation entitled, ''To authorize appropriations to the National Aeronautics and Space Administration for human space flight; science, aeronautics and technology; and Inspector General, and for other purposes''; jointly to the Committees on Science, Government Reform, the Judiciary, Ways and Means, and Small Business.

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. HANSEN: Committee on Resources. H.R. 4870. A bill to make certain adjustments to the boundaries of the Mount Naomi Wilderness Area, and for other purposes; with an amendment (Rept. 107–561). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 4807. A bill to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Susquehanna National Wildlife Refuge (Rept. 107–562). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

[Omitted from the Record of July 9, 2002]

Pursuant to clause 2 of rule XII the Committee on the Judiciary discharged from further consideration. H.R. 4635 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BUYER:

H.R. 5084. A bill to amend title 38, United States Code, to improve accountability of research corporations established at Department of Veterans Affairs medical centers; to the Committee on Veterans' Affairs.

By Mr. CAMP (for himself, Mr. TANNER, Mr. FOLEY, Mr. MATSUI, Mr. BRADY of Texas, Mr. POMEROY, Mr. RAMSTAD, Mr. HAYWORTH, Mr. CRANE, Mr. ENGLISH, Mr. ROGERS of Michigan, Mr. HOEKSTRA, Mr. SCHAFFER, Mr. EHRLICH, Mr. GRAHAM, Ms. RIVERS, Mr. FORD, Mr. THOMPSON of California, Mr. BERRY, Mr. SANDLIN, Mr. MICA, Mrs. MORELLA, Mr. MCGOVERN, Mr. HASTINGS of Florida, Mr. MATHESON, Mr. SIMMONS, Mr. SHIMKUS, Mr. HAYES, Mr. COOKSEY, Mr. UPTON, Mr. GANSKE, Mr. TOM DAVIS of Virginia, Mr. HALL of Texas, Mr. TIBERI, Mr. THUNE, Mr. PICKERING, Mr. LAHOOD, and Mr. GOODE):

H.R. 5085. A bill to amend the Internal Revenue Code of 1986 to increase the above-the-line deduction for teacher classroom supplies and to expand such deduction to include qualified professional development expenses; to the Committee on Ways and Means.

By Mr. HAYWORTH (for himself, Mr. UDALL of Colorado, Mr. MCINNIS, Mr. STUMP, Mr. SCHAFFER, Mr. KOLBE, Mr. TANCREDO, and Mrs. WILSON of New Mexico):

H.R. 5086. A bill to establish Institutes to conduct research on the prevention of, and restoration from, wildfires in forest and woodland ecosystems of the interior West; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LARSEN of Washington:

H.R. 5087. A bill to require the Secretary of Veterans Affairs to conduct a two-year pilot project on medical care outreach for veterans in the State of Washington; to the Committee on Veterans' Affairs.

By Mr. MATSUI (for himself, Mr. GEPHARDT, Ms. PELOSI, Mr. RANGEL, Mr. NEAL of Massachusetts, and Mr. DOGGETT):

H.R. 5088. A bill to amend the Internal Revenue Code of 1986 to encourage more responsible corporate governance; to the Committee on Ways and Means.

By Mr. RANGEL (for himself, Mr. GEPHARDT, Ms. PELOSI, Mr. CARDIN, Mr. MCNULTY, Mrs. THURMAN, Mr. STARK, Mr. MCDERMOTT, Mr. MATSUI, Mr. LEWIS of Georgia, Mr. BECERRA, Ms. SLAUGHTER, Mr. TOWNS, Mr. ENGEL, Mr. SERRANO, Mrs. MALONEY of New York, Mr. HINCHEY, Ms. VELAZQUEZ, Mr. ISRAEL, Mr. NADLER, Mr. OWENS, Mr. ACKERMAN, Mrs. LOWEY, Mr. CROWLEY, and Mr. GEORGE MILLER of California):

H.R. 5089. A bill to extend and expand the Temporary Extended Unemployment Compensation Act of 2002; to the Committee on Ways and Means.

By Mr. TIAHRT:

H.R. 5090. A bill to establish a commission to conduct a comprehensive review of Federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. QUINN:

H. Res. 477. A resolution designating majority membership on certain standing committees of the House; considered and agreed to.

By Mr. BERRY (for himself, Mrs. EMERSON, Mr. BROWN of Ohio, Mr. POMEROY, Mr. BOSWELL, and Mr. ALLEN):

H. Res. 478. A resolution expressing the sense of the House of Representatives with respect to implementing the Medicine Equity and Drug Safety Act of 2000; to the Committee on Energy and Commerce.

By Ms. CARSON of Indiana (for herself and Mr. LAFALCE):

H. Res. 479. A resolution providing for consideration of the bill (H.R. 3818) to protect investors by enhancing regulation of public auditors, improving corporate governance, overhauling coporate disclosure made pursuant to the securities laws, and for other purposes; to the Committee on Rules.

By Mr. PHELPS:

H. Res. 480. A resolution providing for consideration of the bill (H.R. 4098) to provide for ciminal prosecution of persons who alter or destroy evidence in certain Federal investigations or defraud investors of publicily traded securities, to disallow debts incurred in violation of securities fraud laws from being discharged in bankruptcy, to protect whistleblowers against retaliation by their employers, and for other purposes; to the Committee on Rules.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

303. The SPEAKER presented a memorial of the Senate of the State of New Jersey, relative to Senate Resolution No. 25 memorializing the United States Congress to increase the minimum monthly allotment for one-person and two-person households under the federal Food Stamp Program from $10 to $25 and require that the minimum be adjusted annually in accordance with changes in the federal cost-of-living; to the Committee on Agriculture.

304. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint Memorial No. 13 memorializing the United States Congress to support and vote for the implementation of a national missile defense system; to the Committee on Armed Services.

305. Also, a memorial of the Legislature of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 229 memorializing the President and the United States Congress to reexamine the level of funding for veterans medical services in order to provide timely, high-quality service to veterans of the United States military services; to the Committee on Energy and Commerce.

306. Also, a memorial of the Legislature of the State of Michigan, relative to Senate Concurrent Resolution No. 6 memorializing the President and the Congress of the United States to support the addition of Estonia, Latvia, and Lithuania into the North Atlantic Treaty Organization; to the Committee on International Relations.

307. Also, a memorial of the Senate of the State of New Jersey, relative to Senate Resolution No. 48 memorializing the United States Congress and the President of the United States to enact legislation honoring all the senior citizens of the United States by designating May 15th as National Senior Citizen's Day; to the Committee on Government Reform.

308. Also,a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 211 memorializing the United States Congress to enact the Federal Prison Industries Competition in Contracting Act; to the Committee on the Judiciary.

309. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 452 memorializing the Congress of the United States to urge the United States Coast Guard to continue to operate a cutter ship out of Charlevoix when the United States Coast Guard Cutter, Acacia is decommissioned in 2005; to the Committee on Transportation and Infrastructure.

310. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint Memorial No. 11 memorializing the United States Congress to support, work to pass and vote for the permanent repeal of the death tax; to the Committee on Ways and Means.

311. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint Memorial No. 12 memorializing the United States Congress to support President George W. Bush's economic security package and specifically to urge Senate Majority Leader Senator Tom Daschle to allow the economic security package to receive a vote; jointly to the Committees on Ways and Means, Education and the Workforce, and Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 26: Mr. ABERCROMBIE, Mr. BISHOP, Mr. BOUCHER, Mr. CAPUANO, Mr. CARDIN, Mr. CONDIT, Mr. CONYERS, Mr. CROWLEY, Mr. DOYLE, Mr. FARR of California, Mr. FATTAH, Mr. FILNER, Mr. GONZALEZ, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. HOEFFEL, Mr. HOYER, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KLECZKA, Mr. LAMPSON, Mr. LARSON of Connecticut, Ms. LEE, Mr. LEWIS of Georgia, Ms. LOFGREN, Ms. MCCARTHY of Missouri, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCNULTY, Mr. MORAN of Virginia, Mr. MURTHA, Mr. MALONEY of Connecticut, Mr. MEEKS of New York, Mr. GEORGE MILLER of California, Mr. NADLER, Mr. PASTOR, Mr. PETERSON of Minnesota, Mr. RAHALL, Ms. ROYBAL-ALLARD, Mr. RUSH, Mr. SABO, Ms. SANCHEZ, Mr. SANDLIN, Mr. SCOTT, Mr. SPRATT, Mr. STUPAK, Mr. TOWNS, Ms. WATERS, Mr. WEINER, and Mr. WYNN.

H.R. 218: Mr. ADERHOLT.

H.R. 267: Mrs. JOHNSON of Connecticut and Mr. ETHERIDGE.

H.R. 822: Mr. HOEFFEL.

H.R. 831: Mr. THUNE and Mr. CALVERT.

H.R. 854: Mr. ENGEL and Mr. LAHOOD.

H.R. 969: Mr. SHADEGG and Mr. BARR of Georgia.

H.R. 1331: Mrs. NORTHUP and Mr. WILSON of South Carolina.

H.R. 1425: Mr. CLAY.

H.R. 1496: Mr. MCGOVERN.

H.R. 1626: Mr. PASCRELL.

H.R. 1774: Mr. SWEENEY and Mr. SMITH of New Jersey.

H.R. 1784: Mr. DAVIS of Illinois.

H.R. 2198: Mr. FATTAH.

H.R. 2373: Mr. STENHOLM, Mr. BARR of Georgia, and Mr. TERRY.

H.R. 2414: Mr. KIND.

H.R. 2484: Mr. SMITH of New Jersey.

H.R. 2702: Mr. DOOLEY of California.

H.R. 2789: Mr. BRADY of Pennsylvania, Mr. CROWLEY, Mr. UNDERWOOD, and Mrs. CHRISTENSEN.

H.R. 2931: Mr. BARCIA.

H.R. 3132: Mr. SHAYS, Mr. GILCHREST, Mr. GREEN of Texas, and Mr. AKIN.

H.R. 3321: Mrs. CUBIN.

H.R. 3333: Mr. HILLEARY and Mr. MANZULLO.

H.R. 3358: Mr. DUNCAN.

H.R. 3413: Mr. FROST and Mr. WAXMAN.

H.R. 3424: Mr. CHAMBLISS.

H.R. 3464: Mr. UDALL of Colorado and Mr. LUTHER.

H.R. 3580: Mr. FORD.

H.R. 3592: Mr. PRICE of North Carolina, Mr. MCINTYRE, Mr. DIAZ-BALART and Mr. WEXLER.

H.R. 3612: Mr. ENGEL, Mr. PALLONE, and Mr. PAYNE.

H.R. 3673: Mr. KINGSTON.

H.R. 3794: Mr. BARCIA and Mrs. THURMAN.

H.R. 3831: Mr. LARSEN of Washington and Mr. ISRAEL.

H.R. 3838: Mr. STUPAK.

H.R. 3897: Mr. BERRY, Mr. RAHALL, and Mr. BRADY of Pennsylvania.

H.R. 3912: Mr. GUTIERREZ.

H.R. 3974: Mr. HALL of Ohio.

H.R. 4029: Mr. RODRIGUEZ.

H.R. 4086: Mr. WAXMAN, Mr. MCDERMOTT, and Mr. PRICE of North Carolina.

H.R. 4098: Mr. SKELTON.

H.R. 4123: Ms. KAPTUR.

H.R. 4524: Mr. SAWYER and Mr. WAXMAN.

H.R. 4561: Mr. FARR of California, Ms. MCKINNEY, and Ms. JACKSON-LEE of Texas.

H.R. 4600: Mr. HULSHOF, Mr. BILIRAKIS, Mr. PETERSON of Pennsylvania, Mr. TAYLOR of Mississippi, Mr. TAUZIN, Mr. KENNEDY of Minnesota, Mr. SAXTON, Mr. FATTAH, and Mr. NORWOOD.

H.R. 4604: Ms. MILLENDER-MCDONALD.

H.R. 4611: Mrs. DAVIS of California.

H.R. 4643: Mr. FARR of California.

H.R. 4653: Mr. KINGSTON and Mr. KUCINICH.

H.R. 4654: Mr. SMITH of New Jersey.

H.R. 4665: Mr. SMITH of New Jersey.

H.R. 4676: Mr. PASTOR, Mr. GORDON, Mr. ROSS, Mr. UNDERWOOD, Mr. BACA, Mr. UDALL of New Mexico, Mr. PAYNE, and Mr. GEKAS.

H.R. 4691: Mr. SCHAFFER, Mr. KNOLLENBERG, Mr. PUTNAM, Mr. GRUCCI, Mr. MANZULLO, and Mr. PHELPS.

H.R. 4699: Mr. SHAYS.

H.R. 4738: Mr. ENGEL.

H.R. 4743: Mr. HASTINGS of Florida.

H.R. 4780: Ms. KILPATRICK, Mr. HASTINGS of Florida, Ms. BERKLEY, Mr. BONIOR, Ms. BROWN of Florida, Mr. PAYNE, Ms. MCKINNEY, and Mr. LEVIN.

H.R. 4798: Mr. PASCRELL.

H.R. 4822: Mr. GALLEGLY.

H.R. 4831: Mr. DEFAZIO and Mr. THOMPSON of California.

H.R. 4852: Ms. ROS-LEHTINEN.

H.R. 4857: Mrs. CAPPS, Mr. SCHIFF, Mrs. NAPOLITANO, and Ms. LEE.

H.R. 4884: Mr. CHAMBLISS.

H.R. 4939: Mr. KIRK.

H.R. 4958: Mr. HERGER.

H.R. 4963: Mr. PASCRELL, Mr. LOBIONDO, and Mr. STARK.

H.R. 4964: Mrs. MINK of Hawaii.

H.R. 4965: Mr. BROWN of South Carolina, Mr. CANNON, Mrs. EMERSON, Mr. ROGERS of Kentucky, and Mr. SCHAFFER.

H.R. 4967: Mr. STUPAK.

H.R. 4993: Ms. PELOSI, Ms. LEE, Mr. OWENS, Mr. NADLER, and Mr. FATTAH.

H.R. 5002: Mr. HOUGHTON.

H.R. 5033: Mr. PORTMAN, Mr. CANNON, Mr. SUNUNU, and Mr. GANSKE.

H.R. 5037: Mr. KUCINICH and Mr. MCGOVERN.

H.R. 5042: Mr. UDALL of Colorado, Mr. MCINNIS, and Mr. SCHAFFER.

H.R. 5044: Mr. BENTSEN.

H.R. 5047: Mr. FROST and Mrs. THURMAN.

H.R. 5050: Mr. HOEFFEL, Mr. FOLEY, and Mr. HOEKSTRA.

H.R. 5076: Mr. MCGOVERN.

H.R. 5078: Mrs. NAPOLITANO, Mr. HOEFFEL, and Mr. FOLEY.

H. Con. Res. 68: Ms. VELAZQUEZ.

H. Con. Res. 315: Mr. DEAL of Georgia.

H. Con. Res. 333: Mr. STUPAK.

H. Con. Res. 382: Mr. WAXMAN.

H. Con. Res. 385: Mr. TIERNEY and Mr. BARRETT.

H. Con. Res. 407: Mr. KNOLLENBERG.

H. Con. Res. 418: Mr. FATTAH, Mr. BALDACCI, and Mr. HOEFFEL.

H. Res. 346: Mr. HYDE.

H. Res. 410: Mr. CAPUANO, Mr. ENGEL, Mr. ABERCROMBIE, and Ms. KAPTUR.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4600: Mr. SIMMONS.

H.R. 4865: Mr. QUINN.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2486

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 1: Page 2, line 24, strike ''and''.

Page 3, line 5, strike the period and insert ''; and''.

Page 3, after line 5, insert the following new paragraph:

(5) assess the long-term trends in frequency and severity of inland flooding, through research on how shifts in climate, development, and erosion patterns might make certain regions vulnerable to more continual or escalating flood damage in the future.

Page 3, lines 9 and 10, strike ''$1,150,000 for each of the fiscal years 2003 through 2007'' and insert ''$1,250,000 for each of the fiscal years 2003 through 2005, of which $100,000 for each fiscal year shall be available for competitive merit-reviewed grants to institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) to investigate and predict the long-term trends in inland flooding frequency and severity, and $1,150,000 for each of the fiscal years 2006 and 2007''.

Page 4, line 4, insert ''The National Oceanic and Atmospheric Administration shall also, not later than January 1, 2006, transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the long-term trends expected in inland flooding, the results of which shall be used in outreach activities conducted under section 2(4), especially to alert the public and builders to flood hazards.'' after ''emergency management professionals.''.

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PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, SECOND SESSION

Vol. 148 WASHINGTON, WEDNESDAY, JULY 10, 2002 No. 92

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, You have called us to perform our duties with delight for Your glory and the good of our Nation. Tomorrow we celebrate the birthday of a great American, John Quincy Adams. His memorable words ring in our hearts; when asked why he never seemed discouraged or depressed he said, ''Duty is ours; results are God's.'' We adopt this as our motto for today's relationships and responsibilities. We report for duty with our intellects, emotions, and wills. Today You will tap each of us on the shoulder and call us to some duty. We commit ourselves to do Your will as best we know it and leave the results to You. We say with Adams, ''Providence has showered blessings unforseen and unsought. Not to us, Lord, not to us, but to Your name be glory.''

Thank You, eternal God, for the assurance of heaven. We ask for Your courage and comfort for Senator GEORGE VOINOVICH whose brother Paul joined the triumphant company of heaven on Monday. Strengthen the Senator and his family in this time of grief with renewed grace. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HILLARY RODHAM CLINTON led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD.)

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 10, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. CLINTON 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, the Senator from Nevada.

THOUGHTS AND PRAYERS FOR THE SENATE CHAPLAIN

Mr. REID. Mr. President, our good Chaplain, Dr. Ogilvie, each day comes before the Senate and the Nation and prays for our comfort and progress, as he does for other nations.

I think it is important for all of us to realize he is going through a very traumatic time himself. He has, for many months, been doing everything he can to help his very ill wife. She got out of intensive care, and she is back in intensive care now. Each of us in our individual thoughts and prayers should keep that in mind.

SCHEDULE

Mr. REID. Today the Senate will be in a period of morning business which the Chair will announce, with the first half under the control of the majority leader—Senator KENNEDY is here to take that time today—and the second half will be under the control of the Republican leader or his designee. Then at 10:30 the Senate will resume consideration of the accounting reform bill. We have been advised by the majority leader he expects to finish this bill this week.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for up to 10 minutes each. Under the previous order, the first half of the time shall be under the control of the majority leader or his designee.

The Senator from Massachusetts.

TED WILLIAMS

Mr. KENNEDY. Madam President, Senator John Kerry and I will bring before the Senate a resolution in honor of Ted Williams, one of the great sports heroes, military heroes, and a great patron for the Dana-Farber Center that looks after children who are afflicted with cancer.

EDUCATION

Mr. KENNEDY. Madam President, I would like to address the Senate on an issue of continuing importance and consequence to families all over this country, and that is what is happening in the schools of our country and what

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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we can look forward to as we are approaching the return to school in late August and September.

This has not been a good summer for many families who have children struggling in the high schools of this country. Not long ago, we made a bipartisan commitment to the children of this country. We committed that no child would be left behind. I think we have a continuing responsibility to families in this country to give them an idea about the progress we are making in meeting that commitment.

When we all supported the No Child Left Behind Act, it was a commitment that no child would be left behind. However, we are finding out that because of state budget shortfalls and declining local revenues, school districts around the country have cancelled or severely cut summer school. Hundreds of thousands of students will not graduate, will not be promoted, or worse—will be socially promoted, unprepared academically, because of the cancellation of summer school. For example, the New York Times reported on July 4 that because of budget cuts, this year the number of students attending summer school for enrichment rather than promotion will be reduced to 60,000 from 140,000 last year. Summer school provides students with a second chance to improve their reading and math. A math teacher stated, ''What is good about the summer school is that there are fewer kids.'' A reduced budget means fewer teachers and bigger classes in summer school. That has been true, Madam President, in schools across the country. And I'll include in the RECORD the various summer school reductions and cuts which have occurred since the end of the school year.

On June 2, 2002, the Orlando Sentinel reported that due to state budget cuts, schools in Volusia, Orange and Seminole counties in Florida have slashed summer offerings to the bare bones. Other schools statewide, such as those in the Tampa Bay region, have cancelled traditional summer-school programs. Schools in Volusia County tapped federal funds to tutor struggling elementary-school students over the summer. This year, the district dramatically scaled back high school offerings due to nearly $1 million in state cuts over the past two years. Orange County reduced its summer-school budget by $8 million, scaling back high-school offerings and eliminating classes for struggling middle-schoolers. Seminole County cut summer school funding by about $600,000 this year and will hold SAT prep course classes at only four high schools, instead of at all high schools.

On May 31, 2002, the Associated Press reported that state budget cuts in Indiana are forcing school systems to pay more for summer school programs or eliminate some programs. Last year, the state reimbursed school systems for about eighty percent of the costs of all summer classes. This year, they will pay no more than sixty-nine percent or less. School districts will now have to pick up more costs, and some teachers who planned on a summer job will have to look elsewhere because their classes have been canceled. Superintendents across the state were notified of the reductions in a May 15 letter from the Indiana Department of Education. The plan cut the summer school appropriation by $3.2 million, from $21.6 million to $18.4 million. Administrators in the Greater Clark schools in southern Indiana notified parents about ten days ago that no enrichment classes would be offered to elementary school students. The district director of instructional services stated, ''I know the teachers, the parents and the students were disappointed . . . but we just could not afford to offer classes without state support.''

According to the May 29, 2002 edition of The Herald in Rock Creek, South Carolina, due to state budget cuts freezing thousands of dollars, the Rock Hill school district will have to limit enrollment in summer classes. On June 3rd, only 630 students began the summer sessions—220 less than last year's 850 students. The number of instructors and the sites for the classes will be downsized because of fewer students. Cuts totaling $2.4 million will also come from teacher training stipends, school and department allocations and library book spending.

On May 29, 2002, the Associated Press reported that Enid, Oklahoma school officials canceled a federal summer school program because of reductions in state funding to the district. The district will have problems paying the costs of the program due to a cut of $672,000 from the state for the 2001–02 school year. Enid's free, month-long summer program was scheduled to start June 3rd. 400 students would have received assistance, up from 366 last year. Fifty-five employees were to have worked in the program.

We have also found out that in the fall schools and universities will face great challenges—and I will include in the RECORD a series of articles from the last few weeks. Overall, states are being forced to eliminate programs and positions in public schools in order to deal with growing budget cuts. As school budgets are being cut back, there is an increase in the number of students in the classes, there's a reduction in the number of teachers, and a reduction in the number of professional development programs. All of the indicators are going the wrong way.

On June 27, 2002 The Contra Costa Times reported that the West Contra Costa school district will cut department budgets by ten percent and will eliminate twenty-seven jobs and two after-school programs. The budget also includes $4.2 million in cutbacks, with savings found in the elimination of school clerks, administrators, library assistants and professional development workers.

On June 25, 2002, The Kansas City Star reported that Johnson County, Kansas plans to vote on a quarter-cent sales tax meant to generate revenue for schools and cities. Across Kansas, school districts are facing tight budgets because of the state's $700 million budget shortfall. If approved, the tax would provide $45.3 million in three years for the county's six school districts. Educators are worried because the passage of the sales tax is the difference between adequate and excellent schools. The proposed $20 per student increased state aid to schools is not even guaranteed, nor would it even total costs.

On June 19, 2002, The St. Petersburg Times reported that Pinellas County School Board (Florida) members are committed to raising teacher salaries over the next three to five years up to the national average. Currently, teachers in Pinellas are earning on average $39,000 a year compared to the national average of $45,800. Low salaries only feed the dwindling morale of teachers disheartened by recent budget cuts and increased responsibilities. Unfortunately, no one knows how salary increases will be funded, and the only option appears to be a tax hike for voters who may be unwilling to pay.

On May 29, 2002, The Salt Lake Tribune reported that the Jordan School District in Utah could be forced to layoff 250 teachers if lawmakers force public schools to absorb half of the state's tax revenue shortfall. The school board has already raised the district's average class size to balance next year's budget following the Legislature's March decision to cut statewide public education funding by $20 million. That cut reduced sixty teaching positions in Jordan. Jordan and the state's other thirty-nine districts have already sliced their budget proposals for the 2003 fiscal year, which starts July 1. But, districts fear they will face additional reductions after lawmakers meet in July to adjust the state's budget to accommodate another shortfall, projected at $173 million. If public education were cut in proportion to its share of the state budget, it would be reduced by $83 million, and Jordan's share of that would be $13 million, which would cause at least an additional two-student increase in class size. Granite will drop 157 teaching positions. Davis is considering cutting twenty-one teachers.

When we passed the No Child Left Behind Act, we said we were going to ensure accountability, we were going to make sure we had well-qualified teachers, afterschool programs, and supplementary services. And all the indicators are now going in the wrong direction.

State universities are also experiencing huge budget cuts, as decreasing financial aid and increased tuition make college less affordable. According to recent reports in Illinois, college tuition is increasing while the state's college financial aid program is facing severe cutbacks. Under the state budget that took effect on July 1, 2002, funding for the state's need-based Monetary

Award Program will be cut by $38 million. Just several days earlier, on June 27, 2002, the University of Illinois Board of Trustees decided to increase tuition by ten percent to fill a $90 million budget hole.

State officials estimate that as many as 12,000 students across the state will not be eligible for the Monetary Award Program this year, and thousands more will learn that the grant aid they will receive under the program this year will be less than the grants that they received in previous years.

Of the 12,000 fewer students receiving the grants, about 7,000 are fifth-year students. Those students would lose their grants altogether, under a plan proposed by state lawmakers and Governor George Ryan to save the state $20 million.

An estimated 5,000 students at Illinois State University and another 550 students at Illinois Wesleyan University could be forced to take out more loans, work extra jobs, or forego attending school. Cutbacks will hurt students like Kimberly Williams, 21, a Columbia College business management student. She said the assistance commission is still trying to determine if she is eligible for an award, even though she has received them in the past. If her award is less, ''I'll either drop classes or I'll take out more loans.'' She is already $10,000 in debt.

In Indiana, The Indianapolis Star reported on July 4, 2002, that at state-supported universities this upcoming year the average tuition bill will jump 14.2%. Last year the tuition increased by an average of 7.1%—still more than twice the rate of overall inflation. Tuition hikes were forced to make up for tighter state spending on higher education.

In Florida, The Bradenton Herald reported on July 4, 2002, that Florida State University trustees raised tuition for the fall semester to reflect: five percent for in-state undergraduate students and twenty percent for out-of-state students. The University of Florida and Florida A&M University have approved similar increases. The tuition increase is expected to bring in $10.5 million in additional revenue for FSU.

What we are also seeing is an excellent report that was released last week by the Advisory Committee on Student Financial Aid. Its findings follow—they are enormously alarming.

More children are and will be attending college. Enrollment in higher education institutions was over fifteen million last year, and is expected to increase to nearly 17.5 million by 2010. The number of high school students qualified to attend college is also expected to grow by twenty percent over the next decade, and most of that increase will be among low-income and minority students.

The demand for college-educated workers has grown, and today's high-skilled job environment demands a college degree. In 1950, eighty percent of jobs were classified as ''unskilled''; today eighty-five percent of all jobs are classified as ''skilled.''

Financial barriers to attending college are on the rise for low- and moderate- income students. Too many students are being forced to borrow too much—and work too much—to finance the rising costs of college. Debt levels are sky-rocketing for low-income college students and their families, causing financial hardships in repaying student loans. At the same time, state budget crunches continue to drive up college tuition at public universities, forcing shut the doors of college opportunity for too many.

Due to the cost of college, this year more than 400,000 students from families who make less than $50,000 a year will graduate from high school, qualified and prepared to attend 4-year colleges, but will not be able to fulfill that dream.

Half of low- and moderate-income students who do attend college will have to live at home while attending school to lower the cost of college. Sixty-five percent of students will have to work part-time—an average of twenty-four hours a week—while attending college to cover costs. Excessive student work takes a heavy toll on academic performance, often delaying graduation by two years or more.

The college attendance gap between affluent and poor students is widening. In 1979, the most affluent students in the nation were four times more likely to have a bachelor's degree than poor students. Today, the most affluent students are ten times more likely to have a degree.

We must not sell students short. We must do all we can to increase aid to college students to ensure that more students can afford to go to college.

I believe, as others do, that education is a national security issue. In many respects, it is as basic and as fundamental as the defense of this country. If we are not going to have well-qualified recruits, if we are not going to have men and women in the service who are going to be able to take advantage of the new technologies in terms of defending our country, we will not be able to preserve the values and the systems that we hold so dear. Education is a national security issue. That is why it is obviously key to our position in terms of global competition.

From the Advisory Committee Report, we can see that looking at the students coming out of our high schools, we find in so many instances that many of these students are coming from very moderate, limited economic means. We find their opportunities to continue on to higher education and to get the skills they need are being vastly diminished.

What do we see in the future? We see that those families—particularly low income families—have not benefitted much from the economic expansion of the 1990s. They are barely holding on. Those in the lower income are actually falling further behind because we have had no increase in the minimum wage for the last six years. They have been falling further and further behind. Now, what is happening to these families?

What has happened to the kids who are going on? We are finding increases in tuition for colleges and universities all across this country, ranging from nine percent, ten percent, twelve percent, fifteen percent. And looking into the future years, they will continue to go up.

We find that student aid has remained absolutely the same. The children are working more jobs. They are working minimum wage jobs. And they are working longer hours with less time for their schoolwork. They are now forced to borrow more and more resources in order to be able to continue.

One of the interesting ironies is that as they earn more money, it counts against their ability to get loans and grants in the future. It is an extraordinary circumstance. Children take one job, two jobs, and they get additional earnings which they will have to reflect on their financial statements in their ability to get additional income, which may very well reflect a lowering in terms of their scholarship assistance. It is a no-win situation. That is happening.

We find that hundreds of thousands and millions of American children are being left behind. That is what this Advisory Committee report has stated. We have a basic and fundamental responsibility. If we are concerned about our national security, if we are concerned about our economy, if we are concerned about our democracy, then we have to ensure that children are going to be able to continue to develop their skills and academic backgrounds.

They make a series of recommendations in terms of the enhanced Pell programs. Those programs have been evaluated, attested to, tried, and demonstrated as being effective. We shouldn't have to fight that fight every year in the Senate.

There is not an American, I believe, who doesn't understand that the GI bill paid back anywhere from six percent to eight percent more in dollars to the Federal Treasury for every dollar invested in America. That is true in terms of education investment today.

That is something we hear in this institution, and in terms of the administration refusing support. The fact that the administration has requested virtually zero in terms of Pell grant increases last year is a failure and an abdication of leadership in terms of meeting the responsibility for educating the children in this country.

The ACTING PRESIDENT pro tempore. The Senator has consumed 10 minutes.

Mr. KENNEDY. Thank you, Madam President.

I see my friend and colleague on the floor. He has a resolution, on which I

am honored to join with him. I look forward to taking a moment of the Senate's time to address this issue, which both of us take a great sense of pride in doing.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KERRY. Madam President, I thank my colleague.

TRIBUTE TO TED WILLIAMS

Mr. KERRY. Senator KENNEDY and I are delighted to join in a resolution paying tribute to a unique American who passed away last Friday at the age of 83—a fighter to the end, and really a rather remarkable and fascinating individual—Ted Williams.

Over the span of 21 amazing years with the Boston Red Sox, Ted Williams redefined baseball's greatness. Everyone knows about his .406 batting average in 1941. Not everyone knows that he had an option to settle that year for a less than .400, or that he would have been rounded up to a .400 batting average. It was about .399.

In the last day of season, with the doubleheader, a day that he was offered the opportunity to sit it out so he wouldn't lose his .400 if he had a bad day, there was no way he would do that. It was not his style. He stepped up to bat, and hit 6 for 8 and took his average up to the .406, which now stands as a memorable and unequaled batting average since that period of time. He had 521 career home runs; a .344 lifetime batting average; 2 of the 4 Red Sox Triple Crown Awards, twice the American League's Most Valuable Player; 6-time American League Batting Champion, 18 American League All-Star appearances; and a member of the Baseball Hall of Fame.

He was quite literally the father of the Red Sox nation, and, for millions of us, he came to live out what was his greatest wish—that if people ever saw him walk down the street they would say, There goes the greatest hitter who ever lived. Indeed, that is what people would have said.

Beyond the statistics and awards, which speak volumes about what he accomplished in a Red Sox uniform, so many of us in this country have an even deeper respect for the individuality he expressed in almost everything he did: His uniqueness as a fisherman; his uniqueness in his contributions to the Jimmy Fund to raise funds for fighting cancer to help others; but especially what he did in the 5 years he spent wearing the uniform of his country, reminding each of us of what it means to be a citizen soldier, to leave a citizen's life to go out and fight for your country and then come back to resume what you did before.

No one knows, but lots of people have speculated about what kind of career numbers this man might have posted, what records he would have broken, if it had not been for those 5 years during the prime of his baseball career while he served as a pilot and a member of the greatest generation.

All of us would wonder. He walked away from the major leagues to serve his country as a fighter pilot. He flew as a wingman beside our colleague, Senator John Glenn, during Korea, performing a memorable emergency landing in a damaged plane that was on fire. And when he was later asked why he didn't just bail out, he told people he was fearing the fact that he might injure his knees—as you punch the button to bail out and you pull out of the cockpit. If you were tall, your knees often would be broken hitting the edge of the cockpit itself. He would sooner have died than not have been able to play baseball because of that potential injury. It was a conscious choice. Another time, he escaped to safety after being hit with anti-aircraft fire.

Ted Williams was a courageous person, bigger than life, tough as nails, and he had that rare ability to sum up perfectly in his character so many things that speak about a generation, about our country, and about a game that is known as our national pastime.

We all hope we will find citizens such as him and ballplayers such as him again. We join in mourning his loss and reflect on all that he gave to his country.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. REID. Will the Senator from Massachusetts yield for a unanimous consent request? I would consider it an honor if the two Senators would allow me to be a cosponsor of this resolution dealing with one of my heroes, Ted Williams.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Madam President, we thank our leaders and we thank our colleagues for giving Senator KERRY and me a moment to bring to the attention of the Senate and to the American people once again the extraordinary sense of loss that the Williams family feels, the incredible sense of loss that people in Boston feel, the incredible loss that those who love baseball feel and those who served in the Marine Corps feel at the loss of Ted Williams.

His stories on the baseball field have been well documented, although they bear repeating. For example, his extraordinary lifetime average of over .406: When we think today of all the various baseball records that are being broken, every single one is being broken almost annually in so many different areas, but no one has even coming close to his. We know he was on a level of excellence in terms of that sport that I don't think will be replicated again.

His service in the military was, as my colleague pointed out, exemplary service to our country. Then the service as well to the Jimmy Fund, the Dana-Farber program—the Jimmy Fund that was just getting started. People didn't give a great deal of attention to the fact of children's cancer, but now you can't travel anyplace in this country, or probably in the world, and not find people who haven't heard of the Jimmy Fund or the Dana-Farber Center as an extraordinary place of excellence that has given great focus and attention and, most importantly, hope and life to hundreds of thousands of children, including one of my own who had serious cancer, osteocarcinoma, and was able to benefit from the extraordinary research and the gift of life that that center provides. The time Ted Williams would spend down in that center without any kind of fanfare, greeting and welcoming children, giving them a new sense of hope, was a real reflection of his humanity.

This is an extraordinary American, someone of whom baseball is proud, Boston is proud, all of Massachusetts is proud. We salute his family, we salute him, and we thank our Ted Williams for all the good things he has done for baseball and for our country.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I ask unanimous consent that an equal time for my speech be given to the Republican side because they were to control half the time in this morning business hour.

Mr. REID. Mr. President, will the Senator from West Virginia yield?

Mr. BYRD. Yes.

Mr. REID. I have been told by the Republican staff that Senator DOMENICI and Senator BROWNBACK wish to speak. How long does Senator DOMENICI wish to speak?

Mr. DOMENICI. Mr. President, I thought I was speaking earlier. I would like 10 to 15 minutes.

Mr. REID. Senator BROWNBACK wants 15 minutes.

Mr. DOMENICI. Did we not have a certain amount that some of our Senators—

Mr. REID. The Republican time was to start around 10 o'clock.

Mr. DOMENICI. That is correct.

Mr. REID. Senator WELLSTONE is here also.

Following Senator BYRD, Senator DOMENICI will be recognized for 15 minutes, Senator BROWNBACK will be recognized for 15 minutes, and then we will be on the bill. Senator WELLSTONE, being the timely person he is, came to speak at 10:30. He will not be able to do that now unless Senator BROWNBACK is late; we will be on the bill at that time.

I ask unanimous consent—the two managers are not here, but I do not think I am doing anything untoward—that he speak on the bill—he is not offering an amendment—that he be recognized as soon as the bill is called up.

The PRESIDING OFFICER (Mr. EDWARDS). Without objection, it is so ordered.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I, too, am proud of Ted Williams. I hope the two Senators will allow me to cosponsor the resolution.

As one who grew up in the Great Depression, I liked baseball. It was 1927.

May I say to my two Senators from Massachusetts, it was 1927 when Babe Ruth, the Sultan of Swat, beat his own home run record when he swatted 60 home runs. I can remember those days when I watched for the baseball scores. I watched for Babe Ruth. I watched for Lou Gehrig. I watched for the Murderous Four on the New York Yankees team. That was the year in which Jack Dempsey fought Gene Tunney to regain the title.

May I say to my dear friend, TED KENNEDY, Jack Dempsey was a hero of the coal miners. He mined coal in Logan County, WV. So my foster father told me we would go down to the community grill, which was a place where one could buy Coca-Colas or a soda. I mean they were good Coca-Colas in those days, and you got them for 5 cents, a bottle of Coke for 5 cents. So he said we would go down to the community grill and listen to that fight.

Well, we went on that night. And there were fully 30 or 40 coal miners around that radio. I went home a disappointed lad because Jack Dempsey was my hero at that point as far as sports figures were concerned, as well as Babe Ruth. And I went home a disappointed lad because Jack Dempsey did not win the fight.

I did not hear the fight. There was only one set of earphones, and Julius Sleboda, who was the manager of the grill—that was 75 years ago, he was the manager of the grill—he listened to the fight, but he didn't tell the rest of us anything about what was going on.

So, lo and behold, Mr. C.R. Stahl, a Scotsman who was the general manager of the coal mining operation, came into that room and took the earphones from Julius, put them on, and gave to those of us who were standing around with open eyes, open ears, and open mouths, a blow-by-blow account of the greatest prize fight, as far as I am concerned, that ever occurred in the United States—Jack Dempsey. And he lost the fight. That was 1927.

May I say to the distinguished Senator from Illinois, something happened in 1927. I can see the bulletins that were tacked up on the wall of the company store, the coal company store: ''Lindbergh Crosses the Atlantic.'' He flew across the Atlantic in the Spirit of St. Louis. He started out, I believe it was May 9, 1927. The New York Times had a headline which said that he flew over Nova Scotia at the tremendous speed of 100 miles per hour in the Spirit of St. Louis. That was Lindbergh. He had a plane that had a load of 5,500 pounds. He had five sandwiches. He ate one-half of a sandwich on the way. Part of the time, he flew 10 feet above the water; part of the time, 10,000 feet above the water. He flew across the Atlantic in a single-engine plane, the Spirit of St. Louis. That was 1927.

That was the year Ford brought out the Model A Ford. It was also the year in which Sacco and Vanzetti were executed—1927, a great year.

Let me switch now to 2002. Congress had been requested to appropriate more than $10 billion in fiscal year 2003 funds for a reserve fund from which the Department of Defense will draw to pay for its operations in the war against terrorism. Now, watch out. This war against terrorism is a terrible war, but watch out. Many things are being done under the rubric of the war on terrorism. We had better watch out. Let me tell you about this one. The President requested this huge amount of money, free of any restrictions.

Now, Senators, we have to watch this stampede to legislate a new Department—and I am for a new Department—but in this so-called reorganization plan that the President sent up to the Senate and the House, watch out, this is a reorganization plan. Let's be careful we don't reorganize the checks and balances in our constitutional system. I have seen a fair number of requests for blank checks in my time, but this one takes the cake.

The President's request for a large reserve fund for the military is not unprecedented. Just within the last decade, Congress established reserve funds for military operations in Kosovo, Bosnia, and the Persian Gulf region. From 1996 to 2001, Congress appropriated funds to the overseas contingency operations transfer fund to pay for our peacekeeping missions in the Balkans and the enforcement of no-fly zones over Iraq. The result was an accounting nightmare.

As the General Accounting Office reported on May 22, 2002, the reserve fund for operations in the Balkans and the Persian Gulf was used for ''questionable expenditures.'' That is an understatement. The GAO report details how this reserve fund was used in 2000 and 2001 to buy cappuccino machines—there are three Appropriations Committee members on the floor right now on this side of the aisle, and another one is coming in on the other side of the aisle. The GAO report details how this reserve fund was used in 2000 and 2001 to buy cappuccino machines, golf club memberships, decorator furniture, and even a bingo console. President Bush says he needs the reserve fund to move money around quickly with a minimum of congressional intrusion. But would some congressional oversight have stopped the purchase of a bingo console with defense funds? How about that?

That is your money, I say to the taxpayers who are watching this Senate floor right through those cameras there. That is your money.

How did these funds, intended for important military missions, become diverted to Government waste? As the GAO report says:

> There is limited oversight—

We don't give enough time to oversight, and we have an administration that doesn't want us to give much time to oversight. That is my view of it.

There is limited oversight and a corresponding lack of visibility over how contingency operations funds are used that has also contributed to questionable uses of contingency funds.

That is not Robert Byrd talking, that is the GAO report, the General Accounting Office, an arm of the Congress. It is no wonder Congress refused to put any more money into this reserve fund in the Fiscal Year 2002 Appropriations Act.

We should also put this in the proper context of how the Department of Defense manages and accounts for the money that is appropriated to it. It is a miserable record. Twelve years after the enactment of the Chief Financial Officers Act of 1990, the Pentagon is unable to produce annual audited financial statements. It is a financial scandal that goes beyond the accounting chicanery perpetrated by the fallen giants of corporate America. In January 2001, the General Accounting Office reported that the Pentagon was unable to reconcile a $7 billion difference—not $7 million, but $7 billion—the Pentagon was unable to reconcile a $7 billion difference between its available fund balances and the balances kept by the Department of the Treasury; that the Department made $2.3 trillion—this is still the General Accounting Office report talking—that the Department made $2.3 trillion in unsupported accounting entries in fiscal year 1999, and that the Pentagon was not able to keep track of all of their weapons systems and support equipment. Now, get that. Simply put, if the Pentagon were a corporation, its stock would be crashing and the Dow Jones would be in really serious trouble.

We should all know by now that the Pentagon's accounting mess requires closer oversight. It is a massive operation, and the Secretary of Defense has indicated it is a massive operation. Not all of this happened on his watch. He wants to try to get control over it, but how can he? It is so massive: Establishing a $10 billion reserve fund for the war on terrorism, with no restrictions, no limitations, no controls on how the money can be spent. We are talking about $10 billion; that is $10 for every minute since Jesus Christ was born. It would be throwing gasoline on a fire that is already raging out of control. With the Government ledgers filling up with red ink, we need not only fiscal responsibility, but also accounting responsibility.

My concern with the reserve fund proposed by the President is not limited to its gross invitation for waste, fraud, and abuse, to use a hackneyed term.

As a Member of the Senate and chairman of the Appropriations Committee, I want to know how this money will be used because $10 billion is a lot of money, looking at it from the standpoint of my background and my State. It is a lot of money. Will it be used for rooting out the terrorists who remain in Afghanistan? Will it be used for the creation of an Afghan national army? Will it be used to increase our military presence in the Philippines, Georgia, or Yemen? What about an invasion of Iraq? Is that what it is going to be used for? We don't know.

On July 3, 2002, President Bush sent a letter to congressional leaders to provide further details on how the $10 billion fund might be used. This supposed explanation left me scratching my head. I bet it left the Senator from New Mexico scratching his head. Nobody in this Senate understands this budget and the appropriations process any better than he does, if as well as he does. But it left me scratching my head—even more than I had scratched it before. The letter from the President talks about $10 billion being requested for a reserve fund with no controls and no oversight. But get this:

This request will improve collection, analysis, coordination, and execution of intelligence priorities and plans, as we expand into new theaters—

Oh, oh—

of operation and build new relationships.

That is not my quote. That is the quote in the message from the President.

Let me say that again. Hear me, Senators. The letter from the President states:

This request—

For $10 billion of your money; your money; your money—

This request will improve collection analysis, coordination, and execution of intelligence priorities and plans as we expand into new theaters of operation and build new relationships.

Mr. President, there is no clarification on what is meant by ''expanding into new theaters of operation.'' Our imaginations are left to run wild. Are we talking about Iraq? If so, Mr. President, let's hear it. Tell us. The American people are entitled to know where their money is going to be spent, where their boys and girls, the young men and women of this country, are going to be sent. Tell us.

Our imaginations are left to run wild. An accompanying letter from the Director of the Office of Management and Budget, Mitch Daniels, proposes to elaborate, he is going to explain, explain a bit more, on how the $10 billion is going to be used. He is a favorite of us Members on the Appropriations Committee in both Houses. Mitch Daniels, the OMB Director, is a great favorite of ours.

According to Mr. Daniels' letter, the reserve fund would contain—listen to this—the reserve fund would contain ''up to $2.550 billion for military personnel accounts; up to $5.570 billion for operation and maintenance accounts, as well as military construction on working capital funds; and up to $1.880 billion for procurement or research, development, test, and evaluation account.''

While this may be seen by some as making some progress in specifying how the requested funds might be used, the devil is still in the details, and we do not have them.

Under the President's proposal, the allocations could be changed by the Secretary of Defense, after consultation with the Director of the OMB. Now get that, get that, pay close attention: Under the President's proposal, the allocations could be changed by the Secretary of Defense, after consultation—get that—after consultation with the Director of OMB and 15 days after providing notification—not a request—but notification to the congressional defense committees. Ha, ha, ha. What are we going to do next?

It is not hard to see how that $10 billion reserve fund could start out for a legitimate purpose, such as paying the Guardsmen who have been mobilized for homeland security missions, but then be reallocated to fund any program that could be twisted around and redefined to encompass a defense against terrorism.

I suppose that additional missile defense spending could fall within that rubric, as would military action against Iraq. Watch out; be careful while you are back home in August. Be careful.

I could not imagine that a $10 billion reserve fund would be considered for any other agency in our Government but the Department of Defense. I doubt that any of us would seriously consider a $10 billion reserve fund that could be spent on health care, prescription drugs, or highway construction. The fiscal conservatives in Congress would hit the roof. ''Where is the accountability?'' they would say. If any Member of this body proposed on an appropriations bill a $10 billion reserve funds for education, with no limits on how those funds would be used, I have no doubt that the President would assail that Member for fiscal irresponsibility and ready his veto pen.

It is true that we are engaged in a war on terrorism, and that war is expensive. At the height of our military operations in Afghanistan, we were spending more than $1 billion a month. But there is already a well-established means of providing that money without resorting to blank checks and reserve funds. Congress passes supplemental appropriations bills to provide additional funds to address contingencies that were not anticipated in the regular appropriations process.

The Senate passed a supplemental appropriations bill on June 7 of this year that fully funds the President's request for additional funds for the military to pay for the war on terrorism. At his news conference earlier this week, President Bush criticized the Congress for delays in final action on the supplemental bill, but he failed to mention that his administration is greatly responsible for at least partially delaying the legislation.

The administration slowed the supplemental bill down months ago by repeatedly refusing to allow Homeland Security Director Tom Ridge to testify about the funding request. Most recently, the administration, claiming that the supplemental bill invests too much in homeland security, has threatened to veto the legislation, despite its overwhelming 71 to 22 vote in the Senate. What our country needs is responsible leadership, and Presidential threats about a veto of homeland security funding is nothing short of irresponsible.

This supplemental appropriations bill does not include a reserve fund that will subvert government accountability for how taxpayer money is spent. But the administration continues to seek such a fund for the fiscal year 2003 Defense appropriations bill. I deeply regret this indication that the administration continues to view Congress as an impediment to the national interest, rather than a coequal branch of our Government with its own, nondelegable authorities and responsibilities under the Constitution.

The Founding Fathers granted Congress the power of the purse and the responsibility to provide for our national defense.

Accountability for how the funds are spent must be demanded by Congress as the directly elected representatives of the people. We were not sent here by an electoral college. We are directly accountable to our constituents. If this $10 billion defense reserve fund is misused, who will have to answer to the letters and the phone calls from John Q. Public? It will not be the Secretary of Defense. It will not be the Director of the Office of Management and Budget. It will be us, the Members of Congress. We have a responsibility to see that funds we appropriate are well spent. We cannot allow ourselves to shirk that responsibility. It is the people's tax dollars.

If the people are being told these dollars are to go to fight global terrorism, this Congress must never allow these funds to buy cappuccino machines instead.

I again thank all the Senators, and I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

THE SENATE NEEDS A BUDGET

Mr. DOMENICI. Mr. President, I might say to the distinguished Senator from West Virginia, since I like cappuccinos, it would be better than some other things we might buy.

In any event, the Senator from Kansas is going to speak shortly, and I will try not to go too long. The Senator from West Virginia, Mr. BYRD, I have been listening, and not to your entire speech, but I say the Senator from New Mexico agrees with some of what you said. But I would not expect you to lay the blame in Congress where the blame lies in Congress. I believe much of the delay on everything is attributable to the fact that the majority party has not yet as of this day produced a budget. So if we want to talk about delays, as chairman of the Budget Committee, my good friend, you do not know what number to mark to. Nobody has yet told you how many dollars you have to spend. If the budget does anything, it starts with that.

It also ropes in, in some good and major way, the entitlements that are supposed to come up the remainder of this year and next year. We do not have that around either. That is one of the reasons we keep getting 60 votes for every proposal that might be something that we ought to be considering for the American people.

It is given an added burden because we do not have a budget. So I have said this, not as many times as some have urged me to say it, but I have said we need a budget. I do not know if we need it now—it is almost August—but I do believe we have to remind ourselves that whether we like the budget process or not, whether it will be in existence next year, we will know in advance. But as part of the process we go through, clearly it is not good for the American people that it not be done. It causes an awful lot of problems. It can cause us to spend an awful lot of money. It might indeed cause us to be behind schedule on things and we ought not be, especially in an election year when we have to tear ourselves away from an election, a number of the Senators do, plus the rest of the elections in our country.

Mr. BYRD. Will the Senator yield?

Mr. DOMENICI. I am pleased to yield.

Mr. BYRD. Inasmuch as he addressed some of his remarks to me, I share the Senator's concern that there is no budget. I was also concerned the previous year when there was no markup in the Budget Committee of the budget bill. I was a member of that committee.

Mr. DOMENICI. Yes, indeed.

Mr. BYRD. There was no markup. So each side, of course, can find some fault with the other. The point is, we are at the present moment, and Congress is being blamed by the administration for not passing a supplemental bill quickly. I have pointed out that the administration could be more helpful in this regard. Senator STEVENS and I, and other Members of the Appropriations Committee, have been working with a Republican House and we stand ready and have stood ready all along to meet to try and work out these differences.

The administration could be more helpful to us if it would urge the Republican House to move faster. We ought to get that supplemental back—that conference back to both Houses this week. We ought not to be any longer than that.

I am glad to say the distinguished chairman of the House side of the Appropriations Committee is calling me, I believe today, and he is working with Senator STEVENS and Mr. OBEY.

Mr. DOMENICI. Is that the House or the budget chairman?

Mr. BYRD. I beg your pardon?

Mr. DOMENICI. Is that the House or the Budget Committee chairman?

Mr. BYRD. I am glad the Senator pointed to my inadvertence. It is the House Appropriations Committee chairman, Mr. YOUNG. He is working with Mr. STEVENS, Mr. OBEY, and myself. So we hope to get a supplemental conference report this week.

I thank the distinguished Senator for his courtesy in yielding.

Mr. DOMENICI. I did not intend to get into a debate about the 27 years of budgets that I have been part of in the Senate. I merely call to the attention that right now, this year—we did get a budget last year. We did not get it out of committee, but the statute did not require that.

I do not want to debate that issue. I merely mentioned that my good friend was producing a litany of things that were causing the delay, and I thought it was a little bit lopsided toward blaming the administration for the delays. A lot of them are our fault, starting with the fact that we do not have a budget.

Yes, the President has a different approach to what he wants to use the money for than we do, but we better get on with it. It is not too much different than most Presidents in sending us their budgets, and the sooner we get on with facing up to our responsibility the better we are.

We have been sitting around waiting for somebody else—and it was not the President—for a long time in the Senate, as time ran buy and the appropriations were needed. We are going to get them done just like we do every other year. I used to think because it got late and because I was worried we were not in session, that we would not get it done. We will get it some way or another. We always have. We have been late. We have had partial passages of supplementals and then we have had other ways of putting two or three bills together, all of which should not happen. But if you need to do them, you need to do them. That will be the case this year, too, I hope. I hope it will be done expeditiously.

Now, I want to move to the subject I came to the floor about.

Mr. BYRD. Will the Senator yield?

Mr. DOMENICI. I am glad to yield.

Mr. BYRD. I ask that the time for this colloquy not be taken out of the time allotted to the Senator from New Mexico.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. This colloquy will not come off of my time.

Mr. BYRD. I hope the Senator will have all the time he wants.

It is too bad we get into these little kinds of colloquies, but I believe the candidate who said he was going to change the tone in Washington would go a long way towards helping to change that tone if he would stop beating Congress over the head in his public speeches. Just the other day, he complained about the Congress not passing his supplemental bill and the chairman of that committee. I am not at fault for not getting it passed. The Republicans on that committee are not at fault. We voted it out of the committee solidly, 29 to 0. So we work in a bipartisan fashion in that committee.

Senator STEVENS and I are working in a bipartisan fashion, and the administration does not help things when it lambastes the Congress publicly and talks about the supplemental bill, the delays in getting that bill down to the President.

We put every dollar in that bill that the President asked for for defense, and part of that delay is caused by the administration itself. I cannot help but respond to that kind of partisanship when it is sent out over the public airwaves by the one man in this country who commands the attention of the press. Nobody else can compete with a President when it comes to that, but we all are going to have to answer to voters. I will stand at the judgment bar as well, but we on the Appropriations Committee are doing everything we can to move the bill.

We are scheduled to take up the remaining appropriations bills before this month is out. Senator STEVENS is working with me in that regard, and so is Senator DOMENICI and the others. Let us call it 50/50, a draw, like the All-Americans did last night?

Mr. DOMENICI. Well, you just added another one. You went to the 60. So I have to go to the 60.

Mr. BYRD. The Senator says ''you.'' Under the Senate rules, we are not supposed to address another Senator in the second person.

Mr. DOMENICI. Mr. President, I am not here as much as the Senator and I slip every now and then.

Mr. BYRD. We all slip.

Mr. DOMENICI. It is pretty hard to get that out of your head, but I think I have the floor now. Is that correct?

Mr. BYRD. The Senator does.

Mr. REID. Will the Senator yield for a unanimous consent request?

Mr. DOMENICI. Yes.

Mr. REID. If the Senator will yield, Senator MCCONNELL, if he were here, wished to speak on his amendment, which is the pending matter on the bill that will be before the Senate in a few minutes. I ask unanimous consent that following the statement of the Senator from Minnesota, which is for debate only on the bill, the Senator from Kentucky, Mr. MCCONNELL, be recognized for debate only on his amendment for up to 30 minutes.

Mr. BROWNBACK. Reserving the right to object, if I could inquire, I believe in the former unanimous consent I was to be recognized after Senator DOMENICI. If that is not impacted by the unanimous consent request, I will have no objection.

The PRESIDING OFFICER. That is correct. It would not be affected by the unanimous consent request.

Mr. BROWNBACK. I remove my objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, am I limited by a certain amount of time?

The PRESIDING OFFICER. The Senator has 8½ minutes remaining.

FOREST FIRES

Mr. DOMENICI. Mr. President, for a couple of weeks, every time Americans look at their TV screen, they see a huge fire, a piece of America burning. Forests in our Southwest and West are on fire. We have seen huge fires in the State of Arizona, small but significant fires in New Mexico, and very large fires in the State of Colorado.

I do not want to discuss the why of the fires today, but I am very hopeful that another year will not pass in the Congress, at least the Senate, without a thorough analysis and research by a committee of Congress on why our forests are burning. Some say it is natural. Others say it is a terrible management mistake. They claim that we have gone along without pruning, thinning, or taking care of forests and are inviting either manmade fires, lightning, or some kind of natural fire starter.

We have a very serious problem with reference to our national forests and these fires. So far this year, over 3 million acres have burned, and the fire season is not yet over. This is 1 million acres more than the devastating 2000 fire season and twice the 10-year average. So far, twice the 10-year fire average has already occurred in our forests! This fire season has had a detrimental impact on communities throughout the West and Southwest, disrupting thousands of people's lives, hurting the economies in ways we cannot measure, and destroying homes and property. We must act in each instance to put out the fires, to contain them, and, yes, after that, provide whatever help we can to those suffering.

While the fires burn, there are people who need help. There are people in both the BLM and the Agriculture Department who are busy, day by day, using millions and millions of dollars, which we have provided.

I suggest today that the Department of the Interior and the Department of Agriculture indicate they will have to move resources from all kinds of activities that are supposed to occur during the rest of this year over into fire accounts because nobody expected such a huge, onerous, and costly fire season. The Department of the Interior and Department of Agriculture are about $850 million short for 2002.

Those managing the bills, and the White House, should know it is a very difficult situation to let a supplemental catch up with the problem. That is what happened here. We have a supplemental appropriations bill waiting around. Now we have a new problem that did not exist when the supplemental started—reimbursement to the Departments of our Government that have used their money to pay for the forest fires that are burning down America.

We ought to either find a place for that amendment on the supplemental or in some way accommodate it. We always say if it is an American problem, we will pay for it. If it is an earthquake, we pay for it. If it is a tornado, we pay for it. That is the collective insurance of America that we will pay for those emergencies, either on the supplemental or on the Interior appropriations bill, neither of which at this moment has money for these forest fires—neither bill, neither the supplemental nor the full yearly appropriation bill.

The whole of next year is ready to be appropriated without the fire money in it. So we need to provide the money the way I see it. It has been waiting long enough. I know the President does not want the supplemental over a certain amount. I will accommodate to arrange the additional funding, however he and others in the appropriations process and the Congress desire.

I repeat, the money that has been used to fight the forest fires has come out of various and sundry accounts, including the accounts for rehabilitation and restoration of burned lands. For those in the West who are suffering from these fires, we will get a bill ready.

I close by saying there is also a growing problem in Texas and other States regarding excessive water. The floods have caught up with this supplemental. I have been discussing the issue with the Senator from Texas, KAY BAILEY HUTCHISON. I have also talked to Senator GRAMM. We will be asking that they present their water issues, and maybe we can provide funding on one emergency supplemental bill to the extent it is necessary to accommodate the emergencies of our people.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Kansas is recognized.

Mr. MCCAIN. Mr. President, will the Senator yield for a unanimous consent to be placed in the queue to speak?

Mr. BROWNBACK. I yield.

Mr. MCCAIN. I ask unanimous consent that at the appropriate time, which I believe is following Senator MCCONNELL, I be allowed 15 minutes to speak in support of the Leahy amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas.

COMMISSION ON THE ACCOUNTABILITY AND REVIEW OF FEDERAL AGENCIES ACT

Mr. BROWNBACK. Mr. President, I rise to spend a few minutes talking about a growing fiscal and budgetary problem we have in the Senate, something I am not joyous about bringing up, but we have a problem. We are quickly sliding into it, if not falling into it, and we need to get it addressed. We need to address it before we get completely caught up in the fiscal and budgetary track.

Time is growing short. This body has yet to pass a budget resolution. We have not passed a single 1 of the 13 annual appropriations bills yet. Here we are in the middle of July; no budget resolution, not 1 of the 13 annual appropriations bills. We are quietly moving into position for a fiscal train wreck. Many Members of the body expressed grave concern and doubt in 1998 when we did an omnibus appropriations bill. The course currently being charted by the Senate leadership will make that train wreck look like a fender bender.

We need to first consider the budget resolution created by the Budget Act of 1974. The budget resolution, which the Senate is legally required to pass by April 15—nearly 3 months ago—established caps on total annual discretionary spending. To waive the limits requires a 60-vote point of order. Without the mechanism in place, amendments to increase spending can be passed in the appropriations bills, regardless of their impact on Social Security, by a simple majority. So we are subjecting the Social Security surplus to simple majority movement by this body.

It is astounding, but despite the legal requirements for passage of the budget resolution by April 15, the leadership of the Senate has failed to even bring up the measure for consideration. And in the 27 years since the Budget Act of 1974, the Senate has had a budget.

To further put our current situation in perspective, consider the fact that just a year ago this body was composed of the exact 100 people here today, and we passed a budget resolution offered by Senator DOMENICI with the support of 65 Members.

Regardless of how the votes stack up, at the least, the Senate should pass a budget resolution so we have the fiscal caps in place that would take 60 votes—not just a majority, but 60 votes—to be able to raid the Social Security surplus. That is just prudence on our part that we ought to put the budget mechanisms in place.

I think we are sliding quickly into a situation where we are going to be spending ourselves into a bigger hole and not have any of these restraints or the mechanisms in place to help hold us back.

On the appropriations bills I mentioned at first, when the Senate should have passed 4 or 5 of these at least by this point in time, of the 13, we have passed none. These bills can take weeks to debate and pass. Then there are conference committees to work out the differences between the House and the Senate bills.

When considering these factors, coupled with the finite time remaining on the legislative calendar, it seems evident that a super-omnibus bill, larger than the 1998 omnibus, may very well be necessary to break the inevitable logjam.

Most of us in this Chamber have been privileged enough to serve during the recent period of historic, large federal surpluses. While large surpluses can be

an indicator of a robust economy, they are not necessarily an indicator of good fiscal management. Large surpluses, as I think we have seen, can lead to complacency with, and in some instances even misuse of, taxpayer dollars. While we should always be dedicated to ensuring the maximum benefit of every tax dollar that comes to Washington, we are now faced with the real possibility of a $100 billion deficit in fiscal year 2002—a $100 billion deficit.

Between increased funding for both the War on Terrorism and other domestic programs, our federal surpluses have vanished, and we are reentering the realm of deficit spending. We need to exercise fiscal restraint in our spending, and yet we appear to be headed for another omnibus appropriations bill at the end of this congressional session. Surely, Members on both sides of the aisle can understand that if this is the case, it means that there will be even more pork-laden measures tucked inside of these bills. Whether you are conservative or liberal, surely, it is an unacceptable strain on hard working Americans and our economy to have that type of pork barrel spending. The bottom line is that an omnibus appropriations bill prevents the proper individual consideration of spending measures, and it is bad for America.

Now more than ever, we should take steps to assure taxpayers that their hard-earned tax dollars are being well spent. Two months ago, I introduced the bipartisan Commission on the Accountability and Review of Federal Agencies Act—or CARFA Act for short. As in any bureaucracy, inefficient or low priority use of taxpayer's dollars are often serious threats to the credibility of an agency or program. We must be certain that the money we spend is not just allocated that way because we have historically spent it this way. Priorities change and our spending must change with it.

The CARFA Act would create a commission that is modeled on the successful Base Realignment and Closure BRAC Commission. Whereas the BRAC Commission examined military bases and the Department of Defense, CARFA would review Federal domestic agencies, and programs within agencies using a narrow set of criteria, which should produce significant results. The three areas of review are duplicative programs, wasteful or inefficient spending, outdated, irrelevant or failed programs.

If this legislation is enacted, the Commission, upon completion of its two-year review, would submit to Congress both its recommendations for the realignment and elimination of domestic agencies and programs, and proposed legislation to implement these recommendations. The Congress would then consider the Commission's proposed legislation in an expedited manner, with input from the committees under who's jurisdiction the affected agencies or programs fall. Following the committee's comment period, the proposed legislation would be brought to the floor of each Chamber for debate and a vote. Like BRAC, the Commission's proposed legislation would be voted up-or-down without amendment.

The Commission on the Accountability and Review of Federal Agencies Act is about maximizing the benefit of Federal funds. Like BRAC, which directed that all funds saved be placed back into the DOD budget, any funds saved by implementation of CARFA's recommendations would be directed to support other more efficient domestic programs and agencies. In other words, any money saved would be put right back into other, higher priority domestic programs. That would be the best way we could spend the money.

The CARFA Act is about fiscal responsibility, and the Federal Government is accountable to the hard-working Americans who foot the bill. Personally, I think it would be wonderful if we were able to further increase the research budget for the National Institutes of Health, or IDEA—Individuals w/Disabilities Education Act—because funds saved through the work of the CARFA commission would be more money available there. Priority spending would be done. This Commission has the potential to help us truly root out inefficiency, in the Federal Government in such a way that we can more fully realize the benefit of all Federal funds.

The CARFA Act is a good measure, and its enactment would send a positive signal to the American people that the Senate is attempting to exercise sound fiscal policy. I urge my colleagues to support it.

I urge my colleagues to look at the fiscal situation we are setting up right now with the spending and the lack of a budget bill, the lack of passing any appropriations bill, the $100 billion fiscal deficit we are looking at for this fiscal year. We cannot afford this train wreck, and it is not wise at all for us to allow ourselves to slip into it. We really need to show the leadership to pass a budget resolution, to pass appropriations bills, to put caps in place, and to pass this CARFA bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. My colleague from Indiana wanted to speak for 5 minutes, so I ask unanimous consent he be allowed to speak for 5 minutes, after which I have the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I thank my colleague, the Senator from Minnesota, for his courtesy.

Mr. President, it is good to see you in the chair again. You have had the misfortune of being in the chair the last few times I took the floor, and I appreciate your forbearance as well.

ACCOUNTING REFORM ACT

Mr. BAYH. I come to the floor of this august body to call for the swift enactment of the accounting reform measure, including the Leahy amendment. I do so because I believe very strongly that it is in the best interests of America at this critical time in our history. I believe it goes way beyond mere accounting issues.

What we are debating today deals with the financial security of millions of individual investors across this country, the security of their pensions, their 401(k) programs, and their other investments for the future of their children and their grandchildren.

What we are talking about today involves the very vitality of our economy, for those who have invested and not invested alike, the amount of investment that will take place in the economy, the number of jobs that will be created, the vitality of farms. What we are debating today involves the standing of America in the international economy; whether we will continue to be a safe haven for investments from those abroad, attracting the capital that helps us build a strong foundation for America's economy.

More than anything else, what we are debating today is nothing less than the basic values upon which this country has been based; whether we will continue to encourage those virtues that have always characterized America, whether we will continue to be the land of opportunity based upon hard work, ability, thrift, honesty, and playing by the rules or, instead, whether we will be perceived as the land of opportunity based upon artifice, avarice, and financial deceit. I believe the choice is clear and that the right thing, based upon traditional values and virtues, is embodied in the Sarbanes bill, including the Leahy amendment.

I congratulate our colleague, Senator SARBANES. He has demonstrated leadership and foresight in this issue. I believe the record will show that Senator SARBANES was a leader in this issue a long time before it became popular. It is wonderful when events combine with leadership to give us an opportunity to truly make historic progress in this body. I think Senator SARBANES has seized the moment.

I congratulate Senator LEAHY for his protection of whistleblowers and strong penalties against document shredding and financial fraud. He has made this a better bill.

Mr. President, as you know, we serve on the Intelligence Committee together, and since the tragedies of 9/11, our country has been involved in twin struggles: One, the physical national security of this country; and, second, getting this economy moving again to ensure the economic security of Americans across this country. There are parallels between these two challenges. Both occurred as a result of unexpected tragedies but have presented us with opportunities to make this an even better, stronger, more secure Nation. Both involve breaking the political gridlock and the bureaucratic inertia that all too often make progress in this Capitol

difficult. And both involve striking the right balance between individual freedom and liberty on the one hand, that we cherish, and collective security, which makes individual liberty meaningful, on the other.

I believe this bill strikes the right balance. It insists upon credibility and transparency of information provided to the marketplace, the very foundation upon which capitalism is built, but it does so with flexibility to ensure that the regulatory hand is as light as possible, and that the information provided, that transparency and credibility provided to the marketplace, is done in a manner that is least burdensome to shareholders and investors as possible.

For example, the prohibitions against auditors providing consulting services: We have seen, as the chairman would note, in recent years a vast expansion of expenses and consulting services which create an appearance of a conflict of interest.

We need to deal with this transparency to reassure the marketplace, but we need to do so in a way that imposes less regulation, burden, and cost upon existing shareholders as is humanly possible. This bill takes that approach by creating a presumption that certain consulting services will not be allowed, but by also providing flexibility to the new independent oversight board to waive that presumption, or the company and its auditors can go to the oversight board and say in this instance, under these facts, the presumption should be waived because we can provide the transparent data to the marketplace in a less costly manner by allowing our auditors to provide these consulting services.

Basically, the bottom line is where it makes sense to provide the consulting services, or the presumption or the appearance of conflict is not a conflict in fact, it can be waived, and the consulting services can be provided. That is the right balance for transparency and credibility provided in the marketplace in the less costly manner to shareholders.

I congratulate the chairman for incorporating that into the bill.

I have heard some of our colleagues and commentators talk about overburdensome regulations. I don't have the reflexive reaction to regulate. I am well aware that one of the few laws that we count on in Washington is the law of unintended consequences. But the fact that an error may be made is no excuse for doing nothing.

The right answer is not no action to address the inadequacies that we have seen, just as it is not an overburdensome action. The right answer, my friends, is a well-considered, thoughtful, well-balanced action to protect the interests of American investors, and to ensure the integrity of our economy. That is the balance which is struck in the Sarbanes bill.

That is why I compliment the chairman for all the work he has done.

Let me conclude. My colleague from Minnesota has been so gracious for allowing me to continue.

I am pleased to see the chairman in the Chamber. I hope he will have a chance to read the complimentary remarks I made about his leadership and his farsightedness.

I said he is the leader on this issue, and I congratulate him for that.

Let me conclude where I began.

This issue goes a long way beyond mere accounting issues. It goes a long way beyond economic policy. It goes to the very heart of who we are, what we stand for as a people, and the kind of values we cherish in United States of America. This will protect individual investors. It will help to ensure the integrity of our economy. But more than anything else, it will ensure that those Americans who have embraced our tradition with virtues, who have worked hard and saved their money, who have played by the rules, and are honest are able to get ahead in this society.

It will send a loud and clear signal to those who practice financial deceit and financial chicanery that they do not have an avenue to success in this country. That does not embody the best values of America.

That is why I strongly support the Sarbanes bill and the Leahy amendment.

I urge my colleagues to enact this important legislation.

I thank the Chair. I yield the floor.

Mr. SARBANES. Mr. President, I say to my good friend, the distinguished Senator from Indiana, that he said I should read his gracious comments. I actually saw them on one of the monitors. That is one of the reasons I came to the floor. I wanted to express my personal appreciation to the Senator for his very kind remarks.

But even more, I wanted to underscore the constructive contributions which the Senator made to this legislation in the course of its consideration by the committee. I know how closely he followed what we were trying to do. He came forward with a number of ideas that were most helpful to us in shaping this legislation. I think the statement he just made reflects his own deep appreciation of the seriousness of the issue with which we are trying to deal, the import it has for the functioning of the American economy, and how he understands that they are very important issues.

If we don't move to restore confidence in the U.S. capital markets, there will be a negative impact on our economy. We are seeing some of that now. We have already seen this tremendous loss in the value of the retirement plans. People have just been wiped out. Tens of thousands of people are being laid off. The impact on the economy is beginning to spread. We need to move in order to counter that and start ascending in a different direction.

I particularly want to thank the Senator for his consistent help in the committee as we marked up this legislation.

Mr. BAYH. I thank the chairman.

Mr. SARBANES. I thank the Senator from Minnesota.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PUBLIC COMPANY ACCOUNTING REFORM AND INVESTOR PROTECTION ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2673, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (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, and for other purposes.

Pending:

Daschle (for Leahy) amendment No. 4174, to provide for criminal prosecution of persons who alter or destroy evidence in certain Federal investigations or defraud investors of publicly traded securities.

Gramm (for McConnell) amendment No. 4175 (to amendment No. 4174), to provide for certification of financial reports by labor organizations to improve quality and transparency in financial reporting and independent audits and accounting services for labor organizations.

Miller amendment 4176, to amend the Internal Revenue Code of 1986 to require the signing of corporate tax returns by the chief executive officer of the corporation.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I ask unanimous consent to be added as a cosponsor of the Leahy amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I wanted to come out here on the floor and thank Senator SARBANES for his leadership in putting together a piece of legislation that deals with structural reform of corporate governance and auditing independence.

I also think what the chairman didn't do is very important. Senator SARBANES didn't just call for a roundup of the usual suspects but for the prosecution of the worst offenders who deliberately have enriched themselves at the expense of the employees, investors, and creditors, and then try to claim that it is the end of the matter. This bill does hold bad actors accountable for their fraud and deception. And it is probably going to be stronger by the time it leaves the Senate Chamber.

The legislation goes much further, and it should because the problem goes

much deeper. We are faced with much more than just the wrongdoing of individual executives. We are faced with a crisis in confidence in America's capital markets and in American business.

These corporate insider scandals are threatening the economic security of families all across Minnesota, North Dakota, New Jersey, Maryland, and all across the country. It is heartbreaking. You have people who have taken their savings and put them into stock. This is what was going to be their resources to help send their kids to college or to meet other family needs. The value of that has eroded.

Other people have 401(k) plans and are counting on that for retirement security. The value of that has eroded.

But I think the other big issue is really important, which is above and beyond hundreds of billions of dollars wiped out. That is what has happened already. You do not have investor confidence. Without investor confidence, we will not have the economic recovery that we need. Jobs aren't being created. Frankly, this affects all of us.

It is this last problem on which I want to focus. I see my colleague from New Jersey who knows much more about finance than I do.

There is a business cycle. Some years are good and some years are bad. Sometimes companies do well and sometimes companies don't do well. Sometimes people invest more and sometimes they invest less. That is the risk they take.

If the only problem was that executives at Enron were corrupt and their business failed—all of which is true—or WorldCom officers were fudging the books and the company really wasn't all that profitable—which is true—and that a lot of businesses, such as Global Crossing—what they were doing, to be blunt, was just fake—which is true—even with all of that, I don't think we would be out here on the floor with this legislation.

In other words, if the story was only that a bunch of companies did badly, lost money, went bankrupt, and a whole lot of other people were hurt, frankly, I still don't think we would feel this sense of urgency. But that is not the end of the story.

The reason we need this legislation goes way beyond Enron and WorldCom. It is not just because of Global Crossing. It is not just because of MicroStrategy. We need this legislation, and it ought not be cluttered with extraneous amendments, or with delay, because the American investing public has lost its confidence in this corporate system.

I want to emphasize this point because I think some colleagues—some, not all of my colleagues—on the other side of the aisle don't seem to get it. I hate to say it, but I don't think the President or the administration gets what this is really about.

Again, the President yesterday basically focused on a handful of corporate executives who deliberately misled investors. He talked about a few bad apples. It goes much deeper than that.

Listen to the words of some other members of the administration, such as Donald Evans, Secretary of Commerce, who 2 days ago said:

> The system has not failed us, but a few have failed the system.

The President said the same thing yesterday.

Treasury Secretary O'Neil said last year that Enron's collapse was ''capitalism working.'' Now, if these individuals didn't have substantial responsibility for the economy, then their comments would be comical. I guess if we asked these guys about Watergate, they would say it was just a burglary. But we are dealing with more structural and deeper issues.

The crisis is a crisis in faith. Investors who thought that if a corporation was doing badly and making poor decisions it would show up on their financial reports now have found out that is not the case. By the way, we should not be shocked by this. In fact, this should be old news to us.

Almost 2 years ago, the then-Chairman of the SEC, Arthur Levitt, approached many of us—I remember the discussion with him in my office—and he said: ''Paul, we are on the brink of a crisis in accounting.''

What Levitt was saying is, I want to put into effect a rule which is basically going to say that the Andersens of this world cannot be pulling in all these luxurious contracts and money for their internal auditing and all the rest, because once they get all the money, they are going to be reluctant to bite the hand that feeds them. Secondly, they will be put in a position of auditing their own auditing. That is a conflict of interest, and the consequences of it could be tragic for a lot of innocent people.

Arthur Levitt was right. Of the decisions I have made in the Senate, one of the best decisions I ever made was 2 years ago in writing a strong letter of support for the then-Chair of the SEC for what he was trying to do. The auditors haven't done a good job because they have been too close to the firms that they were supposed to be auditing. That is what Arthur Levitt was talking about. He fought for greater auditor independence. His solution looked a lot like what is in this bill.

I am glad I supported his reform. That was a pretty lonely position back then for Chairman Levitt. I am glad the Sarbanes bill is going to get a lot more support. I believe it is going to pass overwhelmingly.

The Sarbanes bill does a number of different things. No. 1, at the core of this crisis is the need to have auditor independence. That is part of what the Sarbanes bill is all about. One hundred years ago, we had politicians and business leaders who were willing to take on entrenched corporate interests that were stifling competition—sound familiar—that were bilking customers and bilking consumers and that basically were enslaving their workers. We are dealing with similar kinds of issues now.

We are now in a new century. This is going to be a real interesting case study—I was a political science teacher—as to whether or not the Senate and the Congress and this administration will, in fact, be there for strong reform.

The other part of this legislation which is also important is to hold the corporate insiders accountable for their abusive actions. That is why I am so supportive of the Leahy amendment.

If you ask people in any coffee shop in Minnesota, should there be criminal penalties for altering the documents, such as a 10-year felony, they will say, absolutely. If you ask people in Minnesota, should there be whistleblower protection for employees of public companies who actually blow the whistle on these kinds of abuses of power and corruption, people in Minnesota say, absolutely. If you ask, should there be criminal penalties for securities fraud, create a new 10-year felony for defrauding shareholders of a publicly traded company, people in Minnesota will answer, absolutely.

The President spoke yesterday, and the problem is, he did not call for enough resources. He has a lot of tough rhetoric, but then when you look at what is behind the rhetoric you don't see the resources the SEC needs for the oversight. You don't see an oversight board that is set up, as the Sarbanes bill does, with authority and independence. Most importantly, from the President we don't get any proposals that insist on auditor independence.

If we have learned one thing, it is that Chairman Levitt was right. Two years ago, Arthur Levitt tried to warn all of us. All of these big companies, accounting companies and all these other people who are tied into this finance, some of the biggest investors, frankly, in politics in the country—I know of no other way to say it—all lobbied hard. Arthur Levitt was clobbered by a whole bunch of people, but he was right. Now we have a chance to do the right thing.

If you were to go back over the last decade, we have passed too much legislation that has taken away some of the individual investor rights, that has made it harder for us to have Government oversight, that refused to look at these blatant conflict of interest situations. As a result of that, we have these corporate insider scandals.

I will say one more time, it is heartbreaking, hundreds of billions of dollars have been lost. It is heartbreaking to see what this has done to people's savings who invested in stock. It is heartbreaking to see what it has done to 401(k) plans, heartbreaking to see the ways in which families are terrified in Minnesota and around the country. Most fundamental of all is, we don't have investor confidence any longer.

I say to my colleague from Maryland, the best thing he did, above and beyond

this bill, is he didn't just say, let's go after a few bad apples. He didn't just say that. That would be the end of it. He has dealt with the underlying structural issues so we can prevent this from happening again.

I am extremely proud to support this bill. I can think of some zinger amendments. When I think of these guys who got the golden parachutes, I am amazed. Look at WorldCom.

Mr. SARBANES. Will the Senator yield for a moment?

Mr. WELLSTONE. I will just finish one quick point.

With WorldCom, you are looking at a situation where at the very time—the same old story—they are getting employees to do away with defined benefit packages and then they put their employees in 401(k)s, cheerleading the 401(k)s, while they are doing that, they are dumping their stock. They got out with golden parachutes, all this money. It is outrageous what has happened at the individual abuse level.

It is much deeper than the wrongdoing of these individual corporate chieftains and governance. It gets to the structural issues. That is what is so important about this bill.

Mr. SARBANES. If the Senator will yield, I thank him for that observation because he is absolutely on point. The bad apples ought to be punished. There is no question about it. They ought to be punished severely. But it is very clear, as this issue has unfolded, that we need to make structural changes. We need to change the system so that the so-called gatekeepers are doing the job they are supposed to be doing. That has not been happening. That is why we need to remove these conflicts of interest on the part of auditors who are also consultants for the same company, collecting huge fees. And they are supposed to come in as outside auditors and be very tough on the company, which at the same time is giving them large fees for consultancy.

The Senator is absolutely on point. We have to put in place a framework, a system which tightens up and begins to screen out these things.

Furthermore, if you go after the bad apples, fine; but the damage has already been done, as the Senator just observed, for instance, WorldCom and the collapse of the whole pension program and pension provisions.

Punishing a bad apple may have something of a deterrent effect, but there is nothing like putting a system into place that gives a heightened assurance that you are going to be accountable. That is what investors are looking for.

Mr. WELLSTONE. One more minute. What I said earlier, the problem with rounding up the usual suspects is quite often you then say that is the end of the matter. That is why the President's proposals yesterday come in for strong constructive criticism.

The story in the Post today in the business section is another outrageous example of what happened. WorldCom swallows MCI and tells the MCI employees they don't have a defined benefit any longer and puts them on the 401(k), cheerleads them on to put the investment into the company, cooks the books, and doesn't give them any accurate information on what happened to them. Now what happens to all these MCI employees? They don't have any of the savings any longer.

So do you know what. We have to hold these people accountable, absolutely, but at the same time don't let anybody—people in Minnesota—get away with saying it is a few bad apples and that is all we are going to deal with. No. We are going to deal with the conflict of interest and we are going to have structural reforms. We are going to have oversight. We are going to protect consumers, the little people, and give the business community more confidence so they do the investing in the economy. That is what is at stake with this legislation.

I yield the floor.

Mr. SARBANES. Mr. President, I ask unanimous consent that following Senator MCCAIN, who will speak later, Senator CORZINE be recognized to speak for up to 15 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 4175

The PRESIDING OFFICER (Mr. REED). Under the previous order, the Senator from Kentucky is recognized for up to 30 minutes.

Mr. MCCONNELL. Mr. President, I wish to take the opportunity now to describe in detail the amendment currently pending before us, that which I was unable to do yesterday.

There are two fundamental points to the amendment. What it seeks to do is require independent audits of union funds which, of course, are raised from union members in the vast majority of our States. You don't have a choice; you must belong to a union, and those dues are taken. So we have mandatory auditing of those funds to ensure they are being accurately accounted for, civil penalties for violating those auditing requirements, and, third—this is all the amendment is about, these three points—the president and the secretary of the union must certify as to the accuracy of the audit.

We are talking about guaranteeing the integrity of the funds raised from union members. The reason we require corporations to file financial statements is so corporate shareholders know how their money is being spent. As a second layer of protection for shareholders, we also require those financial statements to be independently audited. Why? So investors know that information filed is actually correct, so they know it is not just the creative writing of a crooked bookkeeper or a corrupt executive.

We take this independent audit requirement, or this second layer, very seriously—so seriously, in fact, that we are creating a third layer in the Sarbanes bill, an entirely new audit oversight board to better police these required audits for the benefit of corporate shareholders.

This third layer is a good idea, especially given today's stories of corporate fraud, deception, and outright theft that we all cite as the real motivation behind the underlying bill. My colleagues have cited the well-publicized financial failures and the endless corporate scandals and the need to hold corporate crooks accountable. I could not agree more. But we also have union corruption, union greed, union scandals.

My amendment will give American workers the assurances that their labor unions' books have been independently audited—the same second layer of protection we have given to corporate shareholders since 1933.

Unions already have to file financial statements. They do so with the Department of Labor on a form called the LM–2. Why? For the same reason corporations do: So American workers, the card-carrying, dues-paying union workers can see where their money goes. But we don't currently require independent audits of union financial statements. Unlike the corporate shareholder, the rank-and-file American worker has no earthly idea if the financial information they rely on is correct—no idea at all. So why shouldn't the American steelworker or longshoreman be entitled to the same assurances as the corporate shareholder who has recklessly overinvested in a bundle of Internet stocks? Isn't the workers' money just as hard earned and deserving of protection—maybe even more so?

I cannot imagine that anyone in this body would argue that American workers do not suffer from the same type of greed and corruption that plagues our corporate and accounting culture, nor can I imagine that as a result of these scandals anybody in this body believes that American workers do not deserve the very same assurances that their unions' financial statements are correct.

But just in case, let me read for my colleagues a few recent accounts of union corruption. I am going to read quite a few, and I will do so for a specific reason—so nobody can stand up and say that greed and corruption only affects corporate shareholders, so no one can say the only stories here are Enron and WorldCom, and so no one can stand up and say we are wasting time by trying to protect the American workers from being cheated out of their money.

We have all heard of Arthur Andersen, but has anybody heard of Thomas Havey? That is the accounting firm where a partner confessed last month to helping a bookkeeper conceal her embezzlement of hundreds of thousands of dollars from a worker training fund of the International Association of Iron Workers.

Yesterday, a colleague of mine said that the problem at Global Crossing

had nothing to do with labor unions. Maybe he hasn't heard of ULLICO. That is the multibillion-dollar insurance company owned primarily by unions and their members' pension funds that invested $7.6 million in Global Crossing. Apparently, ULLICO directors received a sweetheart stock investment deal that allowed them to make millions on the sale of the stock. All the while, union pension funds, however, suffered the fate of Global Crossing.

There is plenty more, beginning with a couple of stories I briefly mentioned yesterday. An accountant with the National Association of Letter Carriers embezzled more than $3.2 million from union funds over an 8-year period to buy 8 cars, 2 boats, 3 jet skis, a riding mower, and 105 collectible dolls.

A former official of the Laborers' Union District Council in Oregon, Idaho, and Wyoming is in jail for accepting hundreds of thousands of dollars in kickbacks for directing money into a Ponzi-like investment scheme that defrauded Oregon labor unions of $355 million.

A former business manager and financial secretary of the International Association of Heat and Frost Insulators and Asbestos Workers Local 87 was indicted by the U.S. attorney for the Western District of Texas for embezzling tens of thousands of dollars in union funds.

Mr. President, a comptroller of the American Federation of State, County and Municipal Employees, Council 71 of New Jersey, was sentenced to 13 months in prison and fined for embezzling tens of thousands of dollars from the union.

A trustee of Glass, Molders, Pottery, Plastics & Allied Workers International Union Local 63B, headquartered in Minneapolis, was charged with forgery and embezzlement in connection with the theft of thousands of dollars from the union.

Fourteen officers and members of Local 91 of the Laborers International Union in Niagara Falls were arrested on charges of labor racketeering, extortion, assault, vandalism, and bombing a dissenting union member's home and stabbing a worker.

A former business manager of IBEW Local 16 in Evansville, IN, was indicted for diverting union dues checks to his personal bank account.

A Federal grand jury recently indicted an ex-business manager of the United Association of Plumbers and Pipefitters Local 15 in Minneapolis in connection with the theft of tens of thousands of dollars from the union.

A former officer of United Food and Commercial Workers Local 1288, in Fresno, CA, was sentenced to 18 months in prison for embezzling almost $300,000 from the union's credit union.

An ex-business manager and financial secretary of the United Union of Roofers, Waterproofers and Allied Workers Local 86, in Columbus, OH, was sentenced to 21 months in prison for embezzling $130,000 from the union to pay his gambling debts.

An ex-president of the American Postal Workers Union Local 1616, in Roanoke Rapids, NC, was indicted for embezzling thousands in union funds and making false entries in union records.

Laborers International Union of North America Local 2, in Chicago, which recently came out of Federal trusteeship imposed because of its close ties to organized crime, failed an oversight audit and is again having significant accounting and bookkeeping problems.

An ex-secretary-treasurer of the American Postal Workers Union Local 761 in Las Vegas and ex-treasurer of the Postal Workers Nevada State Association pled guilty to embezzling $200,000 in union funds.

Two former officers of Steelworkers Local 9339 in Virginia and a former administrator of the local union's disaster relief fund were indicted for conspiracy to embezzle union funds and make false recordkeeping entries.

A grand jury is investigating claims that a local United Auto Workers Union ended an 87-day strike against General Motors only after union officials received phony overtime payments and jobs for their relatives. Union members have also filed civil suits to recover over half a billion dollars—half a billion dollars—from alleged self-dealers.

My good friend, the senior Senator from Texas, always says you cannot argue about facts. Facts are a powerful thing. These are the cold hard facts of union corruption. Just like Enron, just like WorldCom, just like Global Crossing, these are the cold hard facts, and there are plenty more of these facts.

I have a stack of papers filled with what is called a union corruption update. If you look at this stack, this is just for the year 2002. This stack is just for the year 2002—this whole stack—and 2002 is only half over. It is compiled by the National Legal Policy Center. The Department of Labor's Office of Labor Management Standards reports 12 new indictments and 11 convictions of union fraud per month over the last 4 years.

Let's go over that one more time. DOL's Office of Labor Management Standards reports 12 new indictments and 11 convictions of union fraud per month over the last 4 years. This is a serious problem, and the Senate should not let whatever allegiance some Members may have to the leaders of organized labor affect their concern about the workers themselves, and that is what this amendment is about: Providing the same protection for union members that we insist on providing for investors in corporations.

We have a choice before us. Who should bear the cost of union corruption against the rank-and-file, dues-paying American workers? The unions, the perpetrators of much of this fraud, by bearing an incremental cost of an audit that will help prevent future workers from being cheated out of their money? Or the workers, whose money will continue to be embezzled, concealed? And if we do not provide them with minimal assurances of an independent audit, it will go on and on.

To me, this choice is identical—absolutely identical—to the choice in the Sarbanes bill. Who should bear the cost of the corporate and accounting corruption against shareholders, the corporations and accountants, obviously, through improved oversight, enforcement, and corporate responsibility or the investing public whose stock holdings will continue to be embezzled, concealed, if we do not provide them a new accounting oversight board?

Choosing the unions over the workers in this case is no different than siding with the accountants and corporate executives who quietly oppose the Sarbanes bill.

Mr. President, about the complaints I have heard of the burdens and costs associated with this bill. It would not surprise me if the leaders of organized labor have been on the phone calling particularly our Democratic colleagues over the last 24 hours concerned about the burdens and costs associated with this bill.

First of all, I find it absolutely astounding, given the pervasiveness of union corruption, that some of our colleagues are worried about the incremental cost of stopping that corruption, the cost of giving union workers the same quality assurance answers that we are prepared to give corporate shareholders in the underlying bill.

I do not hear any complaints about the cost of a new accounting oversight board or the cost of corporate responsibility or enhanced disclosure requirements in the Sarbanes bill. Why not? Because the accountants and executives are the ones responsible for the fraud and deception of investors. But for some reason, when it comes to unions, some of our colleagues speak less about the cost to the workers being ripped off and more about the burdens this amendment will place on unions whose officials are responsible for the greed and corruption documented in the binder I just held up a few minutes ago which represented only half of the year 2002.

We hear that unions are saddled with too many requirements on their financial statements. I am not concerned with the quantity of disclosure requirements. I am only concerned about the quality of that disclosure, specifically whether the information is accurate and certified as such for the benefit of the dues-paying American union workers.

We hear that we do not need audits. Some have said we do not need audits because the Department of Labor can conduct enforcement audits, if necessary. Well, let's play with that logic a little. If that is the case, we do not need public corporations to be audited either. Let's get the SEC to conduct

enforcement audits. Could you imagine the uproar if someone suggested that? And no one has.

Think about the message this would send to American workers that it is not worth requiring your union to assure you that your money is going where they say it is; just take a number and hope the Department conducts an audit of your union.

At any rate, the Department, as most Federal agencies, needs more money to conduct the few enforcement audits that they conduct. The Deputy Secretary of the Department of Labor testified recently that the number of departmental audits has fallen from 1,583 in 1984 to a mere 238 last year, and the President has requested an additional $3.4 million and 40 new staff positions to combat union fraud.

We hear that audits will be too expensive. Here is an easy tip for union officials to save money: Stop stealing it. That is a good way to save money. My amendment only requires audits to any union that already bears the cost of filing financial disclosure statements. In other words, this would apply only to unions that already have to file financial disclosure statements. That is unions with receipts topping $200,000 annually. It goes to my original point. If you have to file an annual report, it ought to be verified as accurate.

We hear that smaller unions will be hit hardest by having to conduct an audit. Well, there is no national one-rate plan for audits of which I am aware. As any professional service, the rates are proportional to the size and scope of the client. Obviously, a union with $500,000 is not going to pay in audit fees what a $60 million corporation pays for an audit.

Let me close this part of my remarks with a simple suggestion for my colleagues who have been tricked into worrying about the cost this amendment would impose on unions. Just imagine this: the cost to American workers of not requiring audits. Let us think about the cost to American workers of not requiring audits: More embezzlement, more crooked bookkeeping, more abuse and concealment of workers' hard-earned money.

We do not need more embezzlement, more crooked bookkeeping, and more concealment of workers' hard-earned money. We have a choice. We can extend to American workers the same financial protection afforded corporate shareholders, or we can extend to unions the ability to continue to pilfer and profit off the workers' money. That is the choice.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Kentucky has 8 minutes 30 seconds remaining.

Mr. MCCONNELL. I know the Senator from Arizona has been waiting patiently. I would like to reserve my 8 minutes because I am not clear how long this debate is going to go on. We do not have a time agreement yet for a vote. Is that correct? I guess I am asking my friend from Maryland what his plans are for the disposition of the McConnell amendment.

Mr. SARBANES. If the Senator will yield, we have people lined up to speak once the Senator has concluded, Senator MCCAIN and then Senator CORZINE. After that, I anticipate then dealing with the McConnell amendment.

Mr. MCCONNELL. So is it the plan of the Senator from Maryland to have a vote sometime in the next hour or so?

Mr. SARBANES. I would anticipate a vote in relation to the McConnell amendment—well, we have 30 minutes.

Mr. MCCONNELL. Could we do this, then? I ask unanimous consent that I have 2 minutes prior to the vote to sum up what I think this amendment is about.

Mr. SARBANES. I certainly think that could be done. I intend to speak to it for a few minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Therefore, I yield the floor.

AMENDMENT NO. 4174

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona is recognized for up to 15 minutes.

The Senator from Arizona.

Mr. MCCAIN. Mr. President, for the benefit of the managers, I do not intend to consume all 15 minutes.

I rise in strong support of the underlying Leahy amendment, and I hope we can dispose of that amendment within a reasonable length of time and move on to other changes that need to be made to this very important legislation.

Our publicly owned companies are an essential component to the economic health of our country. As we have seen over the past few months, the continued lapses of our corporate leaders, whether they are ethical, criminal or just plain ignorant, have a significant, sometimes crippling, effect on the welfare of our nation. We must make some fundamental changes in the current system of corporate oversight to protect Americans from avarice, greed, ignorance and criminal behavior. Now is the time for Congress to restore investor confidence and take the necessary action to protect the interests of the public shareholders and place those interests above the personal interests of those entrusted with managing and advising those companies. The deterioration of the checks and balances that safeguard the public against corporate abuses must be reversed.

We have to address the shortcomings in Federal law and send the message that prosecutors now have the tools to incarcerate persons who defraud investors or alter or destroy evidence in certain Federal investigations. This amendment is a step in the right direction. It creates two new criminal states that would clarify current criminal laws relating to the destruction or fabrication of evidence and the preservation of financial and audit records. The Enron debacle clearly indicated that there were gaping holes in the current framework. There will be a 10 year criminal penalty for the destruction or creation of evidence with the intent to obstruct a federal investigation. There will be a new 5 year criminal penalty for the willful failure to preserve, for a minimum of five years, audit papers of companies that issue securities.

The amendment also provides for the review and enhancement of criminal penalties in cases involving obstruction of justice and serious fraud cases. All of these actions are necessary to deter future criminal action. Until somebody responsible goes to jail for a significant amount of time, I am not sure that these people are going to get the message. Defrauding the shareholder has to carry a meaningful penalty. Corporate decision-makers can make millions, tens of millions, even hundreds of millions of dollars by cheating investors. A relatively small fine or short prison term is not a deterrent; it's a slap on the wrist. The threat of real time in jail is a deterrent that will make people pay attention.

This amendment also creates a new securities fraud offense. The provision makes it easier, in a limited class of cases, to prove securities fraud. Currently prosecutors are forced to resort to a patchwork of technical offenses and regulations that criminalize particular violations of securities law, or to treat the cases as generic mail or wire fraud that results in a five-year maximum penalty. This new provision would criminalize any scheme or artifice to defraud persons in connection with securities of publicly traded companies or to obtain their money or property. This new ten-year felony is comparable to existing bank and health care fraud statutes. To those who would say that it's hard to define a scheme or artifice to defraud, I would say that full and honest disclosure of material dealings and accounting treatments is the best way for the officers who run America's corporations to protect themselves and those who invest in their companies. There are plenty of felony laws on the books that provide long prison terms for crimes that cause less damage than the losses to shareholders in Enron or WorldCom.

It is important to emphasize that when criminal charges are pursued, it is not necessarily the firm that should be charged but the individuals at the helm of the corporate ship who should be prosecuted. If they are the ones making the decisions out of self-interest, they are the ones that should be held accountable. I also believe that we must protect the ''corporate whistleblower'' from being punished for having the moral courage to break the corporate code of silence. This amendment does that.

This amendment also extends the current statute of limitations for matters concerning securities fraud, deceit or manipulation. The current statute

of limitations for securities fraud cases is short given the complexity of many of these matters, and defrauded investors may be wrongly stopped short in their attempts to recoup their losses under current law. The existing statute of limitations for most securities fraud cases is one year after he fraud was discovered but no more than three years from the date of the fraud regardless of when it was discovered. Because this statute of limitations is so short, the worst offenders may avoid accountability and be rewarded if they can successfully cover up their misconduct for merely three years. The more complex the case, the easier it will be for these wrongdoers to get away with fraud. According to at least one state Attorney General, the current short statute of limitations has forced some states to forgo claims against Enron based on alleged securities fraud in 1997 and 1998.

This situation essentially encourages offenders to attempt to cover up their misdeeds however they can, including by using questionable accounting procedures and financial shell games. Furthermore, in some cases, the facts of a case simply do not come to light until years after the fraud. If a person does not and cannot know they have been defrauded, it is unfair to bar them from the courthouse. We need to recognize the sophistication and complexity of modern-day schemes designed to defraud investors. The Leahy amendment does this.

Finally, this provision amends the federal bankruptcy code to prevent the corporate wrongdoer, the CEO or CFO, from sheltering their assets under the umbrella of bankruptcy and protecting them from judgments and settlements arising from federal and state securities law violations. Too many of these highly paid corporate officers are using bankruptcy laws to protect their assets while maintaining their high-rise penthouses and ski chalets. It is time to force accountability and punish the person, not the institution, who is not willing to abide by the moral and legal codes that accompany leadership and public trust.

I hope we will have an early and overwhelming vote in favor of the Leahy amendment.

I yield the floor.

Mr. SARBANES. Mr. President, so Members may have a sense of what the program is in the short term, I will propound a unanimous consent request and I hope it will be accepted and then we can move forward.

I ask unanimous consent that following Senator CORZINE, there be 15 minutes allotted to Senator GRAMM, 5 minutes allotted to Senator MCCONNELL, 10 minutes to myself as the manager of the bill—or up to these amounts of time; hopefully, they won't all be used—and at the conclusion thereof, there be a vote on or in relation to the McConnell amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from New Jersey is recognized for up to 10 minutes.

Mr. CORZINE. Mr. President, today I rise to speak on both the amendment proposed by Senator LEAHY and also to the underlying bill which I feel quite strongly about.

I am quite pleased to support Senator LEAHY's amendment. It creates tough new securities fraud penalties and punishes corporate wrongdoers we have just heard the Senator from Arizona speak to. It is a meaningful and appropriate response to the kind of corruption we have seen and makes sure that punishment meets the nature of the act. It also protects corporate whistleblowers, prohibits corporate executives who violate securities laws from hiding behind the bankruptcy code.

In summary, this is more than mere lip service with regard to enforcement and punishment of corporate fraud. It is real reform. It is real response as a methodology to deter criminal conduct. It will go a long way toward providing incentives that are necessary to protect investors and pensioners and others who operate in the marketplace, in contrast to strong rhetoric from some with regard to what we need to do about punishment but not putting reality into place to deal with the issues. I am proud to cosponsor the Leahy amendment, and I urge all colleagues to do so as well.

Mr. President, we need to speak clearly and directly in the Senate about restoring and sustaining the trust in America's capital markets, trust in America's economic security going forward. For several days leading up to yesterday morning's Presidential speech on Wall Street, there was a buzz of anticipation that we would see a real embracing of change. Some went so far as to suggest the President's speech might lead to a Roosevelt moment, an embrace, a change in policy, a change in direction, maybe counterintuitive to the history of the man because it was in the Nation's best interests.

In retrospect, it is safe to say, while the President's speech was good with respect to rhetoric, it was hardly Rooseveltian or a Ruthian moment in the home of the New York Yankees. Unfortunately, it was far from a home run, in my view, and did emphasize rhetoric as a substitute for reform. Its lack of specifics or detail I found unfortunate.

It is not to say that the President's speech did not include some important themes, or, by the way, embrace an initiative that is quite important; that is, the corporate fraud task force in the Justice Department which will be a strong step in carrying out pursuit of wrongdoers.

However, stating the commitment of his administration pursuing these folks, while an important message, needs to be more substantive. We need specific undertakings to protect investors and shareholders. It was what the President did not say in terms of offering specifics, particularly specifics with regard to structural changes that will solve the problems, deal with the problems, provide checks and balances to the problems that we have seen from the Enrons, WorldComs, Global Crossings, et cetera. That is why the speech fell short of what many expected.

The best way, in my view, the President could have accomplished that simple important message would have been to acknowledge the comprehensive structural reform that needs to be put in place and is expressed most clearly, most effectively, by the legislation we are considering on this floor right now, the Public Company Accounting Reform and Investor Protection Act.

The Sarbanes bill, the bill we are talking about on this floor, comprehensively reforms our accounting profession. It is detailed, it is specific, and it is quite a strong element with regard to accounting professionals' responsibilities. It enhances corporate accountability, improves transparency of corporate financial statements, truly strengthens the ability of the SEC to operate as an enforcement agency, and as a regulatory agency to a significant degree. In combination, all those factors together will go a long way to restore investor confidence in American capital markets and, more importantly, restore faith in our economic system.

I think this is the direction it should take. But before I discuss the merits of the legislation in specific, I take a moment to pay tribute to the leadership of the distinguished chairman of the Banking Committee, Senator SARBANES. In shepherding this bipartisan legislation to the floor of the Senate, he has really done an outstanding job of bringing together a lot of disparate views on a very difficult and complex problem, synthesized into a terrific response to a real problem.

I see Senator ENZI in the Chamber. I also congratulate him for his help in making sure we have a bipartisan effort in this process. His contributions have been enormous. There are a number of people on staff who I think have done a terrific job to make sure this happens.

But PAUL SARBANES, chairman of the Banking Committee, has done an incredible job, a thorough job, making sure we have measured, balanced, deliberate steps to be taken to meet a crisis of confidence. I think the American people will be grateful that we have responded in a proper way. It has been a privilege for me to work with all my colleagues in the Banking Committee, but particularly the chairman. Particularly as a freshman, I learned so much of how this legislative process works.

I must say, after 30 years in business, working my way up, the 10 days of hearings we had with respect to this particular subject, with exhaustive testimony, thoughtful testimony provided from a large range of perspectives, was

one of the best graduate seminars I have ever had in business. I hope actually somebody will take the time to try to publish these, and they will be used as an example both of how the legislative process should work but also how the structure and nature of public policy debates with regard to business policy will occur. It is extraordinary. I think it forms an enormously positive foundation for the kind of thoughtful legislation the chairman has brought to bear.

With that as backdrop, we all know that there are serious problems in our system. The list of companies involved is way too long and way too important—many of them supposed models of the new economy. But I want to move a little bit away from just some of the simple concepts we talk about, the most headlined, the name concepts or companies, to focus on the fact that we are going to have almost 300 restatements of earnings this year, this year in our economy—300 restatements. There have been almost 1,100 restatements since 1997 of company earnings reports. This is a problem.

It is not just the individual headline companies, it is the fact that this is going on every day in our marketplace. It is no wonder that investors—institutional, retail, foreign, pensioners—do not have a sense of where we should be or how they should make their commitments to markets. That is because they cannot trust the numbers. There have been broken retirement dreams, lost jobs, and companies shut down. This really needs to change.

Roughly 10 percent of major companies—of the 12,000 actively traded companies, almost 10 percent of them have had statements of change in the last 4 years. That is just bad. That is why investors worldwide have developed some skepticism about our markets. Some might even say that is why our dollar has depreciated as sharply as it has in the last 2 or 3 months. Confidence is shaken—it is real.

American financial markets have been a tremendous engine for economic growth. We have had a highly efficient capital market, and that has fueled our economy. We need to act.

While the depth and breadth of efficiency of our markets is still substantial, if we continue to have this kind of erosion of confidence, we are going to be missing one of the important drivers of America's great success in leadership in the world. While I will not go through every detail of this bill, if we do not come up with a strong oversight of our accounting industry, make sure the information that people make their decisions and take their decisions to the marketplace with is sound and secure, then we will not have those strong capital markets and strong economy. I think we can all agree upon that, in the nature of a bipartisan initiative, to make sure we are moving in the right direction.

I hope we can focus on the reality that some of the conflicts of interest that exist in our practices in the accounting world have been part of the cause and the focus. Some of the conflicts of interest in the investment banking business, the world I came from, with regard to our analysts, have undermined our security with regard to how people analyze and understand where companies fit.

Other issues that need to be dealt with are the ''revolving doors''—executives from accounting firms going to companies they worked for—and the lack of independence of audit committees. All of these factors underlie a growing public distrust in the corporate financial information. It really needs to be acted upon.

While these things are real, I think we need structural response. We cannot just identify a few bad apples. This is more than that. Remember: 1,100 corporate restatements in the last 4 years. There is a structural problem, a systemic problem that is undermining the health security of our economy. I hope people will realize that in the context of the kind of debates we are going to have with regard to this bill—but maybe even more important, when we get into a conference and try to put it together with the House response, and get it to the President.

Unfortunately, I think the other elements of proposals on the table just do not meet the kind of standards that the Sarbanes proposal, the Banking Committee proposal, brings to bear. I hope we will be able to deal with that going forward.

I would be happy to talk about the specifics as we go forward. I know others need to get into this aspect. Other than we need to have a real reform of the accounting industry, we need a strong oversight board. We need to really deal with the corporate accountability issues, which I think the Leahy amendment goes a long way to strengthen in this bill. There are many elements inside it.

We need to give the SEC the kinds of resources so it can actually do the job it is expected to do. The President talked about giving them $100 million additional resources. Even the House has talked about $300 million increments. We do not provide for pay parity. There are just so many weaknesses in some of the proposals that are watered down relative to what we have on the table before the Senate.

I can only say I hope we can keep this bipartisan effort together because I think what we need is a final product that will deal with the reality of the undermining of confidence we have across the board, in a whole host of ways with regard to our financial markets, with regard to our accounting statements and with regard to the economy itself. This is too important to make a political issue. This is one to make sure we move forward in a way that we secure America's economic future.

The continued vitality of America's markets is at stake. We need to make this a priority. We need to move quickly. We need to understand it is systemic, it is not just anecdotal, it is not just a few bad apples. I think the bill we have on this floor will go a long way. Some of the amendments that are brought forward can strengthen it.

We need real reform. We need it now. We do not need rhetoric. We need to be able to restore the confidence the American people want to see, move away from the era of Enron and WorldCom, and get to an era where we have markets that are balanced and fair, where they have the checks and balances in them to give people the confidence that when they make an investment, that investment is what they thought it was when they entered into it.

I thank the chairman for an extraordinary effort in bringing together an exceptional bill. I am proud to be part of this effort. I look forward to continued debate and hopefully bringing it to the President's desk as soon as possible.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SARBANES. Mr. President, I ask unanimous consent to speak for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, I thank the able Senator for his very kind comments.

I underscore, as I said last night on the floor when Senator DODD was here, my deep appreciation for the very positive and constructive contribution which Senator DODD and Senator CORZINE have made to this legislation. Early on, they introduced S. 2004, the Dodd-Corzine bill that formed the basis of a great deal of what is now before the Senate. I really appreciate the tremendous effort on the part of the two Senators.

I think it is very important that I make it very clear how much I appreciate the Senator's continuing, very strong contributions in the committee and now as we consider this legislation.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. Mr. President, I think under the agreement there are 15 minutes allotted to Senator GRAMM, 5 minutes to Senator MCCONNELL, and I have reserved 10 minutes before we go to a vote on or in relation to the McConnell amendment.

Mr. LEAHY. Mr. President, I ask unanimous consent to proceed for 30 seconds without taking the time reserved for my colleagues.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Arizona, Mr. MCCAIN, for his kind words earlier this morning. He is the supporter of the Leahy-McCain-Daschle, et al, amendment pending before the

body. I will speak further at an appropriate time when I am not imposing on the time reserved by our colleagues. I wanted to thank Senator MCCAIN for his support of the amendment and for his kind remarks.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I believe the Senator from Texas is on the way. He is not here yet, so I will go ahead with my closing remarks.

Let me describe again what the McConnell amendment does. It is really quite simple. I think the first thing to remember is that it doesn't change in any way the Leahy proposal. It doesn't change in any way the Sarbanes proposal. It does not alter either of those. This is an addition to the underlying Sarbanes bill, and to the Leahy amendment, which I assume is going to be adopted sometime today. This doesn't in any way detract from the efforts underway to get greater accountability in corporate America.

The McConnell amendment is about adding to that union accountability so that rank-and-file union members can be assured—just as shareholders will now be assured in the underlying bill—that independent audits are being done. They can be assured that there will be civil penalties for violating these new auditing standards. They will be further assured by the fact that the president and the secretary-treasurers of the unions will have to certify as to the accuracy of the financial reports for unions just as we are requiring that for corporate CEOs and CFOs for publicly traded corporations.

We are simply completing the circle of protection for Americans, whether they be investors in corporations or union members whose dues are being paid every payday and who have a right to expect that those funds are going to be treated carefully and correctly.

It has been suggested—I expect it will be suggested again—that this is going to be expensive for the unions. My amendment has been carefully crafted to ensure that it does not impose any egregious new costs, especially on labor. And it only applies to unions with annual receipts over $200,000.

Why did I pick that number for unions that already file financial information with the Department of Labor? They are already having to file. This amendment simply requires that labor organizations with over $200,000 in annual receipts incur the incremental costs of running their financial statement and pass an independent audit, and abide by generally accepted accounting principles. This is a cost borne by any public company with as little as $1 million in total assets.

The additional costs here only apply to the larger unions that already have to file with the Department of Labor in any event.

I want to say again that this is the union corruption update. This massive stack is just for the first half of 2002. There are numerous examples of the problems about which I have been talking. This stack here represents just the first half of 2002.

Some will suggest that the examples I have given show how well DOL is catching and prosecuting union fraud. Unfortunately, that is not the case. The Department of Labor auditing of unions accounts for just 9 percent of all embezzlement cases. The other 91 percent of embezzlement comes from other sources. Without a required audit, union officials do not have to contend with the threat of an annual independent audit hanging over their heads.

The stories speak for themselves. Union corruption is rampant. It is absolutely rampant on the local, national, and pension fund levels all across our country. In the last 2 years, there has been a union embezzlement or closely related case in 40 out of our 50 States. This is a huge problem.

With regard to the financial information already required to be filed, it is not verified by an independent auditor. The current union filings are not verified by an independent auditor. The independent audits required in the McConnell amendment will help verify that the information is indeed accurate. Unions in many instances have not been complying with the filing requirement.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. MCCONNELL. I ask unanimous consent for a couple of more minutes of Senator GRAMM's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Unions have not been complying with the filing requirements. Up to 40 percent of unions required to file LM–2 reports filed late or not at all. The Department of Labor, under current law, can't even fine these organizations for noncompliance. My amendment would at least give them the ability to fine these organizations for noncompliance.

Let me summarize what this is about. We have decided in the Sarbanes bill and in the Leahy amendment that we want accountability in corporate America. We want to hold the CEOs and the CFOs responsible. We want the auditing done accurately. If it is not done accurately, somebody needs to be held responsible.

Why are we doing that? We are doing that because we want to reassure the shareholders that somebody is not cooking the books, that we don't have more WorldComs and Enrons and Global Crossings and the like.

The McConnell amendment seeks to provide those very same protections to rank-and-file citizens who may or may not be big enough to invest in the market. But they are investing their dues every week in the majority of our States where they do not have a choice to not pay their dues. And they have every right to expect independent audits of their funds to make sure they are not being stolen and not being misused. They have every right to expect the presidents of those unions and the secretary-treasurers of those unions to certify as to the accuracy of those audits.

That is what this amendment is about. It is about providing the same fairness to the union member as we provide to the shareholder. Simple justice. I urge that the McConnell amendment be adopted.

I yield the floor.

The PRESIDING OFFICER (Mr. JOHNSON). Who yields time?

The Senator from Texas.

Mr. GRAMM. Mr. President, how much time do I have?

The PRESIDING OFFICER. Thirteen minutes.

Mr. GRAMM. Mr. President, first, I thank Senator MCCONNELL. I do not think anybody who listened to Senator MCCONNELL is going to believe the assertion that somehow this amendment has nothing to do with the logic of this bill. You can take a view that business is for real and that standards should apply there, but organized labor is a different kind of institution and they should not apply there; but if you are making that argument, you have to argue it on the basis of politics. You cannot argue it on the basis of logic. You cannot argue it on the basis of justice or fairness.

What Senator MCCONNELL has done, it seems to me—and I think it is a service to the process that he has done it—is that his amendment in no way changes Senator LEAHY's amendment. So whether you are for or against the Leahy amendment is not a relevant factor in whether you are for or against Senator MCCONNELL's amendment because he does not change the Leahy amendment. He simply says, at that moment in history where we are trying to enhance the quality of financial reporting in corporate America, to protect the investor and to strengthen the economy, that we should make the same changes with regard to financial reporting by labor unions.

There have been several arguments made against this amendment, but I do not believe any of them hold water, at least in terms of my ability to understand the amendment and the arguments.

The first argument that has been made is: There are already requirements that apply to unions, that they have this vast array of reporting requirements.

The same thing is true with corporate America. If you accept that argument that there already is a body of law, and if that means that it should not be improved or strengthened, then what are we doing here?

There are differences over this bill, differences about how the board should be structured, differences about what the board should decide and what Congress should decide, but there is no difference over the issue that we need

higher standards in accounting. There is no difference over the issue that people who knowingly violate the law ought to be held accountable.

So to say that unions are subject to requirements is not an argument that we should not have better requirements, because if it were an argument, that would be an argument against the bill; and not one Member of the Senate has bought that argument or made it or believes it.

The fact that there are requirements today does not mean, in a time when we are enhancing transparency and efficiency and honesty in reporting, that we should not improve it for both corporate America and for organized labor.

The second argument that is made is: Companies are public and unions are private. Not only is that argument invalid, but unions are more public than private investments, more public than public companies. Nobody made anybody invest in WorldCom. Nobody made them do that. But in some 40 States of the Union you have to pay union dues in order to work.

I do not think that is right. I think that is fundamentally wrong. I thank God every day that in Texas we have right-to-work laws that say I do not have to join a union to earn a livelihood. But in some 40 States you do.

I think the case is even stronger than the Senator from Kentucky made because nobody made anybody buy WorldCom, but in some 40 States you have to pay union dues. Surely, there is a public interest, in a mandatory institution, in seeing that it keeps straight books.

So this argument that we are talking about, public companies and private unions, what is private about a union that I have to join in order to have a job? Nothing is private about that union. It is as public as something can be public.

It seems to me—and Senator MCCONNELL made the point—nobody made people invest in WorldCom, but people are forced every day to pay union dues. Every day they are forced to pay them. So they are as public as public companies are, I would argue more public, and we have a stronger interest in protecting that money which was involuntarily taken, it seems to me, or just as strong an interest in protecting that money that was involuntarily taken versus money that was voluntarily invested.

The strongest argument of this amendment—and something that is absolutely breathtaking to me—is that the annual report that is required of unions does not have to be certified and prepared by a CPA.

We are going to great lengths in every bill that has been proposed to set up an independent body to proctor high standards in accounting for CPAs. Shouldn't a union that is handling my money that they took from me involuntarily have its books audited by a CPA?

Why is that important? In fact, why do we care about accounting ethics? We care about them because there is no way the Government has enough resources to spot audit every company in America. So we have to rely on the integrity of the CPA. And it is the problem we have with that today that brings us to the floor of the Senate.

While we are enhancing that integrity through this oversight board, shouldn't we require organized labor that is taking people's money involuntarily to have their annual report certified and prepared by a certified public accountant? How can anybody—how can anybody—argue against requiring a CPA to do these audits?

You could say the Labor Department ought to go out and audit every one of these unions. Clearly, they do not have the resources to do it. The President has asked for more money to do it. I would guess this Congress will not provide that money. I will be watching the appropriations to see if they do. But even if they provide it, it is not enough money to audit every union in America.

What we have to do to bring honesty to union financial reports, as we bring honesty to corporate reports, is to require a CPA to do the audit. I can see no logic whatsoever to opposing requiring a CPA to certify.

Finally, we have gone to great lengths—and I think appropriately—to require the guy who is drawing the big check, the head man or head woman, to sign this annual financial statement to put their credibility on the line and give them nobody to hide behind. Should we not require the president of the union sign this audited report? And shouldn't the annual report be done by a certified public accountant?

Now, it is astounding to me—and, boy, it shows you the different level of enforcement of the law. If anybody does not believe that politics play a part in law enforcement in America, look at the fact that was given to us by the Senator from Kentucky, that 34 percent of unions are out of compliance in terms of filing these reports. Some of them just don't file the report.

It seems to me if 34 percent of the companies in America didn't file reports, we would be outraged, and rightly so. In fact, you couldn't trade your stock on the New York Stock Exchange or the American Stock Exchange or the Nasdaq because of the enforcement that exists in private entities.

The McConnell requirement that the reports be filed is straightforward and reasonable.

I reserve the remainder of my time by simply saying, what harm can come from requiring unions to have CPAs do these reports? I see good can come. I can see no possible harm that could come.

Secondly, why not have the union president certify the veracity of that report just as the corporate president does? Some people say this is punitive. Some people say this is political. If this were being used to try to kill the Leahy amendment, you might be able to make that argument. But this amendment in no way takes away any part of the Leahy amendment. It simply adds to it that the high standards we set for corporate America should apply likewise to unions.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Maryland.

Mr. SARBANES. Could I ask what the time situation is?

The PRESIDING OFFICER. The Senator from Maryland has 10 minutes.

Mr. SARBANES. And how much time is left to the Senator from Texas?

The PRESIDING OFFICER. The Senator from Texas has a minute and a half.

Mr. SARBANES. Mr. President, it is important, in considering this amendment, to realize there exists now, under the labor management reporting and disclosure procedure, extensive and intensive provisions for reporting by labor organizations, officers, and employees of labor organizations.

If all of these provisions are not being carried out fully, the responsibility rests with the Secretary of Labor. The Secretary of Labor ought to be doing her job. If the Congress is not providing sufficient resources for that, that is an issue for the Congress. We ought to address that issue.

This supposed parallelism that is being argued completely misses the mark in the sense that there is already an existing statutory scheme covering reporting and disclosure by labor organizations.

I want to go through some of those provisions so Members appreciate how extensive they are and the amount of review and oversight that now exists.

I am now reading from the statute:

> Every labor organization shall file annually with the secretary a financial report signed by its president and treasurer—

So much for this argument about they ought to sign, put their signature on the report—

> or corresponding principal officers containing the following information in such detail as may be necessary accurately to disclose its financial condition and operations for its preceding fiscal year.

Listen to what they have to set out: Assets and liabilities at the beginning and end of the fiscal year; receipts of any kind and the sources thereof; salaries, allowances, and other direct or indirect disbursements, including reimbursed expenses to each officer and also to each employee who, during the fiscal year, received more than $10,000 in the aggregate from such labor organization and any other labor organization.

Ten thousand dollars? Ken Lay of Enron got $177 million. Twenty executives of Enron got over $3 million in salary. Here we are talking about a $10,000 figure which they have to report.

I am reading from the statute that governs labor organizations on their

reporting and disclosure: Direct and indirect loans made to any officer, employee, or member which aggregated more than $250 during the fiscal year, together with a statement of the purpose, security, if any, and arrangement for repayment. A $250 loan, $250. Bernard Ebbers of WorldCom got a $366 million loan. This is just to underscore in a sense the tightness of this framework governing the labor organizations—a $250 loan. WorldCom executive Ebbers, $366 million? The Adelphia situation with the Rigas family, $3 billion in loans.

Let's look at the power of the Secretary of Labor to enforce these requirements: Any person who willfully violates this subchapter shall be fined not more than $10,000 or imprisoned for not more than 1 year. Any person who makes a false statement or representation of a material fact or who knowingly fails to disclose a material fact in any document, report required under the provisions of this subchapter shall be fined not more than $10,000 or imprisoned for not more than 1 year. Any person who makes a false entry or willfully conceals, withholds or destroys books, records, reports shall be fined not more than $10,000 or imprisoned for not more than 1 year.

''Personal responsibility of individuals required to sign report,'' I earlier said the president and the treasurer of the labor organization had to sign the reports. Listen to this:

> Each individual required to sign reports under sections 431 and 433 of this title shall be personally responsible for the filing of such reports and for any statement contained therein which he knows to be false.

Of course, we have just noted from the previous provisions, that is a fine and possible imprisonment for up to 1 year. So we have a statutory scheme in place to control the labor organizations. If it is not fully adequate, it needs to be addressed in that context. But clearly, it goes well beyond many of the provisions that apply to corporate officers. It has been carefully worked out over the years. The Labor-Management Reporting and Disclosure Act dates from 1959 originally, with subsequent modifications and adjustments, as we have proceeded.

There is a system in place to govern labor organizations. It has been asserted: well, the Labor Department has not been able to do everything it needs to do. That burden is on the Labor Department. In a sense, what has been raised represents a challenge to the Secretary of Labor.

If, in fact, the Congress hasn't given her adequate resources, that point needs to be made to the Congress and we need to address that.

But we have established a well-thought-out, comprehensive scheme with respect to the reporting and disclosure of the labor organizations, and if they are falling short of the statutory requirements, that needs to be addressed in the context of the statute.

The Labor Department has enormous authority over the labor organizations. Make no mistake about it, the powers and the authorities that reside in the Secretary of Labor and the Department are quite extensive to deal with the labor organizations. I mentioned only some of them, including these imprisonment for 1-year provisions.

So I am in opposition to the amendment. I think any shortcomings that one might perceive need to be addressed in the context of the reporting and disclosure provisions applicable to labor organizations; and I must say to you—and the Senator from Kentucky has outlined some of the problems—the Department needs to come to grips with them and come to the Congress, if it deems that necessary, to seek an appropriate congressional response in order to deal with them.

I very much hope my colleagues, when the time comes, will not be supportive of this amendment. When all time is used, I am prepared to make a motion with respect to the amendment.

Mr. SPECTER. Mr. President, I am voting against the McConnell amendment because existing law already accomplishes what he seeks to do. There exists now under the Labor Management Reporting and Disclosure Act of 1959 extensive and intensive provisions for reporting by the President and Treasurer of labor organizations.

Furthermore, the audit requirements of this amendment, which apply to union filers with receipts of $200,000 or more, impose under regulation of small entities. Public corporations subject to the SEC typically have many more assets with initial public offerings are customarily in the range of $40 million. The annual costs of compliance might exceed the annual receipts of many filers who would be subjected to these requirements. To require audits of all unions regardless of size or complexity of financial reports would cause an unreasonable burden on many smaller locals who already must file LM–2 reports. Unions with annual receipts of $200,000 or more covered by the McConnell amendment come in an extremely wide range of types, sizes, and of performing services. Of the more than 5,000 labor organizations that currently meet this criterion and file LM–2 reports, only about 70 are national or international unions. The rest are locals—largely voluntary organizations, many with no or few full-time employees. The current Department of Labor reporting requirements take this ''no one-size-fits-all'' approach into account and build in some flexibility that the McConnell amendment does not allow. For example, many smaller locals do not need to retain outside CPAs because their financial statements are very simple and consistent from year to year.

The amendment's certification requirements are also redundant. For more than 40 years, union officers have been required to sign annual financial reports under penalty of perjury, attesting that the report's information accurately describes the union's financial condition and operations.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, let me paraphrase our colleague from Maryland. The SEC already has power. Let them do their job. We are not saying that. We are saying they need more power and they need help doing their job because the job is not getting done.

The same is true for unions. The Senator from Maryland said there is already a regulatory scheme. There is already a regulatory scheme for corporate America, but we are saying it is not good enough, not tough enough, it is not working, and we need to improve it.

The same is true for unions. The president of a corporation already has to sign an annual report. We are trying to expand that in this bill. Why not require the president—not other officers, but the president—to sign the report? I submit that illegality, whether it is $100 million or $10,000, is still theft. The President has asked us to bar loans.

The issue here is, should we have the same integrity standards for unions? I believe the answer is yes.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas has 17 seconds and the Senator from Maryland has 50 seconds.

Mr. MCCONNELL. Mr. President, it is true that unions file a lot of papers. The problem is that accuracy is not required. This requires certified records—certified by a CPA—and it requires the presidents and secretaries of their treasuries to certify that the records are accurate.

Union corruption is a serious problem. This will help correct it. I urge colleagues to support the amendment.

Mr. SARBANES. Mr. President, I only observe that if they file a false statement of representation, they can be fined and sent to jail for up to 1 year. That is a pretty heavy remedy if you stop and think about it.

Mr. President, I yield back the remainder of my time.

Mr. GRAMM. Mr. President, is any time remaining?

The PRESIDING OFFICER. No time remains.

Mr. SARBANES. Mr. President, I move to table the McConnell amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Ohio (Mr. VOINOVICH), are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''nay.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 43, as follows:

[Rollcall Vote No. 168 Leg.]

YEAS—55

Akaka	Dorgan	Mikulski
Baucus	Durbin	Miller
Bayh	Edwards	Murkowski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Boxer	Graham	Nelson (NE)
Breaux	Harkin	Reed
Byrd	Hollings	Reid
Cantwell	Inouye	Rockefeller
Carnahan	Jeffords	Sarbanes
Carper	Johnson	Schumer
Chafee	Kennedy	Smith (OR)
Cleland	Kerry	Specter
Clinton	Kohl	Stabenow
Conrad	Landrieu	Torricelli
Corzine	Leahy	Wellstone
Daschle	Levin	Wyden
Dayton	Lieberman	
Dodd	Lincoln	

NAYS—43

Allard	Enzi	McConnell
Allen	Fitzgerald	Nickles
Bennett	Frist	Roberts
Bond	Gramm	Santorum
Brownback	Grassley	Sessions
Bunning	Gregg	Shelby
Burns	Hagel	Smith (NH)
Campbell	Hatch	Snowe
Cochran	Hutchinson	Stevens
Collins	Hutchison	Thomas
Craig	Inhofe	Thompson
Crapo	Kyl	Thurmond
DeWine	Lott	Warner
Domenici	Lugar	
Ensign	McCain	

NOT VOTING—2

Helms	Voinovich

The motion was agreed to.

Mr. SARBANES. I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DIVISION OF AMENDMENT 4174

Mr. GRAMM. Mr. President, I ask for a division of the amendment with sections 801, 802, and 803 in division 1, section 804 in division 2, and the remainder of the amendment in division 3.

The PRESIDING OFFICER (Mrs. CARNAHAN). The amendment is divisible and is so divided.

Mr. GRAMM. 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. SARBANES. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Madam President, I would like to put forward a couple of inquiries. Could the Senator outline what his division of the amendment does?

Mr. GRAMM. The amendment was divisible, and my division divided it into three amendments. The amendment having to do with statute of limitations in filing a lawsuit is now division 2. So division 1 would be the pending business, as I understand it. Then division 2, and then division 3, seriatim, unless there was some other agreement that took us to another order or other amendments.

Mr. SARBANES. What does division 3 provide for?

Mr. GRAMM. I sent the division to the desk. Basically, division 1 was everything up to section 804. Then division 2 is 804. And then division 3 is 805 through the end of the bill.

Mr. SARBANES. Did the Senator consider dividing it only for section 804?

Mr. GRAMM. The way it was done, the easiest division was to do it in three parts.

Mr. SARBANES. It is that division you want a separate vote on, I take it?

Mr. GRAMM. It is that division on which I want an opportunity for the Senate to work its will, as well as the others.

Mr. LEAHY. Madam President, if the Senator will yield, there is another way, of course, for the Senate to work its will. The reason I mention it, this is a critical part of the legislation. It is nice to say, and we should say, my cosponsor of the Sarbanes bill, which I think is superb—we should say we should have better accounting methods, we should say we should have more accountability, but we have a lot of these executives who have proven by their past behavior they are not going to do squat unless they think they are going to go to jail for what they do.

The Leahy-McCain, et al, amendment makes it very clear that these people are going to face jail terms if they loot the pension funds, if they defraud their investors, if they defraud the people of their own company. And I might suggest if the Senator from Texas agrees, there ought to be real penalties; let's vote on Leahy-McCain. Let's vote on it, not divide it up. If he believes there is something he may want to do better—such as shield some of these people with a shorter statute of limitations or with a more restrictive statute of limitations—he has every right to do whatever he wants to shield these people. But bring it up as a separate amendment and let the Senate vote up or down on that.

When I look at places such as Washington State alone where the pension funds of firefighters and police lost $50 million because of the fraud of the leaders of Enron, I don't feel too sympathetic. We already have a very short statute of limitations in here anyway. We ought to at least have that so people might be able to recover some of the money they have lost, if it is at all possible, instead of just a few executives going up and building their $50 million mansions and hiding it there.

There ought to be some way for the people who lost their pensions, lost their live savings, to get it back. We ought to have criminal penalties for those who did this in the first place so they end up in the slammer.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, a wonderful speech, and it might be appropriate for another occasion, but what has happened is that a comprehensive bill has been offered as an amendment to the pending bill. All I asked for, which every Senator has the right to ask for, was a division of the question so that the Senate could work its will on individual parts.

I know of no living person, at least anyone who is in the Senate or the executive branch of Government—I don't know about the judicial branch of Government—who is not for the provision related to putting people in jail for knowing and willful behavior where they violate the law.

This bill which has been offered, however, has many different sections. The part I am concerned about has to do with statute of limitations and the security reform legislation we adopted in 1995.

I remind my colleagues that in 1995 we had these massive strike lawsuits. One firm filed 80 percent of them. Almost all were settled out of court. It created an abuse that generated a bipartisan consensus that something should be done about it.

We passed a law, and then, incredibly, with Democrat support, we overrode President Clinton's veto of the bill. The only veto override of the Clinton administration was on this issue.

One of the reforms had to do with shortening the statute of limitations. I remind my colleagues, this has nothing to do with the SEC or the Justice Department. We are not shortening their statute of limitations. In 1995, when we passed this bill with a strong bipartisan vote, we said: If I want to sue Senator SARBANES, I have to file the suit within a year of discovering that I believe I have been wronged, or I have to file it within 3 years of when I was wronged. That was the decision we made then.

Now, hidden away in this bill, which has been offered as an amendment, is a provision that effectively extends that to 5 years.

All my division of the amendment did was to say this ought to be dealt with separately so that those who are for mandatory prison sentences for knowing and willful behavior that violates the law can be for that without being for repealing our Private Securities Litigation Reform Act. The reason behind the rules of the Senate that give Members the ability to divide bills goes to exactly the heart of this point; that is, if someone could take a bill—if someone could take——

Mr. SARBANES. Will the Senator yield on that point?

Mr. GRAMM. Let me just finish my point and I will be happy to yield, as I try to always do.

Someone could take the securities bill of 1933 and they could put in it all kinds of things that the vast majority of Members of the Senate are for, and then they could put one little provision in one line in that virtually nobody is for, and they could send it as an amendment to the desk and then we would have no recourse except to vote

against all the things that we are for in order to vote against the one little thing that we are against.

It seems to me there is nothing worse in public life than to have someone attack you for voting against a great big old bill and say: Well, you were against. It says here motherhood and the flag and Christmas and Easter—you were against that because you voted against a bill that busted the budget and bankrupt the public.

So in writing the rules of the Senate, we wrote the rules in such a way that when someone offered such a bill as an amendment that had different parts, any Member could ask for a division so it could be dealt with separately. All I have done is exercise that right.

We now have three amendments pending before the Senate—I guess four, counting the Miller amendment—but that is all I have done. Two of these amendments I am supportive of, one of them I am not supportive of, but that is where we are.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, let me say, first of all, the Senator is obviously within his rights to divide the amendment. The Senator could have offered an amendment striking section 804, which is the section to which he objects. As I understand it, he approves of the remainder of the bill. By dividing it, he gains a one-vote advantage because if he moved to strike and we had a tie vote, he would lose. By dividing the bill, if there is a tie vote on section 804 the proponents of that provision lose. So by the division the Senator from Texas has gained a one-vote step up. I recognize that. That is permitted under the rules. I am not complaining about it.

I think it is inaccurate to use an example of the whole bill and say I either have to vote for all of the amendment or none of it because certainly he hasn't been in that position.

He could have offered an amendment to strike the section—am I right; 804 is the section on which the Senator is focused?

I make the following suggestion in order to try to move matters forward, if I could have the attention of my colleague.

Why don't we proceed and adopt the two divisions other than 804 right now and get those taken care of. Then we can address 804, which is the division to which the Senator objects. We can have an appropriate debate with respect to that division.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, we do have someone who wishes to speak. I am not sure whether it is on one of these sections or not. I am not ready to do that right now. We may reach a point where I will be ready to do that, but I am not ready to do that at this point.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, given that the Senator has indicated he is supportive of the Leahy amendment—I think he said that on more than one occasion—except for section 804, what is it that would have to transpire?

Mr. LEAHY. Madam President, if I might step in for just a moment, if the Senator from Maryland will not mind?

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I keep hearing this discussion by the senior Senator from Texas that my bill somehow changed the Securities Litigation Reform Act. It does not. It does not do that at all. It changes no provision in it at all.

The PSLRA did not establish the current statute of limitations. It did not deal with that issue at all. The Leahy bill does not impact on these provisions. It was a 5-to-4 Supreme Court case that overturned years of established law to set the current limitation periods in Lampf v. Gilbertson.

In fact, interestingly enough, former Secretary General Kenneth Starr and I take the same position on these statutes of limitations. In the dissent in that case, two of the dissenters, Justices Kennedy and O'Connor, said the one in three statute of limitation makes the possibility of injured investors recovering basically a dead letter.

Here are some numbers. Florida lost $335 million because of Enron; the University of California, $144 million—all the way down to Vermont; we lost millions of dollars. These are people who would like, in these kinds of cases, at least to have a statute of limitations such that we can go after them.

We are not suggesting changing in any way—I want everybody to be clear on this—we are not suggesting changing the basic standards of the law on a statute of limitation. We are talking about extending the time. We are talking about extending the time so it will not be, as the Supreme Court said, with a short statute of limitations, a dead letter. We are saying we want enough of a statute of limitation—still very short but a long enough one so people can recover. We are perfectly willing to have exactly the same words as the law says now, with the exception the statute is slightly longer.

I cannot speak for an activist Supreme Court that seems to be meddling in most of our laws, but their case law, their stare decisis impacts on every single Federal court in this country—district level, court of appeals level. So there, with the exact same law, the stare decisis is Lampf v. Gilbertson. That would be controlling except it would be a longer statute of limitations.

The Senator from Texas, or anybody else, if they think that statute of limitations is too long, fine, vote against it. But I am here to try to protect people and give them an opportunity—when there has been such enormous fraud and all the pension funds have been lost, and all the people who have lost their life savings—give them at least some chance to recover something, especially as the executives of these companies walk off with tens of millions of dollars. We go two-five instead of one-three.

It makes sense to me. That was negotiated and voted on in the Judiciary Committee, and the final bill was passed unanimously.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I want to resume my discussion with the Senator from Texas. I am not going to engage in a substantive debate with respect to section 804 of the Leahy amendment, which is division 1 of the divisions the Senator has made.

I want to go back to the prospects of getting division 1 and division 3 accepted, to which the Senator has repeatedly indicated he has no objection. In fact, as I understand it, he is supportive of it.

I renew my inquiry as to whether we could move ahead and accomplish that, since in our previous discussions the Senator has indicated concurrence with the notion that we need to move this legislation along. I don't understand what the objection would be to doing that. The Senator has divided the amendments. He has improved his holding position by doing so with respect to section 804. He has accomplished that objective under the rules. But as I understood it, he does not object to all of the matters in division 1 and division 3. I think it would help move the work along if we could adopt those two divisions, and then we could address division 2.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, first of all, let me say as the ranking member of the committee that I have yet to have an opportunity to offer an amendment. I only have two amendments I want to offer. No one is more eager to get this bill to conference where we might come up with something for which there would be virtually unanimous support. But I assume at some point during the deliberations we will have votes on division 1 and division 3. But I would like to have an opportunity to offer amendments myself.

All I want to do is follow the rules of the Senate.

Let me say that I am concerned, as I listen to colleagues on both sides of the aisle, that we are going to have a literal blizzard of amendments not directly related to this bill. I continue to believe that at some point, in order to finish the bill, we are going to have to file cloture.

I intend, as I said at the beginning of the debate, to support that cloture motion. I think someone would have a hard time portraying me as someone who is slowing down the process when I am ready to vote to bring debate on this bill to an end and force amendments to be germane to the bill itself.

My proposal is that we simply go on with the business of the Senate. I am

ready to offer an amendment. I am ready to deal with the amendment of the Senator from Georgia. That amendment is amendable. All of these amendments are amendable. I suggest we simply proceed, let Members be recognized, and have those Members move forward.

In light of that, I send an amendment to the desk in the form of a second-degree amendment to division 1. It is a very short amendment. I think the best thing to do is to have it read.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I have spoken to the manager of the bill. He has indicated he has no problem with someone speaking on the bill as long as there is no effort to do anything in a parliamentary fashion because there are negotiations pending at the present time. We understand that. I ask unanimous consent that the Senator from Illinois be recognized to speak for purposes of debate only.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Following his remarks, the quorum call will be reinstituted.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

Mr. DURBIN. I thank my colleague from Nevada as well as the Senator from Wyoming for allowing me to speak to the bill.

I am happy to be an original cosponsor of this amendment with Senators LEAHY and DASCHLE. The Public Company Accounting Reform and Investor Protection Act is a long title, but what it basically seeks to do is to address what most Americans view as one of the most dangerous developments in our Nation's economy in the last several years, if not longer.

When you ask the average American what they think of all this corporate corruption, all of the disclosures about corporations that have literally lied to the public, to their shareholders, to their employees, and to pensioners, people across America say it does not give them much hope for recovery for our economy. It does not give them much confidence in terms of investing in the stock market. And it makes them feel very sad and worried about their own pension and retirement.

We were proud to announce several years ago that almost half of Americans owned stock. We had developed to that point where the average person thought owning stock was a normal thing to do.

I grew up in a family with a mother and father who never once purchased a share of stock until my mother in her later years decided ''to gamble,'' as she called it. But it was unthinkable in their working years to buy stock. They were working people. They worked for a railroad. Workers didn't buy stock.

That has changed. More and more people across America buy mutual funds and stocks, 401(k)s, retirement plans. And why wouldn't they? Look at what happened over the last 10 years. If you were smart enough to buy yourself a dart board and put the Wall Street Journal up on it and throw the dart, just about any stock you hit was going to give you more money.

People came to realize that. They bought their mutual funds and stocks and sat back and relaxed and said: This is easy. I will be able to retire a lot sooner than I ever dreamed, and we have more financial security in our family than ever before.

Boy, have things changed in the last 2 or 3 years. We have seen a recession, the economy slow down, and then we watch as day after painful day reports come of the Dow Jones and the Nasdaq, all the rest of them, hitting new lows every single day.

It has to do with the state of the economy, the recession, but it has to do as much with consumer confidence, the belief that you just can't trust the corporate big boys.

There are too many instances where they decided to cash in with big stock options and walk away with millions—sometimes hundreds of millions—of dollars and leave a floundering corporation. They call it ''restatement.'' When I went to grade school, if I tried to tell the nuns I wanted to restate something I had said, I never got by with it. I got slapped on the back of the hand with a ruler. They knew it was an admission that you lied, misrepresented something. Now that is commonplace when you deal with corporations across America. Every week, there is some new disclosure.

Senator LEAHY, Senator DASCHLE, and I sat down to say we have to get to the heart of this issue and try to resolve it, in terms of making certain there are penalties in place for those who are deceitful, misleading, lying to the American people about the status of corporations. From Wall Street to Main Street, confidence has been shaken. It started off with Enron, the poster child of runaway corporate greed. Isn't it curious that today, as we debate corporate corruption, and isn't it an oddity that there is an actress in Hollywood who is facing possible jail time for shoplifting and she is facing more time in jail than any officer of the Enron Corporation? What is wrong with this picture? Somebody who shoplifts might go to jail, but not the first person has been indicted at Enron, the seventh largest corporation in America, which goes bankrupt.

We had a series of hearings, and everybody on Capitol Hill was wringing their hands and calling in the cameras, saying we have to do something about it. Yet the Department of Justice has yet to indict the first person at Enron.

So what we are saying with this amendment is that we want to establish standards and practices so that those who violate the law, who are guilty of corporate corruption, will pay a price for it, not just a fine that may be ignored or paid off by the corporation but more.

In our criminal code, we establish mandatory minimum sentences for people who are caught with a thimbleful of cocaine. We will put them in jail, and we won't give the judge any flexibility. They go to jail for x number of years, no ifs, ands, or buts. But if a person is engaged in ripping off stockholders of a major corporation, lying about their books, causing tens of thousands of people to lose their jobs, jeopardizing the retirement plans of millions of Americans, then, frankly, we say to them that yours is going to be a much easier punishment.

What is wrong with this picture? Where are the scales of justice? We should have known, when you have executives and board members who stand to gain millions of dollars from acting on insider information in the corporations they serve, that many would be tempted to do exactly that—especially when they knew there weren't any cops on the beat to keep an eye on them—no auditors, accountants, or government agencies.

In the Gingrich revolution that occurred a few years ago, we passed something called the ''Contract on America.'' One of its provisions said, we are going to take away the power of individuals to sue corporations when there has been securities fraud. The argument was made that there were too many litigious people and greedy lawyers who were meddling in the corporate business and that we had to really close the door to that opportunity. Well, that law was enacted. I voted against it because it took away one more safeguard, one more protection for the public.

Isn't it coincidental that now we stand here and talk about the disintegration of corporate confidence? There were fewer people watching then, and some of these corporate leaders were reaching into the cookie jar and pulling out with both hands. It happened over and over again. We should have known that when you condition the salary of executives on potential gains from how the company's stock prices will rise—known as options—that would be a temptation to raise the stock prices artificially, especially when those on the inside knew that, as the prices would fall, they would already have their money.

We should have known that when you have auditors and accountants shifting numbers to come up with the right set of bottom-line figures they need to produce for Wall Street, they would be tempted to do that even when the audited numbers didn't add up. We should have known that when you have the smartest lawyers and bankers in the country scheming all night to come up

with borderline legal ways to avoid paying taxes through a maze of fictitious straw companies, they would be tempted to do just that, especially when they knew Congress wrote the laws with plenty of loopholes for which their lobbyists paid.

We stand in the Senate and reflect upon the sad state of business in America, and we have to wonder who is really at fault.

Let me add that the vast majority of business leaders in America are honest, hard-working people who have taken a risk in our free enterprise system to produce goods and services of value to our country and to the world, to create jobs and wealth. They deserve our admiration and respect. But, clearly, day after day, week after week, month after month, we read on the front pages of our major newspapers about the exceptions to what I just said.

Is it the executives who are responsible as the bad actors, or their accountants, their auditors, their bankers? The answer is all of the above. Every one of these must face up to their responsibilities.

In due course, I hope we will enact stricter rules for these corporate players. But we have to accept our responsibility; Government and Congress has a responsibility.

I salute Senator SARBANES of Maryland for what he has done with Senator ENZI in bringing this bill to the floor. There is an effort to divide up this bill in the hopes of changing a statute of limitations.

Why is a statute of limitations of importance in this debate? It really defines the reach of the law. If you tell me there is a statute of limitations that limits the liability of these corporate bad actors, I can tell you some people are going to get off the hook. The Leahy amendment to Senator SARBANES' bill broadens the statute of limitations so that more wrongdoers will be held accountable; those who have lied, cheated, and stolen will be held accountable.

The opponents of this approach are now suggesting we need to shorten the statute of limitations, limit the inquiry and investigation of the Government, and limit the liability of the bad actors. This is an answer to the prayers of many corporate big wigs who have ripped off their stockholders, employees, and pensioners across America.

This suggestion that we would lessen and shorten the statute of limitations is what they want to hear. Some will now be able to retire to their mansions, and they will be able to live in the lap of luxury with the hundreds of millions of dollars they have taken from these corporations and never be called to answer for their violations of the law. That is what happens when you shorten a statute of limitations. It is an answer to the prayer of the corporate big wigs' defense attorneys. Why in the world would we be doing that?

Why do we want to insulate from liability the very people who are guilty of wrongdoing? Why would we not support Senator LEAHY's amendment to say that those who have violated the public trust, those who have lied, misled, and been deceitful should be held accountable both on a criminal and civil standard?

So I certainly hope that at the end of this debate the Senate, on a bipartisan basis, will stand by Senator SARBANES and his bill. I also hope that when it is all said and done, the underlying amendment I have offered with Senator LEAHY and Senator DASCHLE will be accepted.

Let me tell you what the amendment does, in brief. It punishes corporate criminals and creates a 10-year securities fraud felony for any ''scheme or artifice'' to defraud shareholders, and directs the U.S. Sentencing Commission to raise penalties in obstruction of justice cases.

Two, it preserves evidence of fraud, establishes a new felony for destroying evidence when records are under subpoena. It requires key financial audit documents to be retained for 5 years, and it creates a new 5-year felony for intentional destruction of documents.

Do you know what happened? As soon as Enron got in trouble, they called some of their buddies at Arthur Andersen, and the next thing you know, the documents are being shredded, evidence is disappearing. This underlying amendment, the Leahy-Daschle-Durbin amendment, addresses that specifically.

The third thing is that it protects victims. It creates protections for corporate whistleblowers. We need them. If insiders don't come forward, many times you don't know what is happening in large corporations. It lengthens the statute of limitations to 5 years from the date of fraud and 2 years from the date of discovery for victims to bring claims against the corporations. It prevents securities laws violators from using bankruptcy to shield debts based on fraud judgments.

What they are trying to do—I see Senator LEAHY in the Chamber; he is the major sponsor of this amendment—is to gut the provision that extends the statute of limitations and say that these people will not have to be held accountable for their wrongdoing.

I urge my colleagues in the Senate to resist this effort. We have to hold these corporate wrongdoers accountable. We should not be party to any kind of effort to reduce their liability; otherwise, what message are we sending? Mandatory minimum sentences for a thimbleful of cocaine, but allowing those guilty of corporate wrongdoing to get off the hook. What is wrong with this picture of justice?

I urge my colleagues to resist the change in the statute of limitations, and I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. SARBANES. Madam President, I suggest the absence of a quorum.

Mr. GRAMM. Madam President, was I recognized?

The PRESIDING OFFICER. The Senator from Texas was recognized.

Mr. GRAMM. Madam President, let me answer what has just been said and straighten out the facts. In 1995, we had a major problem in America in that we had strike lawsuits being filed against high-tech industries where one firm filed 80 percent of the cases and settled almost all the cases out of court.

We had a bipartisan consensus that this represented abuse. So under the leadership of Senator DODD, Senator DOMENICI, and others, we passed a bill which President Clinton vetoed. We then overrode the veto. An important part of that reform was to say—and let me make it clear, this does not have anything to do with committing a crime where you can be put in jail. It has nothing to do with the SEC's jurisdiction. It has nothing to do with the Justice Department's jurisdiction. It simply has to do with my right to file a lawsuit against you and anybody else's right to file a lawsuit against anybody else.

We had a lot of reforms in that bill. You had to actually have a client. The lawyer who was the lead lawyer in 80 percent of these cases said he loved these type lawsuits because he did not have to fool with a client. In essence, he was suing on behalf of himself. Virtually a huge percent of the money went to the lawyer filing the suit, not to the people who supposedly had been harmed.

Part of the reform was to set a statute of limitation that if you believe I have done something wrong, and you want to sue me for it, you have 1 year from the time you find it out, or 3 years from when it happens to file a lawsuit.

When the Senator was talking about letting people off the hook, surely everybody understands that our system has no ex post facto laws. So if the provision raising that statute of limitation to 5 years became law, it would have no effect on anybody who has committed one of these violations about which we are talking.

AMENDMENT NO. 4184 TO DIVISION 1 OF AMENDMENT NO. 4174

Mr. GRAMM. Mr. President, having straightened that out, that is not even the subject about which we are talking. We now have three amendments pending, and I send a second-degree amendment to the first amendment and ask for its immediate consideration.

This is a very short amendment and I ask it be read because the language of it is so clear that a lot of times we have an amendment, and what we say does not have much to do with the amendment. I want people to read the language.

The PRESIDING OFFICER (Mr. CARPER). The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for himself and Mr. SANTORUM, proposes an amendment numbered 4184 to division 1 of amendment No. 4174:

(Purpose: To provide the Board with appropriate flexibility in applying non-audit services restrictions to small businesses)

At the end of the division, insert the following new section:

"SEC. . EXEMPTION AUTHORITY.

''(1) CASE-BY-CASE WAIVERS.—Notwithstanding section 201(b) of this Act. The Board may, on a case by case basis, exempt any person, issuer, public accounting firm, or transaction from the prohibition on the provision of services under section 10A(g) of the Securities Exchange Act of 1934 (as added by this section), to the extent that such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors, and subject to review by the Commission in the same manner as for rules of the Board under section 107.

''(2) SMALL BUSINESS EXEMPTION.—The Board may, by rule exempt any person, issuer or public accounting firm (or classes of such persons, issuers or public accounting firms) from the prohibition on the provision of services under section 10A(g) of the Securities Exchange Act of 1934 (as added by this section), based upon the small business nature of such person, issuer or public accounting firm, taking into consideration applicable factors such as total asset size, availability and cost of retaining multiple service providers, number of public company audits performed, and such other factors and conditions as the Board deems appropriate consistent with the purposes of this Act.''.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that I be allowed to yield to the Senator from Georgia.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Georgia.

AMENDMENT NO. 4176 WITHDRAWN

Mr. MILLER. Mr. President, I ask unanimous consent that the Miller amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. 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. 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.

DIVISION 1 OF AMENDMENT NO. 4174 WITHDRAWN

Mr. DASCHLE. Mr. President, I withdraw Division 1 of the amendment.

The PRESIDING OFFICER. The division is withdrawn.

DIVISION 2 OF AMENDMENT NO. 4174 WITHDRAWN

Mr. DASCHLE. I withdraw Division 2 of the amendment.

The PRESIDING OFFICER. The division is withdrawn.

DIVISION 3 OF AMENDMENT NO. 4174 WITHDRAWN

Mr. DASCHLE. I withdraw Division 3 of the amendment.

The PRESIDING OFFICER. The division is withdrawn.

AMENDMENT NO. 4185

(Purpose: To provide for criminal prosecution of persons who alter or destroy evidence in certain Federal investigations or defraud investors of publicly traded securities, and for other purposes.)

Mr. DASCHLE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for Mr. LEAHY, for himself, Mr. MCCAIN, Mr. DASCHLE, Mr. DURBIN, Mr. HARKIN, Mr. CLELAND, Mr. LEVIN, Mr. KENNEDY, Mr. BIDEN, Mr. FEINGOLD, Mr. MILLER, Mr. EDWARDS, Mrs. BOXER, Mr. CORZINE, and Mr. KERRY, proposes an amendment numbered 4185.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. DASCHLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. 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, first, let me say that we have had a very productive period over the last several minutes, and I think we now are in a position to move to a vote on the Leahy amendment.

Mr. President, I ask unanimous consent that a vote occur on the Leahy amendment at 3:15 this afternoon, and that there be no amendments offered prior to the vote.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. DASCHLE. I thank the Chair.

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, first, let me say, I am pleased we have reached an agreement on the Leahy amendment. This is one of these little technical things that does not mean much to many people, and it is one where, in fact, there is a dispute, but we have reached an agreement that will allow the Leahy amendment to go forward with certainty on our part that the 2-year statute of limitation is a real statute of limitation, that we simply change the number and that in the process, by the way we do it, we do not do anything that would challenge the current court ruling.

Mr. REID. Will my friend yield for a unanimous consent request?

Mr. GRAMM. I am happy to yield.

Mr. REID. Mr. President, I ask unanimous consent that the time from now until 3:15 be divided equally between the two managers of the bill.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. GRAMM. Mr. President, I thank the majority leader for helping us work this out. I think this will give us the ability now to move forward. As part of this agreement, we will have cloture filed on the bill. While that cloture is ripening, we will continue to consider amendments.

I think this agreement guarantees we will have an opportunity, if not to finish the bill this week, the opportunity to assure that it would be finished early next week.

Let me also say, for the record, I would not object to a unanimous consent request to have the cloture vote today or tomorrow. From my point of view, we do not need to wait until Friday to have the cloture vote. I would be willing to ask unanimous consent that it be moved up, if that were appropriate. I think that is up to the majority leader, obviously. But from my point of view, we are ready to move and head to conference with this bill.

This one small part of the Leahy amendment I do not think is prudent policy, but there is greater certainty about what it means in terms of the statute of limitations. So I am more satisfied at least in terms of certainty.

I thank Senator LEAHY for working this out. There is no doubt about the fact that he had the votes if we could have brought it all to a vote, but I think what we are doing, by working out this simple compromise, is guaranteeing that we are going to pass this bill in short order.

I am hopeful in conference we will be able to bring in the changes the President has proposed. I understand the Republican leader will offer them as an amendment. I will support them. I hope they are adopted unanimously.

But in any case, I think this agreement paves the way to guarantee we will pass this bill, hopefully, this week if not early next week.

Let me say to my colleagues on the Republican side of the aisle, I intend to vote for cloture. I think this is an important piece of legislation. I would do important parts of it differently than Senator SARBANES, but he is chairman and I am ranking member; and we have been in the different positions. There is a difference between the two, but we cannot get a bill which I want unless we go to conference.

The House bill is very different. I think we have an opportunity to work out a compromise, just as we did on financial services modernization. Senator SARBANES opposed it when we dealt with it on the floor of the Senate, but by the time we came back from conference, we got 90 votes. My guess is, we will do as well or better on this bill after going to conference.

So I think we have taken a major step toward moving on. I think it is important. I think the American people want this bill passed. If we were willing to move up the cloture vote, which I am willing to do, we could pass

it this week. If not, we will pass it next week.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, would the distinguished senior Senator from Maryland yield me, say, 5 minutes?

Mr. SARBANES. Would the Senator mind if I made a very short statement?

Mr. LEAHY. I would be delighted if the distinguished chairman did.

Mr. SARBANES. Mr. President, I rise to commend the distinguished Senator from Vermont for the excellent work that he and the Committee on the Judiciary did with respect to the amendment that is now pending at the desk.

This amendment will create tough new penalties to punish corporate fraud. It has very important provisions to protect corporate whistleblowers. Previously, they have been acting under wire and mail fraud provisions. And those are not adequate to deal with securities fraud. The committee recognized that and dealt directly with that question.

The President is talking about doubling the penalties for wire and mail fraud, as I understand it, but did not have a proposal to actually have a securities fraud offense. And that is very important because it would have been very difficult under those other statutes because they are not directly focused on securities fraud.

I think the committee has stepped into what was clearly a vacuum and has filled it in an exceedingly effective and craftsmanlike way.

There are also important provisions in this amendment to prohibit individuals from destroying documents or falsifying records with the intent to obstruct or influence a Federal investigation or a matter in bankruptcy. That is also very important. We have some provisions of that sort but, once again, they are not fully developed or fully focused. The committee, again, has applied itself in order to do that and obviously made a very substantial contribution in that regard.

I also want to touch, very briefly, on the provisions for whistleblower protection for employees of public companies. The legislation, as reported out of the Banking Committee, requires audit committees to have in place procedures to receive and address complaints regarding accounting and internal control or auditing issues and to establish procedures for employees' anonymous submissions of concerns regarding accounting or auditing matters. That was a provision championed by Senator STABENOW. We were very pleased to adopt it.

But Senator LEAHY and his colleagues on the Judiciary Committee have moved ahead to provide additional protections and remedies for corporate whistleblowers that I think will help to ensure that employees will not be punished for taking steps to prevent corporate malfeasance.

There are a number of other very important provisions in this legislation of which I am very strongly supportive, but I, in deference to the limitation on time, will withhold with respect to those.

But, again, I thank the able chairman of the Judiciary Committee and his colleagues for this very important contribution to the legislation we are trying to develop.

Let me simply say it is a pleasure, once again, as we did back in the fall when we did money laundering, to be able to work closely with the committee in furthering the public interest.

I yield the remainder of my time to the Senator from Vermont.

The PRESIDING OFFICER. Thirteen minutes remain for the majority. The Senator from Vermont.

Mr. LEAHY. I thank the distinguished Senator from Maryland. I appreciate his comments also about last fall after the tragedies of September 11. He and I and our committees worked closely on the terrorism legislation. Realizing it was more than simply having a penalty against terrorism, we had to have the tools against terrorism, and the distinguished senior Senator from Maryland was very helpful in putting together the money-laundering legislation so we could come out with a counterterrorism package on which the Senate could vote for 99–1.

That is what we are trying to do today. I am a proud cosponsor of Senator SARBANES' legislation before the body. After years of experience in this body, I know how helpful it is if you have bills where the jurisdiction of various aspects may be in different committees. And considering having turf battles, when you work together, as we have in the Banking and Judiciary Committees, and others worked, you usually end up with a better package for the Senate.

The final product becomes better and more complete because of our joint work. Having served here for a quarter of a century with the Senator from Maryland, I know such things can be done.

With the members of his committee, he has had to craft a very complex, worthwhile bill on the issue of how do you account, how do you keep records, of all the various things to come under the SEC, to come under the jurisdiction of his committee.

What I am concerned about, from the Judiciary Committee, is, if you get these people, you get them; that if you have somebody who has gone and spent all their efforts to defraud their own company and the pension holders in their company and the investors in their company, that they not walk off scot-free with their mansions in protected States and their offshore money.

When you look at what has happened, when you look at the out-and-out fraud of some of these executives as they have ruined their own company, actually damaged their own country as well, at the same time lining their pockets as if anybody could even have pockets as huge as the amounts of money they have put in, and they walk away scot-free and they say: This is such a tragedy. I hate to see my company collapse like that and tens of thousands of people out of work and all those pensioners gone and all those States defrauded. And I am just going to have to comfort myself for the rest of my life with my $100 or $200 or $300 million I have absconded with.

Their comfort might be a little bit less if they find that those same pension holders and stockholders have the ability to go after the money they are walking away with, and their comfort might be a little bit less if instead of a very large mansion they are in a 12-by-12 cell behind steel doors. Instead of a complacent board of directors, they may have to be dealing with their fellow inmates who may not take very kindly to them.

Why do we have to have that kind of a tough law, and why do we have to have the statute of limitations? Just take a look at this chart. This is what Enron did. Does this look like a company that wants to be transparent in their dealings? Does this look like a company that wants to be on the up and up? These are their off-the-book transactions, hidden debt, fake profits, inflated stock.

What were some of the companies they were hiding this behind? Here is one named Ponderosa. If you look at that, you do not know it belongs to Enron. Or Jedi Capital or Big Doe—that is not D-O-U-G-H—or Sundance or Little River or Yosemite or OB–1 Holdings or Peregrine or Kenobe. I guess Kenobe is a different company than OB–1. And we have Braveheart and Mojave and Chewco and Condor. It seems the only time they had free between trying to hide the money was going to movies, when you look at some of the secret partnerships they created here, Jedi II, OB–1, Kenobe.

My point is, do you think if anybody stumbled across one of these companies they would think for even 1 minute that it belonged to Enron? Of course not. If you were the person who was to protect the pension rights of the employees, do you think if you found Ospry or Zenith or Egret or Cactus or Big River or Raptor you would think the money that was being tucked away and hidden in there could actually belong to the employees of Enron?

But Kenneth Lay comes up here, sidles up to the table where he is going to be called to testify and says: I wish you could know the whole story, but not from me. I am taking the fifth.

Well, he has that constitutional right. But he doesn't have a constitutional right to steal and defraud, and other people like him don't have the constitutional right to steal and defraud and hide the money.

This isn't a question of whether they walk away with only $100 million instead of $200 million. It is a question of a middle-age couple reaching retirement time and having virtually all

their retirement save Social Security tied up in a pension fund such as this and seeing it wiped out that day. They are not facing a question of whether they will have $200 million or $100 million. They are going to face the question of whether they can even keep their home, whether they will have the money to visit their grandchildren, or have the money to take care of their medical needs in their old age. That is what we are talking about. Or the people who work so hard, show up for work every single day, help make the fortune for the Ken Lays of the world, but they suddenly find they can't make the mortgage payment, they can't make the car payment, they can't pay for their children's braces. They can't do any of these other things because the big guys have walked off with all the money.

That is why I wrote the legislation I did. I wrote legislation that is going to punish criminals. I wrote legislation that will preserve the evidence of fraud and protect victims.

As one who has prosecuted people, I know nothing focuses their attention more than knowing they will not go to jail. Suddenly that overlooked ethics course when they were getting their MBA, or that overlooked ethics course in the accounting school or law school, they are going to start looking at it again. If they think, because they can walk away from this, they will go to jail, they are going to go to jail. It is not going to be a complacent board of directors they will deal with. It will be a criminal in the cell next door. That is what they have to worry about.

These people deserve to go to jail. They have ruined the lives of thousands of people, good people, hard-working people, honest people. They have destroyed much of the confidence in Wall Street. They have destroyed the confidence in people who should be investing.

I am proud to be an American and proud to be in a country such as ours where you can invest, where people can grow companies, where they can make money if they do the right thing. But I am not proud of these kinds of people who destroy that sort of American dream.

The President says he is outraged. I suspect he is. But I am also outraged. I would hope the President's outrage will go to the point of supporting this kind of legislation, this kind of legislation which doesn't just say it is wrong for you to do that, but if you do it, you are going to go to jail. Those iron bars are going to close.

We have worked hard on this legislation. That is why I compliment the distinguished senior Senator from Maryland. He and the members of his committee worked very hard. The people of my staff, including Ed Pagano, Steve Dettelbach, Jessica Berry, and Bruce Cohen worked so hard. They brought in people from across the political spectrum, Republicans and Democrats alike, to join us. I think all of those who joined it joined in one basic thing. They set aside their philosophical or partisan differences. They set aside their feelings of party and said they were overwhelmed with feelings of outrage.

Even in my own little State of Vermont, pension funds were damaged because of the excesses of Enron. And then we see WorldCom and Tyco and Xerox, and we say we had better look back 5 years.

That is not the American way. That is the way of some of the most arrogant, self-centered, spoiled criminals. That is what they are; they are criminals. They cooked the books in California during an energy crisis, so millions of people in California paid more for their electricity. Their arrogance was such that they did not care because all of those offshore corporations were hiding the money. Lord knows how much money is still there. You are not going to find out from these executives because they will take the fifth. They have the constitutional right to do that, and I will defend that right, as I will the rights of everybody else. But let us not shed tears for them. Just as Democrats and Republicans will join in voting for this, I call on the President and the Attorney General to step forward and say they support it. And I call on our Justice Department to go forward and find some of these people not just to say maybe we will find a corporation guilty of a crime; let's send some of these people to jail for what they have done. Let's send them to jail, and let's do everything we can to let the people defrauded by them recover some of their ill-gotten gains.

I see the Senator from Michigan has taken over the chair. Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEAHY. I note that the Senator from Michigan is a cosponsor of this amendment.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Madam President, I think all time has expired on the majority side. I think I have about 13 minutes. I have said all I intended to say. I think we have cleared the way for this bill to be passed. I want to reiterate that when cloture is filed in a few minutes, I will be supportive of having that cloture vote earlier than Friday, which would be the normal time it would ripen. Maybe others would not be supportive of having the vote, and they are perfectly within their rights. I think the agreement we worked out has guaranteed we are going to pass this bill either this week or very early next week.

The net result is that we can go to conference with the House, and we will have an opportunity, I believe, to come back with a strong bipartisan bill. I have to say that I think we have sort of reached the point where a lot of debate on this issue is more about the next election than it is about corporate integrity. I wonder if the debate has not reached the point where we are hurting equity values by making people fear not only the disease, but the absurd prescription of the doctor that might come from the Government.

I think the sooner we can finish this bill and go to conference and come out with a final product so that people know with certainty what the new rules are and how we are going to go about them, everybody will benefit. I think the only thing that will be lost by invoking cloture is that we will have fewer speeches, we will have fewer opportunities to denounce evil, however we define it, and we will be less likely to get on the 6 o'clock news; but we will also be less likely to spook the markets and more likely to get our job done; we will be more likely to produce a good bill we can all be proud of, not just when we read the editorial in the Washington Post, but when we submit it all to the front-porch-of-the-nursing-home test, as to how we feel about it someday when we are sitting on the front porch of the nursing home.

Mr. HARKIN. Mr. President, our economic system is based on transparency. Investors need accurate financial information about a company so that they can make informed investment decisions. They need information they can trust. Getting honest information requires accountability and honesty from three entities: corporate executives, stock brokers, and public auditors. Clearly, we are seeing breakdowns, if not outright criminality, at all three levels. And it requires additional accountability at all three levels in order to restore investor confidence.

First, we must expect that corporations present an honest portrait of the companies economic health and well-being. Corporate executives who cooks the books are no different than used car salesmen who roll back the car odometers, both are engaged in a fraud. They must be held accountable for their actions and severely punished.

Second, we must expect brokers provide their investors with honest, accurate, and unbiased advice. I stress unbiased. Unfortunately, many brokerage firms have a conflict of interest because they bring in businesses and increase their own profits by pushing bad stocks. One recent report indicated that 94 percent of Wall Street firms continued to recommend stocks for companies that went bankrupt this year up to the very day that companies filed for Chapter 11.

Third, we have to expect that public accounting firms are acting as watchdogs over corporate financial statements. Yet many of the auditing firms, not just Arthur Andersen, have had major failures.

Accounting firms gave a clean bill of health to over 93 percent of publicly traded companies that were subsequently involved in accounting problems within the year. And 42 percent of publicly traded companies that filed

for bankruptcy were given a clean bill of health. Clearly, we need fundamental reform at all three levels to restore investor confidence and punish criminal behavior. Some say may say that Enron, Worldcom and the others are a few bad apples. That ignores the much wider, systemic problems that now plague corporate America.

Advocating half measures or saying that we do not need to strengthen the law is like saying that bank robbery should not be severely punished and banks should not have vaults because most people do not rob banks. Well, some people do rob banks. And some corporate executives rip off investors. But they are both criminals and both should be punished accordingly.

I commend Chairman SARBANES for his accounting reform bill, S. 2673, which is an excellent start at providing for stronger rules regarding accounting procedures. I am also pleased to be an original cosponsor of Senator LEAHY's ''Corporate and Criminal Fraud Accountability Act,'' that is now being offered as an amendment. Will some key executives go to jail if this amendment passes? If they are guilty of fraud or destroying evidence of wrong doing, I certainly hope so.

First, the amendment creates a new crime for security fraud and helps prosecutors punish corporate criminality. This amendment is a lot like the ''Go to Jail'' card in the board game ''Monopoly.'' It says to corporate criminals ''go to jail, do not pass go and do not collect $200.'' The amendment also increases penalties for obstruction of justice. The people who would shred documents to cover up criminal behavior are not better than the ''wheel man'' in a robbery. They may not have pulled the robbery, but the crook cannot getaway without them. This amendment would make sure the shredders are held accountable as well.

Incidentally, the amendment also lengthens the statute of limitations on these crimes and protects corporate whistleblowers. Corporate criminals should not be allowed to run out the clock and avoid prosecution. And workers who discover corporate fraud should be protected just as we protect government whistleblowers. I believe this amendment will go a long way toward preventing corporate crime and prosecuting those who would rip off their stock holders and employees. Restoring confidence and punishing criminal behavior is in everyone's best interest—honest corporate executives, their employees, investors, and the public at large. I urge adoption of the amendment and look forward to seeing it become law.

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. SARBANES. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. STABENOW). Without objection, it is so ordered.

Under the previous order, the question is on agreeing to amendment No. 4185. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Ohio (Mr. VOINOVICH), and the Senator from Idaho (Mr. CRAPO), are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 169 Leg.]

YEAS—97

Akaka	Durbin	McCain
Allard	Edwards	McConnell
Allen	Ensign	Mikulski
Baucus	Enzi	Miller
Bayh	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Fitzgerald	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Graham	Nickles
Boxer	Gramm	Reed
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Santorum
Byrd	Hatch	Sarbanes
Campbell	Hollings	Schumer
Cantwell	Hutchinson	Sessions
Carnahan	Hutchison	Shelby
Carper	Inhofe	Smith (NH)
Chafee	Inouye	Smith (OR)
Cleland	Jeffords	Snowe
Clinton	Johnson	Specter
Cochran	Kennedy	Stabenow
Collins	Kerry	Stevens
Conrad	Kohl	Thomas
Corzine	Kyl	Thompson
Craig	Landrieu	Thurmond
Daschle	Leahy	Torricelli
Dayton	Levin	Warner
DeWine	Lieberman	Wellstone
Dodd	Lincoln	Wyden
Domenici	Lott	
Dorgan	Lugar	

NOT VOTING—3

Crapo	Helms	Voinovich

The amendment (No. 4185) was agreed to.

Mr. DASCHLE. Madam President, I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4186

Mr. DASCHLE. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for Mr. BIDEN and Mr. HATCH, proposes an amendment numbered 4186.

Mr. DASCHLE. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase criminal penalties relating to conspiracy, mail fraud, wire fraud, and certain ERISA violations, and for other purposes)

At the end, add the following:

TITLE VIII—WHITE-COLLAR CRIME PENALTY ENHANCEMENTS

SEC. 801 SHORT TITLE.

This title may be cited as the ''White-Collar Crime Penalty Enhancement Act of 2002''.

SEC. 802. CRIMINAL PENALTIES FOR CONSPIRACY TO COMMIT OFFENSE OR TO DEFRAUD THE UNITED STATES.

Section 371 of title 18, United States Code, is amended by striking ''If two or more'' and all that follows through ''If, however,'' and inserting the following:

''(a) IN GENERAL.—If 2 or more persons—

''(1) conspire to commit any offense against the United States, in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined or imprisoned, or both, as set forth in the specific substantive offense which was the object of the conspiracy; or

''(2) conspire to defraud the United States, or any agency thereof in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined under this title, or imprisoned not more than 10 years, or both.

''(b) MISDEMEANOR OFFENSE.—If, however,''.

SEC. 803. CRIMINAL PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 of title 18, United States Code, is amended by striking ''five years'' and inserting ''10 years''.

(b) WIRE FRAUD.—Section 1343 of title 18, United States Code, is amended by striking ''five years'' and inserting ''10 years''.

SEC. 804. CRIMINAL PENALTIES FOR VIOLATIONS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by striking ''$5,000'' and inserting ''$100,000'';

(2) by striking ''one year'' and inserting ''10 years''; and

(3) by striking ''$100,000'' and inserting ''$500,000''.

SEC. 805. AMENDMENT TO SENTENCING GUIDELINES RELATING TO CERTAIN WHITE-COLLAR OFFENSES.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this title.

(b) REQUIREMENTS.—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses and the penalties set forth in this title, the growing incidence of serious fraud offenses which are identified above, and the need to modify the sentencing guidelines and policy statements to deter, prevent, and punish such offenses;

(2) consider the extent to which the guidelines and policy statements adequately address—

(A) whether the guideline offense levels and enhancements for violations of the sections amended by this title are sufficient to deter and punish such offenses, and specifically, are adequate in view of the statutory increases in penalties contained in this title; and

(B) whether a specific offense characteristic should be added in United States Sentencing Guideline section 2B1.1 in order to provide for stronger penalties for fraud when the crime is committed by a corporate officer or director;

(3) assure reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 806. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1348. Failure of corporate officers to certify financial reports

''(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chairman of the board, chief executive officer, and chief financial officer (or equivalent thereof) of the issuer.

''(b) CONTENT.—The statement required under subsection (a) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report or financial report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer.

''(c) CRIMINAL PENALTIES.—Notwithstanding any other provision of law—

''(1) any person who recklessly violates any provision of this section shall upon conviction be fined not more than $500,000, or imprisoned not more than 5 years, or both; or

''(2) any person who willfully violates any provision of this section shall upon conviction be fined not more than $1,000,000, or imprisoned not more than 10 years, or both.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The section analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''1348. Failure of corporate officers to certify financial reports.''.

Mr. DASCHLE. Madam President, I know there are a number of Senators who wish to be recognized to offer amendments. I think Senator LOTT would like very much to offer an amendment as well. What I would like to do is to propound a unanimous consent request involving a number of Senators who have amendments to be offered so they will know the sequence. I know Senator EDWARDS has been waiting a long time to offer an amendment, as well as Senator LEVIN, Senator SCHUMER, Senator GRAMM, and Senator MCCAIN. Perhaps in the next couple of minutes we can put together a unanimous consent request which will sequence these amendments so Senators will know they are protected and have the opportunity to then have their amendments called up. I ask that all of our colleagues work with us over the course of the next few minutes.

I yield the floor to accommodate Senator LOTT's interest in offering his amendment. We will lay aside the Biden amendment temporarily as that amendment is considered as well.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Madam President, first, I thank Senators SARBANES, GRAMM, and LEAHY for the work they have put into moving through the amendment on which we just voted. That allows us to move on to other germane or important amendments that will be offered.

AMENDMENT NO. 4188

Madam President, I understand the Biden amendment will be set aside. So I send to the desk my amendment.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside, and the clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 4188.

Mr. LOTT. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To deter fraud and abuse by corporate executives)

At the appropriate place, insert the following:

SEC. . HIGHER MAXIMUM PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 is amended by striking ''five'' and inserting ''ten''.

(b) WIRE FRAUD.—Section 1343 is amended by striking ''five'' and inserting ''ten''.

SEC. . TAMPERING WITH A RECORD OR OTHERWISE IMPEDING AN OFFICIAL PROCEEDING.

Section 1512 of title 18, United States Code is amended—

(a) by re-designating subsections (c), (d), (e), (f), (g), (h), and (i) as subsections (d), (e), (f), (g), (h), (i) and (j);

(b) by inserting after subsection (b) the following new subsection:

''(c) Whoever corruptly—

''(1) alters, destroys, mutilates or conceals a record, document or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or

''(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so;

''shall be fined under this title or imprisoned not more than ten years, or both.''

SEC. . TEMPORARY FREEZE AUTHORITY FOR THE SECURITIES AND EXCHANGE COMMISSION.

(a) IN GENERAL.—The Securities Exchange Act of 1934 is amended by inserting after section 21C(c)(2) (15 U.S.C. 78u–3(c)(2)) the following:

''(3) TEMPORARY FREEZE.—

''(A) Whenever during the course of a lawful investigation involving possible violations of the federal securities laws by an issuer of publicly traded securities or any of its directors, officers, partners, controlling persons, agents or employees, it shall appear to the Commission that it is likely that the issuer will make extraordinary payments (whether compensation or otherwise) to any of the foregoing persons, the Commission may petition a federal district court for a temporary order requiring the issuer to escrow, subject to court supervision, those payments in an interest-bearing account for 45 days. Such an order shall be entered, if the court finds that the issuer is likely to make such extraordinary payments, only after notice and opportunity for a hearing, unless the court determines that notice and hearing prior to entry of the order would be impracticable or contrary to the public interest. A temporary order shall become effective immediately and shall be served upon the parties subject to it and, unless set aside, limited or suspended by court of competent jurisdiction, shall remain effective and enforceable for 45 days. The period of the order may be extended by the court upon good cause shown for not longer than 45 days, provided that the combined period of the order not exceed 90 days.

''(B) If the individual affected by such order is charged with violations of the federal securities laws by the expiration of the 45 days (or the expiration of any extended period), the escrow would continue, subject to court approval, until the conclusion of any legal proceedings. The issuer and the affected director, officer, partner, controlling person, agent or employee would have the right to petition the court for review of the order. If the individual affected by such order is not charged, the escrow will terminate at the expiration of the 45 days (or the expiration of any extended period), and the payments (with accrued interest) returned to the issuer.

(b) TECHNICAL AMENDMENT.—Section 21C(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–3(c)(2)) is amended by striking ''This'' and inserting ''Paragraph (1) of this''.

SEC. . AMENDMENT TO THE FEDERAL SENTENCING GUIDELINES.

(a) REQUEST FOR IMMEDIATE CONSIDERATION BY THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission is requested to—

(1) promptly review the sentencing guidelines applicable to securities and accounting fraud and related offenses;

(2) expeditiously consider promulgation of new sentencing guidelines or amendments to existing sentencing guidelines to provide an enhancement for officers or directors of publicly traded corporations who commit fraud and related offenses; and

(3) submit to Congress an explanation of actions taken by the Commission pursuant to paragraph (2) and any additional policy recommendations the Commission may have for combating offenses described in paragraph (1).

(b) OTHER.—In carrying out this section, the Sentencing Commission is requested to:

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of securities, pension, and accounting fraud and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) assure reasonable consistency with other relevant directives and with other guidelines;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements;

(4) make any necessary conforming changes to the sentencing guidelines; and

(5) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.—The Commission is requested to promulgate the guidelines or amendments provided for under this section as soon as practicable, and in any event not later than the 120 days after the date of the

enactment of this Act, in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not yet expired.

SEC. . AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.

(a) In section 21C of the Exchange Act of 1934, add at the end a new subsection as follows:

''( ) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b) of this title or the rules or regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to section 15(d) of this title if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.''

(b) In section 8A of the Securities Act add at the end a new subsection as follows:

''( ) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) of this title from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of that Act if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.''

AMENDMENT NO. 4189 TO AMENDMENT NO. 4188

Mr. GRAMM. Madam President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 4189 to amendment No. 4188.

Mr. GRAMM. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To deter fraud and abuse by corporate executives)

Strike all after the first word, and insert the following:

HIGHER MAXIMUM PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 is amended by striking ''five'' and inserting ''ten''.

(b) WIRE FRAUD.—Section 1343 is amended by striking ''five'' and inserting ''ten''.

SEC. . TAMPERING WITH A RECORD OR OTHERWISE IMPEDING AN OFFICIAL PROCEEDING.

Section 1512 of title 18, United States Code is amended—

(a) by re-designating subsections (c), (d), (e), (f), (g), (h), and (i) as subsections (d), (e), (f), (g), (h), (i) and (j);

(b) by inserting after subsection (b) the following new subsection:

''(c) Whoever corruptly—

''(1) alters, destroys, mutilates or conceals a record, document or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or

''(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so;

''shall be fined under this title or imprisoned not more than ten years, or both.''

SEC. . TEMPORARY FREEZE AUTHORITY FOR THE SECURITIES AND EXCHANGE COMMISSION.

(a) IN GENERAL.—The Securities Exchange Act of 1934 is amended by inserting after section 21C(c)(2) (15 U.S.C. 78u–3(c)(2)) the following:

''(3) TEMPORARY FREEZE.—

''(A) Whenever during the course of a lawful investigation involving possible violations of the federal securities laws by an issuer of publicly traded securities or any of its directors, officers, partners, controlling persons, agents or employees, it shall appear to the Commission that it is likely that the issuer will make extraordinary payments (whether compensation or otherwise) to any of the foregoing persons, the Commission may petition a federal district court for a temporary order requiring the issuer to escrow, subject to court supervision, those payments in an interest-bearing account for 45 days. Such an order shall be entered, if the court finds that the issuer is likely to make such extraordinary payments, only after notice and opportunity for a hearing, unless the court determines that notice and hearing prior to entry of the order would be impracticable or contrary to the public interest. A temporary order shall become effective immediately and shall be served upon the parties subject to it and, unless set aside, limited or suspended by court of competent jurisdiction, shall remain effective and enforceable for 45 days. The period of the order may be extended by the court upon good cause shown for not longer than 45 days, provided that the combined period of the order not exceed 90 days.

''(B) If the individual affected by such order is charged with violations of the federal securities laws by the expiration of the 45 days (or the expiration of any extended period), the escrow would continue, subject to court approval, until the conclusion of any legal proceedings. The issuer and the affected director, officer, partner, controlling person, agent or employee would have the right to petition the court for review of the order. If the individual affected by such order is not charged, the escrow will terminate at the expiration of the 46 days (or the expiration of any extended period), and the payments (with accrued interest) returned to the issuer.

(b) TECHNICAL AMENDMENT.—Section 21C(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–3(c)(2)) is amended by striking ''This'' and inserting ''Paragraph (1) of this''.

SEC. . AMENDMENT TO THE FEDERAL SENTENCING GUIDELINES.

(a) REQUEST FOR IMMEDIATE CONSIDERATION BY THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission is requested to—

(1) promptly review the sentencing guidelines applicable to securities and accounting fraud and related offenses;

(2) expeditiously consider promulgation of new sentencing guidelines or amendments to existing sentencing guidelines to provide an enhancement for officers or directors of publicly traded corporations who commit fraud and related offenses; and

(3) submit to Congress an explanation of actions taken by the Commission pursuant to paragraph (2) and any additional policy recommendations the Commission may have for combating offenses described in paragraph (1).

(b) OTHER.—In carrying out this section, the Sentencing Commission is requested to:

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of securities, pension, and accounting fraud and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) assure reasonable consistency with other relevant directives and with other guidelines;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements;

(4) make any necessary conforming changes to the sentencing guidelines; and

(5) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.—The Commission is requested to promulgate the guidelines or amendments provided for under this section as soon as practicable, and in any event not later than the 120 days after the date of the enactment of this Act, in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not yet expired.

SEC. . AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.

(a) In section 21C of the Exchange Act of 1934, add at the end a new subsection as follows:

''( ) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b) of this title or the rules or regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to section 15(d) of this title if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.''

(b) In section 8A of the Securities Act add at the end a new subsection as follows:

''( ) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) of this title from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of that Act if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.''

Mr. DASCHLE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4186, AS MODIFIED

Mr. DASCHLE. Madam President, I think we are working through the number of procedural issues with which we have to deal. I want to make sure we are in a position to be able to complete that work. So I call for the regular order.

The PRESIDING OFFICER. Amendment No. 4186 is pending.

Mr. DASCHLE. I modify the original amendment that I offered with the changes that are at the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 117 in line 12 strike ''Act'' and insert the following: Act.

TITLE VIII—WHITE-COLLAR CRIME PENALTY ENHANCEMENTS

SEC. 801 SHORT TITLE.

This title may be cited as the ''White-Collar Crime Penalty Enhancement Act of 2002''.

SEC. 802. CRIMINAL PENALTIES FOR CONSPIRACY TO COMMIT OFFENSE OR TO DEFRAUD THE UNITED STATES.

Section 371 of title 18, United States Code, is amended by striking ''If two or more'' and all that follows through ''If, however,'' and inserting the following:

''(a) IN GENERAL.—If 2 or more persons—

''(1) conspire to commit any offense against the United States, in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined or imprisoned, or both, as set forth in the specific substantive offense which was the object of the conspiracy; or

''(2) conspire to defraud the United States, or any agency thereof in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined under this title, or imprisoned not more than 10 years, or both.

''(b) MISDEMEANOR OFFENSE.—If, however,''.

SEC. 803. CRIMINAL PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 of title 18, United States Code, is amended by striking ''five years'' and inserting ''10 years''.

(b) WIRE FRAUD.—Section 1343 of title 18, United States Code, is amended by striking ''five years'' and inserting ''10 years''.

SEC. 804. CRIMINAL PENALTIES FOR VIOLATIONS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by striking ''$5,000'' and inserting ''$100,000'';

(2) by striking ''one year'' and inserting ''10 years''; and

(3) by striking ''$100,000'' and inserting ''$500,000''.

SEC. 805. AMENDMENT TO SENTENCING GUIDELINES RELATING TO CERTAIN WHITE-COLLAR OFFENSES.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this title.

(b) REQUIREMENTS.—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses and the penalties set forth in this title, the growing incidence of serious fraud offenses which are identified above, and the need to modify the sentencing guidelines and policy statements to deter, prevent, and punish such offenses;

(2) consider the extent to which the guidelines and policy statements adequately address—

(A) whether the guideline offense levels and enhancements for violations of the sections amended by this title are sufficient to deter and punish such offenses, and specifically, are adequate in view of the statutory increases in penalties contained in this title; and

(B) whether a specific offense characteristic should be added in United States Sentencing Guideline section 2B1.1 in order to provide for stronger penalties for fraud when the crime is committed by a corporate officer or director;

(3) assure reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 806. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''§ 1348. Failure of corporate officers to certify financial reports

''(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chairman of the board, chief executive officer, and chief financial officer (or equivalent thereof) of the issuer.

''(b) CONTENT.—The statement required under subsection (a) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report or financial report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer.

''(c) CRIMINAL PENALTIES.—Notwithstanding any other provision of law—

''(1) any person who recklessly violates any provision of this section shall upon conviction be fined not more than $500,000, or imprisoned not more than 5 years, or both; or

''(2) any person who willfully violates any provision of this section shall upon conviction be fined not more than $1,000,000, or imprisoned not more than 10 years, or both.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The section analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''1348. Failure of corporate officers to certify financial reports.''.

Mr. DASCHLE. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4190 TO AMENDMENT NO. 4186, AS MODIFIED

Mr. DASCHLE. Madam President, I send up an amendment in the second degree.

What we have done now is to assure that both the Biden amendment and the Lott amendment will have an opportunity to be considered and debated. I am hoping we might even be able to continue to work to see if we can have one vote rather than two.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for Mr. BIDEN, proposes an amendment numbered 4190 to amendment No. 4186, as modified.

The amendment is as follows:

(Purpose: To increase criminal penalties relating to conspiracy, mail fraud, wire fraud, and certain ERISA violations, and for other purposes)

Strike all after the first word and insert the following:

VIII—WHITE-COLLAR CRIME PENALTY ENHANCEMENTS

SEC. 801 SHORT TITLE.

This title may be cited as the ''White-Collar Crime Penalty Enhancement Act of 2002''.

SEC. 802. CRIMINAL PENALTIES FOR CONSPIRACY TO COMMIT OFFENSE OR TO DEFRAUD THE UNITED STATES.

Section 371 of title 18, United States Code, is amended by striking ''If two or more'' and all that follows through ''If, however,'' and inserting the following:

''(a) IN GENERAL.—If 2 or more persons—

''(1) conspire to commit any offense against the United States, in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined or imprisoned, or both, as set forth in the specific substantive offense which was the object of the conspiracy; or

''(2) conspire to defraud the United States, or any agency thereof in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined under this title, or imprisoned not more than 10 years, or both.

''(b) MISDEMEANOR OFFENSE.—If, however,''.

SEC. 803. CRIMINAL PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 of title 18, United States Code, is amended by striking ''five years'' and inserting ''10 years''.

(b) WIRE FRAUD.—Section 1343 of title 18, United States Code, is amended by striking ''five years'' and inserting ''10 years''.

SEC. 804. CRIMINAL PENALTIES FOR VIOLATIONS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by striking ''$5,000'' and inserting ''$100,000'';

(2) by striking ''one year'' and inserting ''10 years''; and

(3) by striking ''$100,000'' and inserting ''$500,000''.

SEC. 805. AMENDMENT TO SENTENCING GUIDELINES RELATING TO CERTAIN WHITE-COLLAR OFFENSES.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 18,

United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this title.

(b) REQUIREMENTS.—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses and the penalties set forth in this title, the growing incidence of serious fraud offenses which are identified above, and the need to modify the sentencing guidelines and policy statements to deter, prevent, and punish such offenses;

(2) consider the extent to which the guidelines and policy statements adequately address—

(A) whether the guideline offense levels and enhancements for violations of the sections amended by this title are sufficient to deter and punish such offenses, and specifically, are adequate in view of the statutory increases in penalties contained in this title; and

(B) whether a specific offense characteristic should be added in United States Sentencing Guideline section 2B1.1 in order to provide for stronger penalties for fraud when the crime is committed by a corporate officer or director;

(3) assure reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 806. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1348. Failure of corporate officers to certify financial reports

''(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chairman of the board, chief executive officer, and chief financial officer (or equivalent thereof) of the issuer.

''(b) CONTENT.—The statement required under subsection (a) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report or financial report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer.

''(c) CRIMINAL PENALTIES.—Notwithstanding any other provision of law—

''(1) any person who recklessly violates any provision of this section shall upon conviction be fined not more than $500,000, or imprisoned not more than 5 years, or both; or

''(2) any person who willfully violates any provision of this section shall upon conviction be fined not more than $1,000,000, or imprisoned not more than 10 years, or both.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The section analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''1348. Failure of corporate officers to certify financial reports.''.

This section shall take effect one day after date of this bill's enactment.

Mr. DASCHLE. Madam President, I yield the floor. It is my understanding Senator BIDEN and Senator LOTT would both like to address their amendments. I yield for that purpose now.

The PRESIDING OFFICER. The Republican leader.

AMENDMENT NO. 4188

Mr. LOTT. Madam President, if I could describe my amendment briefly. I understand Senator BIDEN is prepared to do the same thing.

First, I should note, in at least one area they overlap in what they propose. In some other areas, there are some differences. But I don't see there are major problems.

Senator BIDEN's amendment, as I understand it, just from looking at it quickly, would increase penalties in some areas that are not included in my amendment. What this amendment would do, though, is increase penalties for corporate fraud.

Section 1 would increase maximum sentences for fraud. Mail fraud and wire fraud statutes are often used in criminal cases involving corporate wrongdoing. So obviously this is an area that is of concern and needs to be addressed. This section proposes doubling the maximum prison term for these crimes from 5 years to 10 years by amending 18 U.S.C. sections 1341 and 1343.

The second section would enact stronger laws against document shredding. Current law prohibits obstruction of justice by a defendant acting alone, but only if a proceeding is pending and a subpoena has been issued for the evidence that has been destroyed or altered. Timing is very important.

Most people understand that shredding documents is a very bad thing to do. Obviously, you cannot do it if there is something pending or if there is a subpoena. But as was the case recently, they knew that an investigation was underway and a subpoena was likely, and the shredding of documents went forward.

So this section would allow the Government to charge obstruction against individuals who acted alone, even if the tampering took place prior to the issuance of a grand jury subpoena. I think this is something we need to make clear so we do not have a repeat of what we saw with the Enron matter earlier this year.

Section 3 freezes payments of potential wrongdoers. This section would allow the SEC, during an investigation, to seek an order in Federal court imposing a 45-day freeze on extraordinary payments to corporate executives.

Again, this year we have seen just that sort of thing happening. While an investigation is underway, basically rewards were given to these corporate executives. While it would require a court order, there would be this 45-day freeze.

The targeted payments would be placed in escrow, ensuring that corporate assets are not improperly taken from an executive's personal benefit.

If an executive is charged with violations of Federal securities laws prior to the expiration of the court order, the escrow would continue until the conclusion of legal proceedings, again, with court approval.

Section 4 involves sentencing guideline enhancements for crimes committed by corporate officers and directors. This section would implement President Bush's call on the Sentencing Commission to quickly adopt the new ''aggravating factor'' to provide stronger penalties for fraud when the crime is committed by a corporate officer or director. This ''aggravating factor'' is a term of art used in the law. It would provide, under this section, stronger penalties for such fraud.

Section 5 would bar corporate officers and directors who engage in serious misconduct. Under current law, only a Federal court can issue an order prohibiting a person from acting as an officer or director of a public company.

The SEC cannot order this remedy in its own administrative cease-and-desist proceedings, even in a case of securities fraud where the person's conduct would otherwise meet the standards for imposing such a bar. This section would grant the SEC the authority to issue such orders if a person had committed securities law violation and his or her conduct demonstrated unfitness to serve as an officer or a director.

These points are all points that were made by the President, asking that legislation be provided to provide for these additional increases and strengthening of the law. We have found clearly that in recent events there has been improper conduct. There have been questionable accounting procedures, and there has probably been some illegal conduct. So you can put all the laws in the world on the books, but if people act in bad faith, violate the law, you can never legislate morality.

We have also seen that there are some cases where the law had some loopholes or where it was not timely or where it was not strong enough. One example, of course, is where there has been shredding. Another example is the very bad image of corporate executives taking increased payments, extraordinary payments, while they are being investigated. You can't have that sort of thing.

I think these are basic things that should be added to this bill. It would strengthen the bill. I have checked with a number of Senators on both sides of the aisle. There is general support for this legislation.

I thank Senator BIDEN for allowing me to make this brief statement about the amendment. Again, I emphasize that there are some similarities between this amendment and his amendment, but he does add additional penalties beyond what is in this proposal. But I did want to put into the bill what the President specifically recommended.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Delaware.

Mr. BIDEN. Mr. President, this amendment is from Senator HATCH and

me. He had as much input in this as I had. Let me respond in the spirit in which I was asked to do this and explain what the Biden-Hatch amendment does and then yield to my colleague to make any additional statements.

Based on what Senator LOTT has just pointed out, he has indicated that there are four basic sections to his amendment. On the first one, doubling the penalties for title 18, sections 1341 and 1343, that is exactly the same provision that is in the Biden-Hatch bill.

Secondly, making it a crime for document shredding: If I am not mistaken, that is in the Leahy amendment we just passed and that I cosponsored, as well as many others.

The third part of the amendment discussed by the Republican leader is something with which I happen to agree. It is not in either the Leahy bill just passed or in the Biden-Hatch amendment. That is the 45-day freeze on corporate executives' extraordinary income based upon the SEC being able to hold that in escrow and freeze it for 45 days while they look at it. I, for one, would be willing—I will yield to my colleague from Utah at the appropriate time—to accept that or join that in our amendment.

Fourth, the Sentencing Commission provisions that were referred to by my friend from Mississippi are in the Biden-Hatch bill. There is only one piece of the legislation of the Senator from Mississippi, as I understand it, based on the summary, that is not either already passed or included in Biden-Hatch.

But there are three areas that are not included which we think are very important. One is in section 2 of our legislation, which relates to conspiracy. Under title 18, section 371, the maximum penalty for general conspiracy to commit a crime is 5 years in prison regardless of whether the penalty for the predicate offense—that is, the thing they are conspiring to do—is considerably more than 5 years. So what Senator HATCH and I do is we allow the penalty for conspiracy to be consistent with what the penalty would be for the underlying crime; that is, the predicate crime. That is not included in the amendment of the Senator from Mississippi.

Also, a very important provision of Biden-Hatch is that right now, under ERISA, the Employment Retirement Security Act of 1974—we were both here to vote for that—under current law, a violation for essentially squandering someone's pension to the tune of tens of millions, maybe billions, of dollars is a misdemeanor with a maximum penalty of 1 year. If you were to steal an automobile from my driveway, which is about 2 miles from the Pennsylvania line, drive it across the Pennsylvania line, under Federal law, it is a 10-year sentence. There is obviously a bizarre disparity.

What we do is we increase the penalty for criminal violation of ERISA to 1 to 10 years, based upon the value of what is stolen in ERISA. If the loss in ERISA is a $20,000 pension versus several billion dollars' worth, the Sentencing Commission can make that judgment, as they do now, to have the penalty be from 1 but up to 10 years. That is not in Senator LOTT's amendment.

Lastly, section 6 of Biden-Hatch. Currently, the Securities and Exchange Commission requires regulated companies to file periodic financial reports with the SEC. This section of Biden-Hatch creates a new section in title 18 of the United States Code to require certification, signed by the top officials of that corporation, that the financial reports being filed accurately reflect the financial condition of the company. Criminal penalties are created for failure to comply with this section. Reckless failure to certify—you have to be able to prove it; it is a high standard—requires a penalty of up to 5 years, while a willful failure to certify on the part of these executives includes a maximum penalty of up to 10 years.

The point is, A, everything but one provision of Senator LOTT's amendment either has been passed or is in Biden-Hatch. I will yield to my colleague, but I am willing to accept the one provision that is not included. That is the provision relating to freezing payments for up to 45 days under the authority of the SEC of compensation packages that are excessive so there is time to look at it. I am willing to accept that.

It does not include three sections: Conspiracy, the ERISA increased penalties, and the requirement of certification that the financial reports accurately reflect the financial condition of the company, with penalties to prevail if in fact they either recklessly or willfully do not sign such a document or they recklessly or willfully signed it and it does not reflect what in fact they say it reflects.

That is a response to the majority leader's request of what the difference is. That is the difference.

I now yield, with the permission of my colleagues, to the Senator from Utah, and I might add, this is not original stuff of JOE BIDEN; this was Hatch and Biden, Biden and Hatch. He takes equal responsibility for this. If we are wrong, we are equally wrong.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I am proud to stand here with my colleague from Delaware, who is one of the truly remarkable Senators who knows as much about criminal law as anybody in this body or in the Congress itself.

I also rise today and applaud President Bush and Senator LOTT, as well as Senator BIDEN, for offering what really, combined, will be a comprehensive legislative proposal that calls for harsh, swift punishment of corporate executives who exploited the trust of their shareholders and employees while enriching themselves.

Senator BIDEN and I have worked together for years now on many important pieces of legislation. This is not new for us. I always feel good when I can work with my colleagues on the other side. It is always a pleasure to work with him. I commend him for the care and attention he has given to the subject of white-collar penalties, as well as for his leadership in this area. Just in the past 4 weeks, Senator BIDEN scheduled two hearings to review the adequacy of current penalties for white-collar criminal offenses. I am thankful that he did so for I think this is a critically important area for us to focus on, especially in today's unprecedented climate of market turmoil and corporate responsibility—or should I say irresponsibility.

All of us well know that the past few months have been painful ones for our Nation's financial markets. At least some of the blame can be laid at the doors of some multibillion-dollar corporations, their highly paid executives, and the accounting firms that were supposed to assure the public's trust. We learn—each week it seems—of more and more accounting and corporate fraud and irregularities that have caused billions of dollars of losses to innocent investors. I am personally outraged by these scandals.

The amendment I cosponsor today is a product of much thoughtful attention and scrutiny. No Member feels more strongly than I do about the importance of our criminal laws. They must be fair, and they must be just. If our criminal laws are to bear credibility and provide deterrence, they must adequately reflect the severity of the offenses. But right now they do not do so in the context of so-called white collar crimes. They are, to put it bluntly, out of whack.

A person who steals, defrauds, or otherwise deprives unsuspecting Americans of their life savings—no less than any other criminal—should be held accountable under our system of justice for the full weight of the harm he or she has caused. Innocent lives have been devastated by the crook who cooks the books of a publicly traded company, the charlatan who sells phony bonds, and the confidence man who runs a Ponzi scheme out there. These sorts of white-collar criminals should find no soft spots in our laws or in their ultimate sentences, but all too often they have done so.

It is time for us to get tough with these offenders. We need to make crystal clear that we will not tolerate this sort of outrageous criminal conduct, conduct that not only devastates the savings of citizens, but also has lasting effects on the entire world's confidence in our American financial markets. This amendment will take away the soft landings these criminals have expected and obtained for far too long.

The amendment Senator BIDEN and I propose—with the acceptance of the additional language of the President and

Senator LOTT—makes several notable improvements to current law. As Senator BIDEN said, and I will reiterate, first, our amendment increases the maximum penalties for those who commit mail fraud, wire fraud, and ERISA offenses, as well as those who conspire to violate Federal criminal laws. These changes are long overdue. The maximum penalty under current law for most of these offenses is 5 years, which is the same as the maximum penalty that could be handed down for mutilating a coin produced by the U.S. Mint. The current maximum penalty for ERISA fraud violations is just 1 year. In other words, a fraud committed in connection with employment retirement plans, no matter how severe or wide, is punishable now only as a misdemeanor. Under current law, one could get 5 years for scratching George Washington's face off a quarter but only 1 year for defrauding an entire company's pension plan. It goes without saying that we need to fix this problem.

Think about it. Pension plans go down the drain because of dishonest business people, which is sometimes hundreds of millions of dollars. Think of all the people who lose as a result of that.

Second, our amendment would make corporate officials criminally responsible for their public filings with the SEC. Make no mistake, these filings are critically important to investors who rely upon them to make decisions affecting how they should invest billions and billions of dollars. They need to be accurate. Our amendment makes it possible to hold somebody criminally accountable if they are not accurate.

Third, our amendment directs the U.S. Sentencing Commission to review the adequacy of current guidelines for white-collar offenders. We heard just a few weeks ago from the Department of Justice that these types of criminals often get off with a slap on the wrist and that judges too often do contortions to avoid handing down terms of imprisonment. This simply is not good and will not do. It undermines the deterrent effect of our criminal laws, makes a mockery of our system of fair and evenhanded justice, and ultimately sends the wrong message to all Americans. Our amendment will ensure that the Sentencing Commission will take steps designed to ensure that our system of justice no longer coddles criminals simply because they ''just'' steal.

It is time for the Senate to act on this important matter of fraud and responsibility. I think these amendments are a big step in the right direction. I compliment the President, Senator LOTT, and, of course, my dear friend and colleague from Delaware, Senator BIDEN, for the work they have all done on these two amendments. I agree with Senator BIDEN that we are willing to accept that part of the preference package.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. EDWARDS. Mr. President, I ask unanimous consent that the pending amendment be laid aside.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. I object for the moment. 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. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4190, AS MODIFIED

Mr. BIDEN. Mr. President, I ask unanimous consent to modify the Hatch-Biden amendment by changing on page 6 of our amendment, under the title ''Failure of corporate officers to certify financial reports,'' line 19—it presently reads:

(1) any person who recklessly violates any provision of this section. . . .

I ask unanimous consent to amend it to say on line 19, subsection 1:

Any person who recklessly—

And add the words ''and knowingly''—

recklessly and knowingly.

Page 6, line 19, fourth word in, add as a fifth word ''and'' and the sixth word ''knowingly.''

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is so modified.

The amendment, as modified, reads as follows:

Strike all after the first word and insert the following:

VIII—WHITE-COLLAR CRIME PENALTY ENHANCEMENTS

SEC. 801 SHORT TITLE.

This title may be cited as the ''White-Collar Crime Penalty Enhancement Act of 2002''.

SEC. 802. CRIMINAL PENALTIES FOR CONSPIRACY TO COMMIT OFFENSE OR TO DEFRAUD THE UNITED STATES.

Section 371 of title 18, United States Code, is amended by striking ''If two or more'' and all that follows through ''If, however,'' and inserting the following:

''(a) IN GENERAL.—If 2 or more persons—

''(1) conspire to commit any offense against the United States, in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined or imprisoned, or both, as set forth in the specific substantive offense which was the object of the conspiracy; or

''(2) conspire to defraud the United States, or any agency thereof in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined under this title, or imprisoned not more than 10 years, or both.

''(b) MISDEMEANOR OFFENSE.—If, however,''.

SEC. 803. CRIMINAL PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 of title 18, United States Code, is amended by striking ''five years'' and inserting ''10 years''.

(b) WIRE FRAUD.—Section 1343 of title 18, United States Code, is amended by striking ''five years'' and inserting ''10 years''.

SEC. 804. CRIMINAL PENALTIES FOR VIOLATIONS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by striking ''$5,000'' and inserting ''$100,000'';

(2) by striking ''one year'' and inserting ''10 years''; and

(3) by striking ''$100,000'' and inserting ''$500,000''.

SEC. 805. AMENDMENT TO SENTENCING GUIDELINES RELATING TO CERTAIN WHITE-COLLAR OFFENSES.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this title.

(b) REQUIREMENTS.—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses and the penalties set forth in this title, the growing incidence of serious fraud offenses which are identified above, and the need to modify the sentencing guidelines and policy statements to deter, prevent, and punish such offenses;

(2) consider the extent to which the guidelines and policy statements adequately address—

(A) whether the guideline offense levels and enhancements for violations of the sections amended by this title are sufficient to deter and punish such offenses, and specifically, are adequate in view of the statutory increases in penalties contained in this title; and

(B) whether a specific offense characteristic should be added in United States Sentencing Guideline section 2B1.1 in order to provide for stronger penalties for fraud when the crime is committed by a corporate officer or director;

(3) assure reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 806. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''§ 1348. Failure of corporate officers to certify financial reports

''(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chairman of the board, chief executive officer, and chief financial officer (or equivalent thereof) of the issuer.

''(b) CONTENT.—The statement required under subsection (a) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report or financial report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer.

''(c) CRIMINAL PENALTIES.—Notwithstanding any other provision of law—

''(1) any person who recklessly and knowingly violates any provision of this section shall upon conviction be fined not more than $500,000, or imprisoned not more than 5 years, or both; or

''(2) any person who willfully violates any provision of this section shall upon conviction be fined not more than $1,000,000, or imprisoned not more than 10 years, or both.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The section analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''1348. Failure of corporate officers to certify financial reports.''.

This section shall take effect one day after date of this bill's enactment.

Mr. BIDEN. I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maryland.

Mr. SARBANES. Mr. President, I ask unanimous consent that the pending second-degree amendments be withdrawn; that no second-degree amendments be in order to either of the two pending first-degree amendments; that the Daschle for Biden amendment No. 4186 be further modified with the changes that are at the desk; that the time until 4:45 p.m. today be for debate in relation to the pending first-degree amendments; that the time be equally divided between the two managers or their designees; that at 4:45 p.m., without further intervening action or debate, the Senate proceed to vote in relation to the Daschle for Biden amendment No. 4186, as further modified; that upon disposition of that amendment, the Senate vote in relation to the Lott amendment No. 4188; provided further that upon disposition of these amendments, Senator EDWARDS be recognized to call up amendment No. 4187.

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada.

Mr. REID. Reserving the right to object, I ask the manager of this bill, the chairman of the committee, to insert after the words ''Senator EDWARDS be recognized to call up amendment No. 4187,'' that following the disposition of that amendment, Senator GRAMM be recognized.

Mr. GRAMM. Following.

Mr. REID. That is right. We were sequencing this, that following Senator EDWARDS, Senator GRAMM be recognized; following that, Senator LEVIN be recognized; and following that, Senator GRAMM be recognized.

The PRESIDING OFFICER. Does the Senator from Maryland so modify his request? Is there objection?

Without objection, it is so ordered.

The amendments (Nos. 4189, and 4190, as modified) were withdrawn.

The amendment (No. 4186), as further modified, reads as follows:

On page 117 in line 12 strike ''Act'' and insert the following: Act.

TITLE VIII—WHITE-COLLAR CRIME PENALTY ENHANCEMENTS

SEC. 801 SHORT TITLE.

This title may be cited as the ''White-Collar Crime Penalty Enhancement Act of 2002''.

SEC. 802. CRIMINAL PENALTIES FOR CONSPIRACY TO COMMIT OFFENSE OR TO DEFRAUD THE UNITED STATES.

Section 371 of title 18, United States Code, is amended by striking ''If two or more'' and all that follows through ''If, however,'' and inserting the following:

''(a) IN GENERAL.—If 2 or more persons—

''(1) conspire to commit any offense against the United States, in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined or imprisoned, or both, as set forth in the specific substantive offense which was the object of the conspiracy; or

''(2) conspire to defraud the United States, or any agency thereof in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined under this title, or imprisoned not more than 10 years, or both.

''(b) MISDEMEANOR OFFENSE.—If, however,''.

SEC. 803. CRIMINAL PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 of title 18, United States Code, is amended by striking ''five years'' and inserting ''10 years''.

(b) WIRE FRAUD.—Section 1343 of title 18, United States Code, is amended by striking ''five years'' and inserting ''10 years''.

SEC. 804. CRIMINAL PENALTIES FOR VIOLATIONS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by striking ''$5,000'' and inserting ''$100,000'';

(2) by striking ''one year'' and inserting ''10 years''; and

(3) by striking ''$100,000'' and inserting ''$500,000''.

SEC. 805. AMENDMENT TO SENTENCING GUIDELINES RELATING TO CERTAIN WHITE-COLLAR OFFENSES.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this title.

(b) REQUIREMENTS.—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses and the penalties set forth in this title, the growing incidence of serious fraud offenses which are identified above, and the need to modify the sentencing guidelines and policy statements to deter, prevent, and punish such offenses;

(2) consider the extent to which the guidelines and policy statements adequately address—

(A) whether the guideline offense levels and enhancements for violations of the sections amended by this title are sufficient to deter and punish such offenses, and specifically, are adequate in view of the statutory increases in penalties contained in this title; and

(B) whether a specific offense characteristic should be added in United States Sentencing Guideline section 2B1.1 in order to provide for stronger penalties for fraud when the crime is committed by a corporate officer or director;

(3) assure reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 806. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''§ 1348. Failure of corporate officers to certify financial reports

''(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chairman of the board, chief executive officer, and chief financial officer (or equivalent thereof) of the issuer.

''(b) CONTENT.—The statement required under subsection (a) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report or financial report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer.

''(c) CRIMINAL PENALTIES.—Notwithstanding any other provision of law—

''(1) any person who recklessly and knowingly violates any provision of this section shall upon conviction be fined not more than $500,000, or imprisoned not more than 5 years, or both; or

''(2) any person who willfully violates any provision of this section shall upon conviction be fined not more than $1,000,000, or imprisoned not more than 10 years, or both.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The section analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''1348. Failure of corporate officers to certify financial reports.''.

Mr. BIDEN. Mr. President, I rise today—along with my good friend, Senator HATCH—to offer our bill, the White-Collar Penalty Enhancement Act of 2002 as a second-degree amendment to amendment No. 4174, Senator LEAHY's amendment to S. 2637.

Let me begin by applauding Senator SARBANES for his leadership in sponsoring S. 2637, and guiding it through his Banking Committee with a 17–4 vote. It is my hope and expectation that it will win the same overwhelming support on the floor of the Senate. I also commend Senators LEAHY and DASCHLE for offering the Corporate and Criminal Fraud Accountability Act, of which I am a cosponsor.

Let me briefly recount the events which bring me to the floor today to offer this amendment to increase penalties on white collar criminals. In recent months, dramatic events have shaken our country out of complacency. A decade of peace and prosperity

came to an end, first with a shattering reminder of our vulnerability to external threats, and then with a series of spectacular corporate collapses that revealed cracks in the very foundation of our economic system.

Our response to terrorism was to come together as a nation, reminded of all we have in common, all we have to be proud of.

The shock of those high-flying corporations falling spectacularly to earth presents us with different problems. We have to examine our own system—the capitalist system that has brought us so much material success, the envy of the rest of the world.

As the stock market continues to lose value, as the dollar has dropped to a 2-year low, we know that investors, here at home and abroad, have lost some of their faith in the American economy.

That loss of faith has a material impact of the wealth of this country, as our currency and our securities lose value. Some observers worry aloud that a full-blown loss of faith in our economy could drain even more value from our markets.

The task before us is nothing less than restoring confidence in our market economy. There are many facets to this problem.

One is reforming the auditing process. On the Senate floor right now is the Sarbanes bill that is essential to any effort to restore investor's faith in our markets. Audit firms are supposed to be independent voices, providing disinterested information that investors need to assess risk and to allocate funds to those companies that will have the best chance of raising our standard of living.

We need more transparency, more accountability in the conduct of accounting firms, and more confidence that they have access to, and are willing to tell us, the truth about the businesses they audit. Senator SARBANES has done us all a service by bringing this bipartisan bill to the floor.

Yesterday, I was hoping to hear the President support this bipartisan approach to reform, reform that is supported by the business community in the form of the Business Roundtable, when he spoke yesterday. I still hope he will soon add his voice in support of this landmark reform.

Just as important is the amendment to the Sarbanes bill that I am cosponsoring with Senator LEAHY. It will put real teeth in securities fraud enforcement, providing substantial criminal penalties for those who defraud investors of publically traded securities or who destroy evidence to obstruct justice.

Yesterday, the President announced his support for tougher criminal penalties for fraud offenses. I applaud the President's call for increase penalties for wire and mail fraud, and my amendment contains identical provisions. But I am concerned that the President's proposals do not go far enough.

For example, in the wake of the publicly reported problems at Enron, WorldCom, and other companies, we need to restore people's faith in their pension plans. They need to know that the companies they work for will treat them fairly, handle their funds wisely, and that the investments made by pension funds are sound. Yet, I believe that the criminal penalties for violations under the Employment Retirement Investment Security Act of 1974, ERISA, limited to 1 year in jail, are woefully inadequate to protect defrauded pensioners.

As chairman of the Judiciary Subcommittee on Crime and Drugs, I held a hearing several weeks ago—and am holding a second hearing this afternoon—on the adequacy of criminal penalties to deter this type of corporate wrongdoing. Corporate executives who defraud investors by whatever means should go to jail—period—and we need to give investigators and prosecutors the tools they need to send them there.

One thing most of our hearing witnesses agreed on was that there is a ''penalty gap'' between white collar crimes and other crimes. For example, if a kid steals your car and drives it over the 14th Street Bridge into Northern Virginia, he could get up to 10 years in jail under the Federal interstate auto theft law. Yet, if a corporate CEO steals your pension and commits a criminal violation under ERISA, he is only subject to 1 year in jail.

At my hearing, we heard from Charlie Prestwood, a 63-year-old Enron retiree, who lives in Conroe, TX. Charlie worked proudly for some 33 years for that company, saved and invested in his pension, and retired with about $1.3 million in his plan. Within a few tragic months, that was nearly wiped out—only $8,000 remained. Charlie is not a lawyer, but he had the good sense to know that its just not fair that a car thief who steals a jalopy can get 10 years in prison and a Gucci-clad corporate crook can steal a person's life savings and might only end up with 1 year in prison.

Accordingly, the amendment that Senator HATCH and I offer today is carefully crafted to hold corporate officer responsible and to reduce the ''penalty gap'' between a number of white collar crimes and other serious crimes. It does 3 basic things.

First, it goes beyond President Bush's proposal by raising penalties for those white collar crimes that are most often violated but which have insufficient penalties to deter corporate crooks. For example, it raises the maximum penalties from 1 to 10 years for ERISA criminal violations. It double penalties for wire and mail fraud from 5 to 10 years, and it treats white collar who conspire with others like drug king pins, by mandating that they receive the same maximum penalty for the offense underlying the charged conspiracy, rather than their sentence being capped at a 5-year penalty as exists under current law.

When these penalty enhancements are taken in combination with the new 10-year felony for securities fraud contained in the amendment I have cosponsored with Senator LEAHY, the Government will have the full range of prosecutorial arrows in its quiver to fight pension crooks and corporate wrong doers. Respectfully, the President's penalty proposal is only one small piece of the white collar crime-fighting puzzle.

Second, our amendment tells corporate big wigs that they are no longer off the hook for their companies misdeeds. My amendment requires top corporate officials to certify to the Securities and Exchange Commission that the periodic financial reports filed by their companies with the Commission accurately reflect the financial health of these corporations. Reckless failure by a corporate official to do so will result in up to 5 years in prison, while willful failure to do so will trigger a jail term of up to 10 years.

Third, our amendment directs the U.S. Sentencing Commission to review and amend the federal sentencing guidelines to lengthen sentences for white collar criminals to reflect these new, more serious penalties. It also directs the Commission to impose sentencing enhancement where corporate officials defraud victims. I applaud President Bush for announcing a similar proposal.

Make no mistake—this amendment will not stamp out white collar crime. We live in a fallen world where bad people do bad things—whether its stealing cars or stealing pensions. But, its time to ''level the playing field'' between white collar and blue collar criminals.

I believe the amendment that Senator HATCH and I are offering will move us substantially in the direction of deterring corporate wrongdoers by holding them responsible for the criminal acts. It will also begin the restoration of confidence in our financial markets. We must do both. The time to act is now. I urge my colleagues to support this amendment.

I yield the floor.

AMENDMENT NO. 4188

Mr. HATCH. Mr. President, I want to applaud President Bush and Senator LOTT for offering a comprehensive legislative proposal that calls for harsh, swift punishment of corporate executives who exploit the trust of their shareholders and employees, while enriching themselves.

This bill, which tracks the President's recent proposal, increases the criminal penalties that apply to fraud statutes that are frequently used to prosecute corporate wrongdoers. It also strengthens an existing obstruction of justice statute, and calls for an aggravated sentencing enhancement for frauds perpetrated by corporate officers and directors. Finally, it increases the Security and Exchange Commission's administrative enforcement

tools by strengthening the SEC's ability to freeze improper payments to corporate executives while the company is under investigation, and by enabling the SEC to bar corporate officers and directors from continued service where they engage in serious misconduct.

I support these provisions because I strongly believe that it is critical that we hold corporate executives accountable for acts of wrongdoing. We can do so by supplying the SEC and federal prosecutors with the civil and criminal tools they need to investigate and prosecute acts of corporate misconduct.

Let me briefly elaborate on some of the specific provisions contained in this bill.

First, as I mentioned, the bill doubles the maximum prison term for mail and wire fraud offenses, from 5 years to 10 years. This is identical to a provision Senator BIDEN and I have included in our amendment. This is a necessary sentencing enhancement, and one that is long overdue. Because prosecutors frequently use the mail and wire statutes to charge acts of corporate misconduct, it is important that we ensure that the penalties that apply to such offenses are sufficiently severe to deter and punish corporate wrongdoers.

Second, like the suggested enhancement contained in the bill Senator BIDEN and I have proposed, this amendment directs the U.S. Sentencing Commission to review the sentencing guidelines that apply to acts of corporate misconduct and to enhance the prison time that would apply to criminal frauds committed by corporate officers and directors. As I have stated, I strongly support such an enhancement because corporate leaders who hold high offices and breach their duties of trust should face stiff penalties.

Third, the amendment strengthens an existing federal offense that is often used to prosecute document shredding and other forms of obstruction of justice. Section 1520 of Title 18 of the United States code currently prohibits individuals from persuading others to engage in obstructive conduct. However, it does not prohibit an act of destruction committed by a defendant acting alone. While other existing obstruction of justice statutes cover acts of destruction that are committed by and individual acting alone, such statutes have been interpreted as applying only where a proceeding is pending, and a subpoena has been issued for the evidence that is destroyed.

This amendment closes this loophole by broadening the scope of the Section 1512. Like the new document destruction provision contained in S. 2010, this amendment would permit the government to prosecute an individual who acts alone in destroying evidence, even where the evidence is destroyed prior to the issuance of a grand jury subpoena.

Prosecutors in the Andersen case succeeded in convicting the corporation. However, in order to so, they had to prove that a person in the corporation corruptly persuaded another to destroy or alter documents, and acted with the intent to obstruct an investigation. Certainly, one who acts with the intent to obstruct an investigation should be criminally liable even if he or she acts alone in destroying or altering documents. This amendment will ensure that individuals acting alone would be liable for such criminal acts.

This amendment also includes new statutory provision that will strengthen the SEC's ability to freeze improper payments to corporate executives while a company is under investigation. These provision would prevent corporate executives from enriching themselves while a company is subject to an SEC investigation, but before the SEC has gathered sufficient evidence to file formal charges.

In particular, these provisions would enable to SEC to freeze improper payments by obtaining a federal court order. The order, which could last for 45 days and be extended upon a showing of good cause, would freeze extraordinary payments to corporate executives and require that such payments be escrowed. And where an executive is charged with a securities law violation prior to the expiration of the court order, the escrow would continue, with court approval, until the conclusion of legal proceedings.

Finally, the amendment grants the SEC the authority to bar individuals who have engaged in serious misconduct from serving as officers and directors of nay public company. Under current law, only a court may order an officer and director bar. In an SEC enforcement action, a court may issue an order that bars a person from acting as an officer or director of a public company where the person has committed a securities fraud violation, and his or her conduct demonstrates ''substantial unfitness'' to serve as an officer or director. However, under current law, the SEC cannot order this remedy in an administrative cease-and-desist proceedings, even where the person's conduct would otherwise meet the standards for the bar.

This amendment would enable the SEC to issue such a bar where the officer or director has committed a securities law violation and his or her conduct demonstrates ''unfitness'' to serve as an officer or director. This will give the SEC the ability to punish an officer or director who has committed an unlawful act, where it has not yet instituted an enforcement action.

I strongly believe that if Congress and the President act together to increase corporate transparency and to enact tough civil and criminal provision, we will succeed in restoring confidence in our market economy. The Federal government plays an important role in upholding and enforcing standards of corporate conduct. I look forward to working with my colleagues and with the President to enact needed legislation to strengthen corporate accountability.

Mr. GRAMM. Mr. President, let me try to explain where we are. We are about to have two votes. One vote is on a bipartisan amendment that was put together prior to our receipt of the language of the President's proposal. That was done by Senator BIDEN and Senator HATCH. That amendment will be voted on first.

I believe that amendment deals with the same subject area as the President's proposal. The overlap is not perfect, but when you take Senator LEAHY's amendment that we have already adopted, when you take this amendment, the things that are covered in the President's proposal are covered.

We also have the legislative language proposed by the White House to follow on the proposals the President made yesterday in New York.

When we adopt these two amendments, we will have added a substantial amount to the underlying bill. We will have added, in essence, two different variants of the President's proposal of yesterday. I assume we will get a unanimous vote for both of these amendments. I commend to my colleagues to vote for both of them.

At that point, we will proceed in the outline we have. It is my understanding we will try to put together an additional list, depending on the amount of time we have. Once these two votes are taken, the subject matter of the President's proposal of yesterday will be part of this bill. I commend to my colleagues to vote for both amendments.

Mr. SARBANES. Mr. President, in just a few minutes, at 4:45, we will move to the first of two votes. The first vote will be on the Daschle amendment, and the second vote on the Lott amendment. I urge my colleagues to support both amendments.

At the conclusion of those votes, we will go to Senator EDWARDS, who has been waiting patiently, to call up an amendment. Then we have sequenced behind Senator EDWARDS, for purposes of calling up amendments, Senator GRAMM, and Senator LEVIN has an amendment involving the powers of the SEC, and then back to Senator GRAMM. That is the procedure we have managed to put into place so far while continuing to work to try to compile a list of amendments and to do some sequencing.

We urge our colleagues to inform us—I am not urging to add amendments, but just informing colleagues of the process so they can be on the alert.

Very shortly we will begin the first of two rollcall votes. Both of these are amendments which strengthen the penalties. Many are related to the Leahy amendment which we adopted earlier today, and in a sense deal primarily with the subject matter that was in the Leahy amendment.

I urge my colleagues to be supportive of both amendments.

Mr. GRAMM. I yield back any time I may have.

Mr. SARBANES. I yield back the time.

The PRESIDING OFFICER (Mr. MILLER). The question is on agreeing to amendment No. 4186 as further modified. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID, I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent. I further announce that, if present and voting, the Senator from New Jersey (Mr. CORZINE) would vote ''aye.''

Mr. NICKLES, I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Ohio (Mr. VOINOVICH), and the Senator from Idaho (Mr. CRAPO) are necessarily absent. I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS), would vote ''aye.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 170 Leg.]

YEAS—96

Akaka	Durbin	Lugar
Allard	Edwards	McCain
Allen	Ensign	McConnell
Baucus	Enzi	Mikulski
Bayh	Feingold	Miller
Bennett	Feinstein	Murkowski
Biden	Fitzgerald	Murray
Bingaman	Frist	Nelson (FL)
Bond	Graham	Nelson (NE)
Boxer	Gramm	Nickles
Breaux	Grassley	Reed
Brownback	Gregg	Reid
Bunning	Hagel	Roberts
Burns	Harkin	Rockefeller
Byrd	Hatch	Santorum
Campbell	Hollings	Sarbanes
Cantwell	Hutchinson	Schumer
Carnahan	Hutchison	Sessions
Carper	Inhofe	Shelby
Chafee	Inouye	Smith (NH)
Cleland	Jeffords	Smith (OR)
Clinton	Johnson	Snowe
Cochran	Kennedy	Specter
Collins	Kerry	Stabenow
Conrad	Kohl	Stevens
Craig	Kyl	Thomas
Daschle	Landrieu	Thompson
Dayton	Leahy	Thurmond
DeWine	Levin	Torricelli
Dodd	Lieberman	Warner
Domenici	Lincoln	Wellstone
Dorgan	Lott	Wyden

NOT VOTING—4

Corzine	Helms
Crapo	Voinovich

The amendment (No. 4186), as further modified, was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 4188

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to Lott amendment No. 4188.

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Ohio (Mr. VOINOVICH), and the Senator from Idaho (Mr. CRAPO) are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

The result was announced—yeas 97, nays 0, as follows:

(Rollcall Vote No. 171 Leg.)

YEAS—97

Akaka	Durbin	McCain
Allard	Edwards	McConnell
Allen	Ensign	Mikulski
Baucus	Enzi	Miller
Bayh	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Fitzgerald	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Graham	Nickles
Boxer	Gramm	Reed
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Santorum
Byrd	Hatch	Sarbanes
Campbell	Hollings	Schumer
Cantwell	Hutchinson	Sessions
Carnahan	Hutchison	Shelby
Carper	Inhofe	Smith (NH)
Chafee	Inouye	Smith (OR)
Cleland	Jeffords	Snowe
Clinton	Johnson	Specter
Cochran	Kennedy	Stabenow
Collins	Kerry	Stevens
Conrad	Kohl	Thomas
Corzine	Kyl	Thompson
Craig	Landrieu	Thurmond
Daschle	Leahy	Torricelli
Dayton	Levin	Warner
DeWine	Lieberman	Wellstone
Dodd	Lincoln	Wyden
Domenici	Lott	
Dorgan	Lugar	

NOT VOTING—3

Crapo	Helms	Voinovich

The amendment (No. 4188) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. SARBANES. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina is recognized.

AMENDMENT NO. 4187

Mr. EDWARDS. Mr. President, I wish to say a few words about an amendment I intend to offer along with Senators ENZI and CORZINE. This amendment addresses an important player in the problem we have had with corporate misconduct in this country. It is a player with which I have a lot of personal experience. That player is a lawyer.

As most people know, I practiced law for 20 years and spent a lot of time representing kids and families against very powerful interests. I think I have a reasonably good understanding of what responsibilities we as lawyers have to the people we represent. While those are the kinds of folks that I mostly represented, other lawyers have different kinds of clients. Some lawyers represent corporations rather than individuals. The lawyers who represent corporations have the same kind of responsibility, but it is to a different entity and a different group of people. They have a responsibility, though, to represent that corporation, their client, zealously, the same way I had the responsibility to represent kids and families.

One of the problems we have seen occurring with this sort of crisis in corporate misconduct is that some lawyers have forgotten their responsibility. We have heard a great deal about managers and accountants, which Senator ENZI is familiar with, and scandals such as Enron and WorldCom. Managers and accountants are the focus of Senator SARBANES' bill, and they are critical to us doing what needs to be done to correct this problem and restore the public confidence.

The truth is that executives and accountants do not work alone. Anybody who works in corporate America knows that wherever you see corporate executives and accountants working, lawyers are virtually always there looking over their shoulder. If executives and/or accountants are breaking the law, you can be sure that part of the problem is that the lawyers who are there and involved are not doing their jobs.

For the sake of investors and regular employees, ordinary shareholders, we have to make sure that not only the executives and the accountants do what they are responsible for doing, but also that the lawyers do what they are responsible for doing as members of the bar and as citizens of the country.

Let me be a little more specific about what this amendment does and what the responsibility of a lawyer is and should be. If you are a lawyer for a corporation, your client is the corporation and you work for the corporation and you work for the shareholders, the investors in that corporation; that is to whom you owe your responsibility and loyalty. And you have a responsibility to zealously advocate for the shareholders and investors in that corporation.

What we have seen some lawyers do, unfortunately, is different. We have seen corporate lawyers sometimes forget who their client is. What happens is their day-to-day conduct is with the CEO or the chief financial officer because those are the individuals responsible for hiring them. So as a result, that is with whom they have a relationship. When they go to lunch with their client, the corporation, they are usually going to lunch with the CEO or the chief financial officer. When they

get phone calls, they are usually returning calls to the CEO or the chief financial officer. The problem is that the CEO and the chief financial officer are not the client. Their responsibility and the client they have to advocate for—and which they have an ethical responsibility to advocate for—is, in fact, the corporation, not the CEO or the chief financial officer.

One of the most critical responsibilities that those lawyers have is, when they see something occurring or about to occur that violates the law, breaks the law, they must act as an advocate for the shareholders, for the company itself, for the investors. They are there and they can see what is happening. They know the law and their responsibility is to do something about it if they see the law being broken or about to be broken.

This amendment is about making sure those lawyers, in addition to the accountants and executives in the company, don't violate the law and, in fact, more importantly, ensure that the law is being followed. For some time, the SEC actually tried to do that in the late 1970s and early 1980s. They brought legal actions to enforce this basic responsibility of lawyers—the responsibility to take steps to make sure corporate managers didn't break the law and harm shareholders in the process. If you find out that the managers are breaking the law, you must tell them to stop. If they won't stop, you go to the board of directors, which represents the shareholders, and tell them what is going on. If they won't act responsibly and in compliance with the law, then you go to the board and say something has to be done; there is a violation of the law occurring. It is basically going up the ladder, up the chain of command.

For years, the SEC recognized the principle that lawyers had a legal responsibility to go up the ladder if they saw wrongdoing occurring. But then they stopped. One of the reasons they stopped is because there were a lot of protests coming from the organized bar. With Enron and WorldCom, and all the other corporate misconduct we have seen, it is again clear that corporate lawyers should not be left to regulate themselves no more than accountants should be left to regulate themselves. There has been a lot of debate, rhetoric, and discussion—rightfully so—about the necessity about not ''letting the fox guard the chicken coop.'' The same is true with lawyers. This has become clear through various acts of misconduct. The lawyers have involvement and responsibility, and they also cannot be left to regulate themselves.

In January, a bipartisan group of the top securities lawyers and legal ethics experts in the country wrote a letter to Harvey Pitt telling him it was time for the SEC to enforce the up-the-ladder principle, as in the past. Mr. Pitt's top lawyer said: We are not going to do anything. If Congress wants something done, Congress should act. Then I wrote a letter to Mr. Pitt in essence saying: We are ready to act here. Will you help us in crafting legislation and working out this problem?

That was 3 weeks ago. As of now, I have not yet received a response.

The time has come for Congress to act. This amendment acts in a very simple way. It basically instructs the SEC to start doing exactly what they were doing 20 years ago, to start enforcing this up-the-ladder principle.

This is what the amendment says specifically: First, the SEC shall establish rules to protect investors from unprofessional conduct by lawyers, conduct that violates the legal standards of the profession.

Second, the SEC shall make one rule in particular, and it is a simple rule with two parts. No. 1, a lawyer with evidence of a material violation of the law has to report that evidence either to the chief legal counsel or the chief executive officer of the company. No. 2, if the person to whom that lawyer reports doesn't respond appropriately by remedying the violation, by doing something that makes sure it is cured, that lawyer has an obligation to go to the audit committee or to the board. It is that simple. You report the violation. If the violation isn't addressed properly, then you go to the board.

Three important details about this amendment address some of the concerns that I have heard voiced. First, the way we have drafted the bill, the duty to report applies only to evidence of a material violation of the law. That means no reporting is required for piddling violations or violations that don't amount to anything. The obligation to report is triggered only by violations that are material—violations that a reasonable investor would want to know about. So we have been very careful there.

Second, when the evidence is reported within the company, we have not specified how a CEO or a general counsel should act to rectify the violation. That is because the truth is that the appropriate response to cure the problem will vary dramatically, depending on the circumstances. If the CEO can do a short investigation, for example, and figure out that no violation occurred, then the obligation stops there. But if there is a serious violation of the law, the appropriate response is clear: The CEO has to act promptly to remedy the violation. If he doesn't, the lawyer has to go to the board. It is that simple.

One final point. Nothing in this bill gives anybody a right to file a private lawsuit against anybody. The only people who can enforce this amendment are the people at the SEC.

They will enforce this amendment not on behalf of any private party, but in the name of the American people. This is about forcing the SEC to do its job and protect the American people.

Mr. President, I call up amendment No. 4187 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. EDWARDS], for himself, Mr. ENZI, and Mr. CORZINE, proposes an amendment numbered 4187.

Mr. EDWARDS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To address rules of professional responsibility for attorneys)

On page 108, line 15, insert before the end quotation marks the following:

''(c) RULES OF PROFESSIONAL RESPONSIBILITY FOR ATTORNEYS.—Not later than 180 days after the date of enactment of this section, the Commission shall establish rules, in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission in any way in the representation of public companies, including a rule requiring an attorney to report evidence of a material violation of law by the company or any agent thereof to the chief legal counsel or the chief executive officer of the company (or the equivalent thereof) and, if the counsel or officer does not appropriately respond to the evidence (adopting, as necessary, appropriate remedial measures or sanctions with respect to the violation), requiring the attorney to report the evidence to the audit committee of the board of directors or to another committee of the board of directors comprised solely of directors not employed directly or indirectly by the company, or to the board of directors.

Mr. EDWARDS. I yield the floor.

Mr. GRAMM addressed the Chair.

Mr. SARBANES. Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 4200 TO AMENDMENT NO. 4187

(Purpose: To modify attorney practices relating to clients, and for other purposes)

Mr. GRAMM. Mr. President, on behalf of Senator MCCONNELL, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for Mr. MCCONNELL, proposes an amendment numbered 4200 to amendment No. 4187.

Mr. GRAMM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. GRAMM. Mr. President, I am not going to talk about the amendment. Senator MCCONNELL was concerned—he has an appointment tonight and he wanted to be recognized, so I offered the amendment for him. I wish to say a few words before I yield, giving him an opportunity to speak on behalf of the second-degree amendment.

I wish to print in the RECORD the lead editorial from today's Wall Street Journal. I would like to read the first paragraph. I want to make it clear, I

am not talking about this amendment, I am just talking about the climate we are in. This is the lead editorial in today's Wall Street Journal:

As if investors weren't frightened enough, the politicians are now offering to help. That was worth more than 180 points off the Dow yesterday, but then stock prices aren't the point. Everything you're hearing now from Washington is aimed at winning the November elections, not calming financial markets.

This is an excellent editorial. One can agree with it or not agree with it. The point I want to make is the following: There is a wonderful line in a very famous economics book, ''The Wealth of Nations,'' where Adam Smith is talking about government and talking about problems. A line in ''The Wealth of Nations'' goes something like: The economy is powerful and it overcomes not only the illness but the absurd prescription of the doctor that comes from the Government.

I believe we have now put together the makings of a good bill. We still have differences of opinion. We still have differences not on whether we should set up a board, not on how strong it should be. We agree on those issues. We have differences about how independent the SEC should be. We have differences as to whether that board ought to set audit standards and independent standards or whether we ought to do it by law.

As we go through the process in the next 2 days, if the some 30 amendments that people on my side of the aisle are proposing to offer is any index, and as someone once said—and I am sorry I cannot remember his name—I have only seen the heart of a good man, not necessarily the heart of an evil man. I have just seen these amendments.

I am concerned that people who are looking at investing are going to say: My God, it is one thing that my stock has been battered because there were people who did things that were wrong, there were people who did things that were illegal, but now I am going to be battered by one-upmanship efforts to show that Congress is really tough, that Congress is tougher than the President, the President is tougher than the Congress, that Republicans are tougher than Democrats, or Democrats are tougher than Republicans.

I would just like to say, not that anybody is going to be calmed by what I say, but I would like to say, in the end, I think we will end up with a fairly responsible bill, and I hope people who are thinking about investing money will take into account that this, too, will pass; that this summer will pass; that after all the charges are made and the one-upmanship has occurred, in the end, normally this process has worked pretty well for over 200 years, and my guess is it will work well again and we will end up in a give-and-take in conference, with the White House involved, measuring each amendment in terms of what we think will work and what we think probably hurts more than it helps—the absurd prescription of the doctor about which Adam Smith talked.

If we do go too far in one area or we do not go far enough in another, there is going to be another Congress next year and the year after and for every year from now until the end of the world, I hope.

Just reading this article set me thinking about it. There are probably people trying to decide this afternoon what they are going to do tomorrow on Wall Street. We have this bill passed in the House where, if you are domiciled outside the United States and move your domicile, you cannot get Government contracts. This is the era of where, if you want to slap an accountant around, it is not going to do a lot of harm. It is not fair, it is not right, I am not for it, and I am not going to do it, but if you want to slap business around, this is a wonderful time to do it.

The problem is the market is going to open in the morning and people are going to either buy or sell or they are going to do both.

I ask unanimous consent to print this lead editorial from the Wall Street Journal in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal]

REVIEW & OUTLOOK: THE NOVEMBER MARKETS

''Congress must now act to restore public confidence.''—Senator Carl Levin (D., Mich.)

As if investors weren't frightened enough, the politicians are now offering to help. That was worth 180 more points off the Dow yesterday, but then stock prices aren't the point. Everything you're hearing now from Washington is aimed at winning the November elections, not calming financial markets.

That includes President Bush's much-touted Wall Street speech yesterday on ''corporate responsibility.'' His stern words for CEO wrongdoers were perfectly apt, and some of his proposals might even help. But coming so long after the Enron scandal first broke, and amid election season, the speech was widely and accurately described as an exercise in defensive politics.

Democrats immediately panned it as inadequate, but they'd have said that if Mr. Bush had proposed public hangings. Their goal is to associate Republicans with corporate ''greed,'' to knock Mr. Bush's approval rating from its war-time pedestal and develop a campaign issue.

You can judge their sincerity by the sop to trial lawyers that has suddenly appeared in the ''reform'' queue. For months Maryland Democrat Paul Sarbanes has worked to form a bipartisan coalition for accounting reform. But now Senate Democrats are also demanding that Mr. Bush sign onto expanding the time available for plaintiff plutocrat Bill Lerach to file shareholder suits. In other words, what they're really after is a Bush veto, which they will then run against.

It's not as if Mr. Bush is letting business off the moral hook. He's creating a new Justice Department task force on corporate fraud, which as these things go will find someone to indict. He's also painted a bull's-eye on CEOs, who will now be personally and criminally liable (and face stiff penalties) for their companies' financial results.

We only hope Justice keeps in mind the requirement of mens rea, or criminal intent, when it's CEO hunting. This legal principle got trampled in the rush to convict Arthur Andersen. If otherwise honest CEOs can be indicted merely for putting their names to a statement that turns out to be false, good luck finding competent executives.

The brighter CEOs have also been busy cleaning up their own act. They understand something that politicians won't admit, which is that only business is truly capable of restoring confidence in business. The New York Stock Exchange and Goldman Sachs chief Hank Paulson have proposed more CEO supervision by independent directors, among other reforms.

Just as significant, major pension funds and large investors have begun to scrutinize stock options and other forms of executive compensation. This sort of due diligence too often went missing in the ''decade of greed,'' as liberals now like to call the 1990s. (Or are we confusing our decades?)

Mr. Bush put it well yesterday: ''I challenge every CEO in America to describe in the company's annual report, prominently and in plain English, details of his or her compensation package, including salary and bonus and benefits. And the CEO, in that report, should also explain why his or her compensation package is in the best interests of the company he serves.'' The point isn't that there is a moral taint to high pay but that it has to be justified in shareholders value.

The one place we've thought regulatory change might help is audit reform. Clearly the culture of the accounting trade went awry in the 1990s, and not only at Arthur Andersen. We favored Paul Volcker's plan, which would have restored some internal accounting-firm discipline and reduced conflicts of interest. But the accounting lobby resisted and now finds itself fending off much more intrusive regulation in Congress. Serves them right.

As a political matter, Republicans are also paying for protecting the accountants. Bush SEC Chairman Harvey Pitt, who once worked for the Big Five, is now being urged to resign by the likes of Al Gore, Tom Daschle and John McCain. As these columns noted long before these politicians wet their finger to the wind, Mr. Pitt's temptation now will be to appease these critics by cracking down too hard on too many, in a way that further roils financial markets. A regulator with more credibility usually has to regulate less.

The investing public, fortunately, seems to understand this. While rightly angry about WorldCom and Enron, the public hasn't panicked even after three years of stock-market losses. Americans know that even scarier than a bear market in stocks is a bull market for politicians.

Mr. GRAMM. Mr. President, I ask my colleagues to read the editorial and pray over it. As I say, there are some things in it one may like, some one may not like; one may not like any of it, or one may like all of it.

In the next couple of days, we are going to have a lot of proposals that are going to be frightening to investors. I wanted to take this opportunity tonight to tell them that—I know my dear colleague who is sitting in the chair as a Presiding Officer remembers the old hymn, ''This is My Father's World.'' Remember that hymn? It talks about all these things that are happening, all these bad things that happen, but in the end it is going to be right. I think the Lord is going to count on us to right it. I hope it is in good hands.

In any case, I wanted to say that as we hear all these ideas brought up, if

you are thinking about investing money tomorrow or next week or next year, do not be frightened. I think this issue is going to move back toward a middle course, and if we go too far—and I hope we will not, and I am dedicated to not doing more harm than good—then we will fix it, and if in some areas we do not go far enough, we can come back and fix it, too.

As I said, I offered the second-degree amendment for Senator MCCONNELL who has an appointment and wanted to get his amendment in. I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, I say to my friend from Texas, I have enjoyed his wisdom over the last 18 years. I am going to save my remarks about how I feel about his departure until later in the year. We have just heard another example of the extraordinary wisdom of the senior Senator from Texas from which I have benefited for 18 years. I wish to tell him again how much his service has meant not only to his State but to our Nation.

I say to my friends from Wyoming and North Carolina, they will be relieved to know I do not intend to make my speech on the second-degree amendment. This is an amendment about which I am sure the junior Senator from South Carolina is going to be particularly enthusiastic. I say that with tongue in cheek. I will briefly describe what it is.

This is an amendment to provide a client's bill of rights for clients with Federal claims or who are in Federal court. Fundamentally, what this client's bill of rights would provide is an opportunity for an orderly and systematic notice from their lawyers of the fee arrangements to which they are subjecting themselves; in addition to that, a bereavement rule which would prevent the solicitation of business within 45 days of the occurrence of the event. That is a brief summary of what my amendment is about. There will be ample time for everyone to take a look at the amendment over the evening. It does not in any way detract from the underlying Edwards-Enzi amendment, which I support and commend the authors for offering. I think it is right on the mark. I would like to see these principles expanded to a larger class of clients so they, too, can receive adequate protection.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that following the previous sequence already in place, the amendments listed in this agreement be the next six amendments in the sequence, in the order listed: Carnahan amendment regarding electronic filing; McCain amendment regarding accounting treatment/stock options; Dorgan amendment regarding bankruptcy/disgorgement; Enzi amendment regarding materiality; Schumer amendment regarding restitution; and Murkowski amendment regarding the Ninth Circuit.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

Mr. REID. Mr. President, I would say to the Chair that I ask the Senator to yield to me for a unanimous consent request so the Senator from Illinois would have the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I want to make a comment about the second-degree amendment that is pending. I want to commend my colleague, the Senator from Kentucky.

Last night, at the close of the session, there was an amendment offered by the Senator from Kentucky and the Senator from Texas. Now remember, this bill is about corporate misconduct. This is about corporate corruption. Last night, they decided we ought to expand the jurisdiction and scope of this debate to include reforming labor unions.

I have followed Enron, WorldCom, and others very closely and do not recall ever hearing anybody say the root cause of the problem of these corporations was labor unions. Thank goodness the Senate rejected that notion.

The Senator from Kentucky comes back tonight and says, no, it is not just labor unions, it is the fees paid to lawyers; that is the problem. When you are dealing with corporate corruption, it is the fees paid to lawyers, contingency fee contracts, and class actions.

I was stopped cold when I heard this amendment being described to try to understand what this has to do with making certain that criminal misconduct by corporate officers will result in time in jail. I do not get the connection. Perhaps the Senator from Kentucky can help me understand this. How does the issue of attorney's fees relate to corporate misconduct and corporate corruption?

I am sorry he cannot join us in this debate to respond, but I say to my colleagues I am beginning to get the distinct impression that the other side of the aisle is trying to change the subject on us. I do not think they want to talk about wrongdoing in corporate boardrooms and what we can do to restore confidence.

Yesterday, the President used the bully pulpit and turned the bears loose on Wall Street. Today, we had another dip in the stock market. We had better get honest. We had better get real. We had better make some real changes in the law to bring honesty in transactions with major businesses if we want to restore America's confidence in business dealings and bring people back to the stock market and get this economy back on track and give people a chance to save for their retirement. That is what this is all about.

Somehow or another the other side of the aisle wants us to veer off now and talk about attorney's fees. I do not get the connection, and I urge my colleagues to take a close look at this long amendment and try to join me in divining what they are trying to achieve other than to perhaps change the subject.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I do rise in support of the Edwards-Enzi-Corzine amendment. I am disappointed there has been a second-degree amendment to this, on which amendment we are working. It does not deal with the same topic. It does not deal with the same bill. It is going off in a different direction. If we keep having second-degree amendments throughout that go off in other directions, we are not going to get this bill finished and through the process. So it would be my hope it would be withdrawn.

I will concentrate my efforts on the amendment I have worked on with Senator EDWARDS, Senator CORZINE, and others. This amendment is designed to assure that attorneys are responsible for fully informing their corporate client of evidence of material violations of Federal securities law. That is what we are talking about through the whole accounting reform.

Over the past few months, Congress and the public have concentrated on the role of accountants and auditors involved in Enron, WorldCom, Global Crossing, and others. We have held hearings and drafted legislation intended to restore a high level of ethical behavior to corporate America and the accounting industry. This breach in ethical behavior led to the problems these companies are now experiencing. I have to say through all of those hearings, as an accountant, I felt the profession was very picked on, and the profession deserved to be picked on—not everybody in the profession. Again, it is that one-half of 1 percent or one-tenth of 1 percent who are fouling up everything for everybody. It happens in a lot of different professions.

As we beat up on accountants a little bit, one of the thoughts that occurred to me was that probably in almost every transaction there was a lawyer who drew up the documents involved in that procedure. I know as to the companies we looked at, that was the case. It seemed only right there ought to be some kind of an ethical standard put in place for the attorneys as well. All of the people who are involved should be looking at a new way of doing business.

As an accountant, I have been deeply disturbed by the action taken by some in my profession, and as a result I have taken a more personal interest than others might in drafting legislation which will ensure that accountants act professionally and responsibly, and which will protect the interests of corporate shareholders.

Following hearings on this matter, it has become clear that the role of attorneys who counseled these corporations and their accountants must be scrutinized as well. Just like accountants,

these lawyers are expected to represent the corporation in the best interests of the shareholders. In doing so, these attorneys are hired to aid the corporation and its accountants in adhering to Federal securities law.

When their counsel and advice is sought, attorneys should have an explicit, not just an implied, duty to advise the primary officer and then, if necessary, the auditing committee or the board of directors of any serious legal violation of the law by a corporate agent. Currently, there is no explicit mandate requiring this standard of conduct. It is clearly in the best interest of their client to disclose this kind of information to the board, rather than just upper management.

Maybe it could be called the ''smell test.'' If something smells wrong, somebody who can do something to fix it ought to be told.

It is important to understand the corporate attorney's client is the whole corporation and its shareholders, and not just the CEOs or some of the executives, accountants, or auditors. As a result, their ultimate duty of representation is not to the people to whom they normally report but to the shareholders through the board of directors.

This amendment would require the Securities and Exchange Commission to enact rules within 180 days to set forth minimum standards of professional conduct and responsibility for attorneys appearing and practicing before the Commission; not all attorneys, just attorneys appearing and practicing before the Commission; that is, those who are dealing with documents that deal with companies listed by the Securities and Exchange Commission.

This amendment instructs the Commission to establish rules that require an attorney, with evidence of material legal violation by the corporation or its agent, to notify the chief legal counsel or the chief executive officer of such evidence and the appropriate response to correct it. If these officers do not promptly take action in response, the Commission is instructed to establish a rule that the attorney then has a duty to take further appropriate action, including notifying the audit committee of the board of directors or the board of directors themselves, of such evidence and the actions of the attorney and others regarding this evidence. It is all within the corporation.

This amendment is simple. It requires the attorney to contact specific persons who are part of the management hierarchy and explain the problem. If that fails to correct the problem, the attorney must contact the audit committee or the board of directors.

I am usually in the camp that believes States should regulate professionals within their jurisdiction. However, in this case, the State bars as a whole have failed. They have provided no specific ethical rule of conduct to remedy this kind of situation. Even if they do have a general rule that applies, it often goes unenforced. Most States also do not have the ability to investigate attorney violations involved with the complex circumstances of audit procedures within giant corporations.

Similarly, the American Bar Association's Model Rules of Professional Responsibility do not have mandatory rules for professional conduct for corporate practitioners which require them to take specific action. The ABA merely has a general rule that an attorney must represent the best interests of an organization and suggests a number of ways an attorney could respond, including reporting illegal conduct to a responsible constituent of the organization, such as the board of directors. But this does not mandate action.

In response to Enron and the current environment concerning corporate integrity, on March 27 of this year the ABA did form a task force on corporate responsibility. But how many task forces have been formed and accomplished nothing? Task forces are often used to delay implementation of necessary changes. When task forces are used, we all know it takes years to set up the rules. When they are established, States may not actively enforce them or even have the means to enforce them.

In any event, it is my understanding that the ABA's task force's preliminary recommendations are for the attorney to report law violations through a chain or ladder of the corporation. That is what, in fact, this amendment does, first through the legal counsel or CEO and then to the audit committee or the board of directors.

While I almost always advocate a State solution, in this instance I must advocate a Federal solution. In the past, Congress has authorized a Federal commission to regulate the conduct of attorneys through promulgation of rules on attorneys practicing before them. For example, 31 U.S.C. section 330 provides the Treasury Department authority to regulate the practice of attorneys appearing before the Internal Revenue Service. Accordingly, the IRS has promulgated rules on the conduct of attorneys.

Under 31 CFR, part 10.21 of the IRS regulations, each attorney who knows the client has not complied with the revenue laws or who has made an error or omission on any return or document required by the IRS shall advise the client promptly of the fact of such noncompliance, error, or omission. The amendment I am supporting will give the SEC authority to promulgate a rule similar to the IRS rule.

In the past, the SEC has tried to impose ethical conduct on attorneys. SEC rule 2(e), previously 102(e), authorizes the Commission to disbar or suspend from practice before it a lawyer or other professional who violates the securities law, assists in someone else's violation, or otherwise engages in unprofessional conduct.

Through this process, the SEC previously instituted proceedings under rule 102(3) to enforce the ethical standards for the practice of Federal securities law. But it has stopped bringing these types of actions. This amendment will get the SEC back on track and make attorneys stand up and pay attention if they have evidence a corporate agent has committed a material legal violation.

In the wake of Enron, over forty professors with expertise in Federal securities and ethics law, have written to SEC Chairman Harvey Pitt asking for some form of regulation over the practice and conduct of attorneys involved in Federal securities law.

In their letter, they state that if senior managers will not rectify a violation, lawyers who are responsible for the corporation's securities compliance work, should be required to report to the board of directors.

As they point out, such a disclosure obligation is still less onerous than that imposed on accountants under section 10A of the 1934 Securities Exchange Act, which requires an auditor to report, both to the client's directors and simultaneously to the SEC, and illegal act if management fails to take remedial action.

The amendment I am supporting would not require the attorneys to report violations to the SEC, only to corporate legal counsel or the CEO, and ultimately, to the board of directors.

Some argue that the amendment will cause a breach of client/attorney privilege, which is ludicrous. The attorney owes a duty to its client which is the corporation and the shareholders. By reporting a legal violation to management and then the board of directors, no breach of the privilege occurs, because it is all internal—within the corporation and not to an outside party, such as the SEC.

This amendment also does not empower the SEC to cause attorneys to breach their attorney/client privilege. Instead, as is the case now, attorneys and clients can assert this privilege in court.

In addition, this amendment creates a duty of professional conduct and does not create a right of action by third parties. The Fourth Circuit has made such a ruling concerning the code of conduct applied by the IRS Rules.

The SEC has already found that attorneys who fail to take steps to prevent their clients from violating Federal securities law are guilty of aiding and abetting. This amendment will put attorneys on the right course. By reporting violations to the board of directors, they can avoid being found guilty of aiding and abetting their client.

Just as I am concerned about the conduct of accountants because that is my profession, I would think member attorneys would be as concerned about the conduct of the legal profession. To ignore the role attorneys played in Enron, World.Com and Global Crossing is a disservice to their profession.

I hope you will join me in ensuring that attorneys are required to conduct themselves ethically and in the best interests of their client when they see evidence of a material legal violation. They should be expressly required to report that type of activity to upper managers, and ultimately, to the board of directors who represent the shareholders.

After Enron, it is clear we need some hard and fast rules, and not just an arcane honor code rarely adhered to, so the necessary measure of client duty is placed into the hearts and minds of the legal profession. Again, I am disappointed there is a second-degree amendment. This is an important amendment and something that I thought would be cleared by both sides. We will deal with the rest of the process.

I yield the floor.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Wyoming yields the floor.

The Senator from New Jersey.

Mr. CORZINE. Mr. President, first, I am proud to have worked with Senator EDWARDS and Senator ENZI on this amendment on lawyer responsibility in corporate practice. It is an exceptional piece of additional effort in dealing with corporate fraud, corporate crime, and corporate abuse. I am very happy to have participated with him, and I particularly compliment Senator EDWARDS on bringing this important issue to the attention of the Senate and for making sure that we propose this strong amendment, to ensure corporate lawyers' ethical responsibilities.

I, too, with the Senator from Wyoming, am disappointed. We are mixing apples and oranges when we are talking about lawyer's fees. This is dealing with corporate actions of lawyers. I don't understand why we are trying to move to a completely different subject when what we are trying to deal with is corporate responsibility. Lawyers play a role in that as much as accountants and management.

Again, I thank Senator ENZI for his cooperation and leadership, not only on this effort but with regard to the core bill, which is going to make a big difference in the marketplace. People talk about weakness in the market and are fearful of what we do in Congress, but they are really fearful of what we will not do or what we might do in addressing some of the quite obvious needed reforms.

We have talked a lot in the wake of Enron and WorldCom about the responsibility of accountants and corporate managers. Rightly so, as we have seen far too much bending of the rules, breaking of the rules in pursuit of profit, pursuit of personal gain. In their wake, shareholders, employees, and frankly the whole economy, has suffered from the selfishness that we have seen demonstrated by the actions of many—the criminal actions, in some instances.

It is not insignificant that even before this week, before there was so much focus on this issue, this year there had been roughly $2 trillion worth of damage, value lost in the stock market, which is reflective of the discomfort that investors across the globe, as well as here at home, feel about where we stand.

As a former corporate leader, I tell you I am disgusted with many of the actions I have seen taken by some corporate managers when they betrayed shareholders' trust, employees' trust, and the public confidence in general. I think they have basically betrayed our whole Nation's economy. That is why I have been pleased to work on this critical legislation that Senator SARBANES has proposed regarding the accounting industry's corporate responsibility.

But I do not think that is enough. I think, as Senator EDWARDS said when he brought this to our attention, executives and accountants do not work alone. In fact, in our corporate world today—and I can verify this by my own experiences—executives and accountants work day to day with lawyers. They give them advice on almost each and every transaction. That means when executives and accountants have been engaged in wrongdoing, there have been some other folks at the scene of the crime—and generally they are lawyers.

This is not a new issue. The SEC had an unambiguous view about this more than 10, 15 years ago. More than 10 years ago Judge Stanley Sporkin, while commenting on the criminal actions of Charles Keating, noted that Keating had:

> . . . surrounded himself with literally scores of accountants and lawyers to make sure all the transactions were legal.

In a now famous refrain, Sporkin lamented:

> Where were these professionals . . . when these clearly improper transactions were being consummated? . . . Where, also, were the outside accountants and attorneys when these transactions were being effectuated?''

That sounds a little familiar in the current circumstance. The bottom line is this. Lawyers can and should play an important role in preventing and addressing corporate fraud. Our amendment seeks to ensure that. It seeks to go back to the old way: When lawyers know of illegal actions by a corporate agent, they should be required to report the violation to the corporation.

Let me be clear. The same as I feel about most accountants and most business leaders, the vast majority of lawyers discharge their duties with integrity and in an ethical manner. This is not an effort to blame corporate lawyers. But we cannot overlook the role corporate lawyers, the lowest common denominator, can play in addressing abuses and ensuring that our markets have integrity. We need to clarify that corporate lawyers have a duty to the shareholders, not just to the management that hired them.

That is why Senator EDWARDS, Senator ENZI, and I have crafted an amendment that will clarify that lawyers who know of wrongdoing by a corporation must report that wrongdoing to the client so it can be corrected. The client is more than just the person who hired them. The lawyer's client is the corporation's shareholders, not the manager. As we have seen far too often this year, when management is engaged in fraud it harms the shareholders. That is why we need to ensure that lawyers who know of illegal acts report those acts to the board of directors which represent those shareholders. Our amendment would require the SEC to establish rules in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission. Those rules would include—shall include a requirement that lawyers who have evidence of a violation of law would be required to go up the ladder of corporate management and report the violation.

It is a simple principle—very much common sense. If a manager doesn't respond appropriately, including remedying any violation, the lawyer would then be required to report the violation to the board of directors which represents the shareholders.

We should recognize that in some instances where there may be evidence of a violation, it may become apparent after a more complete investigation that there is not an actual violation. But when lawyers are aware of a potential violation, they do have a duty to investigate. And if they determine there is a material violation of law—not some small violation, some insignificant rule—that violation should be remedied by the corporation. If it is not remedied, it is the duty of the lawyer, under our language, to report it to the board.

I am pleased that Senator EDWARDS and Senator ENZI and I have been able to craft an amendment that will firmly establish the ethical duty of corporate lawyers to report wrongdoing to their client, including, if necessary, to the board of directors that represents a company's shareholders.

Addressing the role of corporate lawyers is just as important a step as it is with accountants and with corporate officers. If we want to truly address this breakdown in corporate responsibility, it is a critical piece of the puzzle that cannot be overlooked. I urge my colleagues to support this sensible amendment.

Once again I say I am disappointed with the McConnell amendment. I suggest we move to table that, in light of its irrelevance with respect to the underlying matter.

I will withdraw that motion, and I suggest the absence of a quorum.

Mr. REID. Will the Senator withhold?

Mr. SARBANES. Does the Senator yield the floor?

The PRESIDING OFFICER. Does the Senator withhold suggesting the absence of a quorum?

Mr. CORZINE. Yes. I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

AMENDMENT NO. 4206

Mr. MILLER. Mr. President, I ask unanimous consent the pending amendments be laid aside so I may offer an amendment, and that there be a time limitation of 2 minutes on my amendment, with no amendments in order to my amendment. This amendment has been agreed to by both managers.

Mr. REID. Reserving the right to object, and following the disposition of this that we will return to the Edwards amendment?

The PRESIDING OFFICER. That is the understanding of the Chair. Is there objection? Without objection, it is so ordered.

Mr. MILLER. I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Georgia (Mr. MILLER) proposes an amendment numbered 4206.

Mr. MILLER. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate that the chief executive officer of a corporation should sign the corporation's income tax returns)

At the end add the following new title:

TITLE VIII—CORPORATE TAX RETURNS

SEC. 801. SENSE OF THE SENATE REGARDING THE SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICERS.

It is the sense of the Senate that the Federal income tax return of a corporation should be signed by the chief executive officer of such corporation.

Mr. MILLER. Mr. President, this amendment is only three lines long. Let me read them to the Senate:

It is the sense of the Senate that the Federal income tax return of a corporation shall be signed by the chief executive officer of such corporation.

Believe it or not, that is not in the law right now, and it should be. The average wage earner on his 1040 form has to sign it. We require it of him. That is what we should require of the CEO of a corporation, just treat them the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland, Senator SARBANES.

Mr. SARBANES. I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. GRAMM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. GRAMM. Mr. President, I withdraw the request. I don't have any problem. It was a confusion of which amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4206) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I announce that there will be no more rollcall votes tonight. I hope Senators will come to the floor and continue to participate in the debate. But for the interest of Senators and schedules, we will have no additional rollcall votes tonight.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SARBANES. 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. SARBANES. Mr. President, while we are all waiting for further business, I will take just a moment to speak to the amendment that has been offered by the very able Senator from North Carolina. In fact, I would like to put a couple of inquiries to the Senator, if I might.

It is my understanding that this amendment, which places responsibility upon the lawyer for the corporation to report up the ladder, only involves going up within the corporate structure. He doesn't go outside of the corporate structure. So the lawyer would first go to the chief legal officer, or the chief executive officer, and if he didn't get an appropriate response, he would go to the board of directors. Is that correct?

Mr. EDWARDS. Mr. President, my response to the question is the only obligation that this amendment creates is the obligation to report to the client, which begins with the chief legal officer, and, if that is unsuccessful, then to the board of the corporation. There is no obligation to report anything outside the client—the corporation.

Mr. SARBANES. I think that is an important point. I simply asked the question in order to stress the fact that that is the way this amendment works. This has been a very carefully worked out amendment. I engaged in an exchange with the distinguished Senator from North Carolina, and the Senator from Wyoming, Mr. ENZI, the cosponsors of this amendment. I know how careful they have been in trying to craft the amendment and in bringing it here. I think they have done an absolutely first-rate job in sort of focusing the amendment, considering questions that were raised from one source or another, and adjusting it in order to meet them.

I think the amendment they have now put before us is an extremely well reasoned amendment, and it ought to command the support of the Members of this body.

I very deeply regret that Senator MCCONNELL has added an amendment to the amendment. His amendment really doesn't address this amendment. It doesn't really address the subject matter of this legislation. It is a total diversion. Of course, I presume it will complicate our ability to try to move ahead as we consider amendments. It obviously complicates the consideration of the Edwards-Enzi amendment which is now pending.

Furthermore, I understand that under this amendment it can only be enforced by the SEC through an administrative proceeding. Is that correct?

Mr. EDWARDS. The answer is yes. The only way to enforce this legal requirement is through an administrative process.

Mr. SARBANES. That was an effort, of course, to deal with the idea that somehow it might bring causes of action from outside, or somewhere else. So it is limited to the SEC. The SEC, as I understand it, had something like this in place in the past. Is that correct?

Mr. EDWARDS. The answer is yes. Years ago, the SEC had and enforced such a regulation, which they have not been doing for some time.

Mr. SARBANES. I further understand that a number of professors of securities regulations and professional ethics are, in fact, supportive of this proposal. I think at an earlier time they wrote to the SEC urging the SEC itself to put some provision such as this into place. Is that correct?

Mr. EDWARDS. The Senator is correct. There is a large group of distinguished securities lawyers and legal ethics lawyers who have written the SEC suggesting exactly what the Senator said—that it become part of the regulations and part of the law.

Mr. SARBANES. This amendment really, in effect, parallels or follows those recommendations—at least in substantial respect—as I understand it.

Mr. EDWARDS. That is correct.

Mr. SARBANES. Again, that letter which I have had the chance to review, and also the signatories to it—some 40 or so distinguished professors of securities regulations or professors of professional ethics at the law schools—is also a very carefully reasoned proposal. The one they submitted to the SEC is the one the Senator from North Carolina has tracked in his amendment.

I thank both Senator EDWARDS and Senator ENZI for their very careful

work. And I very much hope at the appropriate time we will be able to adopt this amendment and include it in this legislation. I think it makes an important contribution.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. 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. LEVIN. Mr. President, I ask unanimous consent at this time that I be called upon to offer an amendment; that the amendment be debated tonight—it is the amendment on SEC enforcement—and that when the debate is completed tonight and when we recess until the morning, that when the morning arrives, we would then return immediately to the Edwards underlying amendment and the McConnell second-degree amendment thereto.

The reason I make this unanimous consent proposal tonight is that there are a lot of relevant amendments which are waiting in line, which are important amendments, which have a lot of support, I believe, on a bipartisan basis in this body that ought to be considered prior to cloture or else; because they may not be technically germane, they would be precluded if cloture is invoked.

I have a number of amendments on the list. I think we should move this train forward tonight, utilize the time this evening to move this process forward so as many of these amendments as possible can be considered before cloture. I make that unanimous consent proposal at this time.

The PRESIDING OFFICER. Is there objection?

The Senator from Texas.

Mr. GRAMM. Mr. President, reserving the right to object, let me say that we have a lot of people who want to offer amendments. I have on my side some 30 amendments. We had better follow the regular order. Let me say that I would intend, once we have disposed of this unanimous consent request, to ask that all further amendments be germane to the bill and that at noon tomorrow we proceed to third reading. But I object to the unanimous consent request.

The PRESIDING OFFICER. Objection is heard.

The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that at 10:30 tomorrow morning, Thursday, July 11, the Senate resume consideration of S. 2673 and that the time until 12 noon be divided as follows: The first 45 minutes under the control of Senator BYRD; the remaining 45 minutes under the control of Senator MCCONNELL or his designee; that at 12 noon Senator ENZI be recognized to make a motion to table the McConnell second-degree amendment No. 4200, with no intervening amendment in order prior to disposition of the McConnell amendment.

That is not part of this agreement. For the information of Senators, we would have an hour, beginning at 9:30, for morning business for both sides, equally divided.

Mr. LEVIN. Mr. President, reserving the right to object.

Mr. GRAMM. Mr. President, I think this is a perfectly reasonable unanimous consent request, and I do not object.

Mr. LEVIN. Reserving the right to object, Mr. President, I have two questions relative to this unanimous consent request. The first question is, Does this then mean we would move to the disposition of the Edwards amendment?

Mr. REID. Mr. President, that is my hope. One of the reasons we want to dispose of the second-degree amendment—Senator ENZI, who has worked with you and others on the underlying amendment, is going to move to table. We hope we can move to the Edwards amendment.

The Senator from Texas, Mr. GRAMM, has told us he wants to study this tonight and he will give us word on it tomorrow. I think it has been debated quite sufficiently. It appears to me the Edwards amendment is reasonable. I think in the dialog he answered all the questions of the Senator from Texas. I have no problem if the Senator wants to spend the night looking it over more.

Mr. LEVIN. My second question under the reservation is this: This does not then change the order that has been previously listed for amendments under the earlier UC request; is that correct?

Mr. REID. That is correct. We have a number of amendments queued up. Senator EDWARDS has been here all day, for example. The Senator from Michigan has been here a long time today. We hope we can move through some of these tomorrow.

As the Senator knows, there is anticipation tonight that a cloture motion will be filed on this bill. The majority leader has told everyone that we have only 3 weeks remaining in this little session before the August recess. We would like to do prescription drugs. We are going to move, we hope, to the MILCON appropriations bill in the next day or so. We have homeland security we have to do. There is so much to do and a limited amount of time in which to do it.

Mr. LEVIN. Further reserving the right to object, Mr. President, I will simply add the following because there are relatively few hours between now and a vote on cloture, assuming that cloture motion is filed. I think we should fully utilize that time to consider relevant amendments. What my great fear is—which is being reinforced tonight—is that the time is going to be filled not by relevant amendments but in other ways which would preclude the consideration of relevant amendments in the event cloture is adopted. That is a major concern I have. I don't know if other people waiting in line with amendments that are relevant amendments have the same concern, but I hope and believe they do.

I hope it will be possible for relevant amendments to be considered, if not tonight, then tomorrow, and that the time be fully utilized; otherwise, it would simply preclude important relevant amendments that are waiting in line.

Mr. REID. Mr. President, the Senator also speaks for others. We have had, over the last several months, problems getting legislation up the way we used to do it here. It is difficult when we have obstacles that are brought up. It does not allow us to proceed in the normal fashion. I hope the Senator will allow the agreement to go forward.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Texas.

Mr. GRAMM. Madam President, I am told one of my colleagues is coming down to object to this unanimous consent request. I have to suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I renew my unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Madam President, the reservations of the Senator from Michigan have no impact on this unanimous consent request? That is a parliamentary inquiry. The reservations expressed by the Senator Michigan have no impact on the unanimous consent request as it is written?

The PRESIDING OFFICER. That is correct.

Mr. GRAMM. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

Mr. REID. Madam President, I appreciate very much the work of the managers of this bill. This is very important legislation. I was advised by the chairman of the committee just a few minutes ago the stock market dropped again today almost 300 points. We need to do something to reestablish credibility and to reestablish the confidence of the American people in corporate America. This legislation goes a long way toward that end. I hope there will be cooperation tomorrow so that some of these relevant amendments can be offered.

I hope everyone understands the importance of this legislation. I am confident they do. I appreciate the ability to work this out so we can at least move forward tomorrow to the extent we do in this unanimous consent agreement.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, let me just outline, if I may, where I see we are in the process. Tonight, a cloture motion is going to be filed. Tomorrow we are going to have a series of amendments. As everybody knows, when cloture is invoked, the relevant test is germaneness, not relevance, not significance, not the feeling of a Member that their amendment is important or more important than any other Member. The test is germaneness.

Anybody who has ever been involved in a situation where we move toward cloture understands that once we are on that track, unless amendments are relatively acceptable on a broad basis to all parties involved, knowing that the amendment is sheared off at the hour of cloture, that amendment in all probability—let me state it more precisely—that amendment is not going to be adopted.

We can do this in one of two ways, and either way works perfectly with me. We can either try for the nongermane amendments—if your amendment is germane, you are solid, you can offer it now, you can offer it later, and you are going to get a vote on it. But if your amendment is not germane, I suggest we try to get our staffs together and see if something can be worked out where if part of the amendment or all of the amendment or the amendment and something else is noncontroversial, it could be adopted.

At the end of the day, we will all be happier if we do that. If we spend all of tomorrow butting heads knowing what the final outcome is going to be, the net result is we are just going to have unhappiness and no good will come out of it.

I say to anyone who has a nongermane amendment, in the end, to have that amendment adopted it is going to have to be generally supported because, obviously, any Member is going to be able to prevent it from being voted on. It is going to get sheared off at cloture.

I have a list of amendments, most of which have absolutely nothing to do with this bill. I have amendments on bankruptcy. I have amendments on the Ninth Circuit Court of Appeals. I have amendments on pensions. I have amendments on tax policy. I have numerous amendments on stock options.

I submit to all these people who want to offer amendments that what we ought to do if we are going to try to get something done is to have them have their staff sit down with staff on both sides of the aisle and say: Is there anything in here that might be generally agreed to, and if that is the case, we could move in that direction.

Finally, let me say we have in place a unanimous consent agreement about how we are going to proceed tomorrow morning, and I ask the Democratic floor leader, if I can, given that we have a unanimous consent agreement in place for the morning, can we simply have the floor open for the purpose of debate only tonight so that those of us who are going to be here all day tomorrow, as we were all day today, can go home?

Mr. REID. I say to my friend, there are some things we have to do, such as filing cloture, and if that situation of debate only is in effect, we could not do that.

Mr. GRAMM. With what now?

Mr. REID. If there is debate only, we could not file the cloture motion.

Mr. GRAMM. If you can just tell us, if we can have an agreement—the Senator can amend it. All I am saying is, if people want to stay and debate any pending amendment or talk about whatever they want to talk about, that is fine. It seems to me if we are through with all of our business except debate, we could let people who have debated enough go home.

Mr. REID. The leader has stated there will be no more rollcall votes tonight. I hope if one wants to talk about the bill, they will do that, but I do not think we need a UC to accomplish that.

Mr. GRAMM. If the Senator will yield, what about a unanimous consent request, except to file a cloture motion, that there will be debate only tonight? That way we do not have a problem of potentially someone asking unanimous consent for something.

Mr. REID. My personal feeling is I have no problem with that. I have to check with staff to make sure I am not missing anything, but I want to make sure the Senator from North Carolina is protected.

Mr. EDWARDS. Will the Senator from Texas yield, if he has the floor?

Mr. GRAMM. If I do I yield to him.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 4187, AS MODIFIED

Mr. EDWARDS. Madam President, I have a modification to my amendment at the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 108, line 15, insert before the end quotation marks the following:

"(c) RULES OF PROFESSIONAL RESPONSIBILITY FOR ATTORNEYS.—Not later than 180 days after the date of enactment of this section, the Commission shall establish rules, in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission in any way in the representation of public companies, including a rule requiring an attorney to report evidence of a material violation of securities law or breach of fiduciary duty or similar violation by the company or any agent thereof to the chief legal counsel or the chief executive officer of the company (or the equivalent thereof) and, if the counsel or officer does not appropriately respond to the evidence (adopting, as necessary, appropriate remedial measures or sanctions with respect to the violation), requiring the attorney to report the evidence to the audit committee of the board of directors or to another committee of the board of directors comprised solely of directors not employed directly or indirectly by the company, or to the board of directors.

Mr. EDWARDS. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

CLOTURE MOTION

Mr. REID. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on Calendar No. 442, S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002:

Jon Corzine, Deborah Stabenow, Paul Wellstone, Ron Wyden, Daniel Akaka, Barbara Boxer, Charles Schumer, Byron Dorgan, Harry Reid, Paul Sarbanes, Daniel Inouye, John Edwards, Barbara Mikulski, Thomas Carper, Jack Reed, Tim Johnson.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, before the Senator from Texas departs, I wish to add an observation to the comments he made before about how to proceed.

There are a number of amendments. The definition of germaneness, once cloture has been invoked, is very narrow. There are amendments that Members have which in the normal terminology would be regarded as germane and are certainly relevant. It seems to me an effort should be made to address those amendments as well as ones that are perceived to be germane in the very narrow sense.

There is another category of amendments that I am not very sympathetic to, and those are ones that have really nothing to do with this bill. The second-degree amendment offered by the Senator from Kentucky that is now pending, in my judgment, is an example of that. We probably ought to move very quickly to table those kinds of amendments when they come up so we have an opportunity for colleagues who have amendments that are really relevant to this legislation to bring them up and to have them considered.

Mr. GRAMM. Will the Senator yield?

Mr. SARBANES. Yes.

Mr. GRAMM. I think we have a fairly broad consensus that is the direction in which we should go. The fact that we are getting ready to have cloture should not prevent us from adopting amendments where there is support and where there is a collective judgment that the amendment is relevant. The plain truth is that anyone knowing that cloture was coming could have held up the President's amendment which added criminal sanctions. Any Member of the Senate could have prevented that from being voted on knowing that it was nongermane, but nobody did that because there was a general base of support for it.

All I was saying was that every Member of the Senate knows the germaneness rule and everybody knows that, come whenever we invoke cloture, any amendment that is nongermane is going to fall. Then what is going to happen is, unless there is some consensus for the amendment, it is simply going to be delayed until it is cut off.

If what the Senator is saying is that if an amendment is relevant, if it would improve the bill, if it is not highly controversial, we ought to take it, I agree with that. Looking down my amendment list, there are not a lot of such amendments, but the ones that are there, if people want to bring them up, I am not going to oppose an amendment simply because it is not germane.

Mr. SARBANES. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent that the previously agreed to Daschle for Biden amendment, No. 4186, as modified, be inserted in the appropriate place in the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BINGAMAN. Madam President, I ask unanimous consent that the Senate now proceed to a period for morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

HONORING THE LIFE OF JOHN WIRTH

Mr. BINGAMAN. Madam President, I rise to give a few comments about a good friend of mine, John Wirth. On June 20, 2 weeks ago, the life of John Wirth, a great American and a citizen of my State of New Mexico, ended way too soon. His death brings deep sadness to his family, to his friends, and indeed to all of us who knew him and knew his important life's work.

John was an internationally acclaimed scholar in the history of Latin America. He taught at Stanford University for many years. His vision was for a more integrated world and for a Western Hemisphere in which countries work together for the common good of all. Many of his efforts were personal, and many of his efforts he pursued through the good works of the North American Institute.

Several weeks ago, I heard former President Clinton describe the current circumstances that we confront in the world as a struggle between the forces of integration and harmony on the one side and the forces of disintegration and chaos on the other. Throughout his entire life, John Wirth was a leader in that struggle for world integration and harmony. He sought to understand the world in his travels and in his studies. He sought to explain it through his teaching and through his writing. He applied his very fine mind and good heart to every situation, every problem, and the result was one in which everyone could have confidence because of the judgment and thought he used.

His vision, his commitment, his strengthen of character, and bedrock decency as a human being served his mission well. The world and all of us who knew him are poorer because of his death, but certainly richer because of his life. Our sympathy goes out to his wife Nancy, to their children, and to all of the Wirth family.

I ask unanimous consent that immediately following my remarks, the remarks of former Senator Tim Wirth, which were delivered at his brother's memorial service in Santa Fe, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOHN DAVIS WIRTH—REMEMBRANCES OF MY BROTHER

(By Tim Wirth)

Thank you for being here, for coming this morning to help us—John's family—and to help each other—John's friends and colleagues and neighbors—his extended family—as we try to soften the shock and the sorrow of his death.

In recent years it has become customary to speak of funeral services as celebrations of life.

And there was much in John's life to celebrate, much of his life that we will hold and cherish in our lives for a very long time to come.

But this morning I grieve not just because the was my older, much-loved brother, but because he was an exceptional man, a perceptive scholar and teacher and thinker, a visionary, quietly passionate, civic activist, and a devoted husband, proud father, and loving grandfather.

John saw himself and all of us as citizens not just of the Southwest, not just of the United States, but of a diverse, unique community as big as a continent—as citizens of North America where he saw a future of regional collaboration, a model for the world.

He was working toward that future when he died. I think he had a very big book in mind, a capstone of an extraordinarily influential career.

I grieve that he did not live to see the next stages in the process to which he had dedicated so much imagination and energy.

I grieve for a life cut off far too early.

In what was supposedly the beginning of retirement, he was actually entering what were becoming his most productive and creative professional years.

We cannot know what he have lost. We can be sure our loss is beyond measuring.

I grieve for John's three sons, Peter the community leader; Timothy the conservationist; and Nicholas like his father and grandfather, also a teacher of history. Each in his own way reflects his father's deep public service commitment. He was so proud of all of you, the choices you have made in your lives, the women you were fortunate to marry, the men you have become.

Most of all, I grieve for his grandchildren—for Alex and Elena and Charlotte and Zoe and for their brothers and sisters who have not yet entered the world that John has left. He had so much to give you—his love, his steady hand, his example.

He loved the times he did have to share with you—as he had loved earlier times with Peter, Tim and Nicholas. He knew how to share the many joys he took from life, and the many gifts he brought to living.

From your grandfather you already have a wonderful, special inheritance. Part of it is the joy he took in study and in the quest for excellence.

Your grandfather valued hard work and discipline, and he was tough on himself, because being tough brought out the best in him—his four, first-rate books of Brazilian history, and the eight other volumes he coauthored or edited.

His focus, energy and discipline earned him many proud accomplishments, including being named Gildred Professor of Latin American studies at Stanford, and winning the prestigious Bancroft prize for excellence in history. Those qualities—focus, hard work, and discipline—will bring out the best in you when you take his example as your guide.

Remember, too, the joy he took in fine writing—his own and others'; the joy he gained from music; his utter delight in the first run of a new ski season; and the days he spent matching wits with the wily trout.

I hope you will share and carry forward his passion for nature and the outdoors, which will translate for you, as it did for him, into care for the beauty of our planet and for the danger that face our fragile environment.

Of all the gifts he had and all the gifts he would have wanted to share with you as you grow up with his memory but without his presence, his enormous curiosity is the highest of his legacies.

John always had to know why things worked, and how they connected.

His curiosity was not idle. It drove him, all through life, to look deeply into any question that animated him and to pry out the reasons behind history and to sort out the connections between past and future. And while it drove him, John's curiosity often drove his family crazy—his stubbornness, sometimes misplaced enthusiasms—all curious, too!

John had discovered himself as a historian when he was an undergraduate at Harvard, and then from teaching history at Putney. He originally planned to make Asian studies his specialty, and he decided to come back to the west—to Stanford—to become a scholar of the far east.

However, the spring vacation of his last year in Vermont (before his first class in Palo Alto), he and Nancy took a vacation to Brazil, to stay with some of Nancy's family. This proved to be a voyage of discovery, and it changed the course of his life.

John became a modern explorer, not a conquistador hunting for El Dorado, but an investigator intrigued by a vibrant, complex culture and a land and people as full of possibility as his own country.

His scholarship evolved, from Brazilian history, to comparative studies within Brazil to regional economic studies in South America to trying to understand why some countries develop, and others don't. As Susan Herter has told us, he ended up studying North America—Mexico, Canada, and the U.S.—and became the most distinguished continental scholar.

His last book analyzed transborder environmental problems, especially air pollution. In showing that cooperation could work, John used one central story—how the U.S. and Mexico had worked to clean up two copper smelters on each side of the Rio Grande.

He took pleasure in the irony that, 60 years earlier, our grandfather had managed the huge open pit copper mine in Morenci, Arizona, that had fed those two same smelters.

Beyond love and scholarship and his wide-ranging, enthusiastic curiosity, John was driven all his life by a gnawing desire to reconnect with the life that had been shattered for him during a short six months in 1943 when he was only six years old.

In that period, illness took our father, the Manhattan project took our home in Los Alamos, and, when we had to move away, the army took John's beloved collie, Tor, to serve in the war effort.

Separately, those were terrible losses for a child to suffer. They drove him and throughout his life as he has worked to try to understand, to put the pieces back together.

Only two days ago I found a short piece that John had written about the weight of those early years—one including even the loss of his birthplace, Dawson, New Mexico (in 1936, when John was born, Dawson was a vibrant coal mining community, now it is a ghost town.)

Writing about his childhood, he said, ''Thus, by age 8, I had already developed a keen sense of life's contingencies. Displaced by the war, single parented, and with a birth certificate from nowhere, I felt the pull and the need for historical explanation.''

John's ''pull and need'' were scholarly.

But his curiosity fed a steadily expanding drive to apply his knowledge, and to stimulate inquiry by others, beyond the lecture hall, beyond the campus and into the messy realities of public policy.

His curiosity led him to see, for instance, the connections between environmental history, which he taught with his heart as well as his intellect, and the immediate pressures on the environment of the Southwest—which he worked to alleviate.

Curiosity also fired his perception of our continent as a single region—well before most policymakers even thought of it as a single market.

His thirst to make sense of history fed his skill as a teacher and his vision as a citizen.

If you, as his grandchildren, take some measure of his curiosity out the door with you every day, your lives will surely have the richness and satisfaction that his had.

His last, great gift to you is actually one he inherited, lost and regained.

It is his sense of this place to which he so deeply belonged, to the Southwest, to New Mexico, to Santa Fe.

His mind traveled far and wide, but his heart was always here. Born in New Mexico, John spent much of his childhood in Colorado.

For education he went east. He started his school years in New England as a scholarship student at Putney School to which he returned as a teacher, then a trustee, father of three Putney students, and then chairman of the board. The help he got from Putney, and the help he in turn gave to make it an even better school, became a major part of his life.

But one other school, a school that no longer exists, was probably even more important to him. It was called the Los Alamos Ranch School. Our father, Cecil Wirth, taught there.

As Bill Carson has reminded us, John's earliest memories were of that oasis on the edge of the beautiful New Mexico desert. His last book, which will be published this fall by the University of New Mexico Press, is a history of this school.

When some day you read it, you will find your grandfather in its pages. When his childhood ended, your grandfather was younger than Alex is today. Loss upon loss sent him out to find why the world worked the way it did and how to fit it all together.

In that world, in fact in this church, 42 years ago last week, he married your grandmother. She gave him a wonderful, warm, sustaining love that helped him search, filled so many vacuums, and was his partner in every way. Nancy molded and softened the man whose death we mourn today.

So, as we grieve, we thank John too for his strong will, exemplary focus and vision, for his energy and legendary enthusiasms, and for his optimism.

He gave us much and left his own legacy, broad and deep.

Thank You.

Mr. BINGAMAN. 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. LEVIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NEED TO ENACT ACCOUNTING AND CORPORATE REFORMS

Mr. LEVIN. Madam President, this week we will hopefully act with strength and unity to help bring confidence back to the investing public. The last 18 months have shaken the foundation of the public's belief in the accuracy of the financial statements of our major U.S. corporations, beginning with the precipitous fall of Enron last year. The Public Company Accounting Reform and Investor Protection Act sponsored by Senator SARBANES and reported last month by the Banking Committee, will make significant headway in restoring the needed confidence in our financial markets, and I strongly support it. Senator SARBANES and the supporters of this bill on the Banking Committee have shown vision and leadership in tackling the tough issues of corporate and auditor misconduct, and the Congress needs to enact this legislation as quickly as possible.

On Monday, July 8, in my role as chairman of the Permanent Subcommittee on Investigations, I released an official Subcommittee report on the role of the Board of Directors in Enron's collapse. This bipartisan report found that much of what was wrong with Enron—from its use of high risk accounting, extensive undisclosed off-the-books activity, conflict of interest transactions and excessive executive compensation—was not hidden from the company's directors but was known and permitted to happen. The report also found that Enron board members refused to admit any missteps, mistakes, or responsibility for the company's demise. The refusal of the Board to accept any share of blame for Enron's fall is emblematic of a broader failure in Corporate America to acknowledge the ongoing, widespread problems with misleading accounting, weak corporate governance, conflicts of interest, and excessive executive compensation. Corporate misconduct is not only fueling a loss in investors confidence, but also threatens to derail the recovery of the American economy.

The plain truth is that the system of checks and balances in the marketplace designed to prevent, expose, and punish corporate misconduct is broken and needs to be repaired. Action is critically needed on a number of fronts to restore these checks and balances.

American business success is a vital part of the American dream. That dream is that any person in this country who works hard, saves, and invests can be a financial success. If that person sets up a company, that company's success can be magnified through our capitalist system which allows other investors to buy company stock, invest in the company's future, and share in the company's financial rewards.

The American stock market is part of that American dream. In recent years it has been the biggest and most successful stock market in the world, an engine of growth and prosperity. It has not only brought capital to a company so they can set up new businesses and employ more people, it has brought financial rewards to individual investors who put their money in the market.

Over the years, the Government has developed checks and balances on the marketplace to put cops on the beat to try to make sure that people who are using other investors' money play by the rules. That is why we have the Securities and Exchange Commission, the Commodity Futures Trading Commission, and banking regulators. That is why we have rules requiring publicly traded companies to issue financial statements and why we have accounting standards to make those financial statements understandable and honest. That is why we require companies to submit their books to auditors and why auditors certify whether the financial statements fairly present the company's financial activity.

Today we are in the middle of another ugly episode. In the aftermath of the go-go 1990s where American business grew at breakneck strength, the famed high-tech bubble inflated stock prices and the stock market got tagged with the strange new phrase ''irrational exuberance.'' Company after company, especially in the high-tech sector, announced profits that increased by huge percentages year after year. Mergers and acquisitions proliferated, and corporate fees went through the roof. Executive pay skyrocketed. The highest paid executives made as much as $700 million in a single year. By 2000, average CEO pay at the top 350 publicly traded companies topped $13 million per executive CEO, while the workplace pay gap deepened. In 1989, CEO pay was 100 times the average worker pay. By the year 2000, it was 500 times.

Some pointed to this alleged prosperity during the 1990s as a justification for deregulating business, weakening regulators, and making it harder

to seek corporate insiders and advisers. But now we are learning that some portion of the success and profits claimed by the companies during the 1990s—we still don't know how much—were based on corporate misconduct.

Lies about income and profits, hidden debt, improper insider trading, tax evasion, conflicts of interest—the list of recent corporate malfeasance is an alphabet of woe.

Adelphia Communications. This is a publicly traded company, but the company founders, the Rigas family, are accused of using the company treasury as if it were the family piggy bank. The allegation is that the family borrowed from the company over $2 billion—yes, billion—and has yet to pay it back. The company recently declared bankruptcy under Chapter 11.

Dynegy. This high tech energy firm is under SEC investigation for possibly inflated earnings and hidden debt. The questions include how it valued its energy derivatives, whether it booked imaginary income from capacity swaps with other companies, and whether it manipulated the California energy market. Senior executives, including CEO Chuck Watson, have recently been forced out.

Enron. This high tech company epitomizes much of the corporate misconduct hurting American business today, from deceptive financial statements to excessive executive pay. Its executives, directors, auditors and lawyers all failed to prevent the abuses, and many profited from them.

Global Crossing. This is another high tech corporate failure with outrageous facts. Less than 5 years old, Global Crossing was founded in 1997 by Chairman of the Board Gary Winnick. In 1998, the company went public, touting its plans to establish a worldwide fiber optic network. Global Crossing gave Mr. Winnick millions of dollars in pay, plus millions more in stock and stock options. In the 4 years the company traded on the stock market. Mr. Winnick cashed in company stock for more than $735 million. Other company insiders sold almost $4 billion in company stock. Then questions began to arise about inflated earnings, related party transactions, insider dealing, and board of director conflicts. In January 2002, the company suddenly declared bankruptcy. The company's shareholders and creditors have lost almost everything, while corporate insiders have so far walked away with their billions intact.

Halliburton. The question here is whether this construction company improperly booked income from contract cost overruns on construction jobs, before the company actually received the income. The company is under SEC investigation.

IBM. This all-American company, once a model of American know-how and can-do, has recently acknowledged misreporting about $6 billion in revenue and restated its earnings by more than $2 billion. Another high tech disaster for investors and American business.

ImClone. ImClone's CEO, Samuel Waksal, has been indicted for insider trading. The company produced a new drug whose effectiveness is still in question and whose developer, Dr. John Mendelsohn, was not only an ImClone board member but also the President of M.D. Andersen Cancer Center in Texas. Dr. Mendelsohn arranged for the Center to conduct tests on the drug without telling patients that the Center's President had a direct economic interest in the drug's success. Dr. Mendelsohn was also a board member at Enron.

Kmart. This once successful company, headquartered in my home state of Michigan, is now bankrupt and under scrutiny by the SEC for possible accounting fraud. The pain of the employees who lost their jobs and the investors who lost their savings is ongoing, not only in Michigan but across the country.

Merrill Lynch. Once a highly respected investment advisor, this company has become a poster child for financial advisors who mislead their investors, telling them to buy the stock of companies the advisers privately think are losers. Merrill Lynch recently paid $100 million and agreed to change how its financial analysts and investment bankers operate to settle a suit filed by New York Attorney General Elliot Spitzer.

Qwest Communications. This is another high tech company under SEC investigation. Questions include whether it inflated revenues for 2000 and 2001 due to capacity swaps and equipment sales. Qwest's CEO Joe Nacchio, made $232 million in stock options in 3 years before the stock price dropped, leaving investors high and dry. Its Chairman Philip Anschutz made $1.9 billion.

Rite Aid. Last month, three former top executives of Rite Aid Corporation, a nationwide drugstore chain, were indicted for an illegal accounting scheme that briefly—until WorldCom—qualified as the largest corporate earnings restatement in U.S. business history. The restatement involved $1.6 billion. The indictment alleges that the company used brazen accounting gimmicks to overstate its earnings during the late 1990s, and when investigators came after them, made false statements and obstructed justice.

Stanley Works. This company is a leading example of U.S. corporations that have pretended to move their headquarters to Bermuda to avoid paying U.S. taxes. It joins a growing number of companies that want to go on enjoying US banks, US laws, and US workers, but do not want to pay their fair share of the costs that make this country work from the costs of public education, to police and the courts, to environmental protection laws. To me, these companies are not just minimizing their taxes, they are demeaning their citizenship. They are taking advantage of this country by enjoying its fruits without giving anything back. No company ought to be allowed to get away with this fiction and throw their tax burden on the backs of other US taxpayers.

Tyco International. Last month, the CEO of Tyco, Dennis Kozlowski, was indicted in New York for failing to pay sales tax due on millions of dollars of artwork. The allegation is that Mr. Kozlowski shipped empty boxes to New Hampshire in a scam to show that $13 million worth of artwork was sent out of state and exempt from sales tax when, in fact, the artwork never left New York. This is a millionaire, many times over, who could have easily afforded the tax bill but engaged in a sham to avoid paying it. The question is whether he ran his company the same way he ran his own affairs.

Tyco is one of those companies that has allegedly moved its headquarters to Bermuda. It has numerous offshore subsidiaries, including more than 150 in Barbados, the Cayman Islands and Jersey. The company's U.S. tax payments have apparently dropped dramatically. Allegations of corporate misconduct by insiders have also emerged. There was a $20 million payment made to one of the company's directors and another $35 million in compensation and loans paid to the company's former legal counsel. That's $55 million paid to two corporate insiders, allegedly without the knowledge of the Board of Directors. Added to that is an ongoing SEC investigation allegedly examining whether a Tyco subsidiary paid bribes to win a contract in Venezuela.

WorldCom. WorldCom is the latest in this list of corporate embarrassments. It built a glowing earnings record through the acquisition of high tech companies like MCI and UUNet. It became a favorite investment for pension companies, mutual funds and average investors. Then we learn that the longtime CEO Bernard Ebbers borrowed over $366 million in company funds and has yet to pay it back. After he's forced out and a new CEO takes over, we learn that the company booked ordinary expenses as if they were capital investments in order to string out the expenses over several years and make the current bottom line look great. The result was $3.8 billion that had been conveniently left off the books—more than enough to wipe out the company's entire earnings for last year; more than enough for 17,000 workers to lose their jobs; more than enough to wipe out billions in investments across the country. Just one example in Michigan is the Municipal Employee's Retirement System which lost $116 million that supported workers' pensions. At the same time, we're told that Mr. Ebbers has a corporate pension that will pay him over $1 million per year for life.

Xerox. This all-American company has already paid $10 million to settle an SEC complaint that, for four years, the company used fraudulent accounting to improve its financial results. As

part of the settlement, Xerox agreed to restate its earnings after allegedly recording over $3 billion in phony revenues between 1997 and 2000.

This list is painful in part because it includes some icons of American business, symbols of what was right about the American dream. Now they symbolize corporate misconduct damaging to the entire country. The S&P index has plunged. The Nasdaq has been down 20% and even 30%. Mutual funds, the equity of choice for average investors, have dropped in value by more than 10%. The average daily trading volume at Charles Schwab & Co.—a measure of average investor activity—is down 54% from the height of the bull market, according to Fortune Magazine. Investor confidence in the U.S. stock market has dramatically declined. Foreign investment is fleeing.

There are many explanations for the corporate misconduct now tainting American business. One key factor is the terrible performance of too many in the accounting profession.

Auditors play an essential role in the checks and balances on the corporate marketplace. Under current law, a publicly traded company is not allowed to participate in the stock market unless its financial statements have been audited and found by an independent public accounting firm to be fair and honest. Auditors are supposed to be the first line of defense against companies cheating on their books.

The Supreme Court put it this way in United States v. Arthur Young, 465 U.S. 805, 1984, a case that contrasts the role of auditors with the role of lawyers. The Court noted that a lawyer is supposed to be a client's confidential advisor, but the:

> . . . independent certified public accountant performs a different role. By certifying the public reports that collectively depict a corporation's financial status, the independent auditor assumes a public responsibility transcending any employment relationship with the client . . . [and] owes ultimate allegiance to the corporation's creditors and stockholders, as well as to the investing public. . . . This 'public watchdog' function demands that the accountant maintain total independence from the client at all times and requires complete fidelity to the public trust.

But that's not what has happened recently.

In Adelphia, the auditors, Deloitte Touche, allegedly missed the fact that the Rigas family borrowed company funds totaling $2 billion.

At WorldCom, Andersen allegedly never knew that $3.8 billion in expenses had been incorrectly accounted for as capital investments.

At Xerox, KPMG allegedly missed errors involving $6 billion in revenue and $2 billion in earnings.

These are not marginal amounts; they involve billions. How did the auditors miss the accounting errors and dishonest financial reports? Or are these cases like Enron, where the auditor didn't miss the problems—they knew of them, had misgivings about the accounting, but allowed questionable transactions and financial statements to go forward anyway?

And there are many more cases than the high profile scandals I just described. In the last few years, there has been a surge in corporate restatements—financial filings in which a publicly traded company admits that a prior financial statement was inaccurate and corrects the earlier information. From 1990 through 1997, publicly traded companies averaged 49 of these restatements per year. In 1999 and 2000, that number tripled—publicly traded companies filed about 150 each year.

These restatements go beyond the list of companies I started with, reaching much deeper into corporate America. In addition to those already reported in the media over the last few years, I asked the Congressional Research Service to look at the most recent corporate restatements, those filed since January of this year. On June 17th, CRS issued a report listing over 100 completed and expected restatements in the first six months of 2002, and predicted that the total number of restatements in 2002 may exceed 200. A smattering of these restatements, another alphabet of corporate woe, include the following.

American Physicians Service Group. This health services company restated its 2000 and 2001 earnings due to a revaluation of a private stock investment.

CMS Energy Corporation. This energy company, which has operations in Michigan, has restated its 2000 and 2001 financial statements to include $4.4 billion in revenues attributable to ''wash trades'' with other companies involving energy commodities.

Dollar General Corporation. This company has restated its financial results for three years, 1998 through 2000.

Hanover Compression. This company has restated its earnings for seven quarters in a row, ending September 2001.

Microsoft. Following an SEC investigation, the flagship American company agreed to restate its earnings for 1995 through 1998, when it used accounting devices to ''smooth'' its reported earnings.

PNC Financial services. This financial services company has restated its financial results for 2001 after questionable accounting under investigation by the Federal Reserve and SEC involving the sale of over $700 million in problem loans and other non-performing assets to three companies it set up with the insurance conglomerate, American International Group.

Pacific Gas & Electric. This energy company has announced that it will restate its earnings back to 1999 to account for off-the-books ''synthetic leases'' involving about $1 billion in financing for several power plants.

Peregrine Systems. This company announced it would restate earnings for 2000, 2001, and 2002, and that an SEC investigation was in progress.

Stillwater Mining Co. This company announced that the SEC had criticized its accounting practices and a restatement of earnings would be issued.

There are many more examples. What is happening that more and more financial results have to be restated, erasing more and more questions about the reliability of the original financial reports? Why this surge in corporate restatements?

Part of the answer is that too many accounting firms apparently no longer value in their watchdog role. Today, they celebrate instead the earnings they receive as tax advisers and business consultants.

During the 1990s, all the major accounting firms dramatically increased the non-audit services they provided to their audit clients. By 1999, 50% of firm revenues at the big five accounting firms came from consulting, while only 34% came from auditing. A few years later, the data indicates that almost 75 percent of the fees earned by the big five accounting firms came from non-audit services. Specific company proxy statements show that many publicly traded companies now pay millions more for consulting than they do for auditing, including such companies as Raytheon, Apple Computer, Nike, International Paper, At&T, Honeywell and Coca-Cola. A January 2002 Harvard Business School publication raising questions about auditor independence cited anecdotal evidence that accounting firms were using their positions as auditors to obtain consulting work, including by ''lowballing'' audit fees if a company simultaneous agreed to a consulting contract. The work done by the Permanent Subcommittee on Investigations, which I chair, includes evidence that accounting firms are shopping around to publicly traded companies, including their audit clients, complex accounting arrangements that they say will improve a company's financial results and pending complex tax strategies that will lower its tax bills.

The role of Arthur Andersen at Enron illustrate the profession's movement from auditor to moneymaker, Andersen was Enron's outside auditor from the company's inception in 1985. As Enron grew, Andersen's role at the company grew, with more and more of Andersen's time spent on financial services other than auditing.

Andersen began to offer Enron business and tax consulting services which included assistance in designing special purpose entities, offshore affiliates, and complex structured finance transactions. For example, Andersen was paid about $5.7 million to help Enron design the LJM and Chewco partnerships and engage in a series of purported asset sales to these entities. Andersen was paid more than $1.3 million to help Enron set up the Raptors, a series of four complex transactions that were an improper attempt by Enron to use the value of its own stock to offset losses in its investment portfolio. Andersen also helped Enron engage in

ever more exotic and complex transactions, such as prepaid forward contracts, swaps, and merchant asset sales. For two years, Andersen even acted an Enron's internal auditor while also serving an Enron's outside auditor.

By 1999, Andersen was earning more for its non-audit services than for its audit services at Enron. By then, Andersen had set up its own offices at the company site to enable it to work with Enron employees on a daily basis. A number of Andersen employees switched to Enron's payroll. Enron became one of Andersen's largest clients, In 2000, Andersen was paid $1 million per week for the many services it was providing Enron. Andersen partners handling the Enron account earned millions in bonuses and partnership income.

Common sense tells us that as Andersen's joint efforts with Enron management increased, it became tougher and tougher for Andersen auditors to challenge Enron transactions—after all, these transactions had been set up with Andersen's assistance at the cost of millions of dollars. How could Andersen auditors say that Andersen consultants were wrong? And in many cases the same Andersen employee served as both consultant and auditor, essentially auditing his or her own work. We now know that internal Andersen documents demonstrate serious misgivings up and down the Andersen chain of command with respect to Enron's transactions or accounting. To the contrary, one of the few Andersen senior partners to raise gentle objections to some Enron transactions was, at Enron's request, removed from the Enron account. In the end, Andersen approved questionable transactions and financial statements that made Enron's financial condition appear better than it was.

Andersen once had a proud tradition that stressed its commitment to the public trust to ensure accurate financial reporting and honest accounting. But that tradition gave way in the Enron case. And it give way in other recent cases of corporate misconduct as well, from Sunbeam to Waste Management to the Baptist Foundation of America.

Worse, Andersen was not alone. Media reports are filled with tales of auditors going along with questionable transactions and financial reporting. PricewaterhouseCoopers and Microstrategy. Ernst & Young and PNC Financial. Deloitte Touche and Adelphia. KPMG and Xerox.

The conflicts of interest inherent in auditors performing consulting services for their audit clients have been building for years and were not lost on those concerned about accurate financial reporting by U.S. companies. In 2000, SEC Chairman Arthur Levitt waged a highly visible campaign to rein in auditor conflicts of interest and restore auditor independence. In July 2000, under his leadership, the SEC proposed regulations to stop auditors from providing certain non-audit services to their audit clients. The rules proposed four principles to determine whether, in fact and in appearance, an accountant was independent of its audit client. The proposed regulations stated that an accountant would not be considered independent if the accountant: (1) had a mutual or conflicting interest with the audit client; (2) audited the accountant's own work; (3) functioned as an employee of the audit client; or (4) acted as an advocate for the audit client. Using these four principles, the regulations proposed a ban on audit firms performing certain non-audit services for their audit clients.

The reaction of the accounting profession was to fight the proposal tooth and nail. The proposed regulations were also pummeled by the corporate community, which lost sight of how important reliable financial statements and reliable auditors are to the viability of American business and investment.

In the end, the proposed Levitt regulations were gutted. Instead of eliminating auditor conflicts, a compromise emerged that simply increased disclosure of the scope of the conflicts and the extent to which auditors were auditing their own work. That was the wrong result, which I hope the Senate will remedy through enactment of the Sarbanes bill.

What happened to the board?

In U.S. corporations, Boards of Directors are at the top of a company's governing structure. According to the Business Roundtable, the Board's ''paramount duty'' is to safeguard the interests of a company's shareholders. Persons who serve on corporate boards are required by state law to serve as fiduciaries to the shareholders and employees of the corporation for which they serve. As the Fifth Circuit said in 1984:

> Three broad duties stem from the fiduciary status of corporate directors: namely, the duties of obedience, loyalty and due care. The duty of obedience requires a director to avoid committing . . . acts beyond the scope of the powers of a corporation as defined by its charter or the laws of the state of incorporation. . . . The duty of loyalty dictates that a director must not allow his personal interest to prevail over the interests of the corporation. . . . [T]he duty of care requires a director to be diligent and prudent in managing the corporation's affairs.

One of the most important duties of the Board—along with corporate officers and company auditors—is to make sure that the financial statements are in fair representation of the company's financial condition. It requires more than technical compliance; it requires, as the Second Circuit Court of Appeals said in 1969, that the Board ensure that the financial statement ''as a whole fairly present[s] the financial position'' of the company.

The key committee of a board in carrying out that function is the Audit Committee, and a Blue Ribbon Commission in 2000 issued a report on what Audit Committees should do to meet their obligation to the shareholders. Among the responsibilities the Audit Committee should meet are: ensuring that the auditor is independent and objective; assessing the quality, not just the acceptability, of an auditor's work; discussing with the auditor significant auditing issues; and making sure that the financial statement are ''in conformity with generally accepted accounting principles.''

As I mentioned at the beginning of this statement, the Permanent Subcommittee on Investigations, which I chair, looked in depth at the actions of the Board of Directors on the Enron Corporation in light of its sudden collapse and bankruptcy. The Subcommittee on a bipartisan basis found that the Enron Board failed to safeguard Enron shareholders and contributed to Enron's collapse. If failed, we found, because the Board allowed Enron to engage in high risk accounting, inappropriate conflict of interest transactions, extensive undisclosed off-the-books activities, and excessive executive compensation. Based on review of the hundreds of thousands of Enron-related documents by the PSI staff and dozens of interviews, the Subcommittee concluded that the Board knew about numerous questionable practices by Enron management over several years, but it chose to ignore these red flags to the detriment of Enron shareholders, employees, and business associates. In short, the Enron Board failed to meet its fiduciary responsibility to the shareholders and employees of Enron.

When pressed to explain their conduct at a PSI hearing, the Board accepted no responsibility for Enron's failure. The Board members claimed they didn't know what was going on in the company—that management didn't tell them, and that the auditor, Arthur Andersen, told them everything was OK. The Subcommittee didn't accept that answer, because a review of the documents, the Board meetings, the Audit and Finance Committee meetings, and interviews with the Board members revealed that the Board Members did know what was happening at Enron and went along with it.

The Board failed with respect to the Enron Corporation, and my guess is that the boards of the other corporations now under investigation for investor fraud and auditing misconduct will fare little better. Although the performance of corporate boards in American corporations must be addressed by the corporations themselves, Congress must also do everything it can to ensure that this important watchdog of corporate governance operates properly in each U.S. company.

What happened to other corporate players?

The auditors and the Boards of Directors are not the only ones with oversight responsibility for corporate conduct who have let down the investing

public. Top-name law firms wrote legal opinions that allowed some of the worst deceptions to go forward. Financial analysts who depend upon large corporations for investment banking business and at the same time promote the stock of those corporations to their clients, operate with clear conflicts of interest. They may know inside information about the financial condition of the companies with which they do business, but keep that information from the investors to whom they are promoting the company stock.

What needs to be done now?

The Sarbanes bill, with additional amendments, will address the duties and failings of their corporate players. After 10 days of hearings, the Banking Committee has reported to the Senate floor a bill that significantly addresses not only the audition failures, but failures of corporate governance and conflicts with financial analysts. I understand there may be an amendment to hold the legal profession accountable as well.

We have got to take action on this legislation now, this Congress. We need to restore the checks and balances on the marketplace, and we need to give our cops on the beat the tools and resources to crack down on corporate misconduct.

We need to change the laws to make it possible to punish corporate and auditor misconduct swiftly and with appropriate penalties. We need to ensure that crime does not pay for corporate executives seeking to profit from corporate misconduct. We need to shake up the auditing industry and remind them that their profession calls for them to be watchdogs, not lapdogs for their clients. We need to give SEC administrative enforcement powers and more funds for investigations and civil enforcement actions. We need to increase investor protections to restore investor confidence.

The Sarbanes bill takes many of the actions needed, and I want to commend the hard work of not only Senator SARBANES who chairs the Banking Committee, but also the many other Senators on that Committee who contributed to this much needed bill. It offers strong medicine, and it is what this country needs.

On corporate misconduct, the bill presents a number of new provisions to deter and punish wrongdoing. For the first time, CEOs and CFOs would be required to certify that company financial statements fairly present the company's financial condition. If a misleading financial statement later resulted in a restatement, the CEO and CFO would have to forfeit and return to the company coffer any bonus, stock or stock option compensation received in the 12 months following the misleading financial report. The bill would also make it an unlawful act for any company officer or director to attempt to mislead or coerce an auditor. It would also require auditors to discuss specific accounting issues with the company's audit committee, which will not only increase the understanding of the company's board of directors, but also prevent directors from later claiming they were not informed about the company's accounting practices. The bill would also enable the SEC to remove unfit officers or directors from office and to bar them from holding any future position at a publicly traded corporation. These are powerful new tools to help prevent and punish corporate misconduct.

The Sarbanes bill takes on another great issue of importance that I've been working on for years, strengthening the independence of the Financial Accounting Standards Board or FASB, which has the task of issuing generally accepted accounting principles or GAAP. Among other important measures, the bill grants statutory recognition to FASB and sets out its obligation to act in the public interest to ensure the accuracy and effectiveness of financial reporting; states that the trustees who select FASB's members must represent investors and the public, not just the accounting industry or corporate interests; and streamlines FASB's operations by requiring it to act by majority vote instead of through a supermajority.

Most important of all, the bill sets up a system that provides FASB with an independent, stable source of funding through fees assessed on publicly traded companies. Once this new system is set up, it will no longer be the case, as it has been for years, that FASB will have to go hat in hand for funds from the very companies and accounting firms that want to affect its decision-making. I have no doubt that this conflict of interest has contributed to some of the distortions and weaknesses in current accounting standards. I proposed a similar change in FASB's funding status in my Shareholder Bill of Rights Act, and I appreciate the Committee's including the provision for my bill making it clear that FASB's funding cannot be affected by the congressional appropriations process and the political pressures that can be exerted through it. The point of the bill is to set up an independent, stable source of funding that is insulated from political pressure and funding threats so that FASB can do its work free of such pressures and threats. Once the new funding system is in place, I urge FASB to begin to reassess U.S. accounting standards and to begin to clear up some of the problems that have allowed so many companies to engage in dishonest accounting while claiming to be in compliance with GAAP.

On auditor conflicts of interest, the bill takes concrete action to stop auditors from providing non-audit services to their audit clients. For the first time, the bill specifically prohibits auditors from providing 8 types of non-audit services to their audit clients. The 8 prohibited services are bookeeping services; financial information systems design; appraisal and valuation services and fairness opinions; actuarial service; internal auditing services; management functions and human resource services; broker-dealer, investment adviser of investment banking service; and non-audit legal or expert services. The bill also enables a newly established Public Company Accounting Oversight Board to specify other prohibited services. Any other non-audit service can be provided by an auditor to its audit client only if the client's audit committee specifically authorizes the auditor to undertake the service. While I would have preferred an even stronger provision barring auditors from providing any non-audit services to an audit client, this bill makes a meaningful change in law that would help put an end to auditor conflicts of interest.

Additional work is needed. For example, many of the key terms in the 8 prohibited non-audit services were left undefined after the Banking Committee, as part of the negotiations over the bill, dropped a requirement for the SEC to promulgate the July 2000 Levitt regulations which would have defined many of the terms. If enacted into law, the new Board and the SEC would need to place a priority on further defining the key terms in the 8 prohibited services. That task would be a key test of their willingness to use the bill's authority to eliminate auditor conflicts of interest and restore auditor independence.

Let me give you an example. The bill currently prohibits auditors from providing their audit clients with ''investment banking services'' but does not define this term. Based upon the work of the Permanent Subcommittee on Investigations into the Enron scandal, I believe it is crucial for that term to include prohibiting auditors from working with their audit clients to design special purpose entities and structured finance arrangements, as investment bankers do, and then audit the structures they helped to create. In the case of Enron, Andersen was paid about $7 million to help Enron design the LJM, Chewco and Raptor structures, which Andersen then audited and approved. That never should happen. Auditors should not be auditing their own work. To make sure that this conduct is stopped, the SEC and Board would have to prohibit it either by further defining the term ''investment banking services'' or by specifying another prohibited service. The public companies' audit committees could also accomplish this goal by prohibiting the company's auditor from designing these structures and then auditing its own work.

In addition to defining the key terms in the 8 prohibited services, additional work is needed to clarify how auditors and companies are supposed to treat the issue of ''tax services.'' The bill states explicitly that an auditor may provide ''tax services'' to an audit client if the specific tax services are cleared beforehand by the company's audit committee. There are several

problems with this approach. First, like investment banking services, one danger is that an auditor will end up auditing its own work, which means that a critical check and balance on possible company misconduct will be circumvented. No auditor should assist a company in designing a tax strategy to lower the company's tax bill and then also serve as the auditor approving the accounting for that tax strategy. Two different parties must be involved—one to design the strategy and one to audit it for improper accounting and possible illegal tax evasion. A second problem involves the fees paid for various types of tax services. In the July 2000 regulations proposed by the SEC under former Chairman Levitt, concerns were raised about allowing an auditor to provide an audit client with written opinions related to a tax shelter or other tax strategy to lower the client's tax bill. Providing these opinions, especially for complex or questionable tax strategies, can lead to lucrative fees for an accounting firm and, in so doing, raise the same conflict of interest concerns that have so damaged auditor independence.

These and other non-audit service issues needed to be examined by the Board and the SEC, not only to develop definitions for key terms, but also to determine whether additional non-auditing services should be added to the list of 8 prohibited services now specified in the Senate bill. Audit committees must also confront these issues and take the steps necessary to prohibit the company's auditor from engaging in non-auditing services that raise conflict of interest concerns or lead to an auditor's auditing its own work for the company.

On auditor misconduct and oversight of accounting firms, the Sarbanes bill offers fundamental change that is sorely needed. The new Public Company Accounting Oversight Board that the bill would establish is designed to be free of domination by either accounting or corporate interests and would enjoy an independent and stable source of funding. This Board would have several duties including issuing auditing, auditor independence, and auditor ethical standards; inspecting and reporting on the internal controls and operations of registered public accounting firms; and conducting disciplinary proceedings regarding accountants suspected of wrongdoing.

With respect to investigating possible auditor misconduct, the Board will have the authority to subpoena documents, take sworn testimony, and impose meaningful sanctions on individual accountants and accounting firms found to have engaged in wrongdoing. The sanctions include revoking the registration that a firm needs to audit public companies, barring a person from participating in a public company audit, imposing a civil fine on an individual or firm, and issuing a censure. The Board must also disclose its disciplinary proceedings to the public so that we will know what misconduct was involved and what sanction was imposed.

This provision represents significant improvement over existing disciplinary proceedings which are dominated by the accounting industry, secretive, time-consuming, and ineffective. It also has at least two weaknesses. First, although the bill requires the Board to issue a public report on any disciplinary proceeding that results in a sanction on an auditor, the bill is silent on public disclosure of disciplinary proceedings that do not result in a sanction. The bill apparently leaves it to the discretion of the Board on whether to disclose these disciplinary proceedings, but a better approach might have been to direct the Board to disclose such proceedings when doing so would be in the public interest. A second, more serious weakness is that the provision imposes an automatic, unlimited stay on any auditor sanction imposed by the Board if the sanction is appealed to the SEC. Until the SEC lifts the stay, the Board is prohibited from disclosing to the public the name of the auditor, the sanction imposed, or the reasons for the disciplinary action. These provisions are out of line with broker-dealer disciplinary proceedings and only serve to prolong criticisms of auditor disciplinary practices as overly secretive and slow moving.

On the issue of auditing, auditor independence, and auditor ethical standards, I fully support making the Board the final arbiter of these standards. The standard-setting process has for too long been under the direct control of the accounting industry, and one of the most important changes the bill makes is to put an end to this arrangement. Of course, the accounting industry is not and should not be excluded from the Board's standard-setting process; the bill requires the Board to engage in an ongoing dialog with the accounting, corporate and investor communities to take advantage of their expertise. The bill explicitly requires the Board to ''cooperate'' with any designated professional group of accountants or any advisory board convened by the Board to assist its deliberations. The bill also states that the Board must ''respond in a timely fashion'' to any request for a change in the standards if the request is made by a designated professional group or advisory committee. It is important to note, however, that the bill does not grant any preferential status to these groups compared to other participants in the standard-setting process, and participants such as the SEC, state accounting boards, other federal and state agencies and standard-setting bodies, and investors are entitled to receive equal consideration from the Board in its standard-setting deliberations.

On the issue of accounting oversight, the Sarbanes bill again offers vast improvement over the status quo. The newly created Board offers oversight authority that will be more independent, more systematic and more public than the existing system. And, again, one comment. With respect to the inspection reports that the Board is supposed to disclose to the public regarding a registered public accounting firm's operations, the bill states that the Board must develop a procedure to allow the registered public accounting firm that is the subject of the inspection an opportunity to comment on the draft report before it is finalized. I support this process. However, it is also my understanding after consulting with the Committee, that the bill is not intended to require the Board to submit the actual text of its draft report to the subject firm prior to making it public, but rather to inform and discuss the key points with the firm and provide the firm with a meaningful opportunity to comment on the Board's analysis, commit to specific steps to cure any defects in the firm's quality control systems, and commit to other reforms.

Finally, on the issue of increased resources, the Sarbanes bill takes long needed steps to beef up the SEC's enforcement staff through authority to hire new accountants, lawyers, investigators and support personnel. It also increases the SEC's budgetary authority. Once this is enacted into law, it will be up to the Bush Administration and the Appropriations Committees to give the SEC what it needs to respond to the current wave of corporate scandals and help restore investor confidence.

There are many other provisions in the bill that I could comment on, but I will stop here. The bottom line is that the Sarbanes bill is a strong bill. It provides new tools and resources to go after corporate misconduct. It offers fundamental change in the way we oversee the accounting industry and punish auditor wrongdoing. It tackles auditor conflicts of interest by setting up, for the first time, prohibitions on the non-auditing services that an auditor can provide to an audit client. It provides new ways to hold corporate insiders accountable, so the next time a public company erupts in scandal, the senior officers and directors can't claim that they were out of the loop and not responsible.

As strong as it is, the Sarbanes bill would benefit from a number of strengthening measures. This includes the amendment by Senator LEAHY to strengthen criminal penalties for corporate misconduct and to protect corporate whistleblowers, which I am cosponsoring, and an amendment by Senator EDWARDS to require legal counsel to play a more active role in deterring corporate misconduct.

I intend to offer several amendments myself.

Administrative penalties: Senators BILL NELSON, TOM HARKIN, and I will offer an amendment to give new authority to the SEC to impose administrative penalties for corporate wrongdoing. The amendments would allow

the SEC to impose civil monetary penalties on persons who violate the securities laws such as companies, officers, directors, auditors, and lawyers and to bar unfit officers and directors of publicly traded corporations without having to go to court to do so. The amendment would also allow the SEC to subpoena financial records as part of an official SEC investigation without notifying the subject of the records request. This amendment would also increase the maximum civil fines the SEC can impose on securities laws violators under current law and the new authority provided by this amendments. Today's fines of $6,500 to $600,000 per violation would increase to $100,000 to $10 million.

Auditor certification. A second amendment I intend to offer would require that auditors of publicly traded corporation provide a written opinion on whether a client company's financial statements fairly present the financial condition of the company. The Sarbanes bill has a similar provision with respect to CEOs and CFOs. Many think this is already required of auditors of publicly traded companies, but there is no provision in current law that imposes such a requirement; there is only guidance pursuant to SEC regulation.

Auditors communication with board of directors: My third amendment would require that an auditor of a publicly traded corporation discuss with the Audit Committee on the Board of Directors the ''quality, acceptability, clarity, and aggressiveness'' of the company's financial statements and accounting principles. This amendment will eliminate any excuse that the Board of Directors of a company didn't know what the company was doing.

There were many investors and commentators in the 1990's who expressed their awe of the astronomical growth in the stock market by saying it was too good to be true. Well, they were right. It was too good to be true, and now we know that. This bill, particularly with some strengthening amendments will bring credibility and accuracy back to the financial statements of our publicly traded corporations. It will bring reality into the marketplace and make the deceptive practices of the 1990's the true exception rather than the rule.

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. NELSON of Florida. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DELAYING ACTION ON S. 2673

Mr. NELSON of Florida. Madam President, it is my understanding that what has happened here is that our friend and colleague, the senior Senator from Michigan, has asked for unanimous consent, earlier, and it was denied by the senior Senator from Texas, in order to proceed with the offering of an amendment that would considerably strengthen the underlying bill that we have under consideration.

It is with a heavy heart that I saw the parliamentary tactics—clearly within any Senator's opportunity to utilize—to delay a piece of legislation that would address the issue before us that is resonating in the hearts of every American, that being the subject of corporate greed.

Indeed, what we have seen is that which is obviously resonating because I am told the stock market has gone down almost 300 points today, down to a range of about 8,800. You would think folks would realize that the stock market is a reflection of the confidence of the American people, not only in the economy but in a lot of the engines that drive the economy.

Most of the great corporate structures are very solid financially as well as ethically, but having seen some of the lapses in ethical judgment have led to some of the exposes that we have seen over the course of the last months, I am rather surprised to see these parliamentary delaying tactics by folks from the other side of the aisle when in fact what the American people would like to know is that their Representatives in the U.S. Congress are responding with very tough laws enacted to address the problems of corporate greed.

We can talk about the Enrons. We can talk about the WorldComs. We can talk about whatever. Lord knows what is going to be next. But that is why Senator LEVIN and I will be coming to the floor after being denied, tonight, the opportunity to offer an amendment that will strengthen the underlying bill. We will come to offer reforms aimed at preventing corporate fraud and punishing its perpetrators.

The senior Senator from Michigan, as the Chairman of the Armed Services Committee, lends an expertise to this body in matters of defense. He has a perspective that, to keep America strong from a military standpoint, we have to be economically strong and we have to be morally strong. So that is getting right to the heart of what we are doing, trying to enact a law preventing the perpetrating of corporate fraud or then seeing that the perpetrators are punished.

There were at WorldCom 17,000 workers who received pink slips. While it was realizing $1.1 billion in losses in the retirement funds of those employees, and while those 17,000 employees were getting those pink slips, the corporate executives were attending a retreat in Hawaii. One of them was putting the finishing touches on a new $15 million mansion. I am not absolutely sure, but I think that person is one and the same person whose $15 million mansion is in my State.

Then late last year, Global Crossing laid off 1,200 people, giving them no severance package, while the CEO there walked away with hundreds of millions of dollars. Is there something wrong with this picture? Yes, there is. And the American people are feeling it. Part of that is what we are seeing resonating in the plunge of America's stock markets.

So last summer, while Enron executives were selling their shares for hundreds of millions of dollars and protecting their portfolios, their employees and their retirees lost more than $1.2 billion in retirement savings.

Sadly, that includes Janice Farmer, a former Enron employee who is now a retiree. She lives in Orlando. Janice Farmer lost her whole savings—$700,000—in her retirement plan with Enron.

Then, if you will recall, the pension fund of the State of Florida lost $335 million—more losses than any other State—from Enron stock purchases.

When we had a hearing in the Commerce Committee with the managers of Florida's pension fund, which covers all of our public employees in Florida, the testimony came out that the money managers of that fund were buying Enron shares based on the management's and the company's assertions that everything was OK. But it wasn't. The stock was dropping like a rock, but, oh, by the way, not before company executives had unloaded their shares.

In the last 18 months alone, we have seen corporate abuses of monumental proportions. People have had it. Their representatives in Congress, I hope, have had it. I can tell you I have had it. So has my colleague, Senator LEVIN. Eventually, after we have to go through all the parliamentary rankling, we will be allowed to offer our amendment.

We must act now to protect taxpayers and employees and investors. We must prevent huge losses for public institutional investors.

Now we are looking sadly as thousands of layoffs, earnings and restatements by more than 300 companies with billions of dollars lost by ordinary people. The victims are the ones demanding the reforms that we are talking about today. Unfortunately, because of the objections rendered by that side of the aisle, we are not able to take that up today.

Those victims and the American people who believe in a strong economy want us to act strongly and swiftly to punish such corporate abuse and to prevent corporate abuse. That is why Senator LEVIN and I want to introduce stronger enforcement measures.

We have a package of three amendments. They complement the Sarbanes bill by streamlining and strengthening procedures to punish corporate and auditor misconduct.

There is a glaring shortcoming of our current statutes. The Securities and Exchange Commission is essentially powerless today, even after conducting an investigation and even after finding

wrongdoing. What the SEC needs is more enforcement authority.

The amendments that Senator LEVIN and I are offering will strengthen civil penalties and provide for more enforcement authority over corporate misconduct. And it will do it in several ways.

First, these amendments will grant the SEC administrative authority to ban unfit officers and directors from publicly traded corporations. And the SEC will be able to do so without having to go through the lengthy court proceedings in advance that makes it so difficult under the present law to get anything done. Their decisions, however, will be subject to judicial review so that we have the checks and balances.

Yesterday, the President gave a speech on Wall Street. He echoed the idea that unscrupulous officers and directors should not be able to serve in that capacity again. But he offered nothing to enforce that principle.

I hope the President will realize that he was a day late and a dollar short—that his proposal did not have the strength and the backbone behind it. What we offer here will allow the SEC to have the authority to remove crooked executives.

This amendment also will increase the maximum civil fines that the SEC can impose on violators of securities laws and increase those by manyfold. Future fines against crooked executives would range from $100,000 up to $2 million. Right now some of the fines are only $6,500. When you are dealing with white-collar crime, you have to hit the criminals where it hurts—in the pocketbook.

Our amendment also broadens the authority of the SEC to impose fines on companies, officers, directors, auditors, and lawyers. Currently, the Commission can only impose fines on narrow categories of regulated individuals, such as brokers and dealers. But this amendment would allow the SEC to cast the net wider and go after a broad range of bad actors who engage in fraudulent conduct.

Earlier this year, Senator CARNAHAN and I introduced legislation advocating that the SEC take a tough enforcement approach, including criminal prosecutions whenever necessary. We also sought to end the cozy relationships among company executives, auditors, and directors, money managers, analysts, lawyers, and others who create this incestuous kind of relationship that does nothing but undermine the confidence of the American people in the corporate structure of this country.

Senator LEVIN and I are glad to see that a consensus is coming to embrace this approach, and if the other side of the aisle will ever let us bring this to a vote, it will be widely accepted in this body.

The recent Enrons, WorldComs, and other financial tragedies have demonstrated that white-collar crimes can be incredibly damaging—robbing hard-working Americans of their jobs, their savings, and their retirements.

There is simply no justification for handling corporate wrongdoers with kid gloves. Earlier today Senator LEAHY pointed out that if you defraud the public you must go to jail.

I came over here hoping that I could give a speech to support Senator LEVIN before we adopted this amendment. But I guess it is going to be Friday, or if they drag us on, I guess it will be Monday, or Tuesday. But we will pass this amendment, and we will pass this bill. It is a reflection of the will of the American people to keep our country strong and to keep our country free.

I yield the floor.

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 July 7, 2002 in St. Petersburg, FL. Sonny Gonzales and his friends were walking to their limousine after a gay pride party when an angry man approached them in a parking garage. ''The first thing out of his mouth was, ''faggots,'' said Gonzales. The man taunted the group, screamed obscenities, and then punched Gonzales and his friends. Gonzales suffered a head laceration. His partner, Stephen Hair, 25, suffered a skull fracture, a cracked sinus, and a broken tooth trying to defend him. Authorities arrested Devin Scott Angus, 20, in the attack. He was charged with aggravated battery with great bodily harm and battery evidencing prejudice.

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.

LOW MEDICARE REIMBURSEMENTS

Mr. SPECTER. Madam President, I submit for the CONGRESSIONAL RECORD several additional supporting documents regarding Medicare Metropolitan Statistical Areas referenced in my statement on Monday, July 8, 2002.

I therefore ask unanimous consent that the additional documents be printed in today's RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BERWICK HOSPITAL CENTER,
Berwick, PA, July 3, 2002.

Senator ARLEN SPECTER,
Scranton District Office,
Scranton, PA.

DEAR SENATOR SPECTER: I am writing to reiterate our support for the proposed increase in Medicare Reimbursement Rates for hospitals in Northeastern Pennsylvania. The proposed increase would mean an additional $800,000 in increased annual reimbursement to Berwick Hospital Center.

This increase, if granted, would go directly for training and recruiting health care personnel who are in critically short supply in our area. The hospital currently has 19 registered nurse and 6 licensed practical nurse vacancies. In addition, there are 10 vacancies in the support departments, such as laboratory and radiology. A significant factor in these vacancies is the higher wages and benefits that are paid in the Philadelphia and New York metropolitan areas that are within a 2.5 hour drive from our hospital. Our hospital cannot afford to match these urban wages due to the disparity in our Medicare Reimbursement levels.

As such, the proposed increase in Medicare Reimbursement is critical to stop the outmigration of skilled health care workers from our area. Since the average age of nurses in our state is now approaching 45, in the next decade when the Baby Boomer generation reaches retirement age, there will be no nurses and other support personnel to take care of their medical needs in our community. A concerned effort to improve educational opportunities for high school graduates, as well as improved wages for existing workers is needed.

Finally, I would urge the Congress to take immediate action on this issue. It will take years to reverse the current trend, through support of new educational programs, and other programs to retain the existing workforce. Postponing a decision will make the current crisis worsen to the point where the health care delivery system in our community will not function.

MARIAN COMMUNITY HOSPITAL,
Carbondale, PA, July 8, 2002.

Hon. ARLEN SPECTER,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SPECTER: On behalf of Marian Community Hospital, its Board of Directors, and the greater Carbondale area community, which we serve, we thank you for the efforts that you, Representative Sherwood and your respective staffs have committed to addressing the disparity caused by the Medicare wage index.

We know that you are keenly aware of the challenges facing the hospitals in our region but we would like to share with you the following points that were communicated to our Board of Directors through our current operating budget:

Over half of the Hospital's healthcare service and activities are provided to patients who are poor and elderly. The reimbursement received from the federal government for services provided to these patients under the Medicaid and Medicare programs are not sufficient to cover the cost of care (approximately 55% of the hospital's costs is for salaries and fringe benefits).

For the fourth year in a row, revenues from operations have not been or expect to be adequate to cover the cost of providing care and, accordingly, savings intended for building and equipment replacement were used to cover the unreimbursed costs (Pennsylvania Cost Containment Council indicates these losses are consistent for those hospitals residing in Northeastern Pennsylvania).

The Hospital has been faced with a health professional shortage requiring the payment for caregiver services through overtime and use of temporary agencies at a level much greater than anticipated. (Even when staff becomes available, we have been forced to pay higher hourly rates to attract health professionals to the Carbondale area.)

This past spring, the Hospital's provider of professional and general liability insurance (PHICO) become insolvent requiring the use of expensive alternatives and financial resources that were not planned until a solution could be formulated with other Pennsylvania hospitals in a like situation.

Capital expenditures and replacement of medical equipment in the current fiscal year will need to be reprioritized until relief from unreimbursed costs can be resolved.

Thank you again for your interest in our Hospital and in the Northeast region of Pennsylvania. We are prepared to participate in any way in hearings with your Committee to resolve this crises.

Respectfully yours,

THOMAS L. HERON,
Chief Financial Officer.

TYLER MEMORIAL HOSPITAL,
Tunkhannock, PA, July 8, 2002.

Below please find a history of our hospital's reimbursement rate under Medicare's prospective payment system:

	Labor component	Wage index	Adjusted labor	Non-labor component	Actual base rate	Increase (percent)	Consumer price index (percent)
1998	$2,732.26	0.8539	$2,333.08	$1,110.58	$3,443.66		
1999	2,739.36	0.8683	2,378.59	1,113.47	3,492.06	1.41	1.70
2000	2,764.70	0.8524	2,356.63	1,123.76	3,480.39	−0.33	1.60
2001	2,818.85	0.8578	2,418.01	1,145.78	3,563.79	2.40	2.70
2002	2,908.65	0.8683	2,525.58	1,182.27	3,707.85	4.04	3.40

As you can see, in three of the last four years, our increase in payment has fallen short of the increase in the consumer price index. In 2000, our base payment rate actually decreased because of a reduction in the wage index.

With increases in our payments that do not surpass the rising cost of healthcare, the hospital is put in a position where, in order to staff the lone hospital within a 45-mile radius, it must tap into its own cash reserves that were earmarked for improved capital equipment.

It's imperative that the wage index be increased to allow the patients that we serve get the equipment and the care that they deserve. Without that increase, it's only a matter of time before the hospital's own cash reserves are depleted.

In negotiating with an HMO, the hospital can bargain to receive higher payments; with federal or state insurance, the hospital has to take what is offered. Congress should do its best to make sure that the payment it offers is a fair one.

TRIBUTE TO WILLIAM B. RUGER, SR.

Mr. GREGG. Mr. President, one of New Hampshire's leading citizens, William B. Ruger, Sr., Chairman Emeritus of Sturm, Ruger & Company died peacefully at home on Saturday, July 6, 2002.

I have had the pleasure of knowing Bill Ruger for several decades. He was one of America's great gun designers and a true American entrepreneur.

Not only was Bill a giant in the firearm industry, his other interests were noted nationally as well. His philanthropy was especially evident through charities in communities throughout New Hampshire, as well as the Buffalo Bill Historical Center in Cody, WY where he served as a member of the Board of Trustees for over 15 years. Also, his Western Art Collection is thought to be one of the finest in the country.

In 1999 he was honored by the Camp Fire Club of America, one of the most prestigious hunting and conservation organizations in the country. In awarding Bill their Medal of Honor, they appropriately said, ''he embodies a natural sense of justice and a passion for exploration, not only in the traditional sense, but in a business sense as well. Through the various and substantial endowments he has created, he has established a way to train and educate the youth of our country in the importance of personal responsibility, conservation, and truth.''

New Hampshire, and especially the community of Croydon, has lost a great citizen, and he will be sorely missed.

ADDITIONAL STATEMENTS

TRIBUTE TO NANCY LÓPEZ

• Mr. DOMENICI. Madam, President, I rise today to pay tribute to one of New Mexico's favorite daughters, Nancy López, who over the Fourth of July holiday concluded her full-time career on the Ladies Professional Golf Association tour.

Nancy has a remarkable history not only as a player, but as an inspirational role model, who overcame hardships like racial and gender bias, to reach remarkable heights as a golfer. She did so with an inner strength, natural talent and the sustaining guidance of her loving parents, Marina and Domingo. They scrimped and saved to help Nancy reach her potential, which culminated at the pinnacle of the professional golfing world.

Her father's love for golf helped Nancy tap her natural talent for the sport at the young age of 8. She soon excelled, winning the New Mexico Women's Amateur title at 12, followed by twice winning the USGA Junior Girls Championship.

Nancy successfully petitioned the New Mexico Activities Association to be allowed to play on the boy's team at the Robert H. Goddard High School in Roswell. She honed her talents as a player at Tulsa University and turned pro in 1977.

From the little girl who first swung a club with her father on Roswell's public course, Nancy embarked on a 25-year career that brought greater public attention to the LPGA. In her first full year as a professional, she won nine tournaments and grabbed another eight titles in 1979. In all, Nancy has won 48 titles on the LPGA Tour and has rightfully been identified as the key figure who helped popularize women's golf.

In 1987, she was inducted into the LPGA Hall of Fame, and in 1992, I was privileged to personally congratulate her as she received the prestigious Flo Hyman Award from the Women's Sports Foundation for ''exemplifying dignity, spirit and commitment to excellence.''

I think it is only fitting that a school in her old stomping grounds has been renamed, through the efforts of the Roswell Hispano Chamber of Commerce, the Nancy López Elementary School. This tribute serves as one reminder of the enduring pride the people of Roswell and New Mexico have for Nancy. As she makes the transition from the LPGA tour to devote more time to her family and charitable endeavors, I believe it is proper to honor and congratulate Nancy López.

I fully expect Nancy will continue to serve as a model for Hispanic youth, female athletes, and parents striving to provide a nurturing and loving environment for their children.•

U.C. DAVIS CANCER CENTER NATIONAL CANCER INSTITUTE DESIGNATION

• Mrs. BOXER. Madam President, I am pleased to note that the University of California, Davis Cancer Center has achieved National Cancer Institute, NCI, designation. With this designation, the UC Davis Cancer Center becomes one of only nine centers in California.

The NCI designation is most prestigious, awarded to cancer institutions that have significantly contributed innovative cancer research to the scientific community. Furthermore, this notable distinction provides ongoing Federal support for research in the fight against this disease

The center is a collaboration of over 200 scientists, working at the UC Davis Medical Center in Sacramento, the main UC campus in Davis, and the Lawrence Livermore National Laboratory.

The partnership with Lawrence Livermore, the first of its kind in the Nation, was a major factor in winning the NCI designation. Physicians and scientists work together to use technology developed for the defense industry and other non-medical uses to advance cancer diagnosis and treatment.

In addition to hundreds of cancer studies underway at the cancer center,

joint research collaborations with Lawrence Livermore include such innovative projects as photonic probes testing, which is used to instantly detect cancer and save patients from unnecessary biopsies.

The center serves a population of five million people throughout Northern and Central California, Nevada, Arizona and Oregon and cares for about 3,000 newly diagnosed cancer patients each year.

I commend the UC Davis Cancer Center on this impressive achievement, and I extend my confidence that the center will make meaningful contributions to our search for a cure for this devastating disease.●

PEACHES FROM SOUTH CAROLINA FARMERS

● Mr. HOLLINGS. Madam President, today, peaches from my home State have been delivered to offices throughout the Senate and the U.S. Capitol. Those of us here in Washington can cool off from the summer heat with fresh, juicy peaches, thanks to South Carolina's peach farmers.

For a tiny State, South Carolina is second, only to California, in peach production. This year we planted 16,000 acres, and expect to harvest 160 to 180 million pounds—twice what we harvested last year when cold weather devastated the crop. Because of hot, dry weather this past month, the peaches are slightly smaller, but the small size usually results in a sweeter peach for the consumer. So with all due respect to my colleagues from Georgia, South Carolina is known as the ''Tastier Peach State'' for good reason.

Earlier this spring, in a bipartisan fashion, this Congress passed a generous farm bill that when times are tough, will help the people who feed us. I voted for it. I did so because farmers are dedicated people who need support they can depend on. I hope as Senators and their staffs feast on these peaches, they think about the farmers who get up early every morning and labor all summer in the heat and humidity to bring us this delicious, nutritious, and satisfying harvest. We are so fortunate to have in this country safe, plentiful, and affordable fresh fruit and vegetables—but this Congress can never take that for granted.

I thank the South Carolina Peach Council, and especially David Winkles and the South Carolina Farm Bureau, for giving the U.S. Senate a taste of South Carolina. And I remind the rest of America to ask for South Carolina peaches at their groceries.●

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 a withdrawal and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 3:34 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 2594. An act to authorize the Secretary of the Treasury to purchase silver on the open market when the silver stockpile is depleted, to be used to mint coins.

The enrolled bill was signed subsequently by the President pro tempore (Mr. BYRD).

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 4954. An act to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize and reform payments and the regulatory structure of the Medicare Program, and for other purposes.

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–7718. 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 ''Hedging Transactions'' (RIN1545–AY02) received on June 26, 2002; to the Committee on Finance.

EC–7719. 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 ''Modification of Rev. Proc. 97–27 and Rev. Proc. 2002–9'' (Rev. Proc. 2002–19) received on June 26, 2002; to the Committee on Finance.

EC–7720. 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 ''Rockpile Viticultural Area'' (2000R–436P) received on June 26, 2002; to the Committee on Finance.

EC–7721. 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 ''Delegation of Authority'' (RIN1512–AC59) received on June 26, 2002; to the Committee on Finance.

EC–7722. A communication from the President of the United States, transmitting, pursuant to law, a report concerning emigration laws and policies of Armenia, Azerbaijan, Kazakhstan, Moldova, The Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; to the Committee on Finance.

EC–7723. 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 ''Waiver of 60-Month Bar on Reconsolidation After Disaffiliation'' (Rev. Proc. 2002–32, 2002–20) received on July 3, 2002; to the Committee on Finance.

EC–7724. 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 ''Bureau of Labor Statistics Price Indexes for Department Stores—February 2002'' (Rev. Rul. 2002–29) received on July 3, 2002; to the Committee on Finance.

EC–7725. 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 ''Weighted Average Interest Rate Update Notice'' (Notice 2002–32) received on July 3, 2002; to the Committee on Finance.

EC–7726. 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 ''Information Reporting for Payments of Interest on Qualified Education Loans; Magnetic Media Filing Requirements for Information Returns'' (RIN1545–AW67; TD8992) received on July 3, 2002; to the Committee on Finance.

EC–7727. 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 ''Equity Options with Flexible Terms'' (RIN1545–AX66; TD8990) received on June 3, 2002; to the Committee on Finance.

EC–7728. 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 Necessary to Facilitate Electronic Tax Administration'' (RIN1545–AY04; REG–107184–00) received on June 3, 2002; to the Committee on Finance.

EC–7729. 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 ''Tax and Revenue Anticipation Notes'' (Rev. Proc. 2002–31) received on June 3, 2002; to the Committee on Finance.

EC–7730. 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 ''Rev. Proc. 2002–33; Additional First Year Depreciation'' (RP–114523–02) received on June 3, 2002; to the Committee on Finance.

EC–7731. 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 Settlement Guidelines: Gaming—Class Life of Floating Gaming Facilities'' (UIL 168.20–07) received on June 3, 2002; to the Committee on Finance.

EC–7732. 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 ''Designation by Common Parent of a New Agent for the Consolidated Group'' (Rev. Proc. 2002–43, 2002–28) received on June 3, 2002; to the Committee on Finance.

EC–7733. 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 on Accelerated Deductions'' (Rev. Rul. 2002–46) received on June 3, 2002; to the Committee on Finance.

EC–7734. 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 ''Agent for Consolidated Group'' (RIN1545–AX56; TD9002) received on June 3, 2002; to the Committee on Finance.

EC–7735. 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 ''Stranded Costs—Safe Harbor for Recovery of Stranded Costs by Electrical Utility Companies'' (Rev. Proc. 2002–49) received on June 3, 2002; to the Committee on Finance.

EC–7736. 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 ''1099B—Safe Harbor'' (Rev. Proc. 2002–50) received on June 3, 2002; to the Committee on Finance.

EC–7737. 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 ''Notice on Accelerated Deductions'' (Notice 2002–48) received on June 3, 2002; to the Committee on Finance.

EC–7738. 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 ''Bureau of Labor Statistics Price Indexes for Department Stores—May 2002'' (Rev. Rul. 2002–47) received on June 3, 2002; to the Committee on Finance.

EC–7739. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of the Office of the Inspector General for the period October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC–7740. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, the Agency's Annual Performance Report; to the Committee on Governmental Affairs.

EC–7741. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the Departments Commercial Activities Inventory for Fiscal Year 2001; to the Committee on Governmental Affairs.

EC–7742. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled ''NARA Facilities; Address and Hours'' (RIN3095–AB08) received on June 27, 2002; to the Committee on Governmental Affairs.

EC–7743. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled ''NARA Regulations; Technical Amendments'' (RIN3095–AB15) received on June 27, 2002; to the Committee on Governmental Affairs.

EC–7744. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the Office of Management and Budget's Fiscal Year 2002 Inventory of Commercial Activities; to the Committee on Governmental Affairs.

EC–7745. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled ''National Historical Publications and Records Commission Grant Regulations'' (RIN3095–AA93) received on June 27, 2002; to the Committee on Governmental Affairs.

EC–7746. A communication from the Chairman, Postal Rate Commission, transmitting, pursuant to law, the annual Postal Rate Commission Report on International Mail Costs, Revenues, and Volumes for Fiscal Year 2001; to the Committee on Governmental Affairs.

EC–7747. A communication from the Chief Judge, Superior Court of the District of Columbia, transmitting, pursuant to law, the Supplement to the Family Court Transition Plan; to the Committee on Governmental Affairs.

EC–7748. 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 ''Weighted Average Interest Rate Update Notice'' (Notice 2002–49) received on July 3, 2002; to the Committee on Finance.

EC–7749. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans: South Carolina: Nitrogen Oxides Budget and Allowance Trading Program'' (FRL7238–6) received on June 26, 2002; to the Committee on Environment and Public Works.

EC–7750. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Michigan'' (FRL7226–6) received on June 26, 2002; to the Committee on Environment and Public Works.

EC–7751. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Salt Lake County—Trading of Emission Budgets for PM10 Transportation Conformity'' (FRL7238–5) received on June 26, 2002; to the Committee on Environment and Public Works.

EC–7752. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Idaho: Final Authorization of State Hazardous Waste Management Program Revision'' (FRL7239–7) received on June 26, 2002; to the Committee on Environment and Public Works.

EC–7753. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''OMB Approvals Under the Paperwork Reduction Act; Technical Amendment'' (FRL7237–5) received on June 26, 2002; to the Committee on Environment and Public Works.

EC–7754. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan; Bay Area Air Quality Management District; South Coast Air Quality Management District'' (FRL7232–6) received on June 26, 2002; to the Committee on Environment and Public Works.

EC–7755. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for the Carolina Heelsplitter'' (RIN1018–AH31) received on June 27, 2002; to the Committee on Environment and Public Works.

EC–7756. A communication from the Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Ambrosia pumila (San Diego Ambrosia) from Southern California'' (RIN1018–AF86) received on June 27, 2002; to the Committee on Environment and Public Works.

EC–7757. A communication from the Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Southern California District Vertebrate Population Segment of the Mountain Yellow-legged Frog (Rana muscosa) received on June 27, 2002; to the Committee on Environment and Public Works.

EC–7758. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Supplemental Allocation of Fiscal Year 2002 Operator Training Grants for Wastewater Security'' received on July 3, 2002; to the Committee on Environment and Public Works.

EC–7759. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District'' (FRL7234–5) received on July 3, 2002; to the Committee on Environment and Public Works.

EC–7760. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Santa Barbara County Air Pollution Control District, El Dorado County Air Pollution Control District'' (FRL7220–8) received on July 3, 2002; to the Committee on Environment and Public Works.

EC–7761. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Oil Pollution Prevention and Response: Non-Transportation-Related Onshore and Offshore Facilities'' (FRL7241–5) received on July 3, 2002; to the Committee on Environment and Public Works.

EC–7762. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Allocation of Fiscal Year 2002 Youth and the Environment Training and Employment Program Funds'' received on July 3, 2002; to the Committee on Environment and Public Works.

EC–7763. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Determination of Attainment for the Carbon Monoxide National Ambient Air Quality Standard for Fairbanks Carbon Monoxide Nonattainment Area, Alaska'' (FRL7240–8) received on July 3, 2002; to the Committee on Environment and Public Works.

EC–7764. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Finding of State Implementation Plan Inadequacy; Arizona—Salt River Monitoring Site; Metropolitan Phoenix PM–10 Nonattainment Area'' (FRL7238–8) received on July 3, 2002; to the Committee on Environment and Public Works.

EC–7765. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Georgia: Final Authorization of State

Hazardous Waste Management Program Revision'' (FRL7241–4) received on July 3, 2002; to the Committee on Environment and Public Works.

EC–7766. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry'' (FRL7240–5) received on July 3, 2002; to the Committee on Environment and Public Works.

EC–7767. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Ocean Dumping; Site Designation'' (FRL7241–2) received on July 3, 2002; to the Committee on Environment and Public Works.

EC–7768. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Correction of Typographical Errors and Removal of Obsolete Language in Regulations on Reportable Quantities'' (FRL7241–8) received on July 3, 2002; to the Committee on Environment and Public Works.

EC–7769. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Magnuson Act Provisions; Fisheries off West Coast States in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specification; Pacific Whiting'' (RIN0648–AP85) received on June 26, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7770. A communication from the Legal Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operations of NGSO FSS Systems Co—Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range'' (ET Doc. No. 98–206) received on June 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7771. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations (including 10 regulations)'' ((RIN2115–AE46)(2002–0001)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7772. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; APBA Off-Shore Boat Race, Tybee Island, GA'' ((RIN2115–AE46)(2002–0023)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7773. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Georgetown Channel, Potomac River, Washington D.C.'' ((RIN2115–AA97)(2002–0105)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7774. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; Skull Creek, Hilton Head, SC'' ((RIN2115–AE46)(2002–0022)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7775. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Naval Submarine Base Bangor, Puget Sound'' ((RIN2115–AA97)(2002–0106)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7776. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; Harbour Town Fireworks Display, Calibogue Sound, Hilton Head, SC'' ((RIN2115–AE46)(2002–0021)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7777. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Liquefied Natural Gas Tankers, Cook Inlet, AK'' ((RIN2115–AA97)(2002–0104)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7778. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Atlantic Intracoastal Waterway, Mile 1069.4 at Dania Beach, Broward County, FL'' ((RIN2115–AE47)(2002–0059)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7779. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Saginaw River, Bay City, MI'' ((RIN2115–AA97)(2002–0109)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7780. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Port of New York and New Jersey'' ((RIN2115–AA97)(2002–0113)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7781. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Saginaw River, Bay City, MI'' ((RIN2115–AA97)(2002–0103)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7782. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Charleston Harbor River, SC'' ((RIN2115–AA97)(2002–0108)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7783. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; San Francisco Bay, San Francisco, CA and Oakland, CA'' ((RIN2115–AA97)(2002–0107)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7784. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Festa Italiana 2002; Milwaukee, Wisconsin'' ((RIN2115–AA97)(2002–0111)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7785. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; Savannah Waterfront Association July 4th Fireworks Display, Savannah River, Savannah, GA'' ((RIN2115–AE46)(2002–0002)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7786. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Sturgeon Bay Fireworks, Sturgeon Bay, Wisconsin'' ((RIN2115–AA97)(2002–0112)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7787. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Detroit River, Grosse Ile, MI'' ((RIN2115–AA97)(2002–0110)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7788. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model AS350B, BA, B1, B2, B3, C, D, D1; and AS355E, F, F1, F2, N, and EC130 B4 Helicopters; CORRECTION'' ((RIN2120–AA64)(2002–0293)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7789. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: MD Helicopters Inc. Model MD 900 Helicopters'' ((RIN2120–AA64)(2002–0292)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7790. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Sikorsky Model S–70A and S–70C Helicopters'' ((RIN2120–AA64)(2002–0295)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7791. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Empresa Brasileira de Aeronautica SA Model EMB 135 and 145 Series Airplanes'' ((RIN2120–AA64)(2002–0294)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7792. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation,

transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Rolls Royce plc RB211 Trent 875, 877, 884, 892, 892B, and 895 Series Turbofan Engines'' ((RIN2120–AA64)(2002–0296)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7793. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Rolls Royce plc RB211 Trent Series Turbofan Engines'' ((RIN2120–AA64)(2002–0298)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7794. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Air Tractor, Inc. Models AT400, 401, 401B, 402, 402A, 402B, AT 501, AT 802, and AT 802A Airplanes'' ((RIN2120–AA64)(2002–0299)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7795. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Fees for Services for Certain Flights; Notice of Agency Reconsideration of Final Rule'' ((RIN2120–AG17)(2002–0001)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7796. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 777 Series Airplanes'' ((RIN2120–AA64)(2002–0302)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7797. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model SA330F, G, J, and AS332C1, L, and L1 Helicopters; request for comments'' ((RIN2120–AA64)(2002–0301)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7798. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A300 B4–600 and A300 B4 600R Series Airplanes; and Model A300 F4–605 Airplanes'' ((RIN2120–AA64)(2002–0303)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7799. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: General Electric Company CF34 341 and –3B1 Series Turbofan Engines'' ((RIN2120–AA64)(2002–0304)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7800. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Rolls Royce plc RB211 Trent 875, 877, 884, 892, 892B, and 895 Series Turbofan Engines'' ((RIN2120–AA64)(2002–0305)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7801. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations (including 64 regulations)'' ((RIN2115–AA97)(2002–0001)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

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 Mrs. FEINSTEIN:

S. 2716. A bill to modify the authority of the Federal Energy Regulatory Commission to conduct investigations, to increase the criminal penalties for violations of the Federal Power Act and the Natural Gas Act, and to authorize the Chairman of the Federal Energy Regulatory Commission to contract for consultant services; to the Committee on Energy and Natural Resources.

By Mr. BIDEN (for himself and Mr. HATCH):

S. 2717. A bill to increase criminal penalties relating to conspiracy, mail fraud, wire fraud, and ERISA violations, and for other purposes; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 515

At the request of Mr. DOMENICI, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 515, a bill to amend the Internal Revenue Code of 1986 to establish a permanent tax incentive for research and development, and for other purposes.

S. 572

At the request of Mr. CHAFEE, the names of the Senator from Kentucky (Mr. BUNNING) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors 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. 830

At the request of Mr. CHAFEE, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Missouri (Mrs. CARNAHAN) were added as cosponsors of S. 830, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 873

At the request of Mr. HELMS, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 873, a bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities.

S. 946

At the request of Ms. SNOWE, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 946, a bill to establish an Office on Women's Health within the Department of Health and Human Services.

S. 1022

At the request of Mr. WARNER, the names of the Senator from Nevada (Mr. REID) and the Senator from Missouri (Mrs. CARNAHAN) 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. 1760

At the request of Mr. THOMAS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1760, a bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes.

S. 1945

At the request of Mr. JOHNSON, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1945, a bill to provide for the merger of the bank and savings association deposit insurance funds, to modernize and improve the safety and fairness of the Federal deposit insurance system, and for other purposes.

S. 1975

At the request of Mr. REID, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1975, a bill to amend title III of the Public Health Service Act to include each year of fellowship training in geriatric medicine or geriatric psychiatry as a year of obligated service under the National Health Corps Loan Repayment Program.

S. 2010

At the request of Mr. LEAHY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2010, a bill to provide for criminal prosecution of persons who alter or destroy evidence in certain Federal investigations or defraud investors of publicly traded securities, to disallow debts incurred in violation of securities fraud laws from being discharged in bankruptcy, to protect whistleblowers against retaliation by their employers, and for other purposes.

S. 2013

At the request of Mr. HARKIN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2013, a bill to clarify the authority of the Secretary of Agriculture to prescribe performance standards for the reduction of pathogens in meat, meat products, poultry, and poultry products processed by establishments receiving inspection services.

S. 2268

At the request of Mr. MILLER, the names of the Senator from Arkansas

(Mrs. LINCOLN) and the Senator from Alabama (Mr. SHELBY) were added as cosponsors of S. 2268, a bill to amend the Act establishing the Department of Commerce to protect manufacturers and sellers in the firearms and ammunition industry from restrictions on interstate or foreign commerce.

S. 2272

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2272, a bill to clarify certain provisions of the Tariff Suspension and Trade Act of 2000.

S. 2273

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2273, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2274

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2274, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2275

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2275, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2276

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2276, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2277

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2277, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2278

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2278, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2279

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2279, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2280

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2280, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2281

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2281, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2282

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2282, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2283

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2283, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2284

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2284, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2285

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2285, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2286

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2286, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2287

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2287, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2288

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2288, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2480

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. 2480, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.

At the request of Mr. LEAHY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2480, supra.

S. 2484

At the request of Mr. BAUCUS, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2484, a bill to amend part A of title IV of the Social Security Act to reauthorize and improve the operation of temporary assistance to needy families programs operated by Indian tribes, and for other purposes.

S. 2554

At the request of Mr. SMITH of New Hampshire, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2554, a bill to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

S. 2560

At the request of Mr. ALLARD, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 2560, a bill to provide for a multiagency cooperative effort to encourage further research regarding the causes of chronic wasting disease and methods to control the further spread of the disease in deer and elk herds, to monitor the incidence of the disease, to support State efforts to control the disease, and for other purposes.

S. 2622

At the request of Mr. HOLLINGS, the name of the Senator from Louisiana (Ms. LANDRIEU) 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. 2642

At the request of Mr. NELSON of Florida, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2642, a bill to require background checks of alien flight school applicants without regard to the maximum certificated weight of the aircraft for which they seek training, and to require a report on the effectiveness of the requirement.

S. 2648

At the request of Mr. HUTCHINSON, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor 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. 2663

At the request of Mr. MCCAIN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 2663, a bill to permit the designation of Israeli-Turkish qualifying industrial zones.

S. 2672

At the request of Mr. BINGAMAN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2672, a bill to provide opportunities for collaborative restoration projects on National Forest System and other public domain lands, and for other purposes.

S. 2674

At the request of Mr. BROWNBACK, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2674, a bill to improve access to health care medically underserved areas.

S. RES. 293

At the request of Mr. BIDEN, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. Res. 293, a resolution designating the week of November 10 through November 16, 2002, as ''National Veterans

Awareness Week'' to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

S. RES. 302

At the request of Mr. REID, his name was added as a cosponsor of S. Res. 302, a resolution honoring Ted Williams and extending the condolences of the Senate on his death.

At the request of Mr. BYRD, his name was added as a cosponsor of S. Res. 302, supra.

AMENDMENT NO. 4174

At the request of Mr. WELLSTONE, his name was added as a cosponsor of amendment No. 4174 proposed to 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.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN:

S. 2716. A bill to modify the authority of the Federal Energy Regulatory Commission to conduct investigations, to increase the criminal penalties for violations of the Federal Power Act and the Natural Gas Act, and to authorize the Chairman of the Federal Energy Regulatory Commission to contract for consultant services; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Madam President, I am pleased to introduce this bill today to strengthen the authority of the Federal Energy Regulatory Commission. In May, 2000 an energy crisis began in California and eventually spread to the other Western States. For about a year, FERC refused to execute its mandate to enforce the provisions of the Federal Power Act which required the Agency to enforce ''just and reasonable'' electricity prices.

In May, 2001 Pat Wood became the Chairman of the Commission and under his leadership the Commission has finally begun to aggressively investigate what went wrong in the California and Western energy markets.

However, there are still some weaknesses in FERC's authority to investigate problems in energy markets, solicit necessary information and punish wrongdoers. A report by the General Accounting Office, GAO, last month concluded that FERC does not have the necessary legal authority to police competitive energy markets.

This legislation is designed to bolster FERC's authority and allow the Agency to levy penalties that will hold market manipulators accountable for violations of the law. This legislation will go a long way toward providing FERC with the resources and legal authority it needs to protect consumers and ensure that energy prices are just and reasonable.

My legislation would do five things: 1. It would grant FERC the authority to use monetary penalties on companies that don't comply with requests for information. This is essentially the same authority that the Securities and Exchange Commission has; 2. It would make it easier for FERC to hire the necessary outside help they need including accountants, lawyers, and investigators for investigative purposes; 3. It would eliminate the requirement that FERC receive approval from the Office of Management and Budget before launching an investigation or price discovery of electricity or natural gas markets involving more than 10 companies; 4. It would increase the penalty amounts to $1 million instead of the current $5,000 for violations of the Federal Power Act and the Natural Gas Act; five years instead of the current two for violations of the statute; and, $50,000 per day per violation instead of the current $500 for violations of rules or orders under the Federal Power Act and the Natural Gas Act; and 5. It would increase the Commission's authority to impose civil penalties, it also broadened to all sections of Part II of the Federal Power Act and the penalty amount is increased from $10,000 to $50,000 per violation per day.

I continue to support FERC and Chairman Pat Wood in its efforts to stabilize energy prices, and ensure that our energy markets function properly although I believe that much more still needs to be done.

But even if FERC has the will, the GAO report correctly points out that it may not have all the necessary tools. It is my hope that this legislation will help by providing FERC the necessary authority to continue to aggressively monitor energy markets and investigate wrongdoing.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4182. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill 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, and for other purposes; which was ordered to lie on the table.

SA 4183. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4184. Mr. GRAMM (for himself and Mr. SANTORUM) proposed an amendment to amendment SA 4174 proposed by Mr. DASCHLE (for Mr. LEAHY (for himself, Mr. MCCAIN, Mr. DASCHLE, Mr. DURBIN, Mr. HARKIN, Mr. CLELAND, Mr. LEVIN, Mr. KENNEDY, Mr. BIDEN, Mr. FEINGOLD, Mr. MILLER, Mr. EDWARDS, Mrs. BOXER, Mr. CORZINE, Mr. KERRY, Mr. SCHUMER, Mr. BROWNBACK, and Mr. NELSON of Florida)) to the bill (S. 2673) supra.

SA 4185. Mr. DASCHLE (for Mr. LEAHY (for himself, Mr. MCCAIN, Mr. DASCHLE, Mr. DURBIN, Mr. HARKIN, Mr. CLELAND, Mr. LEVIN, Mr. KENNEDY, Mr. BIDEN, Mr. FEINGOLD, Mr. MILLER, Mr. EDWARDS, Mrs. BOXER, Mr. CORZINE, Mr. KERRY, Mr. SCHUMER, Mr. BROWNBACK, Mr. NELSON of Florida, Mr. WELLSTONE, Ms. STABENOW, and Mr. JOHNSON)) proposed an amendment to the bill S. 2673, supra.

SA 4186. Mr. DASCHLE (for Mr. BIDEN (for himself and Mr. HATCH)) proposed an amendment to the bill S. 2673, supra.

SA 4187. Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 2673, supra.

SA 4188. Mr. LOTT proposed an amendment to the bill S. 2673, supra.

SA 4189. Mr. GRAMM proposed an amendment to amendment SA 4188 proposed by Mr. LOTT to the bill (S. 2673) supra.

SA 4190. Mr. DASCHLE (for Mr. BIDEN (for himself and Mr. HATCH)) proposed an amendment to amendment SA 4186 proposed by Mr. DASCHLE (for Mr. BIDEN (for himself and Mr. HATCH)) to the bill (S . 2673) supra.

SA 4191. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4192. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4193. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4194. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4195. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4196. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4197. Mr. SHELBY (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4198. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4199. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4200. Mr. GRAMM (for Mr. MCCONNELL) proposed an amendment to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) supra.

SA 4201. Mrs. CARNAHAN (for herself and Mr. LEAHY) submitted an amendment intended to be proposed by her to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4202. Mrs. CARNAHAN (for herself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by her to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4203. Mr. MURKOWSKI (for himself, Mr. STEVENS, Mr. CRAIG, Mr. BURNS, Mr. CRAPO, Mr. SMITH of Oregon, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4204. Mr. SMITH of New Hampshire (for himself, Mrs. BOXER, and Mr. BURNS) submitted an amendment which was ordered to lie on the table.

SA 4205. Mr. SMITH of New Hampshire (for himself, Mrs. BOXER, and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill S. 2554, to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes; which was referred to the Committee on Commerce, Science, and Transportation.

SA 4206. Mr. MILLER proposed an amendment to the bill 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, and for other purposes.

SA 4207. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4208. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4182. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill 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, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

TITLE ____—PENSION PLAN PROTECTION

SEC. ____00. SHORT TITLE.

This title may be cited as the ''Pension Plan Protection Act''.

Subtitle A—Provisions To Promote Ensuring Pension Plan Asset Diversification

SEC. ____01. DIVERSIFICATION REQUIREMENTS FOR CERTAIN PLANS HOLDING EMPLOYER SECURITIES.

Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end the following new subsection:

''(e)(1) An applicable individual account plan shall meet the requirements of paragraphs (2), (3), and (4).

''(2) A plan meets the requirements of this paragraph if the plan provides participants and beneficiaries with at least 4 different investment options, including 3 options which do not involve the acquisition or holding of qualifying employer securities or qualifying employer real property.

''(3) A plan meets the requirements of this paragraph if the plan provides that no employee contribution or elective deferral may be required to be invested in qualifying employer securities or qualifying employer real property either—

''(A) pursuant to the terms of the plan, or

''(B) at the direction of a person other than the participant making the employee contribution or elective deferral or a beneficiary of the participant.

''(4)(A) A plan meets the requirements of this paragraph if each employee who has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions may, at any time after the 90th day following the allocation of any qualifying employer securities or qualifying employer real property to the employee under the plan, direct the plan to divest the employee's account of such securities or property and reinvest an equivalent amount in other assets.

''(B) The Secretary of the Treasury, in consultation with the Secretary, shall prescribe regulations under which an employee is given reasonable notice of the opportunity, and a reasonable period of time, to make the divestiture and reinvestment under subparagraph (A).

''(5) For purposes of this subsection—

''(A) The term 'applicable individual account plan' means any individual account plan, except that such term shall not include an employee stock ownership plan (within the meaning of section 4975(e)(7) of the Internal Revenue Code of 1986), or a plan which meets the requirements of section 409(a) of such Code, under which the only contributions which may be made are qualified nonelective contributions (as defined in section 401(m)(4)(C) of such Code).

''(B) ELECTIVE DEFERRALS.—The term 'elective deferrals' has the meaning given such term by section 402(g)(3) of such Code.

''(C) The terms 'qualifying employer securities' and 'qualifying employer real property' have the meanings given such terms by section 407(d).''

SEC. ____02. MANDATORY QUARTERLY STATEMENTS.

(a) IN GENERAL.—Section 104 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024) is amended—

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

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

''(c)(1) The plan administrator of an applicable individual account plan shall, within a reasonable period of time following the close of each calendar quarter, provide to each participant or beneficiary a statement with respect to his or her individual account which includes—

''(A) the fair market value as of the close of such quarter of the assets in the account in each investment option,

''(B) the percentage as of such calendar quarter of assets which each investment option is of the total assets in the account,

''(C) any administrative and transaction fees incurred in connection with the account during such quarter, and

''(D) such other information as the Secretary of the Treasury may prescribe.

''(2) If, as of the close of any calendar quarter, the aggregate fair market value of applicable securities held by a participant or beneficiary in an applicable individual account plan exceeds 25 percent of the aggregate value of all assets held by the participant or beneficiary in the plan, the plan administrator shall include with the statement under paragraph (1) a separate notice which—

''(A) notifies the participant or beneficiary of such percentage, and

''(B) reminds the participant or beneficiary of the right to diversify plan assets and recommends that the participant or beneficiary seek advice from a professional investment advisor as to the need for a reassessment of the participant's or beneficiary's investment diversification.

''(3) The Secretary of Labor may by regulation provide that this subsection shall not apply to plans with fewer than 100 participants, except that any such exception shall not apply for any requirement under this subsection to provide a statement and notice to a participant or beneficiary under the plan to whom paragraph (2) applies for any calendar quarter.

''(4) Any statement or notice under this subsection shall be written in a manner calculated to be understood by the average plan participant.

''(5) For purposes of this subsection—

''(A) the term 'applicable individual account plan' has the meaning given such term by section 404(e), and

''(B) the term 'applicable securities' means any securities described in subparagraph (A), (B), or (C) of section 407(d)(5) which are issued by the same person or an affiliate of, or related person to, such person.

''(6) For purposes of this subsection, all applicable individual account plans maintained by the same employer shall be treated as one employer.''

(b) ENFORCEMENT.—Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by striking ''or section 101(e)(1)'' and inserting '', section 101(e)(1), or section 104(c)''.

SEC. ____03. STUDY RELATING TO INDIVIDUAL ACCOUNT PLANS.

(a) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Labor, in consultation with the Secretary of the Treasury and the Securities and Exchange Commission, shall conduct a study relating to the investment of plan assets of individual account plans in stock or other securities.

(b) MATTERS TO BE STUDIED.—In conducting the study under subsection (a), the Secretary shall—

(1) consider the feasibility and likely effects of a statutory requirement that plan participants and beneficiaries be allowed to trade securities on a daily basis,

(2) consider the feasibility and likely effects of a mechanism to allow plan participants and beneficiaries to sell employer securities during a period of high market volatility if a blackout period is in effect,

(3) consider the feasibility and likely effects of establishing an insurance program to protect participants and beneficiaries from losses of their initial investment of employer and employee contributions in employer securities due to fraud, and

(4) consider such other matters as the Secretary determines appropriate to ensure the protection of participants or beneficiaries from insufficient diversification of plan assets.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Labor shall submit to each House of Congress a report setting forth the results of the study conducted under this section, including any statutory or administrative changes as the Secretary determines appropriate.

Subtitle B—Prohibited Transaction Exemption For the Provision of Investment Advice

SEC. ____11. PROHIBITED TRANSACTION EXEMPTION FOR THE PROVISION OF INVESTMENT ADVICE.

(a) EXEMPTION FROM PROHIBITED TRANSACTIONS.—Section 408(b) of the Employee Retirement Income Security Act of 1974 (29

U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

''(14)(A) Any transaction described in subparagraph (B) in connection with the provision of investment advice described in section 3(21)(A)(ii), in any case in which—

''(i) the investment of assets of the plan is subject to the direction of plan participants or beneficiaries,

''(ii) the advice is provided to the plan or a participant or beneficiary of the plan by a fiduciary adviser in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of plan assets, and

''(iii) the requirements of subsection (g) are met in connection with the provision of the advice.

''(B) The transactions described in this subparagraph are the following:

''(i) the provision of the advice to the plan, participant, or beneficiary;

''(ii) the sale, acquisition, or holding of a security or other property (including any lending of money or other extension of credit associated with the sale, acquisition, or holding of a security or other property) pursuant to the advice; and

''(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with a sale, acquisition, or holding of a security or other property pursuant to the advice.''.

(b) REQUIREMENTS.—Section 408 of such Act is amended further by adding at the end the following new subsection:

''(g) REQUIREMENTS RELATING TO PROVISION OF INVESTMENT ADVICE BY FIDUCIARY ADVISERS.—

''(1) IN GENERAL.—The requirements of this subsection are met in connection with the provision of investment advice referred to in section 3(21)(A)(ii), provided to an employee benefit plan or a participant or beneficiary of an employee benefit plan by a fiduciary adviser with respect to the plan in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of amounts held by the plan, if—

''(A) in the case of the initial provision of the advice with regard to the security or other property by the fiduciary adviser to the plan, participant, or beneficiary, the fiduciary adviser provides to the recipient of the advice, at a time reasonably contemporaneous with the initial provision of the advice, a written notification (which may consist of notification by means of electronic communication)—

''(i) of all fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property,

''(ii) of any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property,

''(iii) of any limitation placed on the scope of the investment advice to be provided by the fiduciary adviser with respect to any such sale, acquisition, or holding of a security or other property,

''(iv) of the types of services provided by the fiduciary advisor in connection with the provision of investment advice by the fiduciary adviser, and

''(v) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice,

''(B) the fiduciary adviser provides appropriate disclosure, in connection with the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws,

''(C) the sale, acquisition, or holding occurs solely at the direction of the recipient of the advice,

''(D) the compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property is reasonable, and

''(E) the terms of the sale, acquisition, or holding of the security or other property are at least as favorable to the plan as an arm's length transaction would be.

''(2) STANDARDS FOR PRESENTATION OF INFORMATION.—The notification required to be provided to participants and beneficiaries under paragraph (1)(A) shall be written in a clear and conspicuous manner and in a manner calculated to be understood by the average plan participant and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

''(3) EXEMPTION CONDITIONED ON CONTINUED AVAILABILITY OF REQUIRED INFORMATION ON REQUEST FOR 1 YEAR.—The requirements of paragraph (1)(A) shall be deemed not to have been met in connection with the initial or any subsequent provision of advice described in paragraph (1) to the plan, participant, or beneficiary if, at any time during the provision of advisory services to the plan, participant, or beneficiary, the fiduciary adviser fails to maintain the information described in clauses (i) through (iv) of subparagraph (A) in currently accurate form and in the manner described in paragraph (2) or fails—

''(A) to provide, without charge, such currently accurate information to the recipient of the advice no less than annually,

''(B) to make such currently accurate information available, upon request and without charge, to the recipient of the advice, or

''(C) in the event of a material change to the information described in clauses (i) through (iv) of paragraph (1)(A), to provide, without charge, such currently accurate information to the recipient of the advice at a time reasonably contemporaneous to the material change in information.

''(4) MAINTENANCE FOR 6 YEARS OF EVIDENCE OF COMPLIANCE.—A fiduciary adviser referred to in paragraph (1) who has provided advice referred to in such paragraph shall, for a period of not less than 6 years after the provision of the advice, maintain any records necessary for determining whether the requirements of the preceding provisions of this subsection and of subsection (b)(14) have been met. A transaction prohibited under section 406 shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

''(5) EXEMPTION FOR PLAN SPONSOR AND CERTAIN OTHER FIDUCIARIES.—

''(A) IN GENERAL.—Subject to subparagraph (B), a plan sponsor or other person who is a fiduciary (other than a fiduciary adviser) shall not be treated as failing to meet the requirements of this part solely by reason of the provision of investment advice referred to in section 3(21)(A)(ii) (or solely by reason of contracting for or otherwise arranging for the provision of the advice), if—

''(i) the advice is provided by a fiduciary adviser pursuant to an arrangement between the plan sponsor or other fiduciary and the fiduciary adviser for the provision by the fiduciary adviser of investment advice referred to in such section,

''(ii) the terms of the arrangement require compliance by the fiduciary adviser with the requirements of this subsection, and

''(iii) the terms of the arrangement include a written acknowledgment by the fiduciary adviser that the fiduciary adviser is a fiduciary of the plan with respect to the provision of the advice.

''(B) CONTINUED DUTY OF PRUDENT SELECTION OF ADVISER AND PERIODIC REVIEW.—Nothing in subparagraph (A) shall be construed to exempt a plan sponsor or other person who is a fiduciary from any requirement of this part for the prudent selection and periodic review of a fiduciary adviser with whom the plan sponsor or other person enters into an arrangement for the provision of advice referred to in section 3(21)(A)(ii). The plan sponsor or other person who is a fiduciary has no duty under this part to monitor the specific investment advice given by the fiduciary adviser to any particular recipient of the advice.

''(C) AVAILABILITY OF PLAN ASSETS FOR PAYMENT FOR ADVICE.—Nothing in this part shall be construed to preclude the use of plan assets to pay for reasonable expenses in providing investment advice referred to in section 3(21)(A)(ii).

''(6) DEFINITIONS.—For purposes of this subsection and subsection (b)(14)—

''(A) FIDUCIARY ADVISER.—The term 'fiduciary adviser' means, with respect to a plan, a person who is a fiduciary of the plan by reason of the provision of investment advice by the person to the plan or to a participant or beneficiary and who is—

''(i) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

''(ii) a bank or similar financial institution referred to in section 408(b)(4),

''(iii) an insurance company qualified to do business under the laws of a State,

''(iv) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

''(v) an affiliate of a person described in any of clauses (i) through (iv), or

''(vi) an employee, agent, or registered representative of a person described in any of clauses (i) through (v) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

''(B) AFFILIATE.—The term 'affiliate' of another entity means an affiliated person of the entity (as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(3))).

''(C) REGISTERED REPRESENTATIVE.—The term 'registered representative' of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting the entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(17)) (substituting the entity for the investment adviser referred to in such section).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to advice referred to in section 3(21)(A)(ii) of the Employee Retirement Income Security Act of 1974 provided on or after January 1, 2002.

Subtitle C—General Provisions

SEC. ___21. EFFECTIVE DATE AND RELATED RULES.

(a) IN GENERAL.—Except as otherwise provided in this title, the amendments made by this title shall apply with respect to plan years beginning on or after January 1, 2002.

(b) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, subsection (a) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for ''January 1, 2002'' the date of the commencement of the first plan year beginning on or after the earlier of—

(1) the later of—

(A) January 1, 2003, or

(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 2004.

(c) PLAN AMENDMENTS.—If the amendments made by this title require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 2004, if—

(1) during the period after such amendments made by this title take effect and before such first plan year, the plan is operated in accordance with the requirements of such amendments made by this title, and

(2) such plan amendment applies retroactively to the period after such amendments made by this title take effect and before such first plan year.

SA 4183. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill 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, and for other purposes; which was ordered to lie on the table; as follows:

On page 103, line 4, insert '', or any household member of the securities analyst,'' after ''analyst''.

SA 4184. Mr. GRAMM (for himself and Mr. SANTORUM) proposed an amendment to SA 4174 proposed by Mr. DASCHLE (for Mr. LEAHY (for himself, Mr. MCCAIN, Mr. DASCHLE, Mr. DURBIN, Mr. HARKIN, Mr. CLELAND, Mr. LEVIN, Mr. KENNEDY, Mr. BIDEN, Mr. FEINGOLD, Mr. MILLER, Mr. EDWARDS, Mrs. BOXER, Mr. CORZINE, Mr. KERRY, Mr. SCHUMER, Mr. BROWNBACK, and Mr. NELSON of Florida)) to the bill (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, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the division, insert the following new section:

''SEC. . EXEMPTION AUTHORITY.

''(1) CASE-BY-CASE WAIVERS.—Notwithstanding section 201(b) of this Act, the Board may, on a case-by-case basis, exempt any person, issuer, public accounting firm, or transaction from the prohibition on the provision of services under section 10A(g) of the Securities Exchange Act of 1934 (as added by this section), to the extent that such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors, and subject to review by the Commission in the same manner as for rules of the Board under section 107.

''(2) SMALL BUSINESS EXEMPTION.—The Board may, by rule exempt any person, issuer or public accounting firm (or classes of such persons, issuers or public accounting firms) from the prohibition on the provision of services under section 10A(g) of the Securities Exchange Act of 1934 (as added by this section), based upon the small business nature of such person, issuer or public accounting firm, taking into consideration applicable factors such as total asset size, availability and cost of retaining multiple service providers, number of public company audits performed, and such other factors and conditions as the Board deems appropriate consistent with the purposes of this Act.''.

SA 4185. Mr. DASCHLE (for Mr. LEAHY (for himself, Mr. MCCAIN, Mr. DASCHLE, Mr. DURBIN, Mr. HARKIN, Mr. CLELAND, Mr. LEVIN, Mr. KENNEDY, Mr. BIDEN, Mr. FEINGOLD, Mr. MILLER, Mr. EDWARDS, Mrs. BOXER, Mr. CORZINE, Mr. KERRY, Mr. SCHUMER, Mr. BROWNBACK, Mr. NELSON of Florida, Mr. WELLSTONE, Ms. STABENOW, and Mr. JOHNSON)) proposed an amendment to the bill 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, and for other purposes; which was ordered to lie on the table; as follows:

On page 117, strike Act and insert the following:

TITLE VIII—CORPORATE AND CRIMINAL FRAUD ACCOUNTABILITY

SEC. 801. SHORT TITLE.

This title may be cited as the ''Corporate and Criminal Fraud Accountability Act of 2002''.

SEC. 802. CRIMINAL PENALTIES FOR ALTERING DOCUMENTS.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

''§ 1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy

''Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 10 years, or both.

''§ 1520. Destruction of corporate audit records

''(a)(1) Any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1(a)) applies, shall maintain all audit or review workpapers for a period of 5 years from the end of the fiscal period in which the audit or review was concluded.

''(2) The Securities and Exchange Commission shall promulgate, within 180 days, after adequate notice and an opportunity for comment, such rules and regulations, as are reasonably necessary, relating to the retention of relevant records such as workpapers, documents that form the basis of an audit or review, memoranda, correspondence, communications, other documents, and records (including electronic records) which are created, sent, or received in connection with an audit or review and contain conclusions, opinions, analyses, or financial data relating to such an audit or review, which is conducted by any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1(a)) applies.

''(b) Whoever knowingly and willfully violates subsection (a)(1), or any rule or regulation promulgated by the Securities and Exchange Commission under subsection (a)(2), shall be fined under this title, imprisoned not more than 5 years, or both.

''(c) Nothing in this section shall be deemed to diminish or relieve any person of any other duty or obligation, imposed by Federal or State law or regulation, to maintain, or refrain from destroying, any document.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new items:

''1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy.

''1520. Destruction of corporate audit records.''.

SEC. 803. DEBTS NONDISCHARGEABLE IF INCURRED IN VIOLATION OF SECURITIES FRAUD LAWS.

Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking ''or'' after the semicolon;

(2) in paragraph (18), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end, the following:

''(19) that—

''(A) arises under a claim relating to—

''(i) the violation of any of the Federal securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), any State securities laws, or any regulations or orders issued under such Federal or State securities laws; or

''(ii) common law fraud, deceit, or manipulation in connection with the purchase or sale of any security; and

''(B) results, in relation to any claim described in subparagraph (A), from—

''(i) any judgment, order, consent order, or decree entered in any Federal or State judicial or administrative proceeding;

''(ii) any settlement agreement entered into by the debtor; or

''(iii) any court or administrative order for any damages, fine, penalty, citation, restitutionary payment, disgorgement payment, attorney fee, cost, or other payment owed by the debtor.''.

SEC. 804. STATUTE OF LIMITATIONS FOR SECURITIES FRAUD.

(a) IN GENERAL.—Section 1658 of title 28, United States Code, is amended—

(1) by inserting ''(a)'' before ''Except''; and

(2) by adding at the end the following:

''(b) Notwithstanding subsection (a), a private right of action that involves a claim of fraud, deceit, manipulation, or contrivance in contravention of a regulatory requirement concerning the securities laws, as defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), may be brought not later than the earlier of—

''(1) Two years after the discovery of the facts constituting the violation; or

''(2) Five years after such violation.''.

(b) EFFECTIVE DATE.—The limitations period provided by section 1658(b) of title 28, United States Code, as added by this section, shall apply to all proceedings addressed by this section that are commenced on or after the date of enactment of this Act.

(c) NO CREATION OF ACTIONS.—Nothing in this section shall create a new, private right of action.

SEC. 805. REVIEW OF FEDERAL SENTENCING GUIDELINES FOR OBSTRUCTION OF JUSTICE AND EXTENSIVE CRIMINAL FRAUD.

Pursuant to section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend, as appropriate, the Federal Sentencing Guidelines and related policy statements to ensure that—

(1) the base offense level and existing enhancements contained in United States Sentencing Guideline 2J1.2 relating to obstruction of justice are sufficient to deter and punish that activity;

(2) the enhancements and specific offense characteristics relating to obstruction of justice are adequate in cases where—

(A) documents and other physical evidence are actually destroyed, altered, or fabricated;

(B) the destruction, alteration, or fabrication of evidence involves—

(i) a large amount of evidence, a large number of participants, or is otherwise extensive;

(ii) the selection of evidence that is particularly probative or essential to the investigation; or

(iii) more than minimal planning; or

(C) the offense involved abuse of a special skill or a position of trust;

(3) the guideline offense levels and enhancements for violations of section 1519 or 1520 of title 18, United States Code, as added by this title, are sufficient to deter and punish that activity;

(4) the guideline offense levels and enhancements under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) are sufficient for a fraud offense when the number of victims adversely involved is significantly greater than 50;

(5) a specific offense characteristic enhancing sentencing is provided under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) for a fraud offense that endangers the solvency or financial security of a substantial number of victims; and

(6) the guidelines that apply to organizations in United States Sentencing Guidelines, chapter 8, are sufficient to deter and punish organizational criminal misconduct.

SEC. 806. PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES WHO PROVIDE EVIDENCE OF FRAUD.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by inserting after section 1514 the following:

''§ 1514A. Civil action to protect against retaliation in fraud cases

''(a) WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES.—No company with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*), or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)), or any officer, employee, contractor, subcontractor, or agent of such company, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee—

''(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by—

''(A) a Federal regulatory or law enforcement agency;

''(B) any Member of Congress or any committee of Congress; or

''(C) a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct); or

''(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (with any knowledge of the employer) relating to an alleged violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders.

''(b) ENFORCEMENT ACTION.—

''(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c), by—

''(A) filing a complaint with the Secretary of Labor; or

''(B) if the Secretary has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

''(2) PROCEDURE.—

''(A) IN GENERAL.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

''(B) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the employer.

''(C) BURDENS OF PROOF.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

''(D) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 90 days after the date on which the violation occurs.

''(c) REMEDIES.—

''(1) IN GENERAL.—An employee prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the employee whole.

''(2) COMPENSATORY DAMAGES.—Relief for any action under paragraph (1) shall include—

''(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

''(B) the amount of back pay, with interest; and

''(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

''(d) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by inserting after the item relating to section 1514 the following new item:

''1514A. Civil action to protect against retaliation in fraud cases.''.

SEC. 807. CRIMINAL PENALTIES FOR DEFRAUDING SHAREHOLDERS OF PUBLICLY TRADED COMPANIES.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''§ 1348. Securities fraud

''Whoever knowingly executes, or attempts to execute, a scheme or artifice—

''(1) to defraud any person in connection with any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)); or

''(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property in connection with the purchase or sale of any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d));

shall be fined under this title, or imprisoned not more than 10 years, or both.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following new item:

''1348. Securities fraud.''.

SA 4186. Mr. DASCHLE (for Mr. BIDEN (for himself and Mr. HATCH)) proposed an amendment to the bill 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, and for other purposes; as follows:

At the end, add the following:

TITLE VIII—WHITE-COLLAR CRIME PENALTY ENHANCEMENTS.

SEC. 801 SHORT TITLE.

This title may be cited as the ''White-Collar Crime Penalty Enhancement Act of 2002''.

SEC. 802. CRIMINAL PENALTIES FOR CONSPIRACY TO COMMIT OFFENSE OR TO DEFRAUD THE UNITED STATES.

Section 371 of title 18, United States Code, is amended by striking ''If two or more'' and all that follows through ''If, however,'' and inserting the following:

''(a) IN GENERAL.—If 2 or more persons—

''(1) conspire to commit any offense against the United States, in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined or imprisoned, or both, as set forth in the specific substantive offense which was the object of the conspiracy; or

''(2) conspire to defraud the United States, or any agency thereof in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined under this title, or imprisoned not more than 10 years, or both.

''(b) MISDEMEANOR OFFENSE.—If, however,''.

SEC. 803. CRIMINAL PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 of title 18, United States Code, is amended by striking ''five years'' and inserting ''10 years''.

(b) WIRE FRAUD.—Section 1343 of title 18, United States Code, is amended by striking ''five years'' and inserting ''10 years''.

SEC. 804. CRIMINAL PENALTIES FOR VIOLATIONS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by striking ''$5,000'' and inserting ''$100,000'';

(1) by striking ''one year'' and inserting ''10 years''; and

(3) by striking ''$100,000'' and inserting ''$500,000''.

SEC. 805. AMENDMENT TO SENTENCING GUIDELINES RELATING TO CERTAIN WHITE-COLLAR OFFENSES.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this title.

(b) REQUIREMENTS.—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses and the penalties set forth in this title, the growing incidence of serious fraud offenses which are identified above, and the need to modify the sentencing guidelines and policy statements to deter, prevent, and punish such offenses;

(2) consider the extent to which the guidelines and policy statements adequately address—

(A) whether the guideline offense levels and enhancements for violations of the sections amended by this title are sufficient to deter and punish such offenses, and specifically, are adequate in view of the statutory increases in penalties contained in this title; and

(B) whether a specific offense characteristic should be added in United States Sentencing Guideline section 2B1.1 in order to provide for stronger penalties for fraud when the crime is committed by a corporate officer or director;

(3) assure reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 806. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''§ 1348. Failure of corporate officers to certify financial reports

''(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chairman of the board, chief executive officer, and chief financial officer (or equivalent thereof) of the issuer.

''(b) CONTENT.—The statement required under subsection (a) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report or financial report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer.

''(c) CRIMINAL PENALTIES.—Notwithstanding any other provision of law—

''(1) any person who recklessly violates any provision of this section shall upon conviction be fined not more than $500,000, or imprisoned not more than 5 years, or both; or

''(2) any person who willfully violates any provision of this section shall upon conviction be fined not more than $1,000,000, or imprisoned not more than 10 years, or both.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The section analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''1348. Failure of corporate officers to certify financial reports.''.

SA 4187. Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) submitted an amendment intended to be proposed to the bill 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, and for other purposes; as follows:

On page 108, line 15, insert before the end quotation marks the following:

''(c) RULES OF PROFESSIONAL RESPONSIBILITY FOR ATTORNEYS.—Not later than 180 days after the date of enactment of this section, the Commission shall establish rules, in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission in any way in the representation of public companies, including a rule requiring an attorney to report evidence of a material violation of law by the company or any agent thereof to the chief legal counsel or the chief executive officer of the company (or the equivalent thereof) and, if the counsel or officer does not appropriately respond to the evidence (adopting, as necessary, appropriate remedial measures or sanctions with respect to the violation), requiring the attorney to report the evidence to the audit committee of the board of directors or to another committee of the board of directors comprised solely of directors not employed directly or indirectly by the company, or to the board of directors.

SA 4188. Mr. LOTT proposed an amendment to the bill 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, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . HIGHER MAXIMUM PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 is amended by striking ''five'' and inserting ''ten''.

(b) WIRE FRAUD.—Section 1343 is amended by striking ''five'' and inserting ''ten''.

SEC. . TAMPERING WITH A RECORD OR OTHERWISE IMPEDING AN OFFICIAL PROCEEDING.

Section 1512 of title 18, United States Code is amended—

(a) by re-designating subsections (c), (d), (e), (f), (g), (h), and (i) as subsections (d), (e), (f), (g), (h), (i) and (j);

(b) by inserting after subsection (b) the following new subsection:

''(c) Whoever corruptly—

''(1) alters, destroys, mutilates or conceals a record, document or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or

''(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so;

''shall be fined under this title or imprisoned not more than ten years, or both.''

SEC. . TEMPORARY FREEZE AUTHORITY FOR THE SECURITIES AND EXCHANGE COMMISSION.

(a) IN GENERAL.—The Securities Exchange Act of 1934 is amended by inserting after section 21C(c)(2) (15 U.S.C. 78u-3(c)(2)) the following:

''(3) TEMPORARY FREEZE.—

''(A) Whenever during the course of a lawful investigation involving possible violations of the federal securities laws by an

issuer of publicly traded securities or any of its directors, officers, partners, controlling persons, agents or employees, it shall appear to the Commission that it is likely that the issuer will make extraordinary payments (whether compensation or otherwise) to any of the foregoing persons, the Commission may petition a federal district court for a temporary order requiring the issuer to escrow, subject to court supervision, those payments in an interest-bearing account for 45 days. Such an order shall be entered, if the court finds that the issuer is likely to make such extraordinary payments, only after notice and opportunity for a hearing, unless the court determines that notice and hearing prior to entry of the order would be impracticable or contrary to the public interest. A temporary order shall become effective immediately and shall be served upon the parties subject to it and, unless set aside, limited or suspended by court of competent jurisdiction, shall remain effective and enforceable for 45 days. The period of the order may be extended by the court upon good cause shown for not longer than 45 days, provided that the combined period of the order not exceed 90 days.

''(B) If the individual affected by such order is charged with violations of the federal securities laws by the expiration of the 45 days (or the expiration of any extended period), the escrow would continue, subject to court approval, until the conclusion of any legal proceedings. The issuer and the affected director, officer, partner, controlling person, agent or employee would have the right to petition the court for review of the order. If the individual affected by such order is not charged, the escrow will terminate at the expiration of the 45 days (or the expiration of any extended period), and the payments (with accrued interest) returned to the issuer.

(b) TECHNICAL AMENDMENT.—Section 21C(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3(c)(2)) is amended by striking ''This'' and inserting ''Paragraph (1) of this''.

SEC. . AMENDMENT TO THE FEDERAL SENTENCING GUIDELINES.

(a) REQUEST FOR IMMEDIATE CONSIDERATION BY THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission is requested to—

(1) promptly review the sentencing guidelines applicable to securities and accounting fraud and related offenses;

(2) expeditiously consider promulgation of new sentencing guidelines or amendments to existing sentencing guidelines to provide an enhancement for officers or directors of publicly traded corporations who commit fraud and related offenses; and

(3) submit to Congress an explanation of actions taken by the Commission pursuant to paragraph (2) and any additional policy recommendations the Commission may have for combating offenses described in paragraph (1).

(b) OTHER.—In carrying out this section, the Sentencing Commission is requested to:

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of securities, pension, and accounting fraud and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) assure reasonable consistency with other relevant directives and with other guidelines;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements;

(4) make any necessary conforming changes to the sentencing guidelines; and

(5) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.—The Commission is requested to promulgate the guidelines or amendments provided for under this section as soon as practicable, and in any event not later than the 120 days after the date of the enactment of this Act, in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not yet expired.

SEC. . AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.

(a) In section 21C of the Exchange Act of 1934, add at the end a new subsection as follows:

''( ) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b) of this title or the rules or regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to section 15(d) of this title if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.''

(b) In section 8A of the Securities Act add at the end a new subsection as follows:

''( ) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) of this title from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of that Act if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.''

SA 4189. Mr. GRAMM proposed an amendment to amendment SA 4188 proposed by Mr. LOTT to the bill (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, and for other purposes; as follows:

Strike all after the first word, and insert the following:

SEC. . HIGHER MAXIMUM PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 is amended by striking ''five'' and inserting ''ten''.

(b) WIRE FRAUD.—Section 1343 is amended by striking ''five'' and inserting ''ten''.

SEC. . TAMPERING WITH A RECORD OR OTHERWISE IMPEDING AN OFFICIAL PROCEEDING.

Section 1512 of title 18, United States Code is amended—

(a) by re-designating subsections (c), (d), (e), (f), (g), (h), and (i) as subsections (d), (e), (f), (g), (h), (i) and (j);

(b) by inserting after subsection (b) the following new subsection:

''(c) Whoever corruptly—

''(1) alters, destroys, mutilates or conceals a record, document or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or

''(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so;

''shall be fined under this title or imprisoned not more than ten years, or both.''

SEC. . TEMPORARY FREEZE AUTHORITY FOR THE SECURITIES AND EXCHANGE COMMISSION.

(a) IN GENERAL.—The Securities Exchange Act of 1934 is amended by inserting after section 21C(c)(2) (15 U.S.C. 78u-3(c)(2)) the following:

''(3) TEMPORARY FREEZE.—

''(A) Whenever during the course of a lawful investigation involving possible violations of the federal securities laws by an issuer of publicly traded securities or any of its directors, officers, partners, controlling persons, agents or employees, it shall appear to the Commission that it is likely that the issuer will make extraordinary payments (whether compensation or otherwise) to any of the foregoing persons, the Commission may petition a federal district court for a temporary order requiring the issuer to escrow, subject to court supervision, those payments in an interest-bearing account for 45 days. Such an order shall be entered, if the court finds that the issuer is likely to make such extraordinary payments, only after notice and opportunity for a hearing, unless the court determines that notice and hearing prior to entry of the order would be impracticable or contrary to the public interest. A temporary order shall become effective immediately and shall be served upon the parties subject to it and, unless set aside, limited or suspended by court of competent jurisdiction, shall remain effective and enforceable for 45 days. The period of the order may be extended by the court upon good cause shown for not longer than 45 days, provided that the combined period of the order not exceed 90 days.

''(B) If the individual affected by such order is charged with violations of the federal securities laws by the expiration of the 45 days (or the expiration of any extended period), the escrow would continue, subject to court approval, until the conclusion of any legal proceedings. The issuer and the affected director, officer, partner, controlling person, agent or employee would have the right to petition the court for review of the order. If the individual affected by such order is not charged, the escrow will terminate at the expiration of the 46 days (or the expiration of any extended period), and the payments (with accrued interest) returned to the issuer.

(b) TECHNICAL AMENDMENT.—Section 21C(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3(c)(2)) is amended by striking ''This'' and inserting ''Paragraph (1) of this''.

SEC. . AMENDMENT TO THE FEDERAL SENTENCING GUIDELINES.

(a) REQUEST FOR IMMEDIATE CONSIDERATION BY THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code,

and in accordance with this section, the United States Sentencing Commission is requested to—

(1) promptly review the sentencing guidelines applicable to securities and accounting fraud and related offenses;

(2) expeditiously consider promulgation of new sentencing guidelines or amendments to existing sentencing guidelines to provide an enhancement for officers or directors of publicly traded corporations who commit fraud and related offenses; and

(3) submit to Congress an explanation of actions taken by the Commission pursuant to paragraph (2) and any additional policy recommendations the Commission may have for combating offenses described in paragraph (1).

(b) OTHER.—In carrying out this section, the Sentencing Commission is requested to:

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of securities, pension, and accounting fraud and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) assure reasonable consistency with other relevant directives and with other guidelines;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements;

(4) make any necessary conforming changes to the sentencing guidelines; and

(5) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.—The Commission is requested to promulgate the guidelines or amendments provided for under this section as soon as practicable, and in any event not later than the 120 days after the date of the enactment of this Act, in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not yet expired.

SEC. . AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.

(a) In section 21C of the Exchange Act of 1934, add at the end a new subsection as follows:

''( ) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b) of this title or the rules or regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to section 15(d) of this title if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.''

(b) In section 8A of the Securities Act add at the end a new subsection as follows:

''( ) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) of this title from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of that Act if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.''

SA 4190. Mr. DASCHLE (for Mr. BIDEN (for himself and Mr. HATCH) proposed an amendment to amendment SA 4186 proposed by Mr. DASCHLE (for Mr. BIDEN (for himself and Mr. HATCH)) to the bill (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, and for other purposes; as follows:

Strike all after the first word and insert the following:

VIII—WHITE-COLLAR CRIME PENALTY ENHANCEMENTS.

SEC. 801 SHORT TITLE.

This title may be cited as the ''White-Collar Crime Penalty Enhancement Act of 2002''.

SEC. 802. CRIMINAL PENALTIES FOR CONSPIRACY TO COMMIT OFFENSE OR TO DEFRAUD THE UNITED STATES.

Section 371 of title 18, United States Code, is amended by striking ''If two or more'' and all that follows through ''If, however,'' and inserting the following:

''(a) IN GENERAL.—If 2 or more persons—

''(1) conspire to commit any offense against the United States, in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined or imprisoned, or both, as set forth in the specific substantive offense which was the object of the conspiracy; or

''(2) conspire to defraud the United States, or any agency thereof in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined under this title, or imprisoned not more than 10 years, or both.

''(b) MISDEMEANOR OFFENSE.—If, however,''.

SEC. 803. CRIMINAL PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 of title 18, United States Code, is amended by striking ''five years'' and inserting ''10 years''.

(b) WIRE FRAUD.—Section 1343 of title 18, United States Code, is amended by striking ''five years'' and inserting ''10 years''.

SEC. 804. CRIMINAL PENALTIES FOR VIOLATIONS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by striking ''$5,000'' and inserting ''$100,000'';

(1) by striking ''one year'' and inserting ''10 years''; and

(3) by striking ''$100,000'' and inserting ''$500,000''.

SEC. 805. AMENDMENT TO SENTENCING GUIDELINES RELATING TO CERTAIN WHITE-COLLAR OFFENSES.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this title.

(b) REQUIREMENTS.—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses and the penalties set forth in this title, the growing incidence of serious fraud offenses which are identified above, and the need to modify the sentencing guidelines and policy statements to deter, prevent, and punish such offenses;

(2) consider the extent to which the guidelines and policy statements adequately address—

(A) whether the guideline offense levels and enhancements for violations of the sections amended by this title are sufficient to deter and punish such offenses, and specifically, are adequate in view of the statutory increases in penalties contained in this title; and

(B) whether a specific offense characteristic should be added in United States Sentencing Guideline section 2B1.1 in order to provide for stronger penalties for fraud when the crime is committed by a corporate officer or director;

(3) assure reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 806. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''§ 1348. Failure of corporate officers to certify financial reports

''(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chairman of the board, chief executive officer, and chief financial officer (or equivalent thereof) of the issuer.

''(b) CONTENT.—The statement required under subsection (a) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report or financial report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer.

''(c) CRIMINAL PENALTIES.—Notwithstanding any other provision of law—

''(1) any person who recklessly violates any provision of this section shall upon conviction be fined not more than $500,000, or imprisoned not more than 5 years, or both; or

''(2) any person who willfully violates any provision of this section shall upon conviction be fined not more than $1,000,000, or imprisoned not more than 10 years, or both.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The section analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''1348. Failure of corporate officers to certify financial reports.''.

This section shall take effect one day after date of this bill's enactment.

SA 4191. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill 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 strenghten 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, which was ordered to lie on the table; as follows:

On page 78, strike lines 15 through 24, and insert the following:

In supervising public accounting firms that are not registered by the Board and their associated persons, appropriate State regulatory authorities should make an independent determination of the proper standards applicable, particularly taking into consideration the size and nature of the business of the accounting firms they supervise and the size and nature of the business of the clients of those firms. The standards applied by the Board under this Act could create undue burdens and costs if applied without independent consideration to nonpublic accounting companies and other accounting firms that provide services to small business clients.

SA 4192. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill 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 analysis, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . STOCK OPTIONS MUST BE BOOKED AS EXPENSE WHEN GRANTED.

Any corporation that grants a stock option to an officer or employee to purchase a publicly traded security in the United States shall record the granting of the option as an expense in that corporation's income statement for the year in which the option is granted.

SA 4193. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill 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 analysis, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 69, strike line 8 and all that follows through page 70, line 19, and insert ''any non-audit service.'.''.

SA 4194. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill 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, and for other purposes; which was ordered to lie on the table; as follows:

On page 82, strike lines 19 through 24 and insert the following:

(b) CONTENT.—The chief executive officer and chief financial officer—

(1) shall certify, under penalty of perjury, that the reports and statements described in subsection (a) fairly present, in all material respects, the operations and financial condition of the issuer; and

(2) shall include a brief narrative of the basis for the decision to so certify, including a discussion of any questionable accounting treatment.

SA 4195. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill 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, and for other purposes; which was ordered to lie on the table; as follows:

On page 86, line 8, strike ''during'' and all that follows through page 89, line 20 and insert the following: ''at any time during the term of employment of that person by the issuer, or service to that issuer as a director or executive officer, or during the 90-day period following the date of termination of such employment or service.

''(b) EXCEPTION.—Nothing in subsection (a) shall be construed to prohibit the purchase, sale, acquisition, or other transfer of equity securities of the issuer for the purpose of avoiding expiration of stock options, but only to the extent necessary to pay the option price of the securities and any applicable taxes or to satisfy a court ordered judgment.

''(c) REMEDY.—

''(1) IN GENERAL.—Any profit realized by a director or executive officer referred to in subsection (a) from any purchase, sale, or other acquisition or transfer in violation of this section shall inure to and be recoverable by the issuer, irrespective of any intention on the part of such director or executive officer in entering into the transaction.

''(2) ACTIONS TO RECOVER PROFITS.—An action to recover profits in accordance with this section may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer fails or refuses to bring such action within 60 days after the date of request, or fails diligently to prosecute the action thereafter.

''(d) RULEMAKING AUTHORIZED.—The Commission may issue rules to clarify the application of this subsection, to ensure adequate notice to all persons affected by this subsection, and to prevent evasion thereof.by the issuer.''.

SA 4196. MR. MCCAIN submitted an amendment intended to be proposed by him to the bill 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, and for other purposes; which was ordered to lie on the table; as follows:

On page 82, line 9, strike the quotation marks and the final period and insert the following:

''(n) STANDARDS RELATING TO BOARDS OF DIRECTORS.—

''(1) COMMISSION RULES.—

''(A) IN GENERAL.—Effective not later than 270 days after the date of enactment of this subsection, the Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with the requirements of any portion of paragraph (2).

''(B) OPPORTUNITY TO CURE DEFECTS.—The rules of the Commission under subparagraph (A) shall provide for appropriate procedures for an issuer to have an opportunity to cure any defects that would be the basis for a prohibition under subparagraph (A), before the imposition of such prohibition.

''(2) INDEPENDENCE.—

''(A) IN GENERAL.—Each member of the board of directors of the issuer (other than the chief executive officer) shall be independent.

''(B) CRITERIA.—In order to be considered independent for purposes of this paragraph, a member of a board of directors of an issuer may not, other than in his or her capacity as a member of that board of directors—

''(i) accept any consulting, advisory, or other compensatory fee from the issuer;

''(ii) be an affiliated person of the issuer or any subsidiary thereof; or

''(iii) otherwise maintain any other material relationship with the issuer or the management thereof.

''(C) EXEMPTION AUTHORITY.—The Commission may exempt from the requirements of subparagraph (B) a particular relationship with respect to members of a board of directors, as the Commission determines appropriate in light of the circumstances.''.

SA 4197. Mr. SHELBY (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill 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, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LITIGATION PROVISIONS.

(a) COMMISSION AUTHORITY.—Section 20(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78t(e)) is amended by striking ''knowingly'' and inserting ''recklessly''.

(b) PRIVATE LITIGATION.—Section 21D of the Securities Exchange Act of 1934 (15 U.S.C. 78u–4) is amended—

(1) in subsection (f)(10)(B), by inserting ''notwithstanding subsection (g),'' before ''reckless''; and

(2) by adding at the end the following:

''(g) PERSONS THAT AID OR ABET VIOLATIONS.—Any person that recklessly provides substantial assistance to another person in violation of a provision of this title, or of any rule or regulation issued under this title, shall be deemed to be in violation of such provision to the same extent as the person to whom such assistance is provided.''.

SA 4198. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill 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, and for other purposes; which was ordered to lie on the table; as follows:

On page 84, strike lines 12 through 15, and insert the following: ''executive officer, chief financial officer, and any other officer or director of the corporation with knowledge, at the time of the misconduct, of the material noncompliance of the issuer shall reimburse the issuer for—

''(1) any bonus, compensation derived from a severance agreement, or other incentive-based or equality-based compensation received by that person''.

SA 4199. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill 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, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC._____. INDIVIDUAL ACCOUNT PLANS REQUIRED TO GIVE PARTICIPANTS ADEQUATE INFORMATION TO ASSIST THEM IN DIVERSIFYING PENSION ASSETS.

(a) IN GENERAL.—Section 104 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024) is amended—

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

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

''(c)(1) The plan administrator of an applicable individual account plan shall, within a reasonable period of time following the close of each calendar quarter, provide to each participant or beneficiary a statement with respect to his or her individual account which includes—

''(A) the fair market value as of the close of such quarter of the assets in the account in each investment option,

''(B) the percentage as of such calendar quarter of assets which each investment option is of the total assets in the account,

''(C) the percentage of the investment in employer securities which came from employer contributions other than elective deferrals (and earnings thereon) and which came from employee contributions and elective deferrals (and earnings thereon), and

''(D) such other information as the Secretary may prescribe.

''(2)(A) Each statement shall also include a separate statement which is prominently displayed and which reads as follows:

'Under commonly accepted principles of good investment advice, a retirement account should be invested in a broadly diversified portfolio of stocks and bonds. It is unwise for employees to hold significant concentrations of employer stock in an account that is meant for retirement savings'.

''(B) The plan administrator of an applicable individual account plan shall provide the separate statement described in subparagraph (A) to an individual at the time the individual first becomes a participant in the plan.

''(3) Any statement or notice under this subsection shall be written in a manner calculated to be understood by the average plan participant.

''(4) For purposes of this subsection—

''(A) The term 'applicable individual account plan' means an individual account plan to which section 404(c)(1) applies.

''(B) The term 'elective deferrals' has the meaning given such term by section 402(g)(3) of such Code.

''(C) The term 'employer securities' has the meaning given such term by section 407(d)(1).''

(b) ENFORCEMENT.—Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by striking ''or section 101(e)(1)'' and inserting '', section 101(e)(1), or section 104(c)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on and after January 1, 2003.

SA 4200. Mr. GRAMM (for Mr. MCCONNELL) proposed an amendment to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (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, and for other purposes; as follows:

On page 2, line 17, strike ''directors,'' and insert the following:

directors.

SEC. ___. ATTORNEY PRACTICES RELATING TO CLIENTS.

(a) DEFINITIONS.—In this section:

(1) AGENCY.—The term ''agency'' means any agency or department of the United States or State government including a local government.

(2) ATTORNEY.—The term ''attorney'' means any natural person, professional law association, corporation, or partnership authorized under applicable law to practice law.

(3) ATTORNEY SERVICES.—The term ''attorney services''—

(A) means the professional advice or counseling of or representation by an attorney; and

(B) shall not include services requiring out-of-pocket expenses in connection with providing attorney services, such as travel expenses, witness fees, copying, messengers, postage, phone, or preparation by a person other than the attorney of any study, analysis, report, or test.

(4) CLASS ACTION.—

(A) IN GENERAL.—The term ''class action'' means—

(i) any civil action filed under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by 1 or more representative persons as a class action; or

(ii) any civil action in which—

(I) the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

(II) monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

(B) CLASS TREATMENT.—In any civil action described under subparagraph (A)(ii), the persons who allegedly were injured shall be

treated as members of a proposed plaintiff class and the monetary relief that is sought shall be treated as the claims of individual class members.

(5) CONTINGENT FEE.—The term ''contingent fee''—

(A) means the cost or price of attorney services determined by applying a specified percentage, which may be a firm fixed percentage, a graduated or sliding percentage, or any combination thereof, to the amount of the settlement or judgment obtained or otherwise allowing the attorney to share in the proceeds of a settlement or judgment obtained which the defendant was required to make payment in order to satisfy an obligation to the plaintiff; and

(B) includes any fees a defendant pays directly to an attorney retained by a plaintiff outside the terms of a settlement or judgment.

(6) HOURLY FEE.—The term ''hourly fee'' means the cost or price per hour of attorney services.

(7) LOCAL GOVERNMENT.—The term ''local government''—

(A) means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty; and

(B) includes—

(i) a local public authority;

(ii) a special district;

(iii) an intrastate district;

(iv) a council of governments;

(v) a sponsor group representative organization; or

(vi) any other instrumentality of a local government.

(8) PAYMENT.—The term ''payment'' means any gift, subscription, loan, advance, or deposit of money or anything of value.

(9) PERSON.—The term ''person'' includes—

(A) an individual, corporation, company, association, authority, firm, partnership, or society, regardless of whether such entity is operated for profit or not for profit; and

(B) the Federal Government or any State or local government.

(10) PLAINTIFF.—The term ''plaintiff'' means a person who retains an attorney to represent that person in asserting or bringing a civil claim or civil action.

(11) RETAIN.—The term ''retain'' means the act of a plaintiff in obtaining attorney services, whether by express or implied agreement, by seeking and obtaining attorney services.

(12) STATE.—The term ''State'' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

(b) APPLICABILITY.—

(1) IN GENERAL.—This section shall apply to any cause of action brought in Federal court or under Federal law, including any related settlement.

(2) NONAPPLICABILITY.—

(A) CERTAIN CONTRACTS.—Except in the case of class actions, this section does not apply to agreements to provide attorney services if the person who enters into such an agreement is represented at that time by another attorney who is retained for the purpose of negotiating a contingency fee contract on behalf of that person.

(B) GOVERNMENT ATTORNEYS.—This section does not apply to attorneys who are classified as employees of the United States Government, a State, or an agency thereof.

(c) DISCLOSURES BY ATTORNEY.—

(1) WRITTEN DISCLOSURE.—

(A) IN GENERAL.—Before an attorney is retained by a plaintiff, the attorney shall disclose in writing to the potential plaintiff the plaintiff's rights under this section, including the right to receive a written statement of the information described in this subsection and subsection (e).

(B) CONTENTS OF DISCLOSURE.—Specifically, the attorney shall provide a written statement to the potential plaintiff containing—

(i) the estimated number of hours of attorney services that will be spent—

(I) settling or attempting to settle the claim or action; and

(II) handling the claim or action through trial or appeal;

(ii) the attorney's hourly fee or fees for services in pursuing the claim or action and any conditions, limitations, restrictions, or other qualifications on the fee including likely expenses and the plaintiff's obligation for those expenses;

(iii) the attorney's contingent fee for services in pursuing the claim or action and any conditions, limitations, restrictions, or other qualifications on the fee, including likely expenses and the plaintiff's obligation for those expenses;

(iv) the probability of a successful outcome in the case (which may be expressed as a percentage);

(v) the estimated recovery reasonably expected in the case (which may be expressed as a range);

(vi) the estimated costs or expenses that the plaintiff will bear; and

(vii) all fee agreements to be made concerning the case, including the amount to be paid to any cocounsel associated with the case or to refer the plaintiff to another attorney in exchange for a referral fee.

(2) MONTHLY STATEMENT.—In addition to the requirements under paragraph (1), the attorney shall render monthly statements to the plaintiff containing a description of the amount of time expended and expenses incurred in the pursuit of the plaintiff's claim or action by each attorney assigned to the plaintiff's matter.

(d) AGREEMENT ON COMPENSATION.—

(1) CONTINGENT FEE.—An attorney who has been retained on a contingent fee basis may not be paid a contingent fee greater than the attorney's contingent fee rate disclosed under subsection (c).

(2) HOURLY FEE.—An attorney representing a plaintiff in connection with the claim or action may not be paid an hourly fee greater than the attorney's hourly fee or fees disclosed under subsection (c) multiplied by the total number of hours spent by the attorney in connection with the claim or action.

(3) EXCEPTIONS.—

(A) OTHER REQUIREMENTS.—A plaintiff may not be given the option of choosing to compensate the attorney on a contingent fee basis for claims or actions where it would be a violation of an applicable Code of Professional Responsibility or otherwise illegal for an attorney to be compensated on a contingent fee basis.

(B) GOVERNMENT ATTORNEYS.—This section does not authorize the United States or any State or subdivision thereof to retain an attorney on a contingent fee basis.

(e) INFORMATION ABOUT SETTLEMENT OFFERS, SETTLEMENT, OR ADJUDICATION.—

(1) SETTLEMENT OFFERS.—An attorney retained by a plaintiff shall immediately transmit to the plaintiff—

(A) all written settlement offers to the plaintiff with an estimate of the likelihood of achieving a more or less favorable resolution to the claim or action;

(B) the likely timing of such resolution; and

(C) the likely attorney's fees and expenses required to obtain such a resolution.

(2) SETTLEMENT OR ADJUDICATION.—An attorney retained by a plaintiff shall, within a reasonable time not later than 30 days after the date on which the claim or action is finally settled or adjudicated, provide a written statement to the plaintiff containing—

(A) in a case in which an attorney is compensated with an hourly fee—

(i) the actual number of hours expended by each attorney on behalf of the plaintiff in connection with the claim or action and such attorney's hourly rate, as set forth in the written disclosure statement required to be provided under subsection (c); and

(ii) the total amount of the hourly fees;

(B) in a case in which an attorney is compensated with a contingent fee—

(i) the contingent fee rate, as set forth in the written disclosure statement required to be provided under subsection (c);

(ii) the total amount of the contingent fee;

(iii) the number of hours expended in the case; and

(iv) the effective hourly rate, determined by dividing the total amount of the contingent fee by the number of hours expended in the case; and

(C) the expenses to be charged to the plaintiff under the agreement for attorney services consistent with this section.

(f) REASONABLENESS OF ATTORNEYS FEES.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, an attorney to whom this section applies may not charge an unreasonable or excessive fee.

(2) RIGHT TO REVIEW.—A plaintiff may request an objective review of his attorney's fee by a court of competent jurisdiction to assure that it is reasonable and fair in light of the circumstances, based on such factors as whether liability was contested, whether the amount of damages was clear, and how much actual time a lawyer reasonably spent on the case.

(g) CLASS ACTIONS.—

(1) IN GENERAL.—An attorney representing a class in a civil action shall make the disclosures, transmittals, and provisions of information required under this section to the presiding judge. The presiding judge shall determine, upon certifying the action as a class action, the appropriate hourly fee or fees and the maximum percentage of the recovery to be paid in attorney's fees. Notwithstanding any other provision of law or agreement to the contrary, the presiding judge shall award attorneys fees consistent with this section.

(2) LIMITATION.—Attorneys fees described under paragraph (1) may not exceed a reasonable fee, based on—

(A) the number of hours of nonduplicative, professional quality legal work, provided by the attorney of material value to the outcome of the representation of the class; and

(B) reasonable hourly rates for the individuals performing such work, based on hourly rates charged by other attorneys for the rendition of comparable services including rates charged by adversary defense counsel in the class action.

(3) ADJUSTMENT FACTOR.—To the extent that items are not taken into account in establishing the reasonable hourly rates referred to in this subsection, an appropriate adjustment factor, including reasonable multipliers, to compensate the attorney for risks of nonpayment of fees and, when clearly established, for exceptionally skillful or innovative services provided during such periods of risk, may be employed, except that—

(A) in no case shall the appropriate adjustment factor be greater than 6; and

(B) in all cases, the appropriate adjustment factor shall be determined in accordance with the strict standards established by the Federal courts for permissible lodestar multipliers.

(h) RESIGNATION OR DISCHARGE.—If an attorney who is retained on a contingent fee

basis is discharged or resigns, any fee owed to that attorney shall be based on that attorney's contribution to the plaintiff's ultimate success.

(i) UNSOLICITED COMMUNICATIONS DURING BEREAVEMENT PERIOD.—

(1) IN GENERAL.—In the event of a death or personal injury resulting in bodily harm, no unsolicited communication concerning a potential civil action for personal injury or wrongful death may be made by an attorney (including any associate, agent, employee, or other representative of an attorney) or any potential party to the litigation to an individual injured in that event, or to a relative of an individual killed or injured in that event, before the 45th day following the date of the death or injury.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to authorize a communication otherwise prohibited by Federal or State or local government law or a rule or standard of any bar association or similar entity.

(j) ENFORCEMENT.—

(1) IN GENERAL.—The Attorney General of the United States may file a civil action in an appropriate district court of the United States to enforce this section.

(2) CIVIL PENALTY.—A person violating this section is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

SA 4201. Mrs. CARNAHAN (for herself and Mr. LEAHY) submitted an amendment intended to be proposed by her to the bill 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, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. FAIR TREATMENT OF COMPENSATION IN BANKRUPTCY.

(a) INCREASED PRIORITY CLAIM AMOUNT FOR EMPLOYEE WAGES AND BENEFITS.—Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (3), by striking ''$4,000'' and inserting ''$13,500''; and

(2) in paragraph (4), by striking ''$4,000'' and inserting ''$13,500''.

(b) RECOVERY OF EXCESSIVE COMPENSATION.—Section 547 of title 11, United States Code, is amended by adding at the end the following:

''(h) The court, on motion of a party of interest, may avoid any transfer of compensation made to a member of the board of directors or an employee of the debtor on or within 90 days before the date of the filing of the petition that the court finds, after notice and a hearing, to be—

''(1) out of the ordinary course of business; or

''(2) unjust enrichment.''.

SA 4202. Mrs. CARNAHAN (for herself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by her to the bill 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, and for other purposes; which was ordered to lie on the table; as follows:

On page 89, after line 20, insert the following:

SEC. 307. PUBLIC COMPANY COMPENSATION COMMITTEES.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78f) is amended by adding at the end the following:

''(n) STANDARDS RELATING TO COMPENSATION COMMITTEES.—

''(1) COMMISSION RULES.—

''(A) IN GENERAL.—Effective not later than 270 days after the date of enactment of this subsection, the Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with the requirements of any portion of paragraphs (2) through (6).

''(B) OPPORTUNITY TO CURE DEFECTS.—The rules of the Commission under subparagraph (A) shall provide for appropriate procedures for an issuer to have an opportunity to cure any defects that would be the basis for a prohibition under subparagraph (A), before the imposition of such prohibition.

''(2) INDEPENDENCE.—

''(A) IN GENERAL.—Each member of the compensation committee of the issuer shall be a member of the board of directors of the issuer, and shall otherwise be independent.

''(B) CRITERIA.—In order to be considered to be independent for purposes of this paragraph, a member of a compensation committee of an issuer may not, other than in his or her capacity as a member of the compensation committee, the board of directors, or any other board committee—

''(i) accept any consulting, advisory, or other compensatory fee from the issuer; or

''(ii) be an affiliated person of the issuer or any subsidiary thereof.

''(C) EXEMPTION AUTHORITY.—The Commission may exempt from the requirements of subparagraph (B) a particular relationship with respect to compensation committee members, as the Commission determines appropriate in light of the circumstances.

''(3) COMPENSATION COMMITTEE.—For purposes of this subsection, the term 'compensation committee' means—

''(A) a committee (or equivalent body) established by and amongst the board of directors of an issuer for the purpose of overseeing the establishment of compensation for employees of the issuer; and

''(B) if no such committee exists with respect to an issuer, the entire board of directors of the issuer.''.

SA 4203. Mr. MURKOWSKI (for himself, Mr. STEVENS, Mr. CRAIG, Mr. BURNS, Mr. CRAPO, Mr. SMITH of Oregon, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill 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, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. NINTH CIRCUIT COURT OF APPEALS REORGANIZATION.

(a) SHORT TITLE.—This section may be cited as the ''Ninth Circuit Court of Appeals Reorganization Act of 2002''.

(b) NUMBER AND COMPOSITION OF CIRCUITS.—Section 41 of title 28, United States Code, is amended—

(1) in the matter before the table, by striking ''thirteen'' and inserting ''fourteen''; and

(2) in the table—

(A) by striking the item relating to the ninth circuit and inserting the following:

''Ninth ..... Arizona, California, Nevada.'';

and

(B) by inserting after the item relating to the eleventh circuit the following:

''Twelfth ..... Alaska, Guam, Hawaii, Idaho, Montana, Northern Mariana Islands, Oregon, Washington.''.

(c) NUMBER OF CIRCUIT JUDGES.—The table in section 44(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

''Ninth ..... 20'';

and

(2) by inserting after the item relating to the eleventh circuit the following:

''Twelfth ..... 8''.

(d) PLACES OF CIRCUIT COURT.—The table in section 48(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

''Ninth ..... San Francisco, Los Angeles.'';

and

(2) by inserting after the item relating to the eleventh circuit the following:

''Twelfth ..... Portland, Seattle.''.

(e) ASSIGNMENT OF CIRCUIT JUDGES.—Each circuit judge in regular active service of the former ninth circuit whose official station on the day before the effective date of this section—

(1) is in Arizona, California, or Nevada is assigned as a circuit judge of the new ninth circuit; and

(2) is in Alaska, Guam, Hawaii, Idaho, Montana, Northern Mariana Islands, Oregon, or Washington is assigned as a circuit judge of the twelfth circuit.

(f) ELECTION OF ASSIGNMENT BY SENIOR JUDGES.—Each judge who is a senior judge of the former ninth circuit on the day before the effective date of this section may elect to be assigned to the new ninth circuit or to the twelfth circuit and shall notify the Director of the Administrative Office of the United States Courts of such election.

(g) SENIORITY OF JUDGES.—The seniority of each judge—

(1) who is assigned under subsection (e); or

(2) who elects to be assigned under subsection (f);

shall run from the date of commission of such judge as a judge of the former ninth circuit.

(h) APPLICATION TO CASES.—The provisions of the following paragraphs of this subsection apply to any case in which, on the day before the effective date of this section, an appeal or other proceeding has been filed with the former ninth circuit:

(1) If the matter has been submitted for decision, further proceedings in respect of the matter shall be had in the same manner and with the same effect as if this section had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which the matter would have been submitted had this section been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) A petition for rehearing or a petition for rehearing en banc in a matter decided before the effective date of this section, or submitted before the effective date of this section and decided on or after the effective date as provided in paragraph (1), shall be treated in the same manner and with the same effect as though this section had not been enacted. If a petition for rehearing en banc is granted, the matter shall be reheard by a court comprised as though this section had not been enacted.

(i) DEFINITIONS.—In this section, the term—

(1) ''former ninth circuit'' means the ninth judicial circuit of the United States as in existence on the day before the effective date of this section;

(2) ''new ninth circuit'' means the ninth judicial circuit of the United States established by the amendment made by subsection (b)(2); and

(3) ''twelfth circuit'' means the twelfth judicial circuit of the United States established by the amendment made by subsection (b)(3).

(j) ADMINISTRATION.—The court of appeals for the ninth circuit as constituted on the day before the effective date of this section may take such administrative action as may be required to carry out this section and the amendments made by this section. Such court shall cease to exist for administrative purposes on July 1, 2004.

(k) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 60 days after the date of enactment of this Act.

SA 4204. Mr. SMITH of New Hampshire (for himself, Mrs. BOXER, and Mr. BURNS) submitted an amendment which was ordered to lie on the table; as follows:

At the appropriate place, insert the following new title:

TITLE ____—FLIGHT AND CABIN SECURITY ON PASSENGER AIRCRAFT

SECTION ____1. SHORT TITLE.

This title may be cited as the ''Arming Pilots Against Terrorism and Cabin Defense Act of 2002''.

SEC. ____2. FINDINGS.

Congress makes the following findings:

(1) Terrorist hijackers represent a profound threat to the American people.

(2) According to the Federal Aviation Administration, between 33,000 and 35,000 commercial flights occur every day in the United States.

(3) The Aviation and Transportation Security Act (public law 107–71) mandated that air marshals be on all high risk flights such as those targeted on September 11, 2001.

(4) Without air marshals, pilots and flight attendants are a passenger's first line of defense against terrorists.

(5) A comprehensive and strong terrorism prevention program is needed to defend the Nation's skies against acts of criminal violence and air piracy. Such a program should include—

(A) armed Federal air marshals;

(B) other Federal agents;

(C) reinforced cockpit doors;

(D) properly-trained armed pilots;

(E) flight attendants trained in self-defense and terrorism prevention; and

(F) electronic communications devices, such as real-time video monitoring and hands-free wireless communications devices to permit pilots to monitor activities in the cabin.

SEC. ____3. FEDERAL FLIGHT DECK OFFICER PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

''§ 44921. Federal flight deck officer program

''(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security shall establish a program to deputize qualified pilots of commercial cargo or passenger aircraft who volunteer for the program as Federal law enforcement officers to defend the flight decks of commercial aircraft of air carriers engaged in air transportation or intrastate air transportation against acts of criminal violence or air piracy. Such officers shall be known as 'Federal flight deck officers'. The program shall be administered in connection with the Federal air marshal program.

''(b) QUALIFIED PILOT.—Under the program described in subsection (a), a qualified pilot is a pilot of an aircraft engaged in air transportation or intrastate air transportation who—

''(1) is employed by an air carrier;

''(2) has demonstrated fitness to be a Federal flight deck officer in accordance with regulations promulgated pursuant to this title; and

''(3) has been the subject of an employment investigation (including a criminal history record check) under section 44936(a)(1).

''(c) TRAINING, SUPERVISION, AND EQUIPMENT.—The Under Secretary of Transportation for Security shall provide or make arrangements for training, supervision, and equipment necessary for a qualified pilot to be a Federal flight deck officer under this section at no expense to the pilot or the air carrier employing the pilot. The Under Secretary may approve private training programs which meet the Under Secretary's specifications and guidelines. Air carriers shall make accommodations to facilitate the training of their pilots as Federal flight deck officers and shall facilitate Federal flight deck officers in the conduct of their duties under this program.

''(d) DEPUTIZATION.—

''(1) IN GENERAL.—The Under Secretary of Transportation for Security shall train and deputize, as a Federal flight deck officer under this section, any qualified pilot who submits to the Under Secretary a request to be such an officer.

''(2) INITIAL DEPUTIZATION.—Not later than 120 days after the date of enactment of this section, the Under Secretary shall deputize not fewer than 500 qualified pilots who are former military or law enforcement personnel as Federal flight deck officers under this section.

''(3) FULL IMPLEMENTATION.—Not later than 24 months after the date of enactment of this section, the Under Secretary shall deputize any qualified pilot as a Federal flight deck officer under this section.

''(e) COMPENSATION.—Pilots participating in the program under this section shall not be eligible for compensation from the Federal Government for services provided as a Federal flight deck officer.

''(f) AUTHORITY TO CARRY FIREARMS.—The Under Secretary of Transportation for Security shall authorize a Federal flight deck officer under this section to carry a firearm to defend the flight deck of a commercial passenger or cargo aircraft while engaged in providing air transportation or intrastate air transportation. No air carrier may prohibit a Federal flight deck officer from carrying a firearm in accordance with the provisions of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002.

''(g) AUTHORITY TO USE FORCE.—Notwithstanding section 44903(d), a Federal flight deck officer may use force (including lethal force) against an individual in the defense of a commercial aircraft in air transportation or intrastate air transportation if the officer reasonably believes that the security of the aircraft is at risk.

''(h) LIMITATION ON LIABILITY.—

''(1) LIABILITY OF AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the air carrier employing a pilot of an aircraft who is a Federal flight deck officer under this section or out of the acts or omissions of the pilot in defending an aircraft of the air carrier against acts of criminal violence or air piracy.

''(2) LIABILITY OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the officer in defending an aircraft against acts of criminal violence or air piracy unless the officer is guilty of gross negligence or willful misconduct.

''(3) EMPLOYEE STATUS OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall be considered an 'employee of the Government while acting within the scope of his office or employment' with respect to any act or omission of the officer in defending an aircraft against acts of criminal violence or air piracy, for purposes of sections 1346(b), 2401(b), and 2671 through 2680 of title 28 United States Code.

''(i) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Under Secretary of Transportation for Security, in consultation with the Firearms Training Unit of the Federal Bureau of Investigation, shall issue regulations to carry out this section.

''(j) PILOT DEFINED.—In this section, the term 'pilot' means an individual who is responsible for the operation of an aircraft, and includes a co-pilot or other member of the flight deck crew.''.

(b) CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The analysis for such chapter 449 is amended by inserting after the item relating to section 44920 the following new item:

''44921. Federal flight deck officer program.''.

(2) EMPLOYMENT INVESTIGATIONS.—Section 44936(a)(1)(B) is amended—

(A) by aligning clause (iii) with clause (ii);

(B) by striking ''and'' at the end of clause (iii);

(C) by striking the period at the end of clause (iv) and inserting ''; and''; and

(D) by adding at the end the following:

''(v) qualified pilots who are deputized as Federal flight deck officers under section 44921.''.

(3) FLIGHT DECK SECURITY.—Section 128 of the Aviation and Transportation Security Act (49 U.S.C. 44903 note) is repealed.

SEC. ___4. CABIN SECURITY.

(a) TECHNICAL AMENDMENTS.—Section 44903, of title 49, United States Code, is amended—

(1) by redesignating subsection (h) (relating to authority to arm flight deck crew with less-than-lethal weapons, as added by section 126(b) of public law 107–71) as subsection (j); and

(2) by redesignating subsection (h) (relating to limitation on liability for acts to thwart criminal violence or aircraft piracy, as added by section 144 of public law 107–71) as subsection (k).

(b) AVIATION CREWMEMBER SELF-DEFENSE DIVISION.—Section 44918 of title 49, United States Code, is amended—

(1) by striking subsection (a) and inserting the following new subsection:

''(a) IN GENERAL.—

''(1) REQUIREMENT FOR AIR CARRIERS.—Not later than 60 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security, shall prescribe detailed requirements for an air carrier cabin crew training program, and for the instructors of that program as described in subsection (b) to prepare crew members for potential threat conditions. In developing the requirements, the Under Secretary shall consult with appropriate law enforcement personnel who have expertise in self-defense training, security experts, and terrorism experts, and representatives of air carriers and labor organizations representing individuals employed in commercial aviation.

''(2) AVIATION CREWMEMBER SELF-DEFENSE DIVISION.—Not later than 60 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security shall establish an Aviation Crew Self-Defense Division within the Transportation Security Administration. The Division shall develop and administer the implementation of the requirements described in this section. The Under Secretary shall appoint a Director of the Aviation Crew Self-Defense Division who shall be the head of the Division. The Director shall report to the Under Secretary. In the selection of the Director, the Under Secretary shall solicit recommendations from law enforcement, air carriers, and labor organizations representing individuals employed in commercial aviation. The Director shall have a background in self-defense training, including military or law enforcement training with an emphasis in teaching self-defense and the appropriate use force. Regional training supervisors shall be under the control of the Director and shall have appropriate training and experience in teaching self-defense and the appropriate use of force.'';

(2) by striking subsection (b), and inserting the following new subsection:

''(b) PROGRAM ELEMENTS.—

''(1) IN GENERAL.—The requirements prescribed under subsection (a) shall include, at a minimum, 28 hours of self-defense training that incorporates classroom and situational training that contains the following elements:

''(A) Determination of the seriousness of any occurrence.

''(B) Crew communication and coordination.

''(C) Appropriate responses to defend oneself, including a minimum of 16 hours of hands-on training, with reasonable and effective requirements on time allotment over a 4 week period, in the following levels of self-defense:

''(i) awareness, deterrence, and avoidance;

''(ii) verbalization;

''(iii) empty hand control;

''(iv) intermediate weapons and self-defense techniques; and

''(v) deadly force.

''(D) Use of protective devices assigned to crewmembers (to the extent such devices are approved by the Administrator or Under Secretary).

''(E) Psychology of terrorists to cope with hijacker behavior and passenger responses.

''(F) Live situational simulation joint training exercises regarding various threat conditions, including all of the elements required by this section.

''(G) Flight deck procedures or aircraft maneuvers to defend the aircraft.

''(2) PROGRAM ELEMENTS FOR INSTRUCTORS.—The requirements prescribed under subsection (a) shall contain program elements for instructors that include, at a minimum, the following:

''(A) A certification program for the instructors who will provide the training described in paragraph (1).

''(B) A requirement that no training session shall have fewer than 1 instructor for every 12 students.

''(C) A requirement that air carriers provide certain instructor information, including names and qualifications, to the Aviation Crew Member Self-Defense Division within 30 days after receiving the requirements described in subsection (a).

''(D) Training course curriculum lesson plans and performance objectives to be used by instructors.

''(E) Written training bulletins to reinforce course lessons and provide necessary progressive updates to instructors.

''(3) RECURRENT TRAINING.—Each air carrier shall provide the training under the program every 6 months after the completion of the initial training.

''(4) INITIAL TRAINING.—Air carriers shall provide the initial training under the program within 24 months of the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002.

''(5) COMMUNICATION DEVICES.—The requirements described in subsection (a) shall include a provision mandating that air carriers provide flight and cabin crew with a discreet, hands-free, wireless method of communicating with the flight deck.

''(6) REAL-TIME VIDEO MONITORING.—The requirements described in subsection (a) shall include a program to provide flight deck crews with real-time video surveillance of the cabins of commercial airline flights. In developing this program, the Under Secretary shall consider—

''(A) maximizing the security of the flight deck;

''(B) enhancing the safety of the flight deck crew;

''(C) protecting the safety of the passengers and crew;

''(D) preventing acts of criminal violence or air piracy;

''(E) the cost of the program;

''(F) privacy concerns; and

''(G) the feasibility of installing such a device in the flight deck.''; and

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

''(f) RULEMAKING AUTHORITY.—Notwithstanding subsection (j) (relating to authority to arm flight deck crew with less than-lethal weapons) of section 44903, of this title, within 180 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security, in consultation with persons described in subsection (a)(1), shall prescribe regulations requiring air carriers to—

''(1) provide adequate training in the proper conduct of a cabin search and allow adequate duty time to perform such a search; and

''(2) conduct a preflight security briefing with flight deck and cabin crew and, when available, Federal air marshals or other authorized law enforcement officials.

''(g) LIMITATION ON LIABILITY.—

''(1) AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the air carrier's training instructors or cabin crew using reasonable and necessary force in defending an aircraft of the air carrier against acts of criminal violence or air piracy.

''(2) TRAINING INSTRUCTORS AND CABIN CREW.—An air carrier's training instructors or cabin crew shall not be liable for damages in any action brought in a Federal or State court arising out of an act or omission of a training instructor or a member of the cabin crew regarding the defense of an aircraft against acts of criminal violence or air piracy unless the crew member is guilty of gross negligence or willful misconduct.''.

(c) NONLETHAL WEAPONS FOR FLIGHT ATTENDANTS.—

(1) STUDY.—The Under Secretary of Transportation for Security shall conduct a study to determine whether possession of a nonlethal weapon by a member of an air carrier's cabin crew would aid the flight deck crew in combating air piracy and criminal violence on commercial airlines.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Under Secretary of Transportation for Security shall prepare and submit to Congress a report on the study conducted under paragraph (1).

SA 4205. Mr. SMITH of New Hampshire (for himself, Mrs. BOXER, and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill S. 2554, to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes; which was referred to the Committee on Commerce, Science, and Transportation; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Arming Pilots Against Terrorism and Cabin Defense Act of 2002''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Terrorist hijackers represent a profound threat to the American people.

(2) According to the Federal Aviation Administration, between 33,000 and 35,000 commercial flights occur every day in the United States.

(3) The Aviation and Transportation Security Act (public law 107–71) mandated that air marshals be on all high risk flights such as those targeted on September 11, 2001.

(4) Without air marshals, pilots and flight attendants are a passenger's first line of defense against terrorists.

(5) A comprehensive and strong terrorism prevention program is needed to defend the Nation's skies against acts of criminal violence and air piracy. Such a program should include—

(A) armed Federal air marshals;

(B) other Federal agents;

(C) reinforced cockpit doors;

(D) properly-trained armed pilots;

(E) flight attendants trained in self-defense and terrorism prevention; and

(F) electronic communications devices, such as real-time video monitoring and hands-free wireless communications devices to permit pilots to monitor activities in the cabin.

SEC. 3. FEDERAL FLIGHT DECK OFFICER PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

"§ 44921. Federal flight deck officer program

''(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security shall establish a program to deputize qualified pilots of commercial cargo or passenger aircraft who volunteer for the program as Federal law enforcement officers to defend the flight decks of commercial aircraft of air carriers engaged in air transportation or intrastate air transportation against acts of criminal violence or air piracy. Such officers shall be known as 'Federal flight deck officers'. The program shall be administered in connection with the Federal air marshal program.

''(b) QUALIFIED PILOT.—Under the program described in subsection (a), a qualified pilot is a pilot of an aircraft engaged in air transportation or intrastate air transportation who—

''(1) is employed by an air carrier;

''(2) has demonstrated fitness to be a Federal flight deck officer in accordance with regulations promulgated pursuant to this title; and

''(3) has been the subject of an employment investigation (including a criminal history record check) under section 44936(a)(1).

''(c) TRAINING, SUPERVISION, AND EQUIPMENT.—The Under Secretary of Transportation for Security shall provide or make arrangements for training, supervision, and equipment necessary for a qualified pilot to be a Federal flight deck officer under this section at no expense to the pilot or the air carrier employing the pilot. The Under Secretary may approve private training programs which meet the Under Secretary's specifications and guidelines. Air carriers shall make accommodations to facilitate the training of their pilots as Federal flight deck officers and shall facilitate Federal flight deck officers in the conduct of their duties under this program.

''(d) DEPUTIZATION.—

''(1) IN GENERAL.—The Under Secretary of Transportation for Security shall train and deputize, as a Federal flight deck officer under this section, any qualified pilot who submits to the Under Secretary a request to be such an officer.

''(2) INITIAL DEPUTIZATION.—Not later than 120 days after the date of enactment of this section, the Under Secretary shall deputize not fewer than 500 qualified pilots who are former military or law enforcement personnel as Federal flight deck officers under this section.

''(3) FULL IMPLEMENTATION.—Not later than 24 months after the date of enactment of this section, the Under Secretary shall deputize any qualified pilot as a Federal flight deck officer under this section.

''(e) COMPENSATION.—Pilots participating in the program under this section shall not be eligible for compensation from the Federal Government for services provided as a Federal flight deck officer.

''(f) AUTHORITY TO CARRY FIREARMS.—The Under Secretary of Transportation for Security shall authorize a Federal flight deck officer under this section to carry a firearm to defend the flight deck of a commercial passenger or cargo aircraft while engaged in providing air transportation or intrastate air transportation. No air carrier may prohibit a Federal flight deck officer from carrying a firearm in accordance with the provisions of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002.

''(g) AUTHORITY TO USE FORCE.—Notwithstanding section 44903(d), a Federal flight deck officer may use force (including lethal force) against an individual in the defense of a commercial aircraft in air transportation or intrastate air transportation if the officer reasonably believes that the security of the aircraft is at risk.

''(h) LIMITATION ON LIABILITY.—

''(1) LIABILITY OF AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the air carrier employing a pilot of an aircraft who is a Federal flight deck officer under this section or out of the acts or omissions of the pilot in defending an aircraft of the air carrier against acts of criminal violence or air piracy.

''(2) LIABILITY OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the officer in defending an aircraft against acts of criminal violence or air piracy unless the officer is guilty of gross negligence or willful misconduct.

''(3) EMPLOYEE STATUS OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall be considered an 'employee of the Government while acting within the scope of his office or employment' with respect to any act or omission of the officer in defending an aircraft against acts of criminal violence or air piracy, for purposes of sections 1346(b), 2401(b), and 2671 through 2680 of title 28 United States Code.

''(i) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Under Secretary of Transportation for Security, in consultation with the Firearms Training Unit of the Federal Bureau of Investigation, shall issue regulations to carry out this section.

''(j) PILOT DEFINED.—In this section, the term 'pilot' means an individual who is responsible for the operation of an aircraft, and includes a co-pilot or other member of the flight deck crew.''.

(b) CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The analysis for such chapter 449 is amended by inserting after the item relating to section 44920 the following new item:

''44921. Federal flight deck officer program.''.

(2) EMPLOYMENT INVESTIGATIONS.—Section 44936(a)(1)(B) is amended—

(A) by aligning clause (iii) with clause (ii);

(B) by striking ''and'' at the end of clause (iii);

(C) by striking the period at the end of clause (iv) and inserting ''; and''; and

(D) by adding at the end the following:

''(v) qualified pilots who are deputized as Federal flight deck officers under section 44921.''.

(3) FLIGHT DECK SECURITY.—Section 128 of the Aviation and Transportation Security Act (49 U.S.C. 44903 note) is repealed.

SEC. 4. CABIN SECURITY.

(a) TECHNICAL AMENDMENTS.—Section 44903, of title 49, United States Code, is amended—

(1) by redesignating subsection (h) (relating to authority to arm flight deck crew with less-than-lethal weapons, as added by section 126(b) of public law 107–71) as subsection (j); and

(2) by redesignating subsection (h) (relating to limitation on liability for acts to thwart criminal violence or aircraft piracy, as added by section 144 of public law 107–71) as subsection (k).

(b) AVIATION CREWMEMBER SELF-DEFENSE DIVISION.—Section 44918 of title 49, United States Code, is amended—

(1) by striking subsection (a) and inserting the following new subsection:

''(a) IN GENERAL.—

''(1) REQUIREMENT FOR AIR CARRIERS.—Not later than 60 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security, shall prescribe detailed requirements for an air carrier cabin crew training program, and for the instructors of that program as described in subsection (b) to prepare crew members for potential threat conditions. In developing the requirements, the Under Secretary shall consult with appropriate law enforcement personnel who have expertise in self-defense training, security experts, and terrorism experts, and representatives of air carriers and labor organizations representing individuals employed in commercial aviation.

''(2) AVIATION CREWMEMBER SELF-DEFENSE DIVISION.—Not later than 60 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security shall establish an Aviation Crew Self-Defense Division within the Transportation Security Administration. The Division shall develop and administer the implementation of the requirements described in this section. The Under Secretary shall appoint a Director of the Aviation Crew Self-Defense Division who shall be the head of the Division. The Director shall report to the Under Secretary. In the selection of the Director, the Under Secretary shall solicit recommendations from law enforcement, air carriers, and labor organizations representing individuals employed in commercial aviation. The Director shall have a background in self-defense training, including military or law enforcement training with an emphasis in teaching self-defense and the appropriate use force. Regional training supervisors shall be under the control of the Director and shall have appropriate training and experience in teaching self-defense and the appropriate use of force.'';

(2) by striking subsection (b), and inserting the following new subsection:

''(b) PROGRAM ELEMENTS.—

''(1) IN GENERAL.—The requirements prescribed under subsection (a) shall include, at a minimum, 28 hours of self-defense training that incorporates classroom and situational training that contains the following elements:

''(A) Determination of the seriousness of any occurrence.

''(B) Crew communication and coordination.

''(C) Appropriate responses to defend oneself, including a minimum of 16 hours of hands-on training, with reasonable and effective requirements on time allotment over a 4 week period, in the following levels of self-defense:

''(i) awareness, deterrence, and avoidance;

''(ii) verbalization;

''(iii) empty hand control;

''(iv) intermediate weapons and self-defense techniques; and

''(v) deadly force.

''(D) Use of protective devices assigned to crewmembers (to the extent such devices are approved by the Administrator or Under Secretary).

''(E) Psychology of terrorists to cope with hijacker behavior and passenger responses.

''(F) Live situational simulation joint training exercises regarding various threat conditions, including all of the elements required by this section.

''(G) Flight deck procedures or aircraft maneuvers to defend the aircraft.

''(2) PROGRAM ELEMENTS FOR INSTRUCTORS.—The requirements prescribed under subsection (a) shall contain program elements for instructors that include, at a minimum, the following:

''(A) A certification program for the instructors who will provide the training described in paragraph (1).

''(B) A requirement that no training session shall have fewer than 1 instructor for every 12 students.

''(C) A requirement that air carriers provide certain instructor information, including names and qualifications, to the Aviation Crew Member Self-Defense Division within 30 days after receiving the requirements described in subsection (a).

''(D) Training course curriculum lesson plans and performance objectives to be used by instructors.

''(E) Written training bulletins to reinforce course lessons and provide necessary progressive updates to instructors.

''(3) RECURRENT TRAINING.—Each air carrier shall provide the training under the program every 6 months after the completion of the initial training.

''(4) INITIAL TRAINING.—Air carriers shall provide the initial training under the program within 24 months of the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002.

''(5) COMMUNICATION DEVICES.—The requirements described in subsection (a) shall include a provision mandating that air carriers provide flight and cabin crew with a discreet, hands-free, wireless method of communicating with the flight deck.

''(6) REAL-TIME VIDEO MONITORING.—The requirements described in subsection (a) shall include a program to provide flight deck crews with real-time video surveillance of the cabins of commercial airline flights. In developing this program, the Under Secretary shall consider—

''(A) maximizing the security of the flight deck;

''(B) enhancing the safety of the flight deck crew;

''(C) protecting the safety of the passengers and crew;

''(D) preventing acts of criminal violence or air piracy;

''(E) the cost of the program;

''(F) privacy concerns; and

''(G) the feasibility of installing such a device in the flight deck.''; and

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

''(f) RULEMAKING AUTHORITY.—Notwithstanding subsection (j) (relating to authority to arm flight deck crew with less than-lethal weapons) of section 44903, of this title, within 180 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security, in consultation with persons described in subsection (a)(1), shall prescribe regulations requiring air carriers to—

''(1) provide adequate training in the proper conduct of a cabin search and allow adequate duty time to perform such a search; and

''(2) conduct a preflight security briefing with flight deck and cabin crew and, when available, Federal air marshals or other authorized law enforcement officials.

''(g) LIMITATION ON LIABILITY.—

''(1) AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the air carrier's training instructors or cabin crew using reasonable and necessary force in defending an aircraft of the air carrier against acts of criminal violence or air piracy.

''(2) TRAINING INSTRUCTORS AND CABIN CREW.—An air carrier's training instructors or cabin crew shall not be liable for damages in any action brought in a Federal or State court arising out of an act or omission of a training instructor or a member of the cabin crew regarding the defense of an aircraft against acts of criminal violence or air piracy unless the crew member is guilty of gross negligence or willful misconduct.''.

(c) NONLETHAL WEAPONS FOR FLIGHT ATTENDANTS.—

(1) STUDY.—The Under Secretary of Transportation for Security shall conduct a study to determine whether possession of a nonlethal weapon by a member of an air carrier's cabin crew would aid the flight deck crew in combating air piracy and criminal violence on commercial airlines.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Under Secretary of Transportation for Security shall prepare and submit to Congress a report on the study conducted under paragraph (1).

SA 4206. Mr. MILLER proposed an amendment to the bill 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, and for other purposes; as follows:

At the end add the following new title:

TITLE VIII—CORPORATE TAX RETURNS

SEC. 801. SENSE OF THE SENATE REGARDING THE SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICERS.

It is the sense of the Senate that the Federal income tax return of a corporation should be signed by the chief executive officer of such corporation.

SA 4207. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill 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, and for other purposes; which was ordered to lie on the table; as follows:

On page 101, line 25, insert after ''dealers'' the following: '', or who have conducted advisory assignments with respect to mergers and acquisitions, divestitures, corporate defense activities, restructurings, or spin-offs on behalf of the issuer,''.

SA 4208. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill 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, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . ADMINISTRATIVE SUBPOENAS.

(a) CIVIL MONEY PENALTIES.—Section 21(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(c)) is amended by inserting before the final period '', and the court may impose civil money penalties pursuant to subsection (d)(3)''.

(b) FAILURE TO COMPLY WITHOUT JUST CAUSE.—Section 21(d)(3)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(A)) is amended by inserting ''or without just cause, has failed or refused to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if in his power so to do, in obedience to the subpoena of the Commission,'' after ''pursuant to section 21A,''.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HARKIN. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on July 10, 2002 in SD–106 at 10:00 a.m. The purpose of this hearing will be to discuss energy derivatives.

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.

The hearing will take place on Thursday, July 18, at 9:30 a.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the effectiveness and sustainability of U.S. technology transfer programs for energy efficiency, nuclear, fossil and renewable energy; and to identify necessary changes to those programs to support U.S. competitiveness in the global marketplace.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, ATTN Democratic Staff,

United States Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Jennifer Michael on 202–224–7143 or Jonathan Black on 202–224–6722.

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 Subcommittee on National Parks of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, July 18, 2002, at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills:

S. 1865, to authorize the Secretary of the Interior to study the suitability and feasibility of establishing the Lower Los Angeles River and San Gabriel River watersheds in the State of California as a unit of the National Park System, and for other purposes;

S. 1943, to expand the boundary of the George Washington Birthplace National Monument, and for other purposes;

S. 2571, to direct the Secretary of the Interior to conduct a special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor as a unit of the Santa Monica Mountains National Recreation Area;

S. 2595, to authorize the expenditure of funds on private lands and facilities at Mesa Verde National Park, in the State of Colorado, and for other purposes; and

H.R. 1925, to direct the Secretary of the Interior to study the suitability and feasibility of designating the Waco Mammoth Site Area in Waco, Texas, as a unit of the National Park System, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact David Brooks of the Committee staff at (202) 224–9863.

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 Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, July 25, at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on S. 2672, to provide opportunities for collaborative restoration projects on National Forest System and other public domain lands, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Kira Finkler of the Committee staff at 202/224–8164.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. REID. 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 Wednesday, July 10, 2002. The purpose of this hearing will be to discuss energy derivatives. The hearing will take place at 9:30 a.m.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a Hearing during the session of the Senate on Wednesday, July 10, 2002, at 2:30 p.m. in SD–366.

The purpose of the hearing is to explore the present and future roles of the Department of Energy/National Nuclear Security Administration national laboratories in protecting our homeland security.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Wednesday, July 10, 2002, at 2:00 p.m. to conduct a hearing to receive testimony on the President's proposal to establish the Department of Homeland Security.

The hearing will be held in SD–406.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Wednesday, July 10, 2002, at 10:00 a.m. in SD–430 during the session of the Senate.

Agenda

S. 710, Eliminate Colorectal Cancer Act of 2001.

S. 2328, Safe Motherhood Act for Research and Treatment.

S. 812, Greater Access to Affordable Pharmaceuticals Act of 2001.

S. 2489, Lifespan Respite Care Act of 2002.

Nominations: Richard H. Carmona, of Arizona to be Surgeon General of the Public Health Service; Naomi Shihab Nye, of Texas, to be a Member of the National Council on the Humanities; Earl A. Powell III, of Virginia, to be a Member of the National Council on the Arts; Robert Davila, of New York, to be a Member of the National Council on Disability; Michael Pack, of Maryland, to be a Member of the National Council on the Humanities; Peter J. Hurtgen, of Maryland, to be Federal Mediation Conciliation Director.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, July 10, 2002, at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on Native American Elder Health Issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Wednesday, July 10, 2002, for a hearing on ''Military Exposures: The continuing challenges of care and compensation.''

The hearing will take place in SR–418 of the Russell Senate Office Building at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CRIME AND DRUGS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Crime and Drugs be authorized to meet to conduct a hearing on ''Penalties From White Collar Crime: Are We Really Getting Tough on Crime?'' on Wednesday, July 10, 2002, at 2:30 p.m. in Room 226 of the Dirksen Senate Office Building.

Agenda

Witnesses

Panel I: Michael Chertoff, Assistant Attorney General, Criminal Division, U.S. Department of Justice, Washington, DC; and William W. Mercer, U.S. Attorney for the District of Montana, U.S. Attorneys' White Collar Crime Working Group, Billings, MT.

Panel II: John C. Coffee, Jr., Adolf A. Berle Professor of Law, Columbia University Law School, New York, NY: Thomas Donaldson, Mark O. Winkelman Professor, the Wharton School, University of Pennsylvania, Philadelphia, PA; Charles M. Elson, Edgar S. Woolard, Jr. Professor of Corporate Governance, Director, Center for Corporate Governance, University of Delaware, Newark, DE; George

Terwilliger, Partner, White & Case, LLP, Washington, DC; and Tom Devine, Legal Director, Government Accountability Project, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation and Merchant Marine be authorized to meet at 9:30 a.m. on rail safety on Wednesday, July 20, 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to hold a Hearing during the session of the Senate on Wednesday, July 10, 2002, at 9:30 a.m. in SD–366.

The purpose of the hearing is to receive testimony on water resource management issues concerning the Missouri River.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT COMMITTEE ON PRINTING

Mr. REID. Mr. President, I ask unanimous consent that the Joint Committee on Printing be authorized to meet during the session of the Senate on Wednesday, July 10 at 11:00 a.m., in SR–301, Russell Senate Office Building. the Committee is holding a hearing to receive testimony from The Honorable Mitchell E. Daniels, Jr., Director, Office of Management and Budget; The Honorable Michael F. DiMario, Public Printer, United States Government Printing Office; Ms. Julia F. Wallace, Regional Depository Librarian (representing the American Library Association, Association of Research Librarians, American Association of Law Libraries, and the Medical Library Association); Benjamin Y. Cooper, Executive Vice President for Public Affairs, Printing Industries of America; Mr. William J. Boarman, President Printing, Publishing and Media Workers Sector, Communication Workers of America on federal government printing and public access to government documents.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Madam President, I ask unanimous consent Fiona Wright of my staff be given floor privileges for the duration of the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF LAVENSKI R. SMITH, OF ARKANSAS, TO BE UNITED STATES CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT

Mr. REID. Madam President, I move to proceed to executive session to consider Executive Calendar No. 903, Lavenski Smith, to be United States Circuit Judge.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

CLOTURE MOTION

Mr. REID. Madam President, this nomination is cleared on this side but because of an objection from a Member on the other side of the aisle, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 903, the nomination of Lavenski R. Smith, of Arkansas, to be United States Circuit Judge for the Eighth Circuit:

Zell Miller, Fritz Hollings, Kent Conrad, Byron L. Dorgan, Harry Reid, Jeff Bingaman, Debbie Stabenow, Jack Reed, Barbara Boxer, Patrick Leahy, Barbara Mikulski, Blanche R. Lincoln, Bob Graham, Jean Carnahan, Jay Rockefeller, Charles Schumer.

Mr. REID. Madam President, I ask unanimous consent that the live quorum prior to this vote as required under rule XXII be waived and that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

The PRESIDING OFFICER (Mr. REID). The Senator from Washington is recognized.

PROVIDING FOR AN INDEPENDENT INVESTIGATION OF FOREST SERVICE FIREFIGHTER DEATHS

Ms. CANTWELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3971, Calendar No. 446.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3971) to provide for an independent investigation of Forest Service firefighter deaths that are caused by wildfire entrapment or burnover.

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I rise today to urge the passage of this legislation. Roughly a year ago, about this time of night, my colleague, Senator MURRAY, and I stood before the Senate in a terrible moment to describe our sympathy for the deaths of four young firefighters: Devin Weaver, Jessica Johnson, Karen Fitzpatrick, and Tom Craven.

They lost their lives fighting a forest fire that had been out of control, and, as we found out, these four young people were barely trained. They were on the job, having had training, but were new, and this was their first fire.

Since that day on the Senate floor, we have had hearings, investigations, a lot of discussion, and what we found in the report from the Forest Service on the Thirtymile fire is that some of the same issues that had arisen in a fire, the Storm King fire, many years ago were the same issues that were arising again; the fact that maybe there were rules in place but they were not being followed.

When the report came back to say that, sadly, the young men and women who perished fighting the Thirtymile fire did not have to die, it was a very painful moment. The fact that they did not have to die meant we were not really implementing the processes and procedures that needed to be in place.

Tonight I am glad to say that we are taking a big step forward in assuring the oversight and accountability of the Forest Service, by making sure there is an independent investigation in the case of forest fire fatalities.

This legislation will not bring back Devin Weaver, Jessica Johnson, Karen Fitzpatrick, or Tom Craven, but it will say that the Congress—the House and the Senate—does believe there needs to be accountability, there needs to be oversight, there needs to be protection. There needs to be rules in place not just because we can point to them on a piece of paper but that they are actually being followed.

So tonight, even though it has been just 1 year, I feel at least we can go to families and say we do believe accountability is important.

I thank my colleague in the House, DOC HASTINGS, for getting this legislation passed as companion legislation to what we have.

I note that the Senate did take action earlier this year. We passed this as an amendment as part of the farm bill, and, unfortunately, it did not make it through the conference process. So we are passing this legislation tonight, to send on to the President for his signature, in hopes he will sign this in fast order and help improve the process to make sure we have accountability in the Forest Service in this particular area.

Mr. President, I ask unanimous consent the bill be read three times, passed, and the motion to reconsider be laid upon the table, with no further intervening action or debate, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3971) was read the third time and passed.

LOUISIANA STATE UNIVERSITY TIGERS MEN'S OUTDOOR TRACK AND FIELD TEAM

Mr. REID. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 298 and the Senate now proceed to its consideration.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 298) honoring the Louisiana State University Tigers Men's Outdoor Track and Field Team.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD as if read, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 298) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 298

Whereas Louisiana State University Men's Outdoor Track and Field Team won the 2002 NCAA Division I Championship;

Whereas head coach Pat Henry was awarded the MONDO NCAA Division I Coach of the Year, and led the team to victory over top seeded Tennessee;

Whereas 9 time all-American and 6 time national champion senior Walter Davis was awarded the MONDO Athlete of the Year and won the long jump event and the triple jump event in the 2002 NCAA Division I Championship hosted by Louisiana State University, as well as running the beginning leg of the 4x100 meter relay;

Whereas Tiger athletes Robert Parham, Pete Coley, and Bennie Brazell also competed in the 4x100 meter relay with a time of 38.32 seconds, the fourth fastest time in NCAA history;

Whereas Robert Parham also won his heat in the 200 meter dash with a time of 20.45 seconds and Bennie Brazell and Lueroy Colquhoun advanced to the finals in the 400 meter hurdles by winning their preliminaries with respective times of 49.57 and 49.99;

Whereas Javier Nieto finished eighth in the hammer throw to become the first Louisiana State University Tiger to be honored as an all-American in that event since 1993;

Whereas due to the efforts and abilities of the student athletes and head coach Pat Henry, the Louisiana State University Men's Outdoor Track and Field team won the 2002 NCAA Division I Championship; and

Whereas the team's victory exemplifies the hard work ethic and high goals set by Louisiana State University and the State of Louisiana: Now, therefore, be it

Resolved, That the Senate congratulates the Tigers of the Louisiana State University Men's Outdoor Track and Field team on winning the 2002 NCAA Division I Championship.

NATIONAL NIGHT OUT

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 455, S. Res. 284.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 284) expressing support for ''National Night Out'' and requesting that the President make neighborhood crime prevention, community policing, and reduction of school crime important priorities of the Administration.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid on the table, and any statements relating thereto be printed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 284) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 284

Whereas neighborhood crime is a continuing concern of the American people;

Whereas the fight against neighborhood crime and terrorism requires the cooperation of community residents, neighborhood crime watch organizations, schools, community policing groups, and other law enforcement officials;

Whereas neighborhood crime watch organizations are effective in promoting awareness about, and the participation of volunteers in, crime prevention activities at the local level;

Whereas the vigilance of neighborhood crime watch organizations creates safer communities and discourages drug dealers from operating in the communities monitored by those organizations;

Whereas the American people are concerned about violence and crime in schools, especially about incidents that result in fatalities at school, and are seeking methods to prevent such violence and crime;

Whereas community-based programs involving law enforcement personnel, school administrators, teachers, parents, and local communities are effective in reducing violence and crime in schools;

Whereas the Federal Government has made efforts to prevent neighborhood crime, including supporting community policing programs;

Whereas the Attorney General has called Federal efforts to support community policing a ''miraculous sort of success'';

Whereas the Administration has supported neighborhood watch programs through the establishment of the Citizen Corps;

Whereas on August 6, 2002, people across America will take part in National Night Out, an event that highlights the importance of community participation in crime prevention efforts;

Whereas on National Night Out participants will light up their homes and neighborhoods between 7:00 p.m. and 10:00 p.m. on that date, and spend that time outside with their neighbors; and

Whereas schools that turn their lights on from 7:00 p.m. to 10:00 p.m. on August 6, 2002, send a positive message to the participants of National Night Out and show their commitment to reducing crime and violence in schools: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals of National Night Out;

(2) recognizes that the fight against neighborhood crime and terrorism requires individuals, neighborhood crime watch organizations, schools, and community policing groups and other law enforcement officials to work together;

(3) encourages neighborhood residents, crime watch organizations, and schools to participate in National Night Out activities on August 6, 2002, between 7:00 p.m. and 10:00 p.m.; and

(4) requests that the President—

(A) issue a proclamation calling on the people of the United States to participate in National Night Out with appropriate activities; and

(B) make neighborhood crime prevention, community policing, and reduction of school crime important priorities of the Administration.

SUDDEN OAK DEATH SYNDROME CONTROL ACT OF 2001

Mr. REID. Madam President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of S. 997 and the Senate proceed to that legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 997) to direct the Secretary of Agriculture to conduct research, monitoring, management, treatment, and outreach activities relating to sudden oak death syndrome and to establish a Sudden Oak Death Syndrome Advisory Committee.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent the bill be read three times, passed, the motion to reconsider be laid upon the table; that any statements relating thereto be printed in the RECORD at the appropriate place as if given, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 997) was read the third time and passed, as follows:

S. 997

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 ''Sudden Oak Death Syndrome Control Act of 2001''.

SEC. 2. FINDINGS.

Congress finds that—

(1) tan oak, coast live oak, Shreve's oak, and black oak trees are among the most beloved features of the topography of California and the Pacific Northwest and efforts should be made to protect those trees from disease;

(2) the die-off of those trees, as a result of the exotic Phytophthora fungus, is approaching epidemic proportions;

(3) very little is known about the new species of Phytophthora, and scientists are struggling to understand the causes of sudden oak death syndrome, the methods of

transmittal, and how sudden oak death syndrome can best be treated;

(4) the Phytophthora fungus has been found on—

(A) Rhododendron plants in nurseries in California; and

(B) wild huckleberry plants, potentially endangering the commercial blueberry and cranberry industries;

(5) sudden oak death syndrome threatens to create major economic and environmental problems in California, the Pacific Northwest, and other regions, including—

(A) the increased threat of fire and fallen trees;

(B) the cost of tree removal and a reduction in property values; and

(C) loss of revenue due to—

(i) restrictions on imports of oak products and nursery stock; and

(ii) the impact on the commercial rhododendron, blueberry, and cranberry industries; and

(6) Oregon and Canada have imposed an emergency quarantine on the importation of oak trees, oak products, and certain nursery plants from California.

SEC. 3. RESEARCH, MONITORING, AND TREATMENT OF SUDDEN OAK DEATH SYNDROME.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall carry out a sudden oak death syndrome research, monitoring, and treatment program to develop methods to control, manage, or eradicate sudden oak death syndrome from oak trees on both public and private land.

(b) RESEARCH, MONITORING, AND TREATMENT ACTIVITIES.—In carrying out the program under subsection (a), the Secretary may—

(1) conduct open space, roadside, and aerial surveys;

(2) provide monitoring technique workshops;

(3) develop baseline information on the distribution, condition, and mortality rates of oaks in California and the Pacific Northwest;

(4) maintain a geographic information system database;

(5) conduct research activities, including research on forest pathology, Phytophthora ecology, forest insects associated with oak decline, urban forestry, arboriculture, forest ecology, fire management, silviculture, landscape ecology, and epidemiology;

(6) evaluate the susceptibility of oaks and other vulnerable species throughout the United States; and

(7) develop and apply treatments.

SEC. 4. MANAGEMENT, REGULATION, AND FIRE PREVENTION.

(a) IN GENERAL.—The Secretary shall conduct sudden oak death syndrome management, regulation, and fire prevention activities to reduce the threat of fire and fallen trees killed by sudden oak death syndrome.

(b) MANAGEMENT, REGULATION, AND FIRE PREVENTION ACTIVITIES.—In carrying out subsection (a), the Secretary may—

(1) conduct hazard tree assessments;

(2) provide grants to local units of government for hazard tree removal, disposal and recycling, assessment and management of restoration and mitigation projects, green waste treatment facilities, reforestation, resistant tree breeding, and exotic weed control;

(3) increase and improve firefighting and emergency response capabilities in areas where fire hazard has increased due to oak die-off;

(4) treat vegetation to prevent fire, and assessment of fire risk, in areas heavily infected with sudden oak death syndrome;

(5) conduct national surveys and inspections of—

(A) commercial rhododendron and blueberry nurseries; and

(B) native rhododendron and huckleberry plants;

(6) provide for monitoring of oaks and other vulnerable species throughout the United States to ensure early detection; and

(7) provide diagnostic services.

SEC. 5. EDUCATION AND OUTREACH.

(a) IN GENERAL.—The Secretary shall conduct education and outreach activities to make information available to the public on sudden death oak syndrome.

(b) EDUCATION AND OUTREACH ACTIVITIES.—In carrying out subsection (a), the Secretary may—

(1) develop and distribute educational materials for homeowners, arborists, urban foresters, park managers, public works personnel, recreationists, nursery workers, landscapers, naturists, firefighting personnel, and other individuals, as the Secretary determines appropriate;

(2) design and maintain a website to provide information on sudden oak death syndrome; and

(3) provide financial and technical support to States, local governments, and nonprofit organizations providing information on sudden oak death syndrome.

SEC. 6. SUDDEN OAK DEATH SYNDROME ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a Sudden Oak Death Syndrome Advisory Committee (referred to in this section as the ''Committee'') to assist the Secretary in carrying out this Act.

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Committee shall consist of—

(i) 1 representative of the Animal and Plant Health Inspection Service, to be appointed by the Administrator of the Animal and Plant Health Inspection Service;

(ii) 1 representative of the Forest Service, to be appointed by the Chief of the Forest Service;

(iii) 2 individuals appointed by the Secretary from each of the States affected by sudden oak death syndrome; and

(iv) any individual, to be appointed by the Secretary, in consultation with the Governors of the affected States, that the Secretary determines—

(I) has an interest or expertise in sudden oak death syndrome; and

(II) would contribute to the Committee.

(B) DATE OF APPOINTMENTS.—The appointment of a member of the Committee shall be made not later than 90 days after the enactment of this Act.

(3) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Committee have been appointed, the Committee shall hold the initial meeting of the Committee.

(b) DUTIES.—

(1) IMPLEMENTATION PLAN.—The Committee shall prepare a comprehensive implementation plan to address the management, control, and eradication of sudden oak death syndrome.

(2) REPORTS.—

(A) INTERIM REPORT.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit to Congress the implementation plan prepared under paragraph (1).

(B) FINAL REPORT.—Not later than 3 years after the date of enactment of this Act, the Committee shall submit to Congress a report that contains—

(i) a summary of the activities of the Committee;

(ii) an accounting of funds received and expended by the Committee; and

(iii) findings and recommendations of the Committee.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of fiscal years 2002 through 2007—

(1) to carry out section 3, $7,500,000, of which up to $1,500,000 shall be used for treatment;

(2) to carry out section 4, $6,000,000;

(3) to carry out section 5, $500,000; and

(4) to carry out section 6, $250,000.

MEASURE READ THE FIRST TIME—H.R. 4954

Mr. REID. Mr. President, it is my understanding that H.R. 4954 is now at the desk and is due for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The assistant legislative clerk read as follows:

A bill (H.R. 4954) to amend Title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize and reform payments and the regulatory structure of the Medicare Program, and for other purposes.

Mr. REID. Madam President, I now ask for its second reading and I object to my own request.

The PRESIDING OFFICER. The bill will receive its second reading on the next legislative day.

ORDERS FOR THURSDAY, JULY 11, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it recess until 9:30 a.m., Thursday, July 11; that following the prayer and the pledge, there be a period for morning business until 10:30 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the first half of the time under the control of the Republican leader or his designee and the second half of the time under the control of the majority leader or his designee; that leader time be reserved; that at 10:30 a.m. the Senate resume consideration of the accounting reform bill under the previous order; and, further, that the live quorum with respect to the cloture motion filed on the accounting bill be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. The next rollcall vote will occur at approximately 12 noon tomorrow in relation to the McConnell second-degree amendment. Cloture has been filed on this most important legislation. All first-degree amendments must be filed prior to 1 p.m. tomorrow.

RECESS 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 recess under the previous order.

There being no objection, the Senate, at 8:02 p.m., recessed until Thursday July 11, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 10, 2002:

FEDERAL COMMUNICATIONS COMMISSION

JONATHAN STEVEN ADELSTEIN, OF SOUTH DAKOTA, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 30, 2003, VICE GLORIA TRISTANI, RESIGNED.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

ROBERT BOLDREY, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM EXPIRING MAY 26, 2007, VICE JUDITH M. ESPINOSA, TERM EXPIRED.

MALCOLM B. BOWEKATY, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2006, VICE BILL ANOATUBBY, TERM EXPIRED.

HERBERT GUENTHER, OF ARIZONA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM OF TWO YEARS. (NEW POSITION)

RICHARD NARCIA, OF ARIZONA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM EXPIRING AUGUST 25, 2006, VICE NORMA GILBERT UDALL, TERM EXPIRED.

BRADLEY UDALL, OF COLORADO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2006, VICE MATT JAMES, TERM EXPIRED.

WITHDRAWAL

Executive message transmitted by the President to the Senate on July 10, 2002, withdrawing from further Senate consideration the following nomination:

STUART D. RICK, OF MARYLAND, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 2007, WHICH WAS SENT TO THE SENATE ON APRIL 9, 2002.

EXTENSIONS OF REMARKS

RECOGNIZING BONNI GAYLE TISCHLER

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. ROHRABACHER. Mr. Speaker, this month marks the end of an era in law enforcement when Bonni Gayle Tischler, the highest ranking woman to ever serve this country in federal law enforcement, leaves the United States Customs Service to pursue other opportunities in private industry. Industry's gain is truly our loss.

Ms. Tischler, the Assistant Commissioner for Field Operations at Customs and the first woman to ever hold that position, began her career at the National Republican Congressional Committee. But politics did not quench her thirst for adventure so, in 1971, she became one of the first women to become a United States Sky Marshall. In 1977, Ms. Tischler became one of the very first women to become a federal agent with the Customs Service, working undercover in the Miami based ''Operation Greenback,'' an innovative anti-money laundering program established by the United States Department of Treasury. Playing roles ranging from a crooked executive to the madam of a brothel, Ms. Tischler, by her example, proved that law enforcement and the public were the beneficiaries of strong, smart women cops.

During the Administration of President Ronald Reagan, Ms. Tischler became the first woman in the federal government to head a law enforcement field office when she took over as Special Agent in Charge in Tampa Florida. While in Tampa she oversaw the investigation into the Bank of Credit and Commerce International, the largest money laundering investigation of its kind. Her work not only gained her attention in Washington, but also resulted in a contract put out on her life.

Named, in 1997 to oversee 4,500 agents and investigative personnel at 152 field offices throughout the world, she became the first woman to become the Assistant Commissioner for Investigations at Customs. During her tenure she had responsibility for the largest money-laundering probe in U.S. history, ''Operation Casablanca,'' and ''Operation Cheshire Cat'', also the largest-ever international child pornography and exploitation case among many others.

In June of 2000, Ms. Tischler was tapped to head Customs Office of Field Operations, by far the largest segment of the Customs Service, with over 13,000 employees, a $1 billion dollar budget, 300 Ports of Entry and all Customs Management Centers and Field Laboratories.

The National Center for Women and Policing has honored her with its prestigious Lifetime Achievement Award for her work as a mentor to thousands of other women who have followed her footsteps into law enforcement careers.

Perhaps, however, her biggest challenge was personal. Bonni Tischler is a breast cancer survivor.

Today, the sight of a woman in a police uniform is not at all uncommon. This is partly due to the fact that Bonni Tischler was never an armchair feminist. While other adventuresome young women of her generation pursued careers as lawyers or businesswomen, Bonni Tischler was on the firing range, mastering the use of a gun. She marched on a different road to a different drummer and we are all better off because of it. For thousands of women today, and a countless number in the future, Bonni Tischler not only broke the glass ceiling, she shattered it, and in doing so she changed the face of federal law enforcement forever.

COMMENDING EFFORTS OF JOHN KEATING, JOE SAPERE, AND JERRY SUGGS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. PAUL. Mr. Speaker, I rise today to commend the efforts of three men, John Keating, Joe Sapere and Jerry Suggs. These three gentlemen are now embarked upon a bicycle ride across America, having begun June 8 in Newport Beach, CA with anticipated completion in Jamestown, VA on the 21st of July, the anniversary of the ''Americans with Disabilities Act'' (ADA). What is most extraordinary about this journey Mr. Speaker is that each of these gentlemen is an amputee.

John Keating, age 40, is the son of a former U.S. Defense attache and is the father of three sons. Joe Sapere, age 61, is a retired Air Force Colonel and a recent amputee. Jerry Suggs, 68, is retired form our U.S. Navy.

The reason for this trip, Mr. Speaker, is to demonstrate that life does not end with amputation, but can include high-intensity activities such as bicycling and skydiving. These men are visiting rehab facilities along the way and giving encouragement to those who have felt constrained. One young lady they have met was a tennis player and had given up the sport when she lost a leg. They convinced her to take up the racquet again and start playing.

As a Physician and Congressman, I honor these gentlemen for their efforts and invite others to learn more about these activities on line at www.amputees-across-america.com.

CONGRATULATING TASHIANNA AVERY, MAHOGANY WILLIAMS, AND WILLIAM HARRIS

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Ms. CARSON of Indiana. Mr. Speaker, I rise today to offer my heartfelt and enthusiastic congratulations to the team of Tashianna Avery and Mahogany Williams for placing first in the junior division of the National African-American History Challenge. I also wish to recognize William Harris, the team alternate, for all of his efforts in helping the team of Avery and Williams win this competition.

The first-place team of Avery and Williams won the distinguished Hayling Cup at the 100 Black Men of America's National African-American History Challenge in Orlando, FL in June. Before receiving the distinguished Hayling Cup, Avery and Williams won first-place in the junior division of the fifth annual African-American History Challenge in Indianapolis, IN.

These three young people are an excellent example that through dedication, commitment, diligence, and hard work one can accomplish great things. This extra-ordinary team has shown the people of Indiana what it means to work hard to accomplish a goal.

Mr. Speaker, to Miss Avery, Miss Williams, and Mr. Harris, congratulations on your first-place win, and continue to aspire to achieve great things.

The people of Indianapolis are very proud of you.

TRIBUTE TO MS. DELAINIA HOFFACRE

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. GARY MILLER of California. Mr. Speaker, it is with great pleasure that I rise to honor Ms. Delainia Hoffacre, teacher of visual arts at Brea-Olinda High School, for her unflagging commitment to the creative development of her students and her outstanding record of service in advancing the cultural arts in the city of Brea.

A lifetime supporter of the arts, Ms. Hoffacre is an accomplished artist with an emphasis in drawing. Incorporating her passion for art in her professional career, Ms. Hoffacre began teaching high-school level visual arts after completing her Bachelor of Science degree in Art Education at Ohio State University. During her more than sixteen years with the Brea-Olinda Unified School District (BUSD), Ms. Hoffacre has been instrumental in the development and coordination of the district-wide elementary-level arts curriculum, Artology, and has initiated the first Advanced Placement (AP) in Studio Art program. Moreover, her classroom instruction is dynamic and effective, evident by the many awards her students have earned at local art competitions, particularly in my Artistic Discovery competition.

In addition to her outstanding professional accomplishments, Ms. Hoffacre has contributed much of her free-time to enhancing the arts within the community and her impact has been dramatic. Serving as an appointed member of the Brea Cultural Arts Commission

since its inception, Ms. Hoffacre helped initiate the Art in Public Places program, the Brea Fest, featuring ''A Taste of the Arts,'' and the Brea Children's Theater, all of which continue to be popular community events. She is affiliated with the Brea Art Association and the Brea Gallery and is highly regarded among artists and community members alike for her impeccable eye for fine art.

In a time when the quality of America's educational system has become the object of national criticism and debate, it gives me great pleasure to highlight the positive contributions of exceptional teachers like Ms. Hoffacre, who not only give of themselves in the classroom, but also set an example in the community for students to emulate. Far too often, the critical role that teachers play in the development of our nation's youth is overlooked, and in some cases, even discounted. However, today it is my hope that all Americans will Join me in commending Ms. Hoffacre and teachers across the nation for their unfailing dedication, persistence, and commitment to providing students with the tools necessary for their success.

Again, I would like to congratulate Ms. Hoffacre on these accomplishments and thank her for her contributions to her students and the community.

MEDICARE MODERNIZATION AND PRESCRIPTIONS DRUG ACT OF 2002

SPEECH OF

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. CAPUANO. Mr. Speaker, I rise today in opposition to this rule and in opposition to H.R. 4954, the Medicare Modernization and Prescription Drug Act of 2002.

Tonight we are voting on legislation that represents the most drastic change in Medicare since the program was enacted in 1965. With this drastic change, one would assume there would be an open and honest rule that would allow Members to consider and vote on various legislative proposals. Unfortunately, for millions of seniors utilizing Medicare, this is not the case. Democrats have been denied the opportunity to present their plan to America's seniors. What is left is a bad bill, with no amendments, leaving no chance to make it better. Once again, the Republican Leadership of the House of Representatives has presented Members with the option of voting for a benefit that doesn't do enough, or voting for nothing at all.

The current bill includes provider reimbursements and has been endorsed by doctors and hospitals, but this bill does not provide adequate benefits to those seniors who really need it. Under the proposed bill, Medicare beneficiaries would be eligible to enroll in the drug program paying a premium estimated at $35 per month and a deductible of $250 a year. For drug expenditures between $251–$1000 the beneficiary would pay 20 percent and the government would pay 80 percent. For drug costs $1001–$2000, the program and enrollees would split the cost 50–50. Now comes the unbelievable part, for expenditures between $2000 and $3700, the enrollee would have to pay out of his own pocket. That's right—there is a $1700 gap where the seniors are left with the burden. As a result, nearly half of all seniors will fall into the gap and be forced to pay the full cost of their medications.

If we are going to give seniors a benefit, it needs to be a meaningful one that actually provides coverage. Seniors need a benefit in which they can afford their drugs and do not have to worry about their medications being covered. In addition, there should be one bill that will address the problems with Medicare reimbursement and provider payments and another that will focus solely on the needs of seniors. The bill before us is a combined version of reform—done in order to secure votes and pass. The Republicans have catered to the needs of various industries in order to pass their bill—knowing that this is the only way this proposal could stay alive. This is an insurance plan that cannot work. This legislation would rely on private insurance companies and health plans to cover the costs of the drugs. In particular, the bill before us allows insurers to refuse to participate and allows them to control costs at the expense of patients' welfare. No insurance program can work unless it attracts premiums from people who will not use the service. Those premiums are used to offset the cost associated with those beneficiaries whose drugs cost more than their premiums. This plan is doomed to failure because there is no way premiums can cover costs—especially when it is geared toward the senior population. The end result unfortunately is those seniors without insurance will still be unable to afford prescribed medicines and those seniors with insurance will continue to pay high premiums or co-pays for their insurance—ultimately changing little and helping very few.

If we in Congress are serious about strengthening Medicare for future generations, we need to invest in our seniors and Congress needs to be prepared to spend the funds necessary to provide a suitable prescription drug program. If the federal government can afford a $273 billion farm bill and an $800 billion bill making the estate tax permanent, I think we owe it to our seniors to find the money to provide a prescription drug benefit. The federal government has a responsibility to ensure that Americans who contribute to the Medicare program during their working years will have dependable, equitable, and affordable health coverage when they retire or become disabled regardless of their income or health status.

Mr. Speaker, the Democrat's intended to do that. We intended to come to the floor and present a proposal that would lower drug prices, guarantee coverage and enable seniors to get their medicines at the pharmacy of their choice. Since we have been denied a fair chance to present our proposal I cannot support this rule or the proposed bill and I urge my colleagues to vote no on both.

A BOUNTILESS HARVEST

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. MORAN of Kansas. Mr. Speaker, across Kansas, combines and harvest crews are wrapping up another wheat harvest. This year, the harvest story is not about the wheat being cut, but about the wheat that should have been cut—wheat destroyed by drought and wheat plowed into the dry ground. Where there has been wheat to harvest, low yields are evidence of the ravages of drought. While farmers see harvests come and go every year, this one will certainly not soon be forgotten. Unfortunately, this year it's the dry weather and failed crop that will be remembered.

Last year drought took a heavy toll on Kansas. This year will be far worse. In Kansas, almost a million acres of wheat have been abandoned—an area larger than the state of Rhode Island. In southwest Kansas, the driest area of the state, as much as 90 percent of the wheat planted was lost to drought. This translates into a loss of over $277 million in farm income this year. After last year's dismal crop, few thought things could get worse. But Kansas farmers now have $277 million less than last year to pay their bills and to care for their families.

Behind the millions of dollars lost from the agricultural economy are real people. I am contacted daily by farmers and ranchers hurting from last year's drought, whose difficulties have been compounded by this year's losses. In Hugoton, farmers have seen less than an inch of rain in the last year, and cracks in the earth run several feet deep. Here, there is not even enough moisture to replant failed crops. In Rolla, where the federal grassland is being closed due to drought, ranchers are selling the cattle herds they have spent a lifetime building. All across western Kansas, ranchers are liquidating herds, as the little grass that was there has been grazed to the ground.

For the last 2 years, farmers in drought-affected areas have worked tirelessly, only to come away with less than what they started with. Crop insurance alone cannot relieve the cash flow crisis of these farm families. The need for assistance is greater, and more urgent, than it was a year ago. Farmers and ranchers need help to compensate for this natural disaster.

These are tough times in farm country, and we cannot close our eyes to the seventy of this drought or the magnitude of its consequences. A dark cloud is hovering over the future of many producers in western Kansas; unfortunately, that cloud holds no rain. Without disaster assistance, this year, some farmers may simply dry up and blow away.

CONCERNING RISE IN ANTI-SEMITISM IN EUROPE

SPEECH OF

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. CAPUANO. Mr. Speaker, I rise to congratulate the House on its unanimous support of H. Res. 393, Concerning the rise in Anti-Semitism in Europe.

Last month ground was broken in Boston at our Holocaust Memorial for a Liberators' Memorial. Survivors had long urged that tribute be paid to the American and Allied soldiers who fought and died to defeat the Third Reich. It is a fitting memorial and it inspires us to defend life, liberty, and justice for all persons.

I am troubled, however, that it has become necessary to defend human dignity and religious liberty in Europe, in Western Europe, in

the twenty-first century. Anti-Semitic outrages have taken place in many countries in the European Union. Some have been shameful, like the desecration of cemeteries and synagogues. Some have been brutal assaults that maimed or blinded their victims. Some have been tragedies averted: Molotov cocktails tossed at schools or synagogues that failed to ignite the buildings. We should not trivialize the horrors of the past by foolish comparisons. These are not attempts at systematic genocide.

Nonetheless, bigotry cannot be too often or too forcefully condemned. This resolution calls on the governments of Europe to protect their Jewish citizens and to promote understanding and reconciliation among all persons. Such moral leadership is essential and, sadly, it has been lacking.

The political geography of these attacks has been particularly disturbing. In the first four months of this year, forty-three anti-Semitic episodes were reported in France. In the same period, Germany had nine and Ukraine, where the Babi Yar massacre took place, five. In Moldova, close to the anniversary of the 1903 Kishinev pogrom, there was only one. In Slovakia also, only one: gravestones defaced on Hitler's birthday.

France taught Europe to think in terms of liberty and equality. Its Declaration of the Rights of Man and the Citizen proclaimed: ''Men are born and remain free and equal in rights.'' Its revolutionary traditions shaped the Universal Declaration of Human Rights whose first article reads: ''All human beings are born free and equal in dignity and rights.'' That important moral voice needs to be heard once more.

When France was convulsed over an injustice done to one Jewish officer, Capt. Alfred Dreyfus, Emile Zola wrote a Letter to France: ''your most illustrious children have fought . . . given their intelligence and their blood to fight intolerance . . . return to yourself, find yourself once more.'' I ask that France heed Zola now.

No nation is without prejudice. We all fall short of perfect civility. None of us, unfailingly, treats all our fellow citizens as we should. It is essential, nonetheless, that all democracies invoke our shared principles.

I know that every criticism of United States policy is not an expression of ''anti-Americanism.'' Nor should this resolution been seen as anti-European. In condemning anti-Semitism, we remind European democracies of their own ideals.

PERSONAL EXPLANATION

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Ms. WOOLSEY. Mr. Speaker, yesterday I missed rollcall votes Nos. 283 and 284. Had I been present, I would have voted: rollcall No. 283—''yes'', rollcall No. 284—''yes''.

IN HONOR OF DR. LES ADELSON, A LEADER IN EDUCATION

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. SCHIFF. Mr. Speaker, I rise today to honor an outstanding citizen of California's 27th Congressional District, Dr. Les Adelson. Dr. Adelson has served as Superintendent of the South Pasadena Unified School District for nine years and has been a positive force in my Congressional District and in the field of education for much longer.

Dr. Adelson's career in education has spanned over thirty years. He began his service with the South Pasadena Unified School District over thirteen years ago as Director of Instructional Services, and in 1992 he was made Assistant Superintendent and a year later was appointed as Superintendent. During his tenure as Superintendent, he has made a positive impact on the policies of the school district, and has also received such honors as Superintendent of the Year in Los Angeles County, as well as local, State, and Parent-Teacher Association service awards.

Dr. Adelson has been a faculty member of the Special Education Department at California State University, Northridge for eighteen years, and a faculty member in the School Management Program at the University of California, Los Angeles. Dr. Adelson has also contributed much to his community through his volunteer work with the Rotary Club of South Pasadena and the City of Hope.

Les is now leaving the South Pasadena School District to take the position of Superintendent of the Moreland School District in San Jose County.

Dr. Adelson will be greatly missed in the South Pasadena community for all that he has done as an educator, an administrator, and as a man dedicated to public service. At this time, I ask all Members to join me in extending congratulations to Dr. Adelson for all that he has given to the community of South Pasadena and wish him continued success in his new endeavors.

HONORING REVEREND DAVID ARIAS

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. ROTHMAN. Mr. Speaker, I rise today to pay tribute to a great public servant and a remarkable spiritual leader—Reverend David Arias. Ordained to the priesthood just over 50 years ago on May 31, 1952 in Barcelona, Spain, Reverend Arias has served the Christian community with distinction as Auxiliary Bishop of Newark, Regional Bishop of Hudson County, Vicar of Hispanic Affairs for the Archdiocese of Newark, and Pastor of St. Joseph's of the Palisades Church.

As a voice of comfort and reason, Reverend Arias has committed himself to the church and provided guidance and wisdom to those in his congregation and community. Anyone who has ever known Reverend Arias knows full well that his heart is filled with love, compassion, and faith.

As a pillar of our community, Reverend Arias opened the Catholic Hispanic Center in Union City, was named head of the Spanish Cursillo Movement, and has written seven books including Spanish Roots in America and Spanish Cross in Georgia.

Yet Reverend Arias's record of service, numerous appointments, and accomplishments are only part of what makes him so remarkable. Anyone who has had the pleasure of his company or the opportunity to work by his side, knows that his eloquence, intellect, and dignity have made him a model leader for his congregants and a venerable advocate for the people of his community.

I wish Reverend Arias and his family all the best. We thank him for his service and commitment to our community and to the people of the great State of New Jersey.

MARKING THE 25TH ANNIVERSARY OF THE NATIONAL RENEWABLE ENERGY LABORATORY

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. UDALL of Colorado. Mr. Speaker, I rise to honor the National Renewable Energy Laboratory (NREL), based in Golden, Colorado, on the occasion of its 25th anniversary. As the Department of Energy's premier laboratory for renewable energy and energy efficiency research and development, NREL has played a critical role in advancing our knowledge and technical ability to integrate power from renewable resources into our nation's energy supply.

On July 5, 1977, NREL opened its doors. Created as the Solar Energy Research Institute, it began its work during an energy crisis, with a mission to make renewable energy a viable national energy option.

NREL has succeeded in its mission, and it continues to make remarkable strides. For a modest investment in renewable energy research and development over the last two decades, the price of wind energy has dropped from 30 cents/kWh to between 4–6 cents/kWh, mostly due to past research at NREL. Photovoltaic modules have lowered their cost by nearly a factor of ten, while the cost of solar systems has been reduced by 50 percent in the last decade. Biomass ethanol has decreased its cost per gallon from roughly $4.00 fifteen years ago to $1.20 today due to research at this laboratory. Commitment to cooperative research and development with laboratories, universities, and the private sector has led to ground-breaking technology improvements that are now beginning to make their way into the market in nearly all renewable energy technologies.

NREL's work has earned it many awards over the last 25 years. Among them are 31 R&D 100 awards, the most per researcher of any Department of Energy laboratory.

But NREL does more than good research. I have always been particularly impressed by NREL's dedication to its community in Colorado. A good example of this dedication: As a way of celebrating the laboratory's anniversary, NREL's employees chose to build an energy-efficient home for Habitat for Humanity. NREL's managing partners are funding the project, and NREL employees and their

friends and families will contribute 3,000 volunteer hours to build the house.

So NREL has a great deal to celebrate on this anniversary. As NREL Director Richard Truly remarked earlier this year, the goal of the anniversary activities is not only to call attention to NREL's great achievements, but also to recognize NREL's 1,000-plus employees, to remind stakeholders how NREL's efforts helped them achieve success, and to announce that there will be much more to come from NREL in the next 25 years.

And there must be much more to come. With total world energy use expected to double by the year 2025 and quadruple by 2100, it is clear that NREL has an increasingly important role to play in transforming the way we think about and use energy.

As co-chair of the Renewable Energy and Energy Efficiency Caucus in the House, I have consistently supported NREL's vision for a sustainable energy future. I look forward to sharing in NREL's future successes.

A SPECIAL TRIBUTE TO HARRY C. BRADFORD ON HIS RETIREMENT FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. GILLMOR. Mr. Speaker, it is with great pride that I rise today to pay special tribute to Harry C. Bradford. Harry is completing an exemplary career with the Department of Health and Human Services, and after forty-five years of dedicated service Harry entered into retirement on June 28, 2002.

Mr. Speaker, Harry began work with the former Department of Health, Education and Welfare in 1972, and, over the years, has risen through the ranks to his current position serving as Director of the Division of Payment Management, Financial Management Service, and Program Support Center for the Department of Health and Human Services. On his way to the directorship, Harry served as an Operating Accountant, Branch Chief of Governmental and Tribal Payments, and the Division of Payment Management.

Harry has proven his skills as an effective leader and organizational manager. In 1996 Harry assumed control of the federal government's largest centralized grant payment system, the HHS Payment Management System. During fiscal year 2001, the system was used to disburse over $217 billion dollars to over 23,000 recipient organizations throughout the country. Through Harry's diligent efforts, the Payment Management System has been selected by the Chief Financial Officers Council to serve as one of only two grant payment systems for the entire federal government.

Harry has been recognized for his diligent service and unselfish commitment to developing a sound system of fund disbursement and exceptional customer service. Among his numerous awards and recognition, Harry has received the U.S. Treasury Award for Distinction in Cash Management, HHS Office of the Inspector General Award for Outstanding Efforts in Cash Management. Then in 2000, Harry was awarded the HHS Program Support Center's highest award, the Premier Customer Service Award, which he dedicated to his staff for their diligent efforts.

Harry will be enjoying his retirement at his home in Upper Marlboro, Maryland with his wife and two children. He plans to pursue his many hobbies as well as continue his involvement with local church and community activities.

Mr. Speaker, I would ask my colleagues to join me in paying special tribute to Harry C. Bradford. Our federal service agencies and the American people are better served through the diligence and determination of public servants, like Harry, who dedicate their lives to serving the needs of others. I am confident that Harry will continue to serve his community and positively influence others around him. We wish him the very best on this special occasion.

TRIBUTE TO THE ST. CHARLES BORROMEO PARISH

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. SHIMKUS. Mr. Speaker, I rise today to pay tribute to the St. Charles Borromeo Parish and to commemorate over 125 years of service to the community of DuBois, Illinois.

The church's doors opened for mass on December 16, 1877, and ever since it has served as a cornerstone for religious growth throughout southern Illinois. They have spent 125 years preaching the word of Christ in DuBois and making a difference in the lives of countless individuals.

To such people as Father Melvin Vandeloo and his congregation, the motivation lies not in recognition, but rather in the good deeds themselves. Their purpose is far greater than any message my words could possibly relate. Yet, on this special day, I think it is appropriate that they are recognized for their efforts. In a time when we must come together as a nation, the members of St. Charles Borromeo Parish strive to set an example for all to follow.

To the people of the St. Charles Borromeo Parish, thank you for your unrelenting devotion to the Lord's work over the past 125 years; and may God grant you the opportunity to continue spreading His word for many years to come.

HONORING MAJ. GEN. GERALD F. PERRYMAN

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. PAUL. Mr. Speaker, I rise to honor Maj. Gen. Gerald F. Perryman, Jr. on the occasion of his retirement from his position as Assistant Deputy Chief of Staff for Warfighting Integration, Headquarters U.S. Air Force, Washington, DC. General Perryman entered the Air Force in 1970 through Texas A&M University's ROTC program. During his distinguished career he commanded the Air Force's Peacekeeper missile squadron during its transition from the Minuteman weapon system, and led the 91st Missile Group to win the 1994 Omaha Trophy as the best of U.S. Strategic Command's Air Force and Navy ballistic missile units. The general has commanded a missile wing and space wing. He also commanded 14th Air Force and was Component Commander of U.S. Air Force space operations within U.S. Space Command. As Commander of the Aerospace Command and Control, intelligence, Surveillance and Reconnaissance Center, General Perryman was responsible for integrating command and control, and intelligence, surveillance and reconnaissance for the Air Force to improve the ability of commanders to create desired effects in the battlespace. The general has served as a missile combat crew commander in the Minuteman and Peacekeeper weapons systems, and as a space warning crew commander.

Again, Mr. Speaker, I would like to commend General Perryman on the occasion of his retirement from a distinguished military career.

RECOGNITION OF DAVID SAFAVIAN

HON. CHRIS CANNON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. CANNON. Mr. Speaker, on July 11th, David Safavian will be sworn in as the Chief of Staff for the Administrator Stephen Perry at the General Services Administration. President Bush has made a wise choice, I know.

Prior to accepting his new position, David was my Chief of Staff in Washington DC. In that role, he demonstrated the dedication to public service that I wish all Federal employees had.

David never let partisanship get in the way of sound public policy. He is a leader who never forgets that only through teamwork do things get accomplished. And even though he was not born in Utah, he learned the culture, and as a result, was adopted by the Beehive State.

Theodore Roosevelt once indicated that a man who never failed is someone who never did anything. David took challenges head on, fully knowing that failure was possible. Yet he was able to keep his eye on the ultimate objective: helping the people of Utah's Third Congressional District and the United States of America.

Mr. Speaker, we remain good friends, and I will miss David's counsel. But my loss is the Administration's gain. And for that, I could not be more pleased.

CONCERNING RISE IN ANTI-SEMITISM IN EUROPE

SPEECH OF

HON. ERIC CANTOR

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. CANTOR. Mr. Speaker, I rise today in strong support of H. Res. 393. I would like to thank my colleague from New York, Mr. Crowley for introducing this resolution and for his leadership. This legislation calls for the governments of Europe to protect the safety and

well-being of their Jewish communities and cultivate an atmosphere of cooperation and reconciliation among Jewish and non-Jewish residents. The resolution urges them to act quickly to respond to the escalating violence against Jews in Europe.

In the past 18 months, there has been a significant rise in anti-Semitic attacks on Jewish people and Jewish institutions in Europe. Not since the end of World War II have we seen so much anti-Semitic violence throughout Europe. Many European leaders continue to shrug off the violence as an episode in the Mideast conflict and not a reflection of a serious problem closer to home.

In the wake of this wave of anti-Semitic violence, the Anti-Defamation League (ADL) surveyed 2,500 people from 5 European countries and the results were shocking. The survey found that nearly a third of Europeans harbor some traditional anti-Jewish views, while 62% believe the recent violence against Jews is the result of anti-Israel sentiment. The survey goes on to find that 30% of Europeans believe that Jews have too much power in the business world and nearly 1 in 4 say Jews don't care about anyone but their own kind.

In no European country is there a greater concern than in France. It has been reported that French Jews fear for their safety if they walk down the street in Paris wearing yarmulkes. In April, the Maccabi Jewish soccer team was practicing in Paris and was attacked by French youths with baseball bats. One Jewish youth was severely beaten. According to the ADL survey, only 14 percent of French respondents say they are ''very concerned'' about recent violence against Jews. Additionally, more than a third of French respondents say they are ''fairly unconcerned'' or ''not at all concerned'' by the increasing amount of anti-Semitic violence.

The festering intolerance has manifested itself through attacks on synagogues and other Jewish institutions. The seeming failure to properly speak out against these attacks brings into question the commitment of some to stamp out this wave of anti-Semitism. We in the United States must take a firm stand on this issue today. Neglecting the problem of anti-Semitism is unacceptable. I urge all my colleagues to support this resolution and send a message to Europe and the rest of the world that the United States will not sit by silently as anti-Semitism rears its head on the streets of Europe.

PERSONAL EXPLANATION

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. RILEY. Mr. Speaker, I was unavoidably detained for rollcall No. 283, on H.R. 4609, Rathdrum Prairie Spokane Valley Aquifer Study Act, had I been present I would have voted ''yea,'' on rollcall No. 284, H.R. 4858, on H.R. 2643, Fort Clatsop National Memorial Expansion Act, I would have voted ''yea'', on rollcall No. 285, the Langevin Motion to Instruct Conferees on H.R. 3295, the Help America Vote Act of 2002, I would have voted ''yea,'' on rollcall No. 286, H.R. 5063, the Armed Services Tax Fairness Act, I would have voted ''yea,'' on rollcall No. 287, H.J. Res. 393, Concerning anti-Semitism in Europe, I would have voted ''yea.''

HONORING THE RETIREMENT OF ARAPAHOE COUNTY SHERIFF PATRICK SULLIVAN

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. TANCREDO. Mr. Speaker, today I rise to honor the work of Arapahoe County Sheriff Patrick Sullivan who has chosen to retire after 19 years of service to his community, and his country.

For the past 40 years, since he was a Littleton police officer and dispatcher, he has shown an unwavering devotion to ''serve and protect.'' In 1979, he joined the Arapahoe County sheriff's office as a patrol division commander. In 1983 he was named as the undersheriff and six months later appointed to the position of Arapahoe County Sheriff after the death of his predecessor Ed Nelson who suffered a heart attack. Sheriff Sullivan went on to win four popular elections and although he is still eligible for one additional term under Colorado's term-limit laws, he has chosen to serve as the security director of Cherry Creek School District.

During his tenure as sheriff, Arapahoe County has grown from a relatively sparsely populated area of rural Colorado to a thriving suburb consisting of more than 500,000 and he has done an excellent job of dealing with the problems that arise with such rapid growth.

He has served admirably and with distinction since being appointed in June, 1983. Sheriff Sullivan was named Sheriff of the Year by the National Sheriff's Association, during the 2000 election cycle, he was the Law Enforcement Chairman for the Colorado George W. Bush for President Committee and a member of the Law Enforcement Coalition for the Republican National Committee Victory 2000. He received the Valor Award by the Kiwanis Club of Littleton and was named one of the 10 ''Outstanding Men of the Decade'' by the Littleton Times newspaper as well as ''Man of the Decade'' by the Littleton Sentinel Independent. He received the Anti-Defamation League's Civil Rights Award, and was instrumental in discussions concerning Homeland Defense from the perspective of local law enforcement.

It has been an honor to work with Sheriff Sullivan, particularly when difficult and tragic events in my district required the cool-minded consideration of experienced members of the law enforcement community. Pat Sullivan represents the best our country has to offer and in his retirement, I look forward to his continued friendship.

TRICKY ACCOUNTING

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. Paul. Mr. Speaker, I am inserting into the RECORD an article from yesterday's Financial Times written by Jude Wanniski which properly identifies our policy of fiat money as the underlying cause of most of our current market concerns as well as the true source of the worst sort of ''tricky accounting'' now occurring in the United States.

While Mr. Wanniski and I may not exactly agree on definitional issues relative to deflation and the gold standard I believe that he is completely accurate in his assessment of the approach leading to the tremors we have witnessed recently in the markets and throughout our economy. I strongly commend this article to my colleagues.

[From the Financial Times, July 9, 2002]

ACCOUNTING MISERY IS DOWN TO LACK OF A GOLD STANDARD

(From Mr. Jude Wanniski)

Sir, Martin Wolf's ''Rescue plan for capitalism'' (July 3) begins with the observation that ''the trickiest question in capitalism is how precisely companies can be controlled''. Perhaps—but the question becomes trickiest in a capitalist system with a floating unit of account. The floating dollar is at the core of the problem in the US today.

The simple reason for the accounting miseries now surfacing with Enron and WorldCom et al is that we are not on a gold standard—and for the past 30 years have been struggling through inflations and deflations.

The US Savings & Loan crisis of the 1980s was the result of inflation, which made it impossible for creditors to recover their assets. An S&L needs a gold footing so it can borrow short and lend long.

When those who made the worst loans faced bankruptcy, they made riskier and riskier loans, trying to make up for the losses. Those who were caught went to jail. Those were caught went to jail. Those who survived then benefited from the deflation that followed, where customers were required to give the S&Ls more in real terms than they had borrowed.

This is what has happened in the current monetary deflation, which has emerged over the past five years, with gold falling from $383 to as low as $253, now at $310. For the economy to recover, gold would have to be at $350—and it cannot get there as long as the Federal Reserve is not (and has no means) to target gold. At the margin, those debtors who could not pay their debts juggled the books, hoping for economic recovery that was promised by the Bush tax cuts and the Greenspan interest rate cuts, neither of which can solve the monetary deflation.

When the recovery did not come, the jugglers at Enron and WorldCom and so on had to come clean. It is something like the otherwise honest bank teller promising to return the cash as soon as his luck improves at the race track.

Note that the gold price has been in decline these past few weeks. This, I believe, is the result of the lower risks of political terrorism, as there has been progress towards diplomatic solutions in the Middle East and on the subcontinent. When there is increased risk of doing business, there is less demand for dollar liquidity; and if the Fed does not drain it off, the gold price rises. When the risk declines there is more demand for liquidity and if the Fed does not supply it, the gold price falls.

This is a nonsensical way to manage a domestic monetary regime, let alone a global capitalist system. No amount of new rules and accounting procedures can keep pace with such monetary turbulence in the unit of account.

Unless the US takes the lead in re-establishing a dollar/gold foundation to the world economy, it will have to be done elsewhere.

Both Europe and Greater China have the economic mass required to anchor the world monetary system to their currencies, as the UK once did.

PERSONAL EXPLANATION

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. WILSON of South Carolina. Mr. Speaker, I very much regret that I was unavoidably detained and unable to vote on rollcall No. 278, the motion to commit S. 2578, on June 27, 2002. Had I been present, you may be assured that I would have cast my vote in opposition. My beeper did not work.

DEPARTMENT OF VETERANS AFFAIRS RESEARCH CORPORATION ACCOUNTABILITY ACT OF 2002

HON. STEVE BUYER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. BUYER. Mr. Speaker, today I am introducing the ''Department of Veterans Affairs Research Corporation Accountability Act of 2002.''

In 1988 Congress enacted Public Law 100–322, the Veterans' Benefits and Services Act, which included a provision that gave the VA the authority to establish nonprofit research corporations. This was done to provide a flexible funding mechanism for the conduct of approved research at medical centers. Prior to giving VA this authority any funding received from private sources such as pharmaceutical companies was placed in a General Post fund. However, it became virtually impossible to track the funding stream. There was no way to identify the source of the funding, nor how the money was being spent. The impetus behind establishing the research corporations was to create an accounting mechanism whereby the VA would submit to Congress an annual report on the number and location of corporations established and the amount of contributions made to each such corporation. Unfortunately, these reports have turned out to be nothing more than ledger sheets with numbers with little or no detail.

Earlier this year, my Subcommittee held a hearing on VA Research Corporations and we heard from the VA's Assistant Inspector General for Auditing that during the years 1994 through 1997, that his office published three reports that identified the need for stricter accountability and oversight with regard to the administration of funds by the Veterans Health Administration research corporations. For instance, in 1994, the IG audit of a million dollars of the $3.6 million in expenditures spent at three research corporations and identified approximately $625,000 that was spent on salaries of medical residents, staff travel not clearly related to research or administration. Funds were also spent for non-research related conferences, honorary gifts, awards, entertainment, other than non-research expenditures. This one but one example of how money can be misspent when in this case the corporation is not held accountable.

Under current law, the VA nonprofit research corporations are required to provide Congress with an annual report summarizing their activities and accomplishments. These reports have turned out to be nothing more than bare bones financial statements. The legislation I have introduced today amends section 7366 of Title 38 of the United States Code to require each VA corporation submit a detailed statement that includes the corporation's operations, activities, and accomplishments during the preceding year to the Secretary of the VA by not later than March 1 of each year. The report should include the amount of funds received along with the source of funding; and an itemized accounting of all disbursements. Those corporations with funding in excess of $300,000 must obtain an audit of the corporation for that year, corporations with funding totaling less than $300,000 must obtain an audit every three years. These audits must be conducted by an independent auditor and shall be performed in accordance with generally accepted Government auditing standards.

The VA's Inspector General will be required to randomly review audits to determine whether or not they were carried out in accordance with the auditing standards outlined in the legislation. My bill would also extend the life of the corporations by providing authority to establish such corporations until December 31, 2006.

The VA has made tremendous contributions in the field of medical research. I think we all recognize the many accomplishments made by the VA in discovering new drug therapies and developing medical devices that have benefited not only veterans but all Americans. For instance, the VA invented the implantable cardiac pacemaker, developed the nicotine patch, performed the first successful liver transplant, and the development of the first oral vaccine for smallpox.

It is not my intention to prevent VA research from continuing to make great strides as it has in the past, but we must ensure that all research funds are directed with focus and accountability.

LYNDA SCOTT EVERETT

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. BRADY of Texas. Mr. Speaker, I rise today to pay tribute to a special lady who is not only a constituent, but a close personal friend, Lynda Scott Everett. On July 11, 2002, Lynda will receive the Texas Council of Community MHMR Centers' ''Betty Hardwick Best of Texas Award'' for her long and distinguished record of service and commitment to providing the citizens of Texas with the best possible mental health, mental retardation, and substance abuse services. Lynda is only the second person to receive this distinguished recognition.

Concerned about the quality of care her son, Andy, who suffers from autism and mental retardation, was receiving, Lynda became a tireless voice for those who could not speak out for themselves. She began her volunteerism for the mentally disabled as a consultant for the Tri-County MHMR in Montgomery County, Texas. She was then appointed to the Board of Trustees in 1989 and continued her fight for better services, stronger rights, and additional funds for more effective medications for those who are disabled. Lynda's presence was quickly felt as she attended hearings, meetings and conventions in order to improve the lives of individuals with mental disabilities, as well as their families. Her work expanded her cause across the state of Texas when she was appointed by Governor George W. Bush to the Texas Board of Mental Health and Mental Retardation in 1999.

As part of Lynda's efforts to help the mentally disabled, she also has been a member of the Texas State Autism Task Force, served on the Montgomery County United Way Campaign Cabinet, as a Board member of the Texas Council of Community MHMR Centers and the Mental Health Association in Texas, as well as being president and co-founder of the Citizens for the Developmentally Disabled.

While Lynda was also a recipient of the Montgomery County Women of Distinction Award from 1997–1999, I am personally grateful for her role as a key, and indispensable member of my first U.S. congressional campaign committee.

Mr. Speaker, I want to congratulate Lynda Scott Everett on her hard work and dedication to the mentally and physically disabled on behalf of the eighth Congressional District of Texas. She not only is an exemplary Texan, but an exemplary American with a wonderful heart and inspiring courage. As Cindy Sill, Executive Director of the Tri-County MHMR, who nominated Lynda for the ''Betty Hardwick Best of Texas Award'' said, ''She began her journey into advocacy and volunteer work to help her son, but quickly expanded her focus and has spoken for countless individuals whose voices are often not heard or ignored, . . . She makes a difference in countless lives throughout Texas.''

IN CELEBRATION OF THE 90TH BIRTHDAY OF GRACE VIGNEAU

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. LARSON of Connecticut. Mr. Speaker, I rise today to pay tribute to Grace Vigneau of East Hartford, Connecticut, who is celebrating her 90th birthday. Grace is a fellow Mayberryite whose enthusiasm and good will shine through in all she does. Her continued involvement and energy make the Energizer Bunny pale by comparison.

The impact Grace has had on our community in East Hartford is sizable and her accomplishments numerable. She was an original organizer of the Mayberry Village Social and Athletic Club and provided many years of outstanding service to the Democratic Women's Club. She is also a prime mover behind the ''Golden Girls,'' a group of women that includes my mother who have been friends for years and remain nearly as active as they were when they first met. One of their main goals is community involvement, which Grace exemplifies. I must admit, I would not be standing here on the floor of the House today without the support of Grace and the Golden Girls.

Grace is known not only for her community service, but also for her competitive spirit in my annual charity bocce tournament. For the past eleven years, Grace has displayed a superior level of skill and sportsmanship on the bocce court. No tournament would be complete without Grace's ever-present smile and humor.

Even at 90 years of age, Grace maintains her high energy level and the organizing skills that made her such a leader. I would not be surprised if the phrase ''growing old gracefully'' was created to describe Grace Vigneau. She is loved by family and friends for her infectious enthusiasm, good will, and caring ways. Therefore, I ask my colleagues to rise with me today and celebrate the 90th birthday of Grace Vigneau and wish her continued health and happiness for years to come.

PERSONAL EXPLANATION

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Ms. SCHAKOWSKY. Mr. Speaker, on roll-call Nos. 283, 284 I would have voted ''aye.''

WATER RIGHTS IN CALIFORNIA

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. STARK. Mr. Speaker, the following editorial was written by my fellow colleague from California, Representative GEORGE MILLER. It was published in The Los Angeles Times on June 20, 2002 under the title, ''Damming the Money Stream of the Water Profiteers.''

I commend Representative MILLER for eloquently addressing the issue of water rights in California. I support the conviction that California's water belongs to all Californians. We should not allow big agribusiness to profit off antiquated government subsidies at the expense of California's water-strapped communities and family farms.

The following is a reprinted version of Mr. MILLER's editorial:

[From the Los Angeles Times, June 20, 2002]

DAMMING THE MONEY STREAM OF THE WATER PROFITEERS

(By George Miller)

Californians who recently learned a very expensive lesson about futures trading from Enron Corp. may soon get a second dose of market manipulation, this time courtesy of the federal government.

Instead of watching out for the water needs—and pocketbooks—of taxpayers, the Department of the Interior may soon sign long-term water contracts that provide multimillion-dollar windfalls to agricultural corporations at the expense of cities and consumers.

A hundred years ago, Congress made a bargain with farmers in the dry West: Taxpayers would subsidize dams, canals and water to promote settlement and irrigate family farms. In return, farmers would have to repay only a fraction of the true cost of the investment. The subsidies were locked into long-term contracts that the Interior Department signed with water districts promising to deliver millions of acre-feet.

Yet for decades, some reclamation beneficiaries in California's Central Valley have been farming the taxpayers as much as the land.

Huge companies maneuvered to capture the multibillion-dollar subsidy intended for family farmers, leading Congress to close the loopholes and reduce the subsidies that encourage overuse of water resources.

Now the original water contracts are expiring, and Interior must negotiate new contracts under much tighter terms dictated by a historic 1992 water reform law. Given the growing demand for water throughout the state, some of these giant farm operations have a new scheme for enriching themselves at public expense: Instead of using subsidized water for growing crops, they want to sell some of their government-provided water back to the government—or to water-short cities or farms—for huge profits.

Bennett Raley, who is in charge of the federal water program at the Interior Department, approves. ''We believe in the free market,'' Raley says. ''It's their water.'' Well, actually, it isn't ''their'' water.

The water originates in the mountains and the rivers of this great state. It belongs not to any particular contractor or farmer but to all the people of California, who paid for its development, storage and delivery with costly subsidies. The Interior Department's customers enjoy the use of the water only because of their contracts with the government, and those contracts now need to be renegotiated.

The government signed contracts to provide subsidized water for food and fiber production, not to award a public resource to a particular group that could convert it into an annuity for personal profit. If there is a market in California for $1,000 an acre-foot—and there is—why would any responsible federal official sign a 25-year contract to sell water to farming concerns that will resell it for a profit of 800% or 1,000%?

If the water market is that healthy, why shouldn't the taxpayers, who built and subsidized the projects in the first place, get to sell the water for a large profit?

If the contractor's intent in signing a new contract is merely to market a portion of the water, then, learning from the Enron example, we should not be concentrating public resources in the hands of a few private individuals.

Yet farming interests, many with longstanding ties to the Bush administration, are pressuring federal officials to sign new contracts that deliver them control of vast amounts of water.

Water is already an overcommitted resource in California, with competing interests divided among cities, agriculture, industry and the environment. Global warming has raised concerns of diminished Sierra snowpacks and runoffs in the future, which would reduce our ability to fill our reservoirs.

Surely this is not the time for responsible government officials to commit water to one group of contractors and force the rest of the state to cut deals that enrich private interests from the sale of public resources.

Doesn't it make sense for Raley and his coworkers at the Interior Department to use great caution in deciding how much of the public's subsidized water to include in those new contracts, instead of promising vast volumes that irrigators will turn around and resell—perhaps even to the government—at a huge profit?

It's not their water, Mr. Raley, unless you give it away.

WILLIAMS SISTERS AT WIMBLEDON

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Ms. WATERS. Mr. Speaker, I rise today to congratulate Serena Williams on her impressive win at Wimbledon. Over the holiday weekend, Serena beat her older sister, Venus, to win her third grand slam title but her first Wimbledon title. I congratulate the two sisters on a great match.

Serena said she gained a lot of momentum from her French Open win, and it showed. In the end, Serena won in straight sets. With the win, Serena became the first woman to win the French Open and Wimbledon back-to-back since Steffi Graf in 1996.

The next day, the two sisters teamed up to win the Wimbledon Doubles Title over French Open champions, Paola Suarez and Virginia Ruano Pascual. While the weather did not look great, the skill these young ladies displayed certainly was. It was an entertaining match, but in the end the Williams sisters proved too strong for their opponents. They won 6–2, 7–5. With that win, the sisters' 2002 Wimbledon record was 19 wins and 1 loss. The one loss came when Venus lost to Serena in the Singles Finals.

Serena now is ranked number one in the world. Venus, who previously was ranked first, is now second. They are quickly becoming the most dominant figures in tennis. They are extremely skilled, they can hit both forehands and backhands with pinpoint accuracy. And their serves are clocked at well over 100 mph.

Venus and Serena enter each match well-prepared and confident, but the sisters always handle themselves with grace. What is perhaps most telling about them, though, is their love for each other. Even after battling it out on the tennis courts for nearly two hours, Venus said, ''Serena is my sister and I'm really happy she won, especially her first time. I would have loved to have won. At the same time, I'm so happy for her.''

These young ladies are true competitors, but also great individuals. Again, I would like to congratulate Serena on her win this past Saturday. I wish both of them, Serena and Venus, the best of luck in upcoming tournaments.

SAN MATEO SCHOOL STUDENTS DISCUSS WHAT THE AMERICAN FLAG STANDS FOR

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. LANTOS. Mr. Speaker, I would like to bring to the attention of my colleagues six of my constituents who have been selected winners in a very important essay contest. The six were authors of first, second, and third place winners in an Americanism essay competition for school children in grades 5 and 6 and in grades 7 and 8.

This contest was designed to promote and encourage patriotism. The theme for this year's competition was ''What the Flag of the

United States Stands For.'' The competition was sponsored by lodge No. 1112 of the Benevolent and Protective Order of the Elks in San Mateo, California. I want to commend the Elks for their public-spirited effort in sponsoring this competition in order to foster a spirit of patriotism among the young people of our country.

The two first place winners were Julian Zhukivsky from Park Elementary School and Salone Kapur from Borel Middle School. The second place winners were Michael Kruger of Abbott Middle School and Martin Rofael of Bayside Middle School. The third place winners were Robert Gill of St. Timothy School and Brian Dunn of St. Gregory School.

Mr. Speaker, I commend these outstanding students for their excellent essays and for their thoughtful expressions of patriotism. After the events of September 11th, the flag has become a heightened symbol of our national unity and pride.

Mr. Speaker, I ask that these six excellent essays be placed in the CONGRESSIONAL RECORD, and I urge my colleagues to read them.

FIRST PLACE WINNER (GRADES 7 & 8): SALONE KAPUR WHAT THE AMERICAN FLAG STANDS FOR

One June 14, 1777, the Continental Congress passed an act to establish an official flag for America. Today, the American Flag is eminent in all public places. The flag means a significant amount in people's lives.

The American flag is a symbol of our nation's unity, and is a source of pride and inspiration for all its citizens. We all come from different backgrounds, but here, we all unite and belong in one big family.

SECOND PLACE WINNER (GRADES 7 & 8): MARTIN ROFAEL OUR FLAG

What does the flag of the United States stand for? We always stand and salute, but some of us don't know what it represents. Our flag has a tremendous story. On July 4, 1776 the Continental Congress declared the 13 colonies free from the British to be the United States of America.

The fifty stars on our flag represent the fifty states. The white color on the flag represents purity and innocence. The blue background color on the flag represents vigilance, perseverance, and justice.

The 13 stripes on our flag represent the first 13 colonies. There are seven red stripes and six white stripes. The red color represents hardiness and valor.

Some flags have fringe, which resembles honorable enrichment. Also some flags have a gold trim which has no meaning.

That is what the flag of the United States of America means. It has awesome and tremendous meaning.

THIRD PLACE WINNER (GRADES 7 & 8): BRIAN DUNN THE MEANING OF THE FLAG

The flag represents many different things. The stripes represent the 13 original colonies and the stars represent the fifty states. It also represents our freedom, our religion, and the freedom to express however we feel. To the people in the United States the flag represents peace, love, courage, bravery and freedom. The flag is an inspiration to all of those who see it to be all that they can be. It also represents opportunity, the opportunity to succeed and become successful at whatever you want to be. But, most of all, the American flag represents the greatest country ever to inhabit this earth.

FIRST PLACE WINNER (GRADES 5 & 6): JULIAN ZHUKOVSKY THE AMERICAN FLAG

I think the flag of the United States stands for liberty and justice for all. We are all equal and have the same rights. We are made of many cultures and religions. We are united and we are one nation under God.

I think the white stripes on the flag stand for the purity of ideals. The red stripes on the flag stand for the blood of the people who fought in the war for independence in 1776. The stripes together stand for the original othirteen colonies that gave birth to the fifty states with their name of glory.

The fifty stars on the flag stand for the fifty states of our country. They are like bright stars glistening high above in the sky. Our country's flag will shine forever with those stars. Today, after the terrorist attack on September 11th, thousands of Americans have put up their American flags. They did it to show the world that we still stand for liberty and justice for all.

SECOND PLACE WINNER (GRADES 5 & 6): MICHAEL KRUGER WHAT THE FLAG OF THE UNITED STATES STANDS FOR

The United States flag stands for freedom, justice, equality, hope and faith. The freedom to live wherever you want to live and be free. Freedom also allows us the freedom of speech to say whatever we want. Justice is to be held accountable for the laws of our country and to be treated fairly. Equality is for all people to be treated equal. The faith in people to keep our country free. The flag also gives me hope and faith for my family, country and myself. When I see the United States Flag I feel very proud and lucky to be living in America. Everything on the American flag means something. There are thirteen stripes, seven are red and six are white. There is a blue box in the upper corner with fifty stars in it. The stripes represent the thirteen colonies and the stars represent the fifty states.

THIRD PLACE WINNER (GRADES 5 & 6): ROBERT GILL WHAT THE FLAG OF THE UNITED STATES STANDS FOR

To me and for a lot of other Americans the flag is a symbol of peace. There have been some difficult times but our flag will always stand for peace. I think it stands for the peace because it also stands for a peaceful country. That flag stands for the people who love it. Everybody should know it as a sign of peace and justice.

The flag also stands for being united and having liberty. When people say ''united we stand'' they don't mean just Americans, they mean everybody. Everybody does or should know that. The flag is more than just something that waves in the air, it's something we should cherish. The American Flag stands for you and me, and everyone else in this country and everyone who loves it too.

As you can see the flag stands for peace, justice, liberty, and our rights. That's why I'm proud of it!

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 11, 2002 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 16

9:30 a.m.

Energy and Natural Resources

To hold hearings to examine the Administration's plans to request additional funds for wildland firefighting and forest restoration as well as ongoing implementation of the National Fire Plan.

SD–366

10 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine livestock packer ownership issues.

SD–562

Health, Education, Labor, and Pensions

To hold hearings to examine the proposed Department of Homeland Security issues.

SD–430

Banking, Housing, and Urban Affairs

To hold oversight hearings to examine the Semi-Annual Report on Monetary Policy of the Federal Reserve.

SH–216

Environment and Public Works

Judiciary

To hold joint hearings to examine new source review policy, regulations, and enforcement activities, with respect to clean air.

SD–106

Finance

To hold hearings to examine homeland security and international trade issues.

SD–215

2 p.m.

Judiciary

Administrative Oversight and the Courts Subcommittee

To hold hearings to examine the Federal Bureau of Investigations computer hardware problems from 1992 to 2002.

SD–226

Commission on Security and Cooperation in Europe

To hold hearings to examine the state of property restitution in Central and Eastern Europe for American claimants.

334, Cannon Building

JULY 17

10 a.m.

Indian Affairs

To hold oversight hearings to examine the protection of Native American sacred places.

SR–485

Health, Education, Labor, and Pensions

Business meeting to consider S. 2394, to amend the Federal Food, Drug, and Cosmetic Act to require labeling containing information applicable to pediatric patients; S. 2499, to amend the Federal Food, Drug, and Cosmetic Act to establish labeling requirements regarding allergenic substances in food; S. 1998, to amend the Higher Education Act of 1965 with respect to the qualifications of foreign schools; proposed legislation authorizing funding for the Child Care and Development Block Grant; and the nomination of Richard H. Carmona, of Arizona, to be Medical

Director in the Regular Corps of the Public Health Service, and to be Surgeon General of the Public Health Service.

SD–430

Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 35, proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SD–226

Joint Economic Committee
To hold hearings to examine economic outlook issues.

Room to be announced

10:30 a.m.
Foreign Relations
To resume hearings on the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002 (Treaty Doc. 107–08).

SD–419

2 p.m.
Governmental Affairs
To hold hearings to examine the nomination of Mark W. Everson, of Texas, to be Deputy Director for Management, Office of Management and Budget.

SD–342

JULY 18

9:30 a.m.
Energy and Natural Resources
To hold hearings to examine the effectiveness and sustainability of U.S. technology transfer programs for energy efficiency, nuclear, fossil and renewable energy, and to identify necessary changes to those programs to support U.S. competitiveness in the global marketplace.

SD–366

10 a.m.
Indian Affairs
To hold hearings to examine proposed legislation to approve the settlement of water rights claims of the Zuni Indian Tribe in Apache County, Arizona.

SR–485

10:30 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine Food and Drug Administration regulation of tobacco products.

SD–430

2 p.m.
Indian Affairs
To hold hearings on proposed legislation to ratify an agreement to regulate air quality on the Southern Ute Indian Reservation.

SR–485

2:30 p.m.
Energy and Natural Resources
National Parks Subcommittee
To hold hearings to examine S. 1865, to authorize the Secretary of the Interior to study the suitability and feasibility of establishing the Lower Los Angeles River and San Gabriel River watersheds in the State of California as a unit of the National Park System; S. 1943, to expand the boundary of the George Washington Birthplace National Monument; S. 2571, to direct the Secretary of the Interior to conduct a special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor as a unit of the Santa Monica Mountains National Recreation Area; S. 2595, to authorize the expenditure of funds on private lands and facilities at Mesa Verde National Park, in the State of Colorado; and H.R. 1925, to direct the Secretary of the Interior to study the suitability and feasibility of designating the Waco Mammoth Site Area in Waco, Texas, as a unit of the National Park System.

SD–366

JULY 24

9:30 a.m.
Veterans' Affairs
To hold hearings to examine mental health care issues.

SR–418

10 a.m.
Indian Affairs
To hold hearings on S. 1344, to provide training and technical assistance to Native Americans who are interested in commercial vehicle driving careers.

SR–485

Joint Economic Committee
To hold hearings to examine the measuring of economic change.

311, Cannon Building

JULY 25

2:30 p.m.
Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine S. 2672, to provide opportunities for collaborative restoration projects on National Forest System and other public domain lands.

SD–366

JULY 30

10 a.m.
Indian Affairs
To hold hearings on proposed legislation concerning the Department of the Interior/Tribal Trust Reform Task Force; and to be followed by S. 2212, to establish a direct line of authority for the Office of Trust Reform Implementations and Oversight to oversee the management and reform of Indian trust funds and assets under the jurisdiction of the Department of the Interior, and to advance tribal management of such funds and assets, pursuant to the Indian Self-Determinations Act.

SR–485

JULY 31

9:30 a.m.
Finance
To hold hearings to examine the Report of the President's Commission to Strengthen Social Security.

SD–215

10 a.m.
Indian Affairs
To hold oversight hearings to examine the application of criteria by the Department of the Interior/Branch of Acknowledgment.

SR–485

AUGUST 1

10 a.m.
Indian Affairs
To hold oversight hearings to examine the Secretary of the Interior's Report on the Hoopa Yurok Settlement Act.

SR–485

2 p.m.
Indian Affairs
To hold oversight hearings to examine problems facing Native youth.

SR–485

Daily Digest

HIGHLIGHTS

House committees ordered reported 15 sundry measures.

Senate

Chamber Action

Routine Proceedings, pages S6515–S6595

Measures Introduced: Two bills were introduced, as follows: S. 2716–2717. **Page S6573**

Measures Passed:

Firefighter Deaths Investigation: Senate passed H.R. 3971, to provide for an independent investigation of Forest Service firefighter deaths that are caused by wildfire entrapment or burnover, clearing the measure for the President. **Pages S6592–93**

Honoring Louisiana State University Track and Field Team: Committee on the Judiciary was discharged from further consideration of S. Res. 298, honoring the Louisiana State University Tigers Men's Outdoor Track and Field Team, and the resolution was then agreed to. **Page S6593**

National Night Out: Senate agreed to S. Res. 284, expressing support for "National Night Out" and requesting that the President make neighborhood crime prevention, community policing, and reduction of school crime important priorities of the Administration. **Page S6593**

Sudden Oak Death Syndrome Control Act: Committee on Agriculture, Nutrition, and Forestry was discharged from further consideration of S. 997, to direct the Secretary of Agriculture to conduct research, monitoring, management, treatment, and outreach activities relating to sudden oak death syndrome and to establish a Sudden Oak Death Syndrome Advisory Committee, and the bill was then passed. **Pages S6593–94**

Accounting Reform Act: Senate continued consideration of 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, taking action on the following amendments proposed thereto: **Pages S6524–60**

Adopted:

By a unanimous vote of 97 yeas (Vote No. 169), Daschle (for Leahy) Amendment No. 4185, to provide for criminal prosecution of persons who alter or destroy evidence in certain Federal investigations or defraud investors of publicly traded securities. **Pages S6538–41**

By a unanimous vote of 96 yeas (Vote No. 170), Daschle (for Biden/Hatch) Further Modified Amendment No. 4186, to increase criminal penalties relating to conspiracy, mail fraud, wire fraud, and certain ERISA violations. **Pages S6541–42, S6544, S6548, S6551**

By a unanimous vote of 97 yeas (Vote No. 171), Lott Amendment No. 4188, to deter fraud and abuse by corporate executives. **Page S6542–43, S6545, S6549–51**

Miller Amendment No. 4206, to express the sense of the Senate that the chief executive officer of a corporation should sign the corporation's income tax returns. **Page S6557**

Rejected:

Gramm (for McConnell) Amendment No. 4175 (to Amendment No. 4174), to provide for certification of financial reports by labor organizations to improve quality and transparency in financial reporting and independent audits and accounting services for labor organizations. (By 55 yeas to 43 nays (Vote No. 168), Senate tabled the amendment.) **Pages S6524, S6526–28, S6533–34**

Withdrawn:

Miller Amendment 4176, to amend the Internal Revenue Code of 1986 to require the signing of corporate tax returns by the chief executive officer of the corporation. **Pages S6524, S6538**

Daschle (for Leahy) Amendment No. 4174, to provide for criminal prosecution of persons who alter or destroy evidence in certain Federal investigations or defraud investors of publicly traded securities. (Amendment was divided into Divisions I, II, and III.) **Pages S6524, S6528–33, S6534–38**

Gramm Amendment No. 4189 (to Amendment No. 4188), of a perfecting nature. **Pages S6543, S6548**

Daschle (for Biden) Modified Amendment No. 4190 (to Amendment No. 4186, as modified), of a perfecting nature. **Pages S6544–45, S6546–48**

Pending:

Edwards Modified Amendment No. 4187, to address rules of professional responsibility for attorneys. **Pages S6551–52, S6557–59**

Gramm (for McConnell) Amendment No. 4200 (to Amendment No. 4187), to modify attorney practices relating to clients. **Pages S6552–57**

A unanimous-consent agreement was reached providing for the consideration of certain amendments listed as follows: Levin Amendment, Gramm Amendment, Carnahan Amendment regarding electronic filing, McCain Amendment regarding accounting treatment/stock options, Dorgan Amendment regarding bankruptcy/disgorgement, Enzi Amendment regarding materiality, Schumer Amendment regarding restitution, and Murkowski Amendment regarding 9th Circuit. **Page S6554**

A unanimous-consent-time agreement was reached providing for further consideration of the bill at 10:30 a.m., on Thursday, July 11, 2002, and that at 12 noon, Senator Enzi be recognized to make a motion to table Gramm (for McConnell) Amendment No. 4200 (to Amendment No. 4187), listed above. **Page S6558**

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 Friday, July 12, 2002. **Page S6559**

During consideration of this measure today, Senate also took the following action:

Gramm/Santorum Amendment No. 4184 (to Division I of Amendment No. 4174), to provide the Board with appropriate flexibility in applying nonaudit services restrictions to small businesses, fell when Division I of Amendment No. 4174 was withdrawn. **Page S6538**

Executive Session: Senate agreed to the motion to proceed to Executive Session. **Page S6592**

Nomination—Cloture Motion Filed: A motion was entered to close further debate on the nomination of Lavenski R. Smith, of Arkansas, to be United States Circuit Judge for the Eighth Circuit and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a cloture vote on the nomination will occur on Friday, July 12, 2002. **Page S6592**

Nominations Received: Senate received the following nominations:

Jonathan Steven Adelstein, of South Dakota, to be a Member of the Federal Communications Commission for the remainder of the term expiring June 30, 2003.

Robert Boldrey, of Michigan, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring May 26, 2007.

Malcolm B. Bowekaty, of New Mexico, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring October 6, 2006.

Herbert Guenther, of Arizona, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term of two years. (New Position)

Richard Narcia, of Arizona, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring August 25, 2006.

Bradley Udall, of Colorado, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring October 6, 2006. **Page S6595**

Nominations Withdrawn: Senate received notification of withdrawal of the following nominations:

Stuart D. Rick, of Maryland, to be a Member of the Merit Systems Protection Board for the term of seven years expiring March 1, 2007, which was sent to the Senate on April 9, 2002. **Page S6595**

Messages From the House: **Page S6570**

Measures Read First Time: **Page S6570**

Executive Communications: **Pages S6570–73**

Additional Cosponsors: **Pages S6573–75**

Statements on Introduced Bills/Resolutions: **Page S6575**

Additional Statements: **Pages S6569–70**

Amendments Submitted: **Pages S6575–90**

Notices of Hearings/Meetings: **Pages S6590–91**

Authority for Committees to Meet: **Pages S6591–92**

Privilege of the Floor: **Page S6592**

Record Votes: Four record votes were taken today. (Total—171) **Pages S6534, S6541, S6551**

Recess: Senate met at 9:30 a.m., and recessed at 8:02 p.m., until 9:30 a.m., on Thursday, July 11, 2002. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S6594).

Committee Meetings

(Committees not listed did not meet)

COMMODITY FUTURES TRADING COMMISSION

Committee on Agriculture, Nutrition, and Forestry: Committee concluded hearings to examine the Commodity Futures Trading Commission, focusing on authority to insure market transparency, prevention and punishment of fraud and manipulation, and restoration of confidence in markets, after receiving testimony from Senator Feinstein; James E. Newsome, Chairman, and Thomas J. Erikson, Commissioner, both of the Commodity Futures Trading Commission; Randall Dodd, Derivatives Study Center, and Neal L. Wolkoff, New York Mercantile Exchange, both of Washington, D.C.; John C. Coffee, Jr., Columbia University School of Law, and Ernest T. Patrikis, International Swaps and Derivatives Association, Inc, both of New York, New York; and Richard C. Green, Jr., Aquila, Inc., Kansas City, Missouri.

RAILROAD SAFETY

Committee on Commerce, Science, and Transportation: Subcommittee on Surface Transportation and Merchant Marine concluded hearings to examine railway safety, focusing on positive train control, track safety, and grade crossing safety, after receiving testimony from Marion C. Blakey, Chairman, National Transportation Safety Board; Allan Rutter, Administrator, Federal Railroad Administration, Department of Transportation; David L. Gunn, President and CEO, National Railroad Passenger Corporation (Amtrak); and Edward R. Hamberger, Association of American Railroads, and Don M. Hahs, Brotherhood of Locomotive Engineers, both of Washington, D.C.

HOMELAND SECURITY

Committee on Energy and Natural Resources: Committee concluded hearings to examine the present and future roles of the Department of Energy/National Security Administration national laboratories in protecting U.S. homeland security, focusing on technical expertise, capabilities, and facilities, and the implementation of a national biodefense initiative, after receiving testimony from Linton F. Brooks, Acting Administrator, National Nuclear Security Administration, Raymond Orbach, Director, Office of Science, C. Paul Robinson, Director, Sandia National Laboratories, Harvey Drucker, Associate Director, Argonne National Laboratory, Michael R. Anastasio, Director, Lawrence Livermore National Laboratory, Don Cobb, Associate Director, Threat Reduction, Los Alamos National Laboratory, all of the Department of Energy; Billy D. Shipp, Idaho National Engineering and Environmental Laboratory, Idaho Falls; and William Happer, Princeton University Research Board, Princeton, New Jersey, on behalf of the National Academies Panel on Nuclear and Radiological Issues.

WATER RESOURCE MANAGEMENT

Committee on Energy and Natural Resources: Subcommittee on Water and Power concluded oversight hearings to examine water resource management issues on the Missouri River, focusing on the Master Water Control Manual and concerns of fish, navigation, flood control, and agriculture, after receiving testimony from Senators Daschle, Bond, Carnahan, and Johnson; Brig. Gen. David A. Fastabend, USA, Commander, Northwestern Division, U.S. Army Corps of Engineers, Department of Defense; Bill Hawks, Under Secretary of Agriculture for Marketing and Regulatory Programs; David P. Smith, Deputy Assistant Secretary for Fish, Wildlife, and Parks, and Margaret Sibley, Director, Office of Policy, Bureau of Reclamation, both of the Department of the Interior; Dale L. Frink, North Dakota State Water Commission, Bismark; Douglas Hofer, South Dakota Department of Game, Fish, and Parks, Pierre; Michael Wells, Missouri Department of Natural Resources, Jefferson City; and Tex G. Hall, Three Affiliated Tribes, (Mandan, Hidatsa, and Arikara Nations), New Town, North Dakota.

HOMELAND SECURITY

Committee on Environment and Public Works: Committee concluded hearings to examine the President's proposal to establish the Department of Homeland Security, after receiving testimony from Tom Ridge, Director, Office of Management and Budget Transition Team.

BUSINESS MEETING

Committee on Health, Education, Labor, and Pensions: Committee ordered favorably reported S. 710, to require coverage for colorectal cancer screenings, with an amendment in the nature of a substitute.

BUSINESS MEETING

Committee on Indian Affairs: Committee ordered favorably reported S. 210, to authorize the integration and consolidation of alcohol and substance abuse

programs and services provided by Indian tribal governments, with an amendment in the nature of a substitute.

NATIVE AMERICAN ELDER HEALTH

Committee on Indian Affairs: Committee concluded oversight hearings on Native American elder health issues, focusing on the University of North Dakota National Resource Center's Native American aging study of the long-term care and health care needs of America's Native American elders, after receiving testimony from Edwin Walker, Director, Centers for Wellness and Community-Based Services, Administration on Aging, and Kathleen Annette, Area Director, Bemidji Area, Indian Health Service, both of the Department of Health and Human Services; Richard L. Ludtke and Leander McDonald, both of University of North Dakota Center for Rural Health National Resource Center on Native American Aging, Grand Forks; Dave Baldridge, National Indian Council on Aging, Albuquerque, New Mexico; and Frederick Baker, Three Affiliated Tribes Mandan, Hidatsa, and Arickara Elder's Organization, New Town, North Dakota.

WHITE COLLAR CRIME

Committee on the Judiciary: Subcommittee on Crime and Drugs resumed hearings to examine issues concerning detection and punishment of white collar crime, focusing on the Administration's initiative to give prosecutors new weapons to fight white-collar crime, including the establishment of a Corporate Fraud Task Force within the Department of Justice, and certain provisions of S. 2010, Corporate and Criminal Fraud Accountability Act of 2002 (pending on the Senate Calendar), receiving testimony from Michael Chertoff, Assistant Attorney General, Criminal Division, and William W. Mercer, United States Attorney, District of Montana, and Chairman, Attorney General's Advisory Committee Subcommittee on Sentencing, both of the Department of Justice; John C. Coffee, Jr., Columbia University School of Law, New York, New York; Thomas Donaldson, University of Pennsylvania Wharton School, Philadelphia; Charles M. Elson, University of Delaware Center for Corporate Governance, Newark; and George J. Terwilliger III, White and Case, and Tom Devine, Government Accountability Project, both of Washington, D.C.

Hearings recessed subject to call.

MILITARY HAZARDOUS AGENTS EXPOSURE

Committee on Veterans' Affairs: Senate concluded hearings to examine the efforts of the Departments of Defense and Veterans Affairs to provide health care information and support to veterans who have potentially been exposed to harmful agents during their military service, including the investigation into Project SHAD (Shipboard Hazard and Defense) and recent revelations about the 1960's Pentagon chemical/biological warfare agent testing program known as Project 112, after receiving testimony from Daniel L. Cooper, Under Secretary of Veterans Affairs for Benefits; William Winkenwerder, Assistant Secretary of Defense for Health Affairs; Richard F. Weidman, Vietnam Veterans of America, and Steven R. Smithson, American Legion's National Veterans Affairs and Rehabilitation Commission, both of Washington, D.C.; and Leonard A. Cole, Rutgers University Department of Political Science, Newark, New Jersey.

House of Representatives

Chamber Action

Measures Introduced: 7 public bills, H.R. 5084–5090; and 4 resolutions, H. Res. 477–480, were introduced. **Page H4497**

Reports Filed: Reports were filed today:

H.R. 4870, to make certain adjustments to the boundaries of the Mount Naomi Wilderness Area, amended (Rept. 107–561); and

H.R. 4807, to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Susquehanna National Wildlife Refuge (H. Rept. 107–562). **Page H4497**

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Cooksey to act as Speaker pro tempore for today. **Page H4431**

Guest Chaplain: The prayer was offered by the guest Chaplain, Rev. Robert W. Horner III, Senior Pastor, Peachtree Corners Baptist Church of Norcross, Georgia. **Page H4431**

Arming Pilots Against Terrorism Act: The House passed H.R. 4635, to amend title 49, United States

Code, to establish a program for Federal flight deck officers by a yea-and-nay vote of 310 yeas to 113 nays, Roll No. 292. **Pages H4440–71**

On the Oberstar demand for a separate vote on the DeFazio amendment agreed to in the Committee of the Whole, the House agreed to the DeFazio amendment No. 11 printed in the Congressional Record of July 9 that removes the 2-percent cap on the number of pilots who may be deputized as Federal flight deck officers and makes the program permanent by a yea-and-nay vote of 251 yeas to 172 nays, Roll No. 291. **Pages H4470–71**

Pursuant to the rule, the Committee on Transportation and Infrastructure amendment in the nature of a substitute now printed in the bill (H. Rept. 107–555 Part1) was considered as an original bill for the purpose of amendment. **Page H4448**

Agreed to:

Mica amendment No. 10 printed in the Congressional Record of July 9, as modified, that includes provisions dealing with the storage, discharge, and accidental discharge of firearms, risks of catastrophic failure of an aircraft as a result of a misfire, self defense training for flight attendants, and further requires a decision by the Transportation Security Administration within 90 days of enactment on the use of less-than-lethal weapons by pilots; **Pages H4450–52**

Hostettler amendment No. 9 printed in the Congressional Record of July 9 that prohibits air carriers from taking retaliatory action against pilots from becoming a Federal flight deck officer and specifies that no air carrier shall prohibit a Federal flight deck officer from piloting an aircraft operated by the air carrier or terminate the employment of a Federal flight deck officer solely on the basis of his or her volunteering for or participating in the program; and **Pages H4464–66**

DeFazio amendment No. 11 printed in the Congressional Record of July 9 that removes the 2-percent cap on the number of pilots who may be deputized as Federal flight deck officers and makes the program permanent (agreed to by a recorded vote of 250 ayes to 175 noes, Roll No. 288); **Pages H4452–59, H4467**

Rejected:

Hostettler amendment No. 8 printed in the Congressional Record of July 9 that sought to remove the 2-percent cap on the number of pilots who may be deputized as Federal flight deck officers and requires the Transportation Security Administration to train 20 percent of all pilots who volunteer for the program within 30 days of enactment and train 80 percent by the last day of the 2-year pilot program (rejected by a recorded vote of 169 ayes to 256 noes, Roll No. 289); and **Pages H4460–63, H4467–68**

Hostettler amendment No. 7 printed in the Congressional Record of July 9 that sought to remove the preference to pilots who are former military or law enforcement personnel (rejected by a recorded vote of 49 ayes to 376 noes, Roll No. 290). **Pages H4459–60, H4463–64, H4468–69**

Agreed to H. Res. 472, the rule that provided for consideration of the bill by voice vote. **Pages H4435–40**

Committee Election: The House agreed to H. Res. 477, electing Representative Forbes to the Committee on Science. **Page H4472**

Senate Messages: Message received from the Senate today appears on page H4431.

Amendments: Amendments ordered printed pursuant to the rule appear on page H4498.

Quorum Calls—Votes: Two yea-and-nay votes and three recorded votes developed during the proceedings of the House today and appear on pages H4467, H4467–68, H4468–69, H4470–71, and H4471. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 7:50 p.m.

Committee Meetings

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS

Committee on Appropriations: Subcommittee on Energy and Water Development approved for full Committee action the Energy and Water Development appropriations for fiscal year 2003.

HOMELAND SECURITY ACT

Committee on Armed Services: Ordered reported, as amended, H.R. 5005, Homeland Security Act of 2002, to the Select Committee on Homeland Security.

REFORMING—INDIVIDUALS WITH DISABILITIES EDUCATION ACT

Committee on Education and the Workforce: Held a hearing on Reforming the Individuals with Disabilities Education Act: Recommendations from the Administration's Commission on Excellence in Special Education. Testimony was heard from Terry Branstad, Chairman, President's Commission on Excellence in Special Education.

FINANCING ACCOUNTING STANDARDS BOARD ACT

Committee on Energy and Commerce: Subcommittee on Commerce, Trade, and Consumer Protection approved for full Committee action, as amended, H.R. 5058, Financial Accounting Standards Board Act.

OVERSIGHT—CORPORATION FOR PUBLIC BROADCASTING

Committee on Energy and Commerce: Subcommittee on Telecommunications and the Internet held a hearing on Corporation for Public Broadcasting Oversight and a Look Into Public Broadcasting in the Digital Era. Testimony was heard from public witnesses.

HOUSING AFFORDABILITY OF AMERICA ACT

Committee on Financial Services: Ordered reported, as amended, H.R. 3995, Housing Affordability of America Act of 2002.

HOMELAND SECURITY ACT

Committee on International Relations: Approved a motion to report recommendations on H.R. 5005, Homeland Security Act of 2002, favorably, as amended, to the Select Committee on Homeland Security.

MISCELLANEOUS MEASURES; HOMELAND SECURITY ACT

Committee on the Judiciary: Ordered reported the following bills: H.R. 3838, to amend the charter of the Veterans of Foreign Wars of the United States organization to make members of the armed forces who receive special pay for duty subject to hostile fire or imminent danger eligible for membership in the organization; H.R. 3214, to amend the charter of the AMVETS organization; and H.R. 3988, to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion.

The Committee approved a motion to report H.R. 5005, Homeland Security Act of 2002, favorably, as amended, to the Select Committee on Homeland Security.

The Committee also approved private relief measures.

MISCELLANEOUS MEASURES

Committee on Resources: Ordered reported the following bills: H.R. 4749, amended, Magnuson-Stevens Act Amendments of 2002; H. Con. Res. 419, requesting the President to issue a proclamation in observance of the 100th Anniversary of the founding of the International Association of Fish and Wildlife Agencies; 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. 3917, amended, Flight 93 National Memorial Act; H.R. 4620, America's Wilderness Protection Act; H.R. 4739, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of a project to reclaim and reuse wastewater within and outside of the service area of the City of Austin Water and Wastewater Utility, Texas; H.R. 4822, Upper Missouri River Breaks Boundary Clarification Act; H.R. 4840, amended, Sound Science for Endangered Species Act Planning Act of 2002; S. 238, Burnt, Malheur, Owyhee, and Powder River Basin Water Optimization Feasibility Study Act of 2001; S. 356, Louisiana Purchase Bicentennial Commission Act; and S. 1057, Pu'uhonua O Honaunau National Historical Park Addition Act of 2001.

HOMELAND SECURITY ACT

Committee on Science: Approved a motion to submit recommendations on H.R. 5005, Homeland Security Act of 2002, favorably, as amended, to the Select Committee on Homeland Security

ADMINISTRATION'S CLIMATE CHANGE INITIATIVE

Committee on Science: Held a hearing on the Administration's Climate Change Initiative. Testimony was heard from John H. Marburger, Director, Office of Science and Technology Policy; James R. Mahoney, Assistant Secretary, Oceans and Atmosphere, NOAA, Department of Commerce; and Robert G. Card, Under Secretary, Energy, Science, and Environment, Department of Energy.

HOMELAND SECURITY ACT

Committee on Ways and Means: Ordered favorably reported, as amended, H.R. 5005, Homeland Security Act, to the Select Committee on Homeland Security.

Joint Meetings

GOVERNMENT PRINTING AND PUBLIC DOCUMENT ACCESS

Joint Committee on Printing: Committee concluded hearings to examine the role of the Government Printing Office in handling federal agency printing needs and ways for ensuring open and effective information dissemination, focusing on the Office of Management and Budget proposal to reform how Executive Branch agencies procure printing, after receiving testimony from Mitchell E. Daniels, Jr., Director, Office of Management and Budget; Michael F. DiMario, Public Printer, Government Printing Office; Benjamin Y. Cooper, Printing Industries of America, Inc., Alexandria, Virginia; Julia F. Wallace, University of Minnesota Government Publications Library, Minneapolis, on behalf of the American Library Association, American Association of Law Libraries, Association of Research Libraries, and Medical Library Association; and William J.

Boarman, Communications Workers of America, Washington, D.C.

COMMITTEE MEETINGS FOR THURSDAY, JULY 11, 2002

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: business meeting to mark up proposed legislation making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, 2 p.m., S–128, Capitol.

Subcommittee on Treasury and General Government, business meeting to consider to mark up proposed legislation making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, 2:30 p.m., S–128, Capitol.

Committee on Commerce, Science, and Transportation: to hold hearings to examine the U.S. Climate Action Report concerning global climate change, 9:30 a.m., SR–253.

Committee on Energy and Natural Resources: to hold hearings to examine the Department of Energy's Environmental Management program, focusing on DOE's progress in implementing its accelerated cleanup initiative, and the changes DOE has proposed to the EM science and technology program, 10 a.m., SD–366.

Committee on Environment and Public Works: to hold hearings to examine the progress of national recycling efforts, focusing on federal procurement of recycled-content products and producer responsibility related to the beverage industry, 9:30 a.m., SD–406.

Committee on Finance: business meeting to consider S. 321, to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the Medicaid program for such children; S. 724, to amend title XXI of the Social Security Act to provide for coverage of pregnancy-related assistance for targeted low-income pregnant women; and S. 1971, to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to protect the retirement security of American workers by ensuring that pension assets are adequately diversified and by providing workers with adequate access to, and information about, their pension plans, 10 a.m., SD–215.

Subcommittee on Social Security and Family Policy, to hold hearings on S. 848, to amend title 18, United States Code, to limit the misuse of social security numbers, to establish criminal penalties for such misuse, 2 p.m., SD–215.

Committee on Foreign Relations: Subcommittee on African Affairs, to hold hearings to examine implementing United States policy in Sudan, 2:30 p.m., SD–419.

Committee on Health, Education, Labor, and Pensions: business meeting to consider S. 2328, to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to ensure a safe pregnancy for all women in the United States, to reduce the rate of maternal morbidity and mortality, to eliminate racial and ethnic disparities in maternal health outcomes, to reduce pre-term, labor, to examine the impact of pregnancy on the short and long term health of women, to expand knowledge about the safety and dosing of drugs to treat pregnant women with chronic conditions and women who become sick during pregnancy, to expand public health prevention, education and outreach, and to develop improved and more accurate data collection related to maternal morbidity and mortality; S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; S. 2489, to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care; and the nominations Naomi Shihab Nye, of Texas, and Michael Pack, of Maryland, each to be a Member of the National Council on the Humanities; Earl A. Powell III, of Virginia, to be a Member of the National Council on the Arts; Robert Davila, of New York, to be a Member of the National Council On Disability; and Peter J. Hurtgen, of Maryland, to be Federal Mediation and Conciliation Director, 10 a.m., SD–430.

Subcommittee on Employment, Safety and Training, to hold hearings to examine workplace safety and health oversight of the Mine Safety Health Administration and Occupational Safety and Health Administration regulation and enforcement, 10 a.m., SD–419.

Committee on Indian Affairs: to hold hearings to examine contemporary tribal governments, focusing on challenges in law enforcement related to the rulings of the U.S. Supreme Court, 10 a.m., SR–485.

Committee on the Judiciary: business meeting to consider H.R. 3375, to provide compensation for the United States citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001; S. 486, to reduce the risk that innocent persons may be executed; S. 862, to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2002 through 2006 to carry out the State Criminal Alien Assistance Program; S. 2395, to prevent and punish counterfeiting and copyright piracy; S. 2513, to assess the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence; S. Res. 293, designating the week of November 10 through November 16, 2002, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country; the nominations of John M. Rogers, of Kentucky, to be United States Circuit Judge for the Sixth Circuit; and Marcos D. Jimenez, to be United States Attorney for the Southern District of Florida, Miriam F. Miquelon, to be United States Attorney for the Southern District of Illinois, James Robert Dougan, to be United States Marshal for the Western District of Michigan, and George Breffni Walsh, of Virginia, to be United States Marshal for the District of Columbia, all of the Department of Justice, 10 a.m., SD–226.

House

Committee on Agriculture, to consider recommendations on H.R. 5005, Homeland Security Act of 2002, 9:30 a.m., 1300 Longworth.

Committee on Appropriations, to consider the following appropriations for fiscal year 2003: Legislative; and the Agriculture, Rural Development, Food and Drug Administration and Related Agencies, 10 a.m., 2359 Rayburn.

Committee on Armed Services, Special Oversight Panel on Terrorism, hearing on Army and Air Force initiatives to improve anti-and counter-terrorism operations, 8:30 a.m., 2212 Rayburn.

Committee on Energy and Commerce, to consider the following: recommendations to H.R. 5005, Homeland Security Act of 2002; and H. Con. Res. 385, expressing the sense of the Congress that the Secretary of Health and Human Services should conduct or support research on certain tests to screen for ovarian cancer, and Federal health care programs and group and individual health plans should cover the tests if demonstrated to be effective; 9:30 a.m., 2123 Rayburn.

Subcommittee on Health, hearing on ''Protecting the Rights of Conscience of Healthy Care Providers and a Parents' Right to Know,'' 3 p.m., 2322 Rayburn.

Committee on Government Reform, to consider H.R. 5005, Homeland Security Act of 2002, 10 a.m., 2154 Rayburn.

Committee on International Relations, Subcommittee on the Middle East and South Asia, hearing on the following bills: H.R. 1795, Middle East Peace Commitments Act of 2001; and H.R. 4693, Arafat Accountability Act, 2:15 p.m., 2172 Rayburn.

Committee on the Judiciary, Subcommittee on the Constitution, to mark up H.R. 4965, Partial-Birth Abortion Ban Act of 2002, 2 p.m., 2237 Rayburn.

Committee on Resources, Subcommittee on Fisheries Conservation, Wildlife and Oceans, oversight hearing on the Developing Crisis Facing Wildlife Species due to Bushmeat Consumption, 11 a.m., 1324 Longworth.

Subcommittee on Forests and Forest Health, oversight hearing on Wildfire on the National Forest: An Update on the 2002 Wildland Fire Season, 10 a.m., 1334 Longworth.

Committee on Small Business, Subcommittee on Regulatory Reform and Oversight, hearing on The Small Business Health Market: Bad Reforms Higher Prices and Fewer Choices, 10 a.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, to consider H.R. 5005, Homeland Security Act of 2002, 11 a.m., 2167 Rayburn.

Committee on Veterans' Affairs, Subcommittee on Health, to mark up H.R. 3645, Veterans Health-Care Items Procurement Reform and Improvement Act of 2002, 11 a.m., 334 Cannon.

Committee on Ways and Means, Subcommittee on Social Security, to continue hearings on Social Security Disability Programs' Challengers and Opportunities, 10 a.m., B–318 Rayburn.

Select Committee on Homeland Security, hearing entitled ''Transforming the Federal Government to Protect America from Terrorism,'' 10 a.m., 345 Cannon.

Next Meeting of the SENATE

9:30 a.m., Thursday, July 11

Senate Chamber

Program for Thursday: After the transaction of any morning business (not to extend beyond 10:30 a.m.), Senate will continue consideration of 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. At approximately 12 noon, Senate will vote on the motion to table Gramm (for McConnell) Amendment No. 4200 (to Amendment No. 4187).

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, July 11

House Chamber

Program for Thursday: Consideration of H.R. 2486, Inland Flood Forecasting and Warning System Act (open rule, one hour of general debate); and

Consideration of H.R. 2733, Electronic Enterprise Integration Act (open rule, one hour of general debate).

Extensions of Remarks, as inserted in this issue

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