House of Representatives

The House met at 10 a.m.
The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Father of all in the human family, open our minds, hearts and imaginations to ever greater compassion for all our brothers and sisters, especially those in most need of Your mercy and our attention.

Let arbitrary boundaries or blinding prejudice not set limits to our concern. Ward off the pride that comes with worldly wealth and positions of power, that leaders in government and corporate America may be Your instruments to establish equal justice and stability in this Nation.

Give Members of this House the courage to open themselves in love to the service of Your people now and forever.

Amen.

PLEDGE OF ALLEGIANCE

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

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

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 of the House of the following title:

H.R. 3971. An act to provide for an independent investigation of Forest Service firefighter deaths that are caused by wildfire entrapment or burnover.

The message also announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 997. An act 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.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 15 one-minutes on each side.

WORKING 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, our chaplain just spoke of opening our hearts with love in this country and solving some of our great dilemmas, homeland security, the fight against terrorism and, yes, corporate responsibility.

I hope the other side of the aisle listened to that prayer carefully because I think what we need today is people to open their hearts with love and kindness thinking about the American economy and our citizens and their 401(k)s and their futures. Rather than pointing fingers at the President and Vice President CHENEY, let us work together to solve the problem.

On April 24, we sent over a bill to the other Chamber that passed 334 to 90: 119 Democrats voted for it. It is about accountability. It is about establishing a good audit committee. It is about peer review and oversight to ensure corporations factually report their numbers, but it has languished because the majority leader does not have time for the important bills that face this Nation, and he happens to be a Democrat.

All of a sudden when it breaks in the headlines, he is in a panic and he is asking everybody to rally around the Democratic bill.

There is a bill on his desk. There has been a bill on his desk since April 24. Wake up, smell the coffee, get that bill passed, and we will restore moral order.

SANTA ANA KIWANIS CLUB CONTRIBUTION TO LITERACY

(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 the Santa Ana Kiwanis Club for its efforts to curb illiteracy in my district. The Kiwanis Club has donated $5,000 to the Orange County Board of Education to finance the printing of 20,000 bilingual booklets that encourage parents to read to their children. The aim of the booklets is to increase the listening and the verbal vocabularies of children, both of which help to improve reading abilities.

I am thankful that my parents took the time to read with me while I was growing up. Their dedication to my education helped me to improve my reading ability and to get good grades in school. My parents knew that success in the classroom and in life depended on a grasp of basic life skills like reading, and I commend the Kiwanis Club of Santa Ana for their efforts to improve literacy among the children of Santa Ana.
FORKER OF THE WEEK AWARD

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

Mr. HEFLEY. Mr. Speaker, since 1971 taxpayers have subsidized Amtrak to the tune of $25.3 billion, yet they have not received a reliable or efficient mode of transportation in exchange for 31 years. Amtrak has not made a profit.

Almost since its inception Amtrak has hemorrhaged money in all directions, particularly on many of its routes. Of the 40-plus routes of Amtrak, only two are profitable. Its worst performing route, from Los Angeles to Orlando, loses $347 per passenger, meaning it would be cheaper for Amtrak to keep the train on the platform and buy its passengers airline tickets.

Last year, Amtrak ended the year with a record operating loss of $1.1 billion and a $5.8 billion backlog in maintenance and repair.

Despite receiving Federal funds totaling $5 billion in the last 5 years, Amtrak has made no progress toward achieving self-sufficiency and is in a weaker financial condition than in 1997.

It is time to wean Amtrak from the public trough. Amtrak gets my Porker of the Week Award this week and it ought to get the Porker of the Week Award for several decades, as a matter of fact.

CONGRATULATING MARTHA DE NORFOLK

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

Ms. ROS-LEHTINEN. Mr. Speaker, I congratulate Martha De Norfolk, a single mother in my congressional district who has worked to found and maintain the Arthrogryposis Foundation. In order to help her disabled child Bryant Amastha and other local children, Mrs. De Norfolk has dedicated her time and effort to the success of this foundation.

One in every 3,000 babies is born with arthrogryposis, which limits the motion in joints and causes severe muscle weakness. In the classic case of this disease, hands, wrists, elbows, shoulders, hips, feet and knees are affected.

Most people with this disease are of normal intelligence and are able to lead productive lives. However, if not treated through physical therapy or surgery, this disease can become fatal as the body deforms so that internal organs are unable to function properly.

With the help of the foundation that my constituent Martha De Norfolk is running, these children suffering with this disease will soon have financial assistance and support groups on which to depend, and local doctors will have access to education on this disease and its treatment, and that is why I congratulate her today.

CORPORATE EVILDOERS ABROAD IN THE LAND

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

Mr. DeFAZIO. Mr. Speaker, the gentleman from Florida talked about the phony reform that was passed by this House and the fact that the Senate will not take it up. Thank God for the Senate.

That was a phony reform. It was written by the securities industry. It was written to them with a feather duster. Now there are corporate evildoers abroad in the land, and they have stolen and diverted billions, bankrupted firms, thousands of hard-working Americans have lost their jobs, millions of seniors’ savings and pensions evaporated, and even the President has noticed.

He went to Wall Street to admonish his corporate contributors not to do it again, but not to worry. Harvey Pitt, the former security firm lobbyist, has been named to head the enforcement agency, but he did not go to the President’s speech because he was on vacation at the beach hobnobbing with the same corporate evildoers he is supposed to be investigating, his former clients. We do not have to worry about a thing, I guess.

WORKING TOGETHER ON A BIPARTISAN BASIS

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

Mr. SHERMAN. Mr. Speaker, so much corporate malfeasance, so little time, so much to do. I join with the earlier speaker in saying that we should work together on a bipartisan basis, and indeed this House did pass a bill in April, but it passed a bill in which virtually every Democratic amendment was rejected out of hand, rejected on a partisan vote.

So we do not have a bill that requires the SEC to actually read the financial statements of the largest companies and make sure that they are not misleading or obtuse.

We do not have a requirement that audit firms have malpractice insurance or that they require their technical review partners to sign off on their audits.

What we have is a bill that is bipartisan in form only. Working together is not just working with the other body. It is working with both sides of the aisle.

Let me also take this opportunity to commend the Financial Accounting Standards Board whose slow and ineffective action makes the House and the Senate look effective by comparison.

WE NEED A STATE DEPARTMENT THAT FIGHTS FOR OUR CITIZENS

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

Mr. LAMPSON. Mr. Speaker, my mother used to tell me where there is a will, there is a way. Last month, the Committee on Government Reform held a hearing on U.S. women and children who are being held in Saudi Arabia, and that continues to play out in the news. While the situation in Saudi Arabia obviously deserves attention, the issue of international child abduction exists in countries all over the world. Right now, and my colleagues have heard the story that I am telling about Ludwig Koons who is being held in Italy, one of our closest friends. Ludwig Koons is a young boy who has been there in Italy for 3 years being held by his mother in a pornographic compound, and the Italian authorities and our State Department did nothing essentially to help.

For years I have been working with left-behind parents who are trying to get their children back where they belong, and for years I have witnessed a State Department that does nothing tangible to help. We need a State Department that fights for United States citizens, not an idle information agency.

This issue is one that none of us can afford to ignore. Be aware, put pressure on those other countries that are not
sending their children home. American parents are asking for someone to help and help them bring their children home. If the State Department had the will, they would find a way to bring our children home.

BALANCED ENERGY POLICY VITAL TO AMERICA'S NATIONAL SECURITY

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

Mr. KNOLLENBERG. Mr. Speaker, I rise today to urge the House and Senate conferees to reach a compromise on energy legislation that President Bush can sign into law this Congress. In this time of war, we forget about that sometimes a balanced energy policy has never been more vital to America's national security.

In fact, it is long overdue. It is estimated that we import about 60 percent of our energy, much of which comes from hostile parts of the world. When the American people are confronted with quotes from Saddam Hussein urging other nations to use oil as a weapon against the United States, the pressing need for an energy bill cannot be any clearer.

A balanced energy policy is also crucial to spur a much-needed economic rebound. Less reliance on foreign energy imports and increased domestic production would create hundreds of thousands of jobs for the American people. That is jobs in this country.

I urge my colleagues to reach a compromise and pass this legislation. It will protect and revitalize our national and economic security.

CORPORATE RESPONSIBILITY

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

Ms. WOOLSEY. Mr. Speaker, the strength of our economy is built on the honesty, integrity and transparency of our financial institutions. Over the years, weakened Federal regulation of accounting practices has allowed corporate greed to run rampant and has led to the failure of some of our largest businesses. When these businesses fail, thousands of employees lose their jobs and pensions while corporate executives become rich. These captains of industry do not stay with a sinking ship, they jump off first, and they jump off with all the treasure.

This is not a simple problem of a few bad apples; the problems are systemic, and we need major changes in our country's accounting practices of our corporations.

What is important to remember is that when corporations fail, workers lose their jobs, families hit hard times and children suffer. There must be a zero tolerance for corporate corruption.

CORPORATE RESPONSIBILITY

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

Mrs. MYRICK. Mr. Speaker, corporate responsibility and personal integrity is on almost every American's mind. After all, honesty and integrity have always been the backbone of our American way of life.

When I was a young girl, I used to frequently see my dad seal a business deal with a handshake, which he always honored. There sure is not a lot of that going around today, is there?

We, the Members of Congress, have an opportunity to play an important role, beyond our usual duties, in determining the future direction of America. We have a very clear choice of either being examples of steadfast integrity or continuing to just be more examples of the lack of integrity we see so much of today.

Which will it be?

CORPORATE RESPONSIBILITY

(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, why was President Bush's speech on Tuesday so badly received? Why did the Republicans who attended the speech just say it was mere politics and not substance? Why did the market drop hundreds of points after the President made his speech on Tuesday?

It is because of a lack of confidence in the Bush-Cheney team. That is that we will demand accountability from its big contributors on Wall Street and its CEO friends; because of the coziness that the Bush-Cheney team have with wealthy interest group after wealthy interest group.

Let me give an example. Three weeks ago, President Bush and House Republicans trooped off to a big fund-raiser where the prescription drug industry gave $2 million to the Republicans. The next day, on a party-line vote on amendment after amendment after amendment, the consumer side lost and the drug industry side won.

The oil industry is writing energy legislation for the Republicans; the chemical industry is writing environmental legislation, Wall Street is writing Social Security privatization legislation, the insurance companies are writing Medicare privatization legislation, and the pharmaceutical companies are writing prescription drug legislation.

Mr. Speaker, it must stop.

PRESIDENT CALLS FOR NEW ETHIC OF RESPONSIBILITY

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

Mrs. BIGGERT. Mr. Speaker, I rise in support of President Bush's plan to cut down on corruption in America's corporate community. The President's plan creates tough new criminal penalties and enforcement provisions to punish those who refuse to play by the rules.

This is America, and those who break the law and threaten the integrity of our financial markets must to the piper and return their ill-gotten gains.

Mr. Speaker, the House earlier this year took steps to codify the President's plan into law, even before his address on Wall Street. On March 7, the President first said that CEOs or other corporate executives should not profit from erroneous financial statements. He also said that corporate officers who clearly abuse their power should not serve in the leadership of public companies.

The House overwhelmingly passed a bipartisan accounting reform bill in April that included both of these initiatives. When the President called, the House responded.

As we continue to install a new ethic of corporate responsibility, we must strike the right balance between empowering the SEC to do a better job and not overregulating or tying ourselves up in unnecessary red tape. At the end of the day, we must punish the crooks, not the honest brokers.

CORPORATE RESPONSIBILITY

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

Ms. SOLIS. Mr. Speaker, corporate responsibility. Well, my colleagues, Enron got away with robbing thousands of pension holders from their life savings; and millions of workers are watching us, waiting to see why there is a double standard. Why is it that someone who walks into the local grocery store, who picks up maybe a box of Cracker Jacks gets thrown into jail and the CEOs that rob thousands and millions of people, pensioners and retirees, of their life savings do not have anything going against them. No record, no nothing. They are let off with hardly a scandal.

The other thing I want to bring up is, why are we allowing for corporate America to get away with not paying for the pollution that they create in our waters, in particular Superfund sites? I have two Superfund sites in my own district now, and I ask why is it that the Bush-Cheney administration is allowing for the pollution and not doing anything about it.

We, the Members of Congress, have an opportunity to play an important role, beyond our usual duties, in determining the future direction of America. We have a very clear choice of either being examples of steadfast integrity or continuing to just be more examples of the lack of integrity we see so much of today.

Which will it be?
H4502
CONGRESSIONAL RECORD — HOUSE July 11, 2002

TRIBUTE TO ALFRED L. WATKINS

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

Mr. ISAKSON. Mr. Speaker, I am pleased to stand today and pay tribute to a man of great vision in my district, Alfred Watkins.

Twenty years ago, he took over the leadership of a brand-new high school in my community. He built a music program from 78 participants to the largest music program in public education east of the Mississippi River. His children have won the John Philip Sousa Award, the Louis Sudler Flag Award, a Grammy for the best music program in a public school, twice marched in the Grand Parade at the Tournament of Roses, the World’s Fair, and the Macy’s Thanksgiving Day Parade.

But is his legacy the great music or the great music his children perform? No. It is countless numbers of young people who, through the discipline of participation and through the appreciation of music, are changing the lives of other people all over this country.

Alfred Watkins has been a visionary leader who has been great for our community and great for its children. Dr. Theodore Hesburgh once said, “Leadership requires that you have a vision, for without a vision, you cannot blow an uncertain trumpet.” It is ironic that Alfred Watkins was a trumpeter, and how ironic are my district’s children, who are a symphony of perfection.

CORPORATE RESPONSIBILITY THREATENS HOMELAND SECURITY

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

Mr. McDERMOTT. Mr. Speaker, the House is now throwing themselves as fast as they can at developing a homeland security plan. Somehow, however, we have forgotten half the problem. The problem of the external dangers we have forgotten half the problem. We have discovered the importance of corporate accountability.

To date, this Administration’s “See no evil, hear no evil” approach has produced and condoned a steady stream of corporate misconduct in this country. So long as more special-interest lobbyists are appointed to fill key regulatory roles and the Administration continues to conspire with House Republicans to undermine every genuine reform that is proposed, the President’s newly professed concern amounts to little more than a fresh coat of paint on rotten wood, very rotten wood.

The American people can see right through the thin paint and see the damage that is caused to retirement savings, to investors’ earnings, and to taxpayers that are cheated by corporations that use accounting tricks to avoid paying their fair share.

Our patience has been exploited and our trust has been taxed by the culpable inaction, indifference, and complacency of this Administration and its House Republican allies.

RESPONSIBLE FOREST MANAGEMENT

(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, it is summertime, and out West it is the height of the fire season. Every day we ask our brave fire fighters to risk their lives to put out these dangerous blazes. Unfortunately, their job is made more difficult primarily due to extreme environmental groups.

The U.S. Department of Agriculture reported that nearly half of the 2002 projects to reduce wildfires and wildfire risks have been blocked by lawsuits brought by these same extreme environmental groups. These delays have significantly slowed efforts to remove the tinder-dry overgrowth out of our Federal forests and contributed greatly to the West’s worst fire year on record. With half of the fire season left, more than 3 million acres have been lost to forest fires and wildfires, lost for all Americans to enjoy, lost for 100 years to come.

Today, the Subcommittee on Forests and Forest Health of the Committee on Resources will hold a hearing to address this issue. We need to find a way to end the misguided crusade against responsible forest management. Only then will we be able to prevent destructive wildfires that decimate our national forests.

BUSH DISCOVERS IMPORTANCE OF CORPORATE ACCOUNTABILITY

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

Mr. DOGGETT. Mr. Speaker, like a preacher welcoming every convert to the fold, we welcome all converts, no matter how belated their interest in controlling corporate corruption.

To date, this Administration’s “See no evil, hear no evil” approach has produced and condoned a steady stream of corporate misconduct in this country. So long as more special-interest lobbyists are appointed to fill key regulatory roles and the Administration continues to conspire with House Republicans to undermine every genuine reform that is proposed, the President’s newly professed concern amounts to little more than a fresh coat of paint on rotten wood, very rotten wood.

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LEXINGTON COUNTY PEACH FESTIVAL

(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. Mr. Speaker, South Carolina is the second largest producer of peaches in the Nation, and yesterday fresh peaches from South Carolina were hand delivered to every congressional office.

I would like to commend the efforts of the South Carolina Farm Bureau, the South Carolina Peach Council, and the interns and staffers for their efforts yesterday in delivering the peaches on Capitol Hill.

Last Thursday, I was honored to be the guest Speaker at the 44th annual Lexington County Peach Festival in Gilbert, South Carolina. This wonderful event is held every July 4th, a time for patriotic families to come together to celebrate the independence of our great Nation. The festival features a parade with wonderful floats and, of course, fresh peaches, peach ice cream, and peach cobbler available for everyone.

I would like to thank all the supporters and organizers of the Lexington County Peach Festival and especially the festival coordinator, Raymond Price, along with Gilbert mayor, Phil Price, first Lady, Fayette Price, and long-time parade coordinator, R. J. Taylor.

My family has attended 32 Lexington County Peach Festivals, and I look forward to many more years of this special July 4th celebration.

CORPORATE RESPONSIBILITY

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

Mr. HINOJOSA. Mr. Speaker, recent corporate scandals, including Enron, WorldCom, Tyco, Merck, Rite-Aid, Xerox, and so many other corporations have demonstrated the need for our government to take action and bring order, justice, and trust back to our Nation’s corporate infrastructure. Criminal practices put in place by criminals, and the executives who were named in the suits brought by these same extreme environmental groups.

To date, the U.S. Department of Agriculture reported that nearly half of the 2002 projects to reduce wildfires and wildfire risks have been blocked by lawsuits brought by these extreme environmental groups. These delays have significantly slowed efforts to remove the tinder-dry overgrowth out of our Federal forests and contributed greatly to the West’s worst fire year on record. With half of the fire season left, more than 3 million acres have been lost to forest fires and wildfires, lost for all Americans to enjoy, lost for 100 years to come.

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Our patience has been exploited and our trust has been taxed by the culpable inaction, indifference, and complacency of this Administration and its House Republican allies.
High-level executives who have defrauded investors, misled employees, and mismanaged company pension funds must be held accountable.

I support legislation that requires honest accounting, independent investment advice, sensible regulation, and criminal penalties for those guilty of wrongdoing. We cannot have economic growth without eliminating corporate crime.

HIV/AIDS FUNDING
(Mr. KIRK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIRK. Mr. Speaker, the HIV epidemic is making headlines in the international AIDS conference in Barcelona. New projections concerning the disease show there is little good news.

Secretary Thompson leads the U.S. delegation, and I thank him for his recent commitment to work with China to fight HIV. The United States will sponsor collaboration with China using a $14 million CDC grant for research on HIV prevention and treatment. China currently has over a million cases of HIV, estimated to rise to over 10 million by 2010. HIV has no cure, and prevention is our only means to fight it.

Since the President set a precedent for funding CDC work in China, he should also fund the U.N. population fund. UNFPA provides family planning services in 140 countries, including Mexico, and supports HIV awareness campaigns in 78 countries. The $34 million approved by Congress for UNFPA is being held because UNFPA works in China, but we are now funding CDC work in China, so it is hard to see the distinction.

Mr. Speaker, we need every tool to fight this lethal disease. Our contribution to UNFPA will help reduce the migration pressure on the United States, reduce the damage of overpopulation, and slow the spread of HIV. I urge the President to fund both CDC and UNFPA.

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

Mr. PASCRELL. Mr. Speaker, the other evening the President provided a policy speech on corporate accountability. In response to the President's speech, business experts such as John Bogle, founder of Vanguard Group, and corporate executives such as John Lay, joined FERC last June, he said it was FERC's job to act like a vigilant market cop walking the beat.

I would say the fox is guarding the hen. These regulators ought to resign.

CORPORATE RESPONSIBILITY
(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, when I was selling football programs at the University of Georgia back when I was in junior high, I was robbed once. Two older kids beat me up and took about $100. I felt humiliated and violated. Victims of crime, and I have talked to many victims of crime, it is a very personal thing.

But yet when somebody steals a worker's pension plan, their retirement money, or cooks the books and devalues the stock, there is no difference. In fact, I would say the criminals who come out of the closet and beat their victims up and take their money are, if anything, more noble than corporate CEOs who do this behind the books of accounting procedures and fancy talk, and certainly do not follow the general accounting principles.

As the President is moving on this legislation, we passed it out of the House 3 months ago, but let us get it to the conference committee so we can address corporate accountability. America needs it. Business integrity is important for the prosperity of our country.

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

Mr. EHLERS. Mr. Speaker, some corporate executives have been lying and cheating. They have betrayed their companies, their stockholders, their employees, and the public. I am angry about it. They are as bad as the previous speaker said, as bad as a street punk who mugs someone. It is totally unacceptable behavior.

At the same time, we have to recognize this is just a small fraction of the corporate executives in the country, just as the aberrant priests in the Catholic Church are a very small fraction of that church. Or the number of members in this body who are accused and convicted of breaking the law are a small number of this body. Nevertheless, their behavior is totally unacceptable, and we have to take action.

It is not simply a matter of changing the law or strengthening the law, although that may be part of it. What we need is enforcement of the law. I am pleased President Bush went to Wall Street yesterday and spoke to them about the need for enforcing the law and enforcing requirements to do that. It is not just a matter of punishment, but we also should seek retribution from these highly paid executives who have cheated employees out of their 401(k) accounts, who betrayed stockholders and reduced the value of the company, and not only that, have scarred the American public from participating in the stock market.

Mr. Speaker, it is high time that our Nation take action against these individuals, both through regulation and enforcement of the law as it happens soon. The American people are angry at this betrayal of the free enterprise system. I am angry about it, and we have to see that something is done about it.

PROVIDING FOR CONSIDERATION OF H.R. 2486, INLAND FLOOD FORECASTING AND WARNING SYSTEM ACT OF 2002
Mr. DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 473 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 473
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 Consent Resolution for consideration of the bill (H.R. 2486) to authorize the National Weather Service to conduct research and development, training, and outreach activities related to inland forecasting improvement, and for other purposes. The first reading of the bill shall be dispensed with. 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 Science. After general debate the bill shall be reported 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 nature of a substitute recommended by the Committee on Science now printed in the
bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee on Science may accede prior in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record for the purpose in clause 8 of rule XVIII. Amendments so printed 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 each amendment adopted by 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 (Mr. QUINN). The gentleman from Florida (Mr. DIAZ-BALART) is recognized for 1 hour.

Mr. DIAZ-BALART. 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. DIAZ-BALART asked and was given permission to revise and extend his remarks.)

Mr. DIAZ-BALART. Mr. Speaker, House Resolution 473 is an open rule providing for the consideration of H.R. 2486, the Inland Flood Forecasting and Warning System Act of 2002. The rule provides 1 hour of general debate evenly divided and controlled by the chairman and ranking minority member of the Committee on Science. This is a fair and balanced rule that will afford Members every opportunity to debate the important issue before us.

The underlying legislation will help to improve the capability to forecast accurately inland flooding associated with tropical cyclones. Florida knows the fury of hurricanes all too well, but the damage goes much deeper than that which occurs on our battered coasts.

As storms move inland, they begin to slow and often come to a stop over a particular area. The residents of my congressional district in western Miami-Dade County have seen firsthand the damage that inland flooding can cause. Hurricanes and other tropical disturbances cause homes to flood and streets to become impassable. The danger associated with this type of flooding is a major issue that many Americans are simply not aware of.

This legislation instructs the National Weather Service to develop, test, and deploy an inland flood warning system to aid public and emergency management officials. With passage of the legislation, we will also provide increased training to improve forecasting and risk-management techniques for inland flooding.

Mr. Speaker, this is a good bill. It will help protect Americans across the Nation. I urge, accordingly, my colleagues to support this open 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 Florida (Mr. Diaz-Balart) for yielding the customary 30 minutes. This is a fair and open rule for a non-controversial bill. H.R. 2486 will direct the National Oceanic and Atmospheric Administration, through the U.S. Weather Research Program, to improve the ability to accurately forecast inland flooding. Additionally, this bill will direct NOAA to develop, test, and install a new flood warning index so that weather service personnel and local meteorologists will be able to explain the danger of inland flooding to the public.

Currently, the National Weather Service does not have the ability to accurately forecast coastal inland flooding caused by either tropical cyclones or excessive heavy rains. This legislation will give the National Weather Service the technology to better forecast these natural disasters.

More specifically, the information that will be provided by the National Weather Service to the American public is a vital step towards limiting fatalities and property damage.

As many remember, Hurricane Floyd killed 48 people and caused almost $3 billion in property damage to inland locations in 1999. One year later, Tropical Storm Allison left areas of Texas with over 35 inches of rain, and then continued its course through the southwest, ultimately leading to the deaths of more than 50 people.

Over the past week, eight people have died and two remain missing as a result of over 30 inches of rain in Texas. According to the Red Cross, at least 48,000 houses have been affected by this rainfall and flash flooding.

Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. Ehlers), the distinguished chairman of the Subcommittee on Environment, Technology, and Standards of the Committee on Science.

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

Mr. Speaker, most Americans do not understand the power of floods until they encounter them. Floods cause an immense amount of damage to this Nation and also cause an average of approximately 100 deaths per year throughout America. Most Americans are not aware of how dangerous they are. We do not know how to survive them, and we are not prepared to mitigate them.

Floods cause an average of $1 billion in property damage each year and often result in long-term economic impacts. Flooding affects every Congressional District in this country. The force of only 6 inches of swiftly moving water can easily knock people off their feet, push them along, and carry them away into a nearby stream. The force of 2 feet of moving water can sweep cars away.

I am sure all of us have seen night after night on the evening news pictures of cars being trapped in water, and we say, how could that happen? How could these people not know the danger? But it fools us. We think it is a small amount of water, but there is so much force that it can easily stall a car, sweep it away and carry it down that river.

The public needs more useful information about flooding, about the nature of floods, the damage from floods, and, most importantly, they need more and better information about when floods are likely to occur.

The bill that is before us, H.R. 2486, the Inland Flood Forecasting and Warning System Act, which came out...
of our subcommittee, provides that the National Oceanic and Atmospheric Administration, better known as NOAA, will have a $6 million authorization for a 5-year period to, first of all, develop a new flood warning index that will give the public, the media, and emergency managers more useful information about the risks and dangers posed by expected floods.

We have done very well in this country in terms of tornado warnings, we have done very well in terms of hurricane warnings, and we have saved not just hundreds, but thousands, of lives over the past few decades with these new warning systems that have been in place. But we have ignored the need to warn people about floods; and not just about the general nature of a flood, but we have to outline roughly the boundaries of the expected flood so people know when to evacuate before the water hits them. So this bill will help develop the new flood warning index that is needed to save lives, a warning that is affordable by the public, can be easily broadcast by the media, so that we can give warnings out so people will know precisely what to do before the flood hits.

The second aspect of the bill is that it would research and develop, new flooding models, to improve the capability to more accurately forecast inland flooding due to tropical storms. Most people are not aware of the fact that deaths from hurricanes are not from these strong winds that come in from offshore. Most of the deaths are due to floods which occur when the hurricane moves inland and drops huge amounts of rain with resulting flood waters occurring.

It is an excellent bill. I was very pleased to work with the gentleman from North Carolina (Mr. ETHERIDGE) on this bill. We have perfected it in every way possible. It will serve the people of our Nation well. I urge that we pass this rule and then pass the bill.

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

Mr. DIAZ-BALART. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, the rule provides for consideration of H.R. 2733, the Enterprise Integration Act of 2002. The rule allows the consideration of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the bill and amendments thereto to be considered as read. At the conclusion of consideration of the bill for amendment, the Speaker shall be considered as read. Each section of the committee amendment in the nature of a substitute shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the committee amendment. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider an original House of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Science. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider an original House of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Science now printed in the bill. Each amendment of the committee amendment in the nature of a substitute shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the committee amendment. The resolution before us is an open rule that provides for consideration of H.R. 2733, the Enterprise Integration Act of 2002. The rule allows...
for 1 hour of general debate and provides that the amendment in the nature of a substitute recommended by the Committee on Science shall be considered as an original bill for the purposes of amendment. Priority in recognition is given to Members whose amendments were preprinted in the CONGRESSIONAL RECORD. Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, the House will consider H.R. 2733, the Enterprise Integration Act. The bill authorizes the National Institute of Standards and Technology to work with major manufacturing industries to set standards for developing and implementing electronic enterprise integration. Before the Internet, factories were automated on their own with no consideration of how to share manufacturing data. Factories installed software packages that best met their individual needs or customized software to address particular problems. This resulted in a typical supply chain where suppliers of a variety of different and incompatible software packages. The burden resulting from incompatible software was more pronounced further down the supply chain as smaller companies had to comply with all the manufacturers higher up the chain. These companies, which must bear the greatest burden, tend to be the ones least able to afford multiple software systems.

However, the Internet and other technological advances have made it possible for manufacturing companies to work together electronically, something that was impossible just a few years ago. This seamless exchange of information, along with the vertical supply chain, is known as enterprise integration. For example, if Ford Motor Company decided to change a design specification for a bumper, every one of the suppliers that contribute to that part would then have the ability to easily and quickly see the new specification and how it would impact their component.

This integration helps large and small businesses all along the supply chain to reduce costs and productivity times.

A 1999 study commissioned by the National Institute of Standards and Technology estimated that enterprise integration in the auto supply chains of General Motors, Ford, and Chrysler would result in a potential savings of at least $1 billion annually. The National Institute of Standards and Technology will involve the manufacturers, and electronics manufacturers, just to name a few.

One solution to compatibility problems is for companies to develop standards for the exchange of product data. Through this legislation, the NIST, which has 20 years of experience in this area, will be tasked to work with government and industry representatives to identify and develop ways of enterprise standardization and integration.

The measure also requires NIST to work with companies and trade associations to raise awareness of enterprise integration activities, as well as developing training materials for businesses to participate in an integrated enterprise.

Manufacturers today must be more flexible, efficient, and responsive to the changing needs and preferences of consumers. The European Union understands the importance of enterprise integration and has agreed to develop and aggressively developing standardized protocols in such areas as I have talked about. In order to maintain and remain competitive to ensure that international standards are compatible with U.S. software packages, the United States must be active in helping to develop these standards.

Mr. Speaker, in this day where technological advances such as those tied with our economic prosperity, we must take the necessary steps to streamline our operations and ensure that there is coordination from top to bottom. I commend the gentleman from New York (Mr. Boehlert), the chairman of the Committee on Science, and the Committee on Science for taking this necessary first step to ensure that our manufacturing industries are not only able to function more efficiently, but also to remain competitive worldwide.

I urge my colleagues to support this fair and open rule, as well as the underlying legislation.

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

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me the courtesy from top to bottom. I commend the gentleman from New York (Mr. Boehlert), the chairman of the Committee on Science, and the Committee on Science for taking this necessary first step to ensure that our manufacturing industries are not only able to function more efficiently, but also to remain competitive worldwide.

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Mr. Speaker, I reserve the balance of my time.
“graduated” from the facility and moved to new larger facilities in our community. By their graduation, the combined numbers grew from 13 to 61, a nearly 370 percent increase. In 2001, the facility graduated twice as many firms, and we look forward to them doubling the success of their predecessors.

It is my firm hope that other regions of the country will benefit from similar programs, and I urge my colleagues to support this measure.

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

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Grand Rapids, Michigan (Mr. Ehlers), the rocket scientist from the Republican Conference.

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

In 1994, when I first arrived in this Congress, I was absolutely astounded. I went to my office and, first of all, found that I did not have a computer in my office, but when I tried to use staff computers, I discovered that I could send an e-mail more easily and more rapidly to Moscow than I could to a colleague 20 feet down the hall. Why was that? Because in the House of Representatives, we had allowed a system to develop that did not have standards for the whole House of Representatives, and each Representative had a kingdom where they had set their own standards for their computer systems. Each individual system could not talk to another.

When the Republicans took the majority, then Speaker Gingrich put me to a colleague 20 feet down the hall. Why was that? Because in the House of Representatives, we had allowed a system to develop that did not have standards for the whole House of Representatives, and each Representative had a kingdom where they had set their own standards for their computer systems. Each individual system could not talk to another.

Today, we have a system that seamlessly allows over 10 million e-mails a month to flow between offices in this Capitol, saving us a lot of money and a lot of staff time. That is an illustration of what we can accomplish with standards. Without standards, there had been barely functioned in terms of Internet usage, e-mail and Web sites. Today, with standards, it functions extremely well, and the American people have access to each and every one of us almost instantaneously and the American public, through Web sites, can receive information on our activities instantaneously.

This bill is about something similar. It will help industry by setting standards—so that enterprises working together. Let me give an example.

A smaller auto parts supplier from my district visited me recently. As my colleagues know, in Michigan we make a lot of automobiles and we have many auto parts suppliers around the State. He had a good business. But he commented that he was working very well with the Japanese manufacturer. He was making parts for this manufacturer, who manufactured cars in this country. But they had a good system working together.

Everything was computerized, everything was set up from the beginning so each side knew exactly what the other was doing, and they could relate to each other well. But with the American manufacturers, they did not have that relationship. They were trying to establish it, but it was going to be different than the one with the Japanese manufacturer. In order to have to have two different systems to deal with these two different manufacturers.

That does not make sense, and that is what this bill is about: so that small business suppliers can be assured that whichever manufacturer he makes parts for, he will be able to use the same communication system via the Internet, and that his business will flourish, because it will reduce his expenses tremendously.

This bill will help both large and small manufacturers alike, because it will cut costs and improve efficiency. By taking advantage of information technology such as the Internet and other parameters to that, our manufacturing industry will be able to fully integrate their supply chain so information will be able to flow freely up and down the supply chain.

This integration, however, will require the development of standards on how the information is going to be exchanged between businesses within a supply chain. Going back to my example of the small parts supplier working with the Japanese manufacturer and the American manufacturer, each of them thinks their own standards are the best. There has to be some outside force that works out the differences and gets agreement.

This bill will provide that outside force by supporting this integration through authorizing the National Institute of Standards and Technology, better known as NIST, to work with industry to identify what research, testing, and development needs to be undertaken to develop these information exchange standards. NIST has been in the standards business for over 150 years. They are experienced at this. They are experts at bringing together different parties and establishing standards, and this is the logical place to put this particular effort.

This legislation provides NIST an authorization of $47 million over 4 years, starting with $2 million in fiscal year 2002 and ramping up to $20 million in fiscal year 2005; and with this money, they will be able to carry out this effort.

Mr. Speaker, I urge my colleagues to support this rule and this legislation. Small and large businesses in America will benefit from it. I urge my colleagues to vote for this rule and this bill.

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

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Rochester, Minnesota (Mr. Gutknecht).

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in support of this rule and this bill.

There is an old expression that ideas in children are brilliant when they are your own, and we have a problem sometimes with technology because we have one group who has an idea and another group that has an idea, and they begin to speak different languages. What this bill, the Enterprise Integration Act of 2002, is about is ultimately getting everybody talking the same language.

For example, if we had a situation where pilots from one airline here in the United States spoke Greek and the next one spoke Latin and the next one spoke German; what we want them all speaking is the same language.

It is said that 50 percent of our economic growth over the next 10 years is going to come from small business. It is also said that more than 50 percent of our economic growth is going to come from technology. This is the way we tie together small business and technology. This is a very, very important bill in the long-term economic future of this country, and particularly for our small businesses here in the United States.

Let me take a minute, though, to say what a wonderful agency the National Institute of Standards and Technology is. I have had the chance to visit two of their campuses, and I cannot tell my colleagues enough how impressed I am with the scientists who work there. The National Institute of Standards and Technology is involved in all kinds of basic research. They study everything from fire to atomic clocks, and they do it very well and they do it on a very limited budget.

In fact, I was so impressed when the chairman and I went out to Boulder, Colorado, to see the way they do business out there at their labs to see how much duct tape they are using in their laboratories. The next time we visit one of their campuses, and I cannot tell my colleagues enough how impressed I am with the scientists who work there. The National Institute of Standards and Technology is involved in all kinds of basic research. They study everything from fire to atomic clocks, and they do it very well and they do it on a very limited budget.

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Everything was computerized, everything was set up from the beginning so
only small business but encourage the opportunity for big business and small business to be more competitive around the globe. In my prior life, I worked for a company that was called Bell Communications Research, formerly known as Bell Labs. It was our mission back then to make sure that we ensured the standards for the telecommunications industry were the same across the United States, albeit the world.

The ability to speak together in the same language, as the gentleman from Minnesota (Mr. Gutknecht) talked about, is so critical to the success of people who are trying to provide products worldwide. This not only makes sense, what we are doing, but it will help America be more competitive. I wholeheartedly support not only this rule but the underlying legislation. And I would say, Mr. Speaker, that this is a great bill; and I urge my colleagues to support this.

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

The previous question was ordered.

A motion to reconsider was laid on the table.

INLAND FLOOD FORECASTING AND WARNING SYSTEM ACT OF 2002

The SPEAKER pro tempore (Mr. Sessions) pursuant to House Resolution 473 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. 2486.

Mr. Chairman, I want to thank the gentleman from North Carolina (Mr. Etheridge) for introducing this important bill. It was my pleasure to work closely with him in perfecting it.

I might add, Mr. Chairman, that the two bills before us this day coming from my subcommittee were both authored by the district of the gentleman from North Carolina (Mr. Etheridge) that suffered the loss of 48 people in 1999 because of the unexpected severe inland flooding caused by Hurricane Floyd. I appreciate his leadership by responding with this legislation, which will help communities to more fully understand the risks and dangers of floods. We worked together closely during the consideration of the bill in the Committee on Science to ensure that this flood-warning index would help all our States, whether landlocked or coastal.

But, more importantly, I am confident that training managers in the use of this new index and educating the public on its meaning and importance will save lives.

This bill received strong bipartisan support in the Committee on Science, and I urge all of my colleagues to vote in favor of this important and timely piece of legislation.

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

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

Mr. Chairman, I rise in strong support of H.R. 2486, the Inland Flood Forecasting and Warning System Act of 2002. This legislation was developed by the gentleman from North Carolina (Mr. Etheridge), who has done a good job on it. He has worked on it for quite some time. I have great admiration for the gentleman. He is from the home State of my father, and most of my family. He is a gentleman, and good to work with.

This bill has strong bipartisan support, not only on the committee but among Members from coastal areas, as well. The gentleman from Michigan (Chairman Ehlers) has already outlined the provisions of this bill, so I just want to take a few minutes to talk about the need for this legislation.

Flooding affects, of course, every part of the country. With which we have improved our flood forecasting capabilities, we still lack an effective means of transmitting to the public the nature and severity of a flood.

Mr. Chairman, one day this country will capture and hold the devastating flood waters to fight future droughts in additional lakes, above-ground giant containers, and some underwater storage. Water and fire, fearful enemies, could become wonderful friends for the future, and thus allow these devastating floods to fight the droughts.

One of the least-understood flood patterns is related to tropical storms. For
example, we still do not fully understand the interaction between storm surges and flooding caused by precipitation. As a result, our flood forecasting is often inaccurate. In addition, tropical storms impact not only coastal areas, but can have devastating and disaster effects as they continue to move inland.

For example, Tropical Storm Allison dumped more than 35 inches of rain on my State of Texas. There were 50 deaths. The flood damage to Houston and other adjoining areas was estimated in the several billions of dollars. Just last week, parts of central Texas received more than 30 inches of rain.

In Texas, we have firsthand knowledge about the damaging effects of floods, so I am proud to be a cosponsor of this legislation, and I strongly support the efforts of the gentleman from North Carolina (Mr. Etheridge) to develop an improved inland flood forecasting index. I also want to thank the gentleman from Michigan (Chairman Eshleman) and the gentleman from New York (Chairman Boren) for their strong support of this legislation. I urge my colleagues to vote "yes" on the so-called Etheridge bill.

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

Mr. Eshleman. Mr. Chairman, it is my pleasure to yield 5 minutes to the gentleman from Texas (Mr. Brady), who has firsthand experience with the problems this bill is designed to address, because, as we know, there have been some disastrous floods in Texas the past week.

Mr. Brady of Texas. Mr. Chairman, I appreciate the gentleman's leadership as subcommittee chairman on this important issue to our region and the Nation as well. I also especially appreciate the leadership of my colleague, the gentleman from North Carolina (Mr. Etheridge), as well as the gentleman from Texas (Mr. Hall), who have taken a lead role in this legislation.

When flood waters come through our homes, destroy our businesses, knock out our local hospitals, it does not care if we are Republican or Democrat; it just does the damage. In Houston, Tropical Storm Allison, we are told, was the costliest tropical storm. We lost 50 lives, 50 neighbors in that storm.

We have lost some $5 billion in our damage to our homes and businesses; and in our medical research center, we lost just tons of research in so many areas, from cancer to genetics, in some of our life-saving research that is being done. Some of the experiments that we lost are 10 years in the making. Scientific experts tell us that there was not a single discipline of science that was not in some way set back from the loss of research from Tropical Storm Allison.

What we heard over and over in our community was that people, families and businesses, were saying, if we only had some notice; if we only had some warning about this devastation, we could have prevented it, or we could have lessened the damage. This is why I appreciate the lead of the gentleman from North Carolina.

Mr. Chairman, this bill is so commonsense. It says, let us invest the resources we have in this flood--it is coming and how quickly it is coming, and then let us do an early warning system for us, for those of us in the community, so we know how severe this storm would be on inland flooding. Then we can, so we can take those preventive steps.

Then it goes another step and works with our local emergency response people to train them how to respond so they can assist us in leaving that area and preventing that damage, that loss of lives and loss of property.

I am convinced that in our region, which is very experienced in flooding, we were watching for flooding from the coast. We were prepared for the punch from the sea; we were not prepared for the punch from the left, from inland flooding. That is what I appreciate so much about this bill.

It takes the inland flooding, provides the research, gives us the warning, trains the communities to prevent. And I am convinced this will save lives, it will save properties, it will save tax dollars, and it is compassionate, smart, intelligent investment and the very best next step in preventing inland flooding.

Mr. Hall of Texas. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina (Mr. Etheridge).

Mr. Etheridge. Mr. Chairman, I thank the gentleman from Texas (Mr. Hall) for yielding me time. I also want to take this opportunity to thank the gentleman from New York (Mr. Boren) and the gentleman from Michigan (Mr. Eshleman) and others who have been on the Committee on Science, who have helped so much with this piece of legislation. As the gentleman said earlier, the Committee on Science has a tradition of bipartisanship and this bill is another indication of that bipartisan work.

Mr. Chairman, as the 2002 hurricane season begins to heat up, I am pleased that we were able to get H.R. 2486, a bill to improve the forecasting of inland flooding and develop an improved inland flooding index on the floor of the House, and hopefully we can get it through quickly to the Senate and on to the President.

I know it seems a bit strange, and if the folks back home hear this morning, the one thing they did this morning, the one thing they did not have was time because this storm hit at night. People lost their lives, they lost their property, and many people lost everything they had because they did not have the one thing that would have made all the difference in the world, which was time.

Last year Tropical Storm Allison, as we have heard others talking about already, demonstrated all too effectively the impact of these storms on more than 50 people in several States, starting in Texas and moving up the eastern coast; and more recently torrential rains have caused major flooding in Texas all over again, killing 12 people. These and other storms clearly indicate that current methods of predicting whether storm rains will produce heavy flooding are insufficient and that flood warnings are tragically inadequate.

This year, the House Subcommittee on Environment, Technology and Standards of the Committee on Science heard testimony as to the need of improving the inland flooding forecasting and developing a better warning system that raises public awareness on the destructiveness of inland flooding so people can protect themselves, their property and their families.

Ever since Floyd hit my State with such devastating power, I have been working with experts to develop a predictive flood warning index that really will save lives and warn people. NOAA's forecast for this year calls for the potential of nine to 13 tropical storms in the Atlantic, including six to eight hurricanes with extremely destructive flood warning index that really will save lives and warn people. NOAA's forecast for this year calls for the potential of nine to 13 tropical storms in the Atlantic, including six to eight hurricanes with extremely destructive flood warning index that really will save lives and warn people. NOAA's forecast for this year calls for the potential of nine to 13 tropical storms in the Atlantic, including six to eight hurricanes with extremely destructive flood warning index that really will save lives and warn people. NOAA's forecast for this year calls for the potential of nine to 13 tropical storms in the Atlantic, including six to eight hurricanes with extremely destructive flood warning index that really will save lives and warn people. NOAA's forecast for this year calls for the potential of nine to 13 tropical storms in the Atlantic, including six to eight hurricanes with extremely destructive flood warning index that really will save lives and warn people. NOAA's forecast for this year calls for the potential of nine to 13 tropical storms in the Atlantic, including six to eight hurricanes with extremely destructive flood warning index that really will save lives and warn people. NOAA's forecast for this year calls for the potential of nine to 13 tropical storms in the Atlantic, including six to eight hurricanes with extremely destructive flood warning index that really will save lives and warn people. NOAA's forecast for this year calls for the potential of nine to 13 tropical storms in the Atlantic, including six to eight hurricanes with extremely destructive flood warning index that really will save lives and warn people. NOAA's forecast for this year calls for the potential of nine to 13 tropical storms in the Atlantic, including six to eight hurricanes with extremely destructive flood warning index that really will save lives and warn people.
percent, so you can see this year we stand a chance of really getting hit. Let me repeat that. Experts say there is a 75 percent chance the United States could experience another Floyd, another Fran, another Andrew, or another devastating storm hitting the U.S.

When you consider that more than 50 percent of America’s population lives in coastal areas around this country, that makes it a frightening prediction. That is why, along with 25 of my colleagues, I, Mr. Boehlert, the gentleman from Texas (Mr. Hall), the gentleman from Michigan (Mr. Ehrlich) and others, I want to thank the gentlemen, as well as the gentleman from Michigan (Mr. Garcia), for their help on the subcommittee, for their assistance in moving this legislation forward.

I want to express my appreciation to the staff of the full Committee on Science and the subcommittee on both the majority and the minority side, in particular Mike Quer, Eric Webster, Bob Palmer, Mark Harkins, and Dave Goldston and others who have worked to get this bill to the floor.

I also want to acknowledge the help of the staff of NOAA and the National Weather Service, and cite the work of Dr. Leonard Pietrafesa, a professor at North Carolina State University, who helped in the drafting of this legislation.

Mr. Chairman, at this very moment a storm is brewing in the Gulf of Mexico that may or may not develop into a tropical storm. Time is of the essence. I encourage my colleagues to pass this bill quickly as possible. The President can sign this legislation as soon as possible, get it to the Senate so the damage these storms can cause and better inform our citizens of the danger that these storms pose.

I am pleased that this measure has won the bipartisan support of many of my colleagues on the Committee on Science, including the gentleman from New York (Mr. Boehlert), the gentleman from Texas (Mr. Hall), the gentleman from Michigan (Mr. Ehrlich) and others. I want to thank the gentlemen, as well as the gentleman from Michigan (Mr. Garcia), for their help on the subcommittee, for their assistance in moving this legislation forward.

I want to express my appreciation to the staff of the full Committee on Science and the subcommittee on both the majority and the minority side, in particular Mike Quer, Eric Webster, Bob Palmer, Mark Harkins, and Dave Goldston and others who have worked to get this bill to the floor. I also want to acknowledge the help of the staff of NOAA and the National Weather Service, and cite the work of Dr. Leonard Pietrafesa, a professor at North Carolina State University, who helped in the drafting of this legislation.

Mr. Chairman, at this very moment a storm is brewing in the Gulf of Mexico that may or may not develop into a tropical storm. Time is of the essence. I encourage my colleagues to pass this bill quickly as possible. The President can sign this legislation as soon as possible. The idea of forecasting is imperative. It is imperative for saving dollars in the Federal Government. It is imperative for planning for local governments. It is imperative for helping in our local communities; and, yes, in causing or decreasing the amount of pain experienced by those impacted by these floods.

We learned many, many different lessons at that time. And one of them was, of course, what is common sense: that the ability we have to forecast and prepare, the less risk there is to human life and the less risk there is to destruction of property. And that is what the essence is of this piece of legislation.

We are all eager to put into place the highest form of technology possible so that we can warn and be able to give the warnings that are necessary to residents, to businesses, to everyone concerned, and thereby minimize the damage.

Since Agnes, we have formed a task force of dollars of the Guadalupe River Basin in which flood warning is the key element. So we are becoming more and more aware of the new science that can help in flood forecasting and also in the quick recovery from damage and flooding that may occur.

So I rise with great enthusiasm to support this legislation. If it is a matter of common sense, we ought to have a unanimous vote in the Chamber for this piece of legislation. It will reap millions of dollars and millions of dollars in savings as we proceed down the line of preparing our populace for natural disasters in the most scientific way possible.

Mr. HALL of Texas. Mr. Chairman, I yield 5 minutes to the gentlewoman from Houston, Texas (Ms. Jackson-Lee).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished chairman and the distinguished ranking member of the full committee and the gentleman from Michigan (Mr. Ehrlich) for their leadership and, of course, my friend and colleague from North Carolina, the distinguished Congressman who has come forward with an enormously important legislative initiative, the inland flooding forecasting and warning system.

Mr. Chairman, I think it is important with the changes, climatic changes that we are facing, so many of us who come from very warm climates are used to what the Northeast and the Midwest are facing now over the last couple of years with intense heat over the summer and, in fact, intense heat during some of the winter and fall months.

I remember that morning. It was a Saturday morning. I remember being here at the United States Congress earlier in the week, and as it began to rain and I checked on my constituents in Houston, all they said was, it was beautiful. It was nice. It was beautiful. I am going to take a nap. I am going to take a shower. I am going to go swimming. Well, it stopped and then started again on Friday night. And, lo and behold, when we arose early that morning, the medical center, hundreds of billions of dollars, under water. Millions and millions of dollars lost. Thousands upon thousands of research mice lost. Individuals in that medical center having to be or patients having to be, in masse, evacuated. Literally, the medical center was shut down. Universities shut down. Thousands of homes under water. Twenty plus deaths and all because of Tropical Storm Allison.

The concept of forecasting is imperative. It is imperative for saving dollars in the Federal Government. It is imperative for planning for local governments. It is imperative for helping in our local communities; and, yes, in causing or decreasing the amount of pain experienced by those impacted by these floods.

Now, as we speak, we know that the Guadalupe River is overflowing in areas that many of the residents in that area never expected. This legislation will go throughout the country to not only areas that are used to flooding in some of the outlying areas, but in the inland areas.

My area happens to be 50 miles inland, but it is also 50 feet under sea level; and it is by port, it is by waters that might overflow. The idea of forecasting is imperative, and I ask my colleagues to be particularly sensitive to the importance of this legislation. I look forward to presenting an amendment that will complement this legislation in its structure. I will be looking for long-term forecasting as this legislation has short-term forecasting.

I am very delighted to be able to work with my colleague who had a brilliant idea in seeing this legislation come to fruition. I look forward again to discussing the proposals that have and would ask my colleagues to consider it as I will be giving my enthusiastic support to this legislation.
Mr. EHLENS, Mr. Chairman, I am delighted to yield such time as she may concur to the gentleman from Maryland (Mrs. MORELLA), the angel of NIST and NOAA.

Mrs. MORELLA. Mr. Chairman, I want to make a few comments to the gentleman from Michigan (Mr. EHLENS), the chairman, the gentleman from South Carolina (Mr. ETHERIDGE) for that wonderful introduction that I hardly deserve, but this has been a good week for the Committee on Science. It demonstrates again how we work together on both sides of the aisle to do what we believe is in the best interests of scientific research, development, education, and what is best for the country.

It is with pleasure that I rise in support of H.R. 2466, the Inland Flood Forecasting and Warning System Development Act of 2002. Congratulations to the gentleman from North Carolina (Mr. ETHERIDGE) for his leadership on the issue, his willingness to work with members of the Committee on Science. Congratulations to the gentleman from Michigan (Mr. EHLENS), chairman, the gentleman from Virginia (Mr. Boucher), the ranking member, as well as the gentleman from Ohio (Mr. Boehlert), chairman, and the gentleman from Texas (Mr. Hall), ranking member of the full committee, for having this piece of legislation come to the floor today.

Together we have expanded the focus of the original bill to take it beyond North Carolina and other hurricane-prone areas to include the protection of all regions subject to inland flooding due to severe weather events. The Committee on Science has a strong history of bipartisan collaboration, and this bill, as I have said, is yet again another example of how working together we can forge a bill that is much stronger than the original intent.

Each year hazardous weather causes thousands of fatalities and tens of billions of dollars in property damage, largely due to inland flooding. Moreover, the problem appears to be growing. Severe weather events, particularly hurricanes, appear to be cyclical, and we are recently coming off a period of low frequency. The Atlantic Ocean is beginning to enter another active period, and scientists tell us we can expect increasingly frequent events of greater and greater severity.

In addition, the capacity for damage has increased dramatically, as coastal development has continued to expand for the last 20 years. More and more people are living near coastal, estuarine or inland waters, creating a heightened potential for disaster and loss of life.

The improved ability to predict and prepare for severe storm events can have a substantial and immediate impact. Research dollars are desperately needed to protect both the lives and the livelihoods of the millions of Americans who live in regions susceptible to severe weather.

The purpose of this bill is simply to develop, test and deploy an effective inland flood warning index for use by public and emergency management officials. Managing disasters by predicting their occurrence is much more effective than reacting to their results. It is a modest bill with modest goals that will have a huge impact. I urge my colleagues to please consider the language. Mr. HALL of Texas, Mr. Chairman, I yield 4 minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman for yielding time.

I actually seldom come to the floor to speak on a bill that I have not had any personal involvement in before it comes to the floor, that does not come through a committee that I sit on, but I wanted to take the opportunity today to come and praise this bill and say that it is a wonderful bill for North Carolina and for the Nation and to say some nice things about the gentleman from North Carolina (Mr. ETHERIDGE) who is the sponsor of this bill.

I have been following him for quite a while. We started out in the State legislature together and in the State legislature sometimes, people come up to a person and say, there are people in this body who care about each other. I listened to other things in life, and we all knew at that time that the gentleman from North Carolina (Mr. ETHERIDGE) was one of those people.

He went on, after serving in the State legislature where he served as Superintendent of Public Construction in North Carolina and did an outstanding job there, and the thing that has been characteristic of him throughout this process is his ability to reach across party lines and understand that education and science and all of the issues that we deal with on an ongoing basis really are not Republican or Democrat, they are American issues, world issues, issues that are important to deal with on a bipartisan basis.

This bill is another example of that, where he has recognized a need based on the experiences that we observed in North Carolina as a result of hurricanes, and used that same kind of bipartisan approach and added to try to solve a problem that existed and addressed that need.

I want to applaud the chairman and ranking member of the Committee on Science for putting aside, as they always do, the partisanship that so often can permeate our Congress and recognizing the importance of this bill to the people of our country. The problem of inland flooding, I am not sure we were as much aware of until we had a series of floods in North Carolina. I live in Charlotte, North Carolina, and that is about 150 miles from the coast. I grew up thinking that a hurricane was fed by the ocean and the water and that it really could not come that far inland to impact a community, until Hurricane Hugo came charging through the center of the city that I lived in and did tremendous damage and devastation to the community.

If we had had better warning systems and research available to detect that possibility, I think we would all have been better served. We would have saved substantial amounts of money, and whatever amount is going to be expenditure for this important purpose, I think we would all benefit from it over time, and I applaud the Committee on Science for the work that it has done on this bill in recognition of that fact.

I want to just thank my colleague again for the introduction of this bill, and I thank the gentleman for yielding time for me to say some nice things about my colleague and about the bill and about the Committee on Science. Mr. Chairman, I yield myself such time as I may consume.

First of all, I would observe that at one time my parents lived in Canada and the area north of Toronto suffered tremendously from a hurricane. So we were not safe from hurricanes almost anywhere inland.

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

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

Mr. EHLENS. Mr. Chairman, I yield myself such time as I may consume, and I will proceed to close.

The preamble to our Constitution specifies as one of the major duties of government to promote the general welfare of its people. This bill is an example of what we can do to promote the general welfare of our people.

This bill will save lives, it will save property, and it will cost very little. In fact, the cost per capita in this Nation of this bill is 10 cents per capita, and I think that is a good bargain. By developing an inland waterway and flooding bill of this nature, that will protect the people of this country, we will save undeterminedly at least 100 lives per year and we pay only 10 cents apiece—that is a good deal.

So I strongly encourage this House to pass this bill.

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

The CHAIRMAN. Are there any amendments to this bill?

Pursuant to the rule, the Committee amendment in the nature of a substitute printed in the bill shall be considered by sections as an original bill for the purpose of amendment, and each section is considered read.

During consideration of the bill for amendment, the Chair may accord priority recognition of any amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will designate section 1. The text of section 1 is as follows:

This Act may be cited as the "Inland Flood Forecasting and Warning System Act of 2002."

The CHAIRMAN. Are there any amendments to section 1?
If not, the Clerk will designate section 2.

The text of section 2 is as follows:

**SEC. 2. AUTHORIZED ACTIVITIES.**

The National Oceanic and Atmospheric Administration, through the United States Weather Research Program, shall—

(1) improve the capability to accurately forecast inland flooding (including inland flooding influenced by coastal and ocean storms) through research and modeling;

(2) develop, test, and deploy a new flood warning index that will give the public and emergency management officials fuller, clearer, and more accurate information about the risks and dangers posed by expected floods;

(3) train emergency management officials, National Weather Service personnel, meteorologists, and others as appropriate regarding improved forecasting techniques for inland flooding, risk management techniques, and use of the inland flood warning index developed under paragraph (2); and

(4) conduct outreach and education activities for local meteorologists and the public regarding the dangers and risks associated with inland flooding and the use and understanding of the inland flood warning index developed under paragraph (2).

**The CHAIRMAN.** Are there any amendments to section 2?

Mr. EHLERS. Mr. Chairman, I ask unanimous consent that the remainder of the bill be printed in the RECORD and open to amendment at any point.

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

There was no objection.

The text of the remainder of the bill is as follows:

**SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the National Oceanic and Atmospheric Administration for carrying out this Act $1,150,000 for each of the fiscal years 2003 through 2007. Of the amounts authorized under this section, $250,000 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 carry out the activities described in section 2(4), especially to alert the public and builders to flood hazards. . . .

Ms. JACKSON-LEE of Texas (during the request of the gentleman from Texas?)

There was no objection.

Ms. JACKSON-LEE. Mr. Chairman, again, let me rise, expressing my very strong support for H.R. 2486, the Inland Flood Warning and Warning System Development Act which will save lives and money by improving forecasting, education and by setting the stage to get timely and useful information to the people in the way of big storms and subsequent floods.

Let me also add again my appreciation to the gentleman from Michigan (Mr. EHLERS) and as well to the proponent of this bill, the gentleman from North Carolina (Mr. ETHERIDGE), who has fought for and advocated for the development of a warning system that will help all of America.

I thank the gentleman from Texas (Mr. HALL), the ranking member, for his support on this legislation and as well his leadership and knowledge about these issues as he has continued to serve on the House Committee on Science.

We come from an area, as I indicated earlier, that knows water and knows it in many ways. We enjoy it. We recreate in it. We make our livings from it in the Gulf Coast of Texas, but at the same time we know of its power. In Harris County, Texas, alone in the past 10 years, there have been five major flooding events, in 1992, 1994, mid-1998, late 1998 and the big one, Tropical Storm Allison of 2001, that individuals 80-years-plus has never seen a flood such as Tropical Storm Allison. Remember, I said a storm and not a hurricane.

Flood waters in Tropical Storm Allison reached heights known as hundred-year flood levels. These five storms damaged or destroyed thousands of homes and businesses, and so it is imperative that this legislation be passed and that I would offer this amendment that would, in fact, provide a long-term study for a period of 3 years, costing $1200.

As it stands, the bill will improve short-term forecasting of cyclones and associated flooding and will provide for the development of a warning system to get minute-to-minute information to the public and to emergency management officials regarding flood dangers. These functions will operate on the time scales of days to weeks, for example, saying there will be a storm this weekend or evacuate our homes now.

My amendment will simply add a long-term component to this important project. This will enable officials to warn people what they might expect over the next 5 years or even the next decades. A small amount of money I am proposing to spend on this long-term component could save billions of dollars and save many lives in the future by providing information to help people make prudent decisions today.

We will have to look at other science in order to determine how we can provide a safe place for people to live and save lives prospectively, but as we move this legislation along, I think the idea of providing a long-term component will be very effective.

In my home district alone in the past 10 years, as I indicated, we have had several storms, and as I indicated as well, the Tropical Storm Allison, the big one, caused an estimated $5 billion in damage, flooded almost 100,000 homes and killed at least 20 people in our community. Right now, Mr. Chairman, I am still living with those who suffered from the damages of the flood.

The questions I have are after the first four floods, why are so many people and homes still in flood zones when the big one hit a year later?

It seems that the first four floods might have let us know that more may be coming soon and people should move to higher ground.

And, two, why have there been so many devastating 100-year floods in rapid succession? In other words, are floods, indeed, becoming more severe over recent years?

I have been asking these questions and can't find anyone to give me an answer with even a modicum of confidence. It seems that we need to know exactly why this happens; and if they do, they have information that should be shared, whether it is simply a natural variation or if it is due to shifts in development or erosion patterns or climate. And no one knows whether there is a real long-term trend in such major flooding events.

Right now, people in Texas are getting over yet another flood, and they...
need to make informed decisions about whether to rebuild their homes. These are life-altering and costly decisions which can devastate communities, families, and neighborhoods, and also break down the spirit.

Some of these people right now are deciding what to do and how to do it after losing their precious resources. It was hearing of their struggles last week that inspired me to write this amendment. The proposed act, as it stands, would have helped those people protect their lives and property before and during the floods, but my amendment would be helping them make tough decisions now by giving them an indication of whether they should expect more frequent or severe floods in the future. It is about planning.

With this amendment, the National Oceanic and Atmospheric Administration would receive an additional $100,000 per year for 5 years to study the long-term trends in flooding to help predict future risk in flood zones.

My bill first started by expressing my strong support for H.R. 2486. The Inland Flood Forecasting and Warning System Development Act will save lives and money by improving forecasting, and education, and by getting the stage to get timely and useful information to people in the way of big storms and subsequent floods. The Congressman from North Carolina has been a champion of this issue, and deserves great credit. I am pleased to have co-sponsored this proposed legislation with him.

As it stands, the bill will improve short-term forecasting of cyclones and associated flooding, and will provide for the delay during the next 3 years of the system to get minute-to-minute information to the public, and to emergency management officials regarding flood dangers. These functions will operate on the time-scales of days to weeks, for example, by giving “there will be a storm this weekend,” or “evacuate your homes now.”

My bill will simply add a long-term component to this important project. This will enable officials to warn people of what they might expect over the next 5 years, or even the next decades. The small amount of money I am proposing to spend on this long-term component could save billions of dollars alone caused an estimated five billion dollars in damage, flooded almost 100,000 homes, and killed 41 people nation-wide. The questions I have are (1) After the first four floods, why were so many people and homes still in flood zones when the big one hit a year later? It seems that the first four floods might have let us know that more may be coming and people should move to higher ground. And (2) Why have there been so many devastating “100 year floods” in rapid succession? In other words, are floods indeed becoming more frequent and severe over the years?

I have been asking these questions, and cannot find anyone who can give me an answer with even a modicum of confidence. It seems that no one knows exactly why this happened—whether it is due to shifts in development, or erosion patterns, or climate. And no one knows whether there is a real long-term trend in such major flooding events.

Right now people in Texas are getting over your last flood, and they need to make informed decisions about whether to rebuild their homes or relocate to higher ground. These are life-altering and costly decisions, which can devastate neighborhoods or even entire towns.

It was hearing of their struggles last week that inspired me to write this amendment. The proposed Act as it stands would have helped those people protect their lives and property before and during the floods. But my amendment would be helping them make tough decisions now by giving them an indication of whether they should expect more frequent or severe floods in the future. In my proposed amendment, the National Oceanic and Atmospheric Administration would receive an additional $100,000 per year, only during the first 3 years of the program. This money would fund grants for research at higher institutions to study the long-term trends in flooding, to help predict future risk in flood zones.

At the end of the 3 years, a report will be written and sent to Congress to report its findings. More importantly, the findings will be disseminated to the public, through the educational outreach already planned in the original bill. This will enable citizens, builders, and planners to make better-informed decisions about where people should live, or stop living.

This amendment has quite a narrow scope. It is not a global warming amendment. It is small, and focuses only on the flooding associated with heavy precipitation in a single region of the country. However, my amendment has a very important target. The amendment is meant to get much-needed information to people who might be in continual danger from escalating flooding. It could also give assurance to those people whose risks of continual flooding might be low.

If insights gleaned from these studies lead to a smarter distribution of homes and businesses, and prevent a tiny fraction of the damage in the next five billion dollar flood—this amendment will earn its pay. I urge my colleagues to support this amendment.

Mr. Chairman, I want to applaud this legislation, as I close, because it has a great outreach provision, and this amendment will help with this outreach.

I ask my colleagues to support this amendment because it is narrow in scope.

Mr. EHlers. Mr. Chairman, I rise in support of the amendment. I thank the gentlewoman from Texas for it. This is something we have worked on together. It is something I had hoped would happen anyway when this bill reached NOAA—that they would interpret it this way. But it is good of her to point out that this must be done. This makes things very specific, and we have reached agreement on this amendment, so I am pleased to accept it.

I would just comment that I will have to revise my cost estimate. I commented earlier this bill would cost us a grand total of 10 cents per person in this country. Because of this amendment I have to raise that to 11 cents per person in this country. But I should also make it clear, which I did not before, that that cost is spread over 5 years. So rounding off, it is still 2 cents per person per year for 5 years, and we are getting a lot for our money. But I am very pleased to accept this amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. EHlers. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. First, let me thank the gentleman very much. Mr. Chairman, for working with the office and, of course, working with the champion of this legislation, the gentleman from North Carolina (Mr. Etheridge).

We come from different parts of the country, and I think it is important to note that Michigan, Texas, and North Carolina all worked together because these issues are far-reaching. And I would simply hope, as the gentleman has been so fiscally responsible, that they might see the benefit of what we will save in the future. Again, I thank the gentleman for supporting this amendment.

Mr. Hall of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I support this amendment and I support this gentlewoman. I think we have observed here representation at its very best. The gentleman from North Carolina (Mr. Watt) and the gentlewoman from Texas (Ms. Jackson-Lee) personally testified to the tragedies that they had experienced in their own hometowns of Houston and Charlotte, and I think it was refreshing to hear the gentleman from North Carolina (Mr. Watt) express his appreciation for a long-time, fellow public servant.

This is the way it ought to be, and I certainly thank the gentlewoman from Texas (Ms. Jackson-Lee) for going that extra mile, offering this study, a needed study, and the gentlewoman from Michigan (Mr. Edlers) accepting it. I urge the adoption of this amendment.
The CHAIRMAN pro tempore (Mr. JEFF MILLER of Florida). The question is on the amendment offered by the gentleman from Texas (Ms. JACKSON-LEE).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there any further amendments?

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 (Mrs. BIGGERT) having assumed the chair, Mr. JEFF 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. 2486), to authorize the National Weather Service to conduct research and development, training, and outreach activities relating to tropical cyclone inland forecasting improvement, and for other purposes, pursuant to House Resolution 473, 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 the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute 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 a third time.

The Speaker pro tempore. Pursuant to rule, the bill is considered as having been read the third time.

Under the rule, the gentleman from Michigan (Mr. EHlers) and the gentleman from Texas (Mr. Hall) each will control 30 minutes.

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

Mr. EHlers. Mr. Chairman, I yield myself such time as I may consume; and I rise in support of the Enterprise Integration Act of 2002.

Much has changed about the manufacturing industry in the past 30 years. In the 1970s and 1980s, our manufacturing sector was in trouble. Plagued by quality problems and inefficiency, our domestic manufacturing sector was on the decline, and it was costing U.S. workers their jobs. I saw this firsthand in my home State of Michigan, when one observer noted in a national column how much Michigan’s auto manufacturing sector had fallen and asked for, in print, “The last person to leave the State to please turn off the lights.”

This decline served as a wake-up call not only for State and Federal governments but especially for domestic manufacturers, and they have worked hard over the past three decades to become leaner and more competitive in the global marketplace. Automation, outsourcing, efficiency, and quality became the buzzwords of this effort, as manufacturers made fundamental changes to their business models. When these changes were coupled with the information technology revolution, manufacturers were able to unleash the untapped potential of American workers.

Over the past 10 years, our workers increased their productivity as never before in the modern era. These gains led to one of the greatest economic expansions in U.S. history and made a bold statement that U.S. domestic manufacturing was ready to compete in the global marketplace. Domestic manufacturing industries are now beginning to undertake new steps to ensure that they stay globally competitive. Our manufacturing industries are moving away from the traditional models where products are mass produced and consumer preferences are aggregated at the end of a manufacturing chain. The new model is marked by commitment to flexibility, networked supply chains, just-in-time inventories, and responsiveness to changes and customers’ preferences.

Underpinning all of these elements is the need to be able to exchange information quickly, reliably, and without fear that the information contains errors or is incomplete.

The purpose of the legislation before us today is to support this critical component. H.R. 2733 will establish an enterprise integration initiative within the National Institute of Standards and Technology, better known as NIST. At the heart of this initiative is what modern manufacturing industry craves—the ability to exchange information up and down the supply chain without error or lost data.

For example, with a fully integrated supply chain, if Ford were to design a change for a bumper, every one of the suppliers that contributes parts to Ford for that bumper would be able to quickly and easily see how the new specifications would affect the components they manufacture. Each supplier would be able to redesign the component knowing that the information used did not have errors and has not lost data along the way.

As I said earlier, the new manufacturing model requires industry to respond to consumer choices quickly and with a high degree of quality and reliability. This flexibility can only be achieved with a fully integrated supply chain.

Two of Michigan’s key industries, automotive and furniture, can derive tremendous benefits from this legislation. A 1999 study by NIST found that General Motors, Ford and Chrysler together could save $1 billion per year if they fully integrated their supply chains. West Michigan’s worldwide office furniture suppliers, Steelcase, Herman Miller, and Haworth, are facing significant challenges both as a result of the economic downturn and stiff foreign competition. Information technology is a powerful tool for bringing together the various elements of design, manufacturing, and delivery of furniture, and the U.S. furniture industry is beginning to utilize this tool to better integrate these elements.
will allow NIST to capitalize on its existing knowledge in this field by authorizing the agency to work with major manufacturing sectors, such as automotive, aerospace, electronics, shipbuilding, and furniture, to reach a consensus on what standards are needed to integrate supply chains, support the development of those standards, and help smaller businesses in those industries integrate fully into their respective supply chain.

Under this legislation, NIST will work with major manufacturing industries to identify current enterprise integration standardization and implementation activities within the United States and abroad and assess the current state of these activities within any given industry. NIST will also work with individual industries to develop goals and milestones for fully integrating the industry's supply chains. Additionally, NIST will support the development, testing, promotion, integration adoption, and upgrading of standards related to enterprise integration efforts.

I want to note that this legislation has strong bipartisan and industry support. The gentleman from Michigan (Mr. EHLERS) has strong bipartisan and industry support for his vision in creating this legislation, and I thank the gentleman from New York (Mr. BOEHLERT) and the gentleman from Michigan (Mr. EHRLER) for their efforts in moving this bill through the legislative process. If we do not match these efforts, we run the risk of an international standard being promulgated that favors European manufacturers over our own.

I am pleased that the bill is supported by the trade associations for several of these manufacturing sectors, as well as the National Association of Manufacturers and the National Coalition for Advanced Manufacturing. Mr. Chairman, we cannot afford to let our small businesses fall behind as the world moves toward Internet-based manufacturing. I urge Members to support America's smaller manufacturers, and their larger partners as well, by voting for H.R. 2733.

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

Mr. EHLERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. EHRLER).

Mr. EHRLER. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. CAMP).

Mr. CAMP. Mr. Chairman, I rise in support of the Enterprise Integration Act. This bill authorizes the National Institute of Standards and Technology to promote best practice standards and facilitate understanding between industry and government.

Approximately 90 percent of U.S. manufacturing companies are small and medium-sized businesses. Quick and easy access to information in the supply chain is critical for businesses to be competitive. Suppliers without the capability to collect and exchange data electronically run the risk of being replaced by other suppliers who can.

The last decade has seen a dramatic shift in the way information and data are exchanged. This is due to the emergence of the Internet and the movement toward electronically integrated supply chains.

Enterprise integration permits a group of manufacturers and suppliers to operate as a single virtual company, without time delays and data loss or corruption. Manufacturers must be flexible, efficient, and responsive to changes in customer preference.

NIST will work with industry and small business to improve the way they share product and standard information. With over 20 years of experience in data integration, NIST has the experience to accelerate efforts to develop industry standards and integration techniques that are necessary to increase efficiency and lower costs. Connecting enterprise together will streamline the manufacturing process, break down communication barriers, improve knowledge sharing, and connect information systems.

In my home State of Michigan, small businesses are vital to the economy. Over 45 percent of Michigan small businesses are in the manufacturing sector and enterprise integration is extremely important to ensure that the
manufacturing industry in Michigan and around the Nation remain strong. The investment in enterprise integration is essential for U.S. industry to remain competitive with overseas companies, many of which are already heavily investing in electronic standards development.

I thank the gentleman from Michigan (Mr. BARCIA) for developing this important legislation and the gentleman from Michigan (Mr. EHLERS) of the Committee on Science for bringing this to the floor. I appreciate their hard work on behalf of the small business community, and I urge Members to join me in supporting the Enterprise Integration Act.

Mr. HALL of Texas, Mr. Chairman, I yield 4 minutes to the gentleman from Michigan (Mr. BARCIA), the creator of this legislation.

Mr. BARCIA. Mr. Chairman, I rise in support of H.R. 2733, the Enterprise Integration Act of 2002, and I thank the chairman of the Committee on Science, the gentleman from New York (Mr. BOEHLENT), and ranking member, the gentleman from Texas (Mr. HALL), for recognizing the importance of this bill and taking the steps necessary for this bill to get here today. I also want to thank the gentleman from Michigan (Mr. EHLERS), the subcommittee chairman and lead cosponsor, for the gentleman's efforts over the past year. His suggested changes have enhanced the legislation, and his legislative efforts have contributed significantly to the progress we have made on this legislation.

I just want to take a couple of minutes to outline the need and purpose of the Enterprise Integration Act of 2002 and say I appreciate the comments of my colleagues who have spoken before me on the need for this legislation to become law, to not only help small and medium-sized businesses throughout the country and across the country. And also to say that as impressive as the growth of Internet companies has been, its impact pales in significance to the impact that the Internet is having on how businesses work together. Changes already under way in the manufacturing sector will permit a manufacturing industry to develop a strategy for developing and implementing a unified vision for supply chain integration.

Mr. BARCIA. The investment in enterprise integration, where the Internet will permit companies and trade associations in the industry to develop a strategy for improving substantially in ensuring that its information exchange data and function as a single virtual company. Companies will be able to perform in substantially faster time and at lower cost than if they were to develop one virtual company. Companies will be able to develop relationships with new clients. The European Union is already investing heavily in enterprise integration and making it even harder to develop substantial investment in major construction industries in the establishment of an industry-led effort on enterprise integration. If an industry has not yet begun an effort, NIST would be asked to help convene companies and trade associations in the industry to develop a strategy for developing and implementing a unified vision for supply chain integration.

Mr. BARCIA. If efforts are already under way and the industry wants NIST's help, NIST is asked to look at the suite of standards now in place and to help fill the holes such as compatibility of older standards with emerging Internet standards.

With the continued assistance of the gentleman from New York (Mr. BOEHLENT), the gentleman from Texas (Mr. HALL), and the gentleman from Michigan (Mr. EHLERS), I am hopeful that this legislation will become the catalyst to allow American businesses to successfully compete with our European counterparts.


Enterprise integration has the potential to be the most important innovation in manufacuring since Henry Ford's assembly line. I urge a "yes" vote on this bill because H.R. 2733 will give U.S. industry the opportunity to be a leader in this innovation.

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

Mr. Chairman, I regret that my next speaker, the gentleman from Maryland, had to leave for the Committee on Government Reform to present an amendment there. I particularly regret it because she is such an outstanding Member of Congress and an extremely conscientious member of the committee and has worked very hard on this bill. But her comments will be entered into the RECORD.

Mr. BARCIA. I also want to at this time thank the gentleman from Michigan (Mr. RIVERS) for his work on this bill and his work on the Committee on Science. He has been an outstanding ranking member to work with on this subcommittee and we have accomplished a great deal this year by sharing ideas and working together on bills.

I have shared a legislative career with the gentleman from Michigan (Mr. BARCIA) longer than most people in this Congress have. We served together in the State House of Michigan and the State Senate of Michigan. He preceded me to this Congress by 11 months and 7 days, and we have worked together since then in Congress.

I am very sorry to see him leave this Congress, even though he will be returning to the State of Michigan and will continue to make his contributions there. But it has been an outstanding partnership for our committee. We have produced some really good work together with a minimum of strife because both of us are interested in results and not in seeking partisan advantage on an issue. I just want to publicly state how much I have enjoyed working with the gentleman, how much I appreciate his work and his personal and his ethical standards, and just state my regret that he will be leaving us at the end of this year.

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

Mr. HALL of Texas, Mr. Chairman, I yield 4 minutes to the gentlewoman from Michigan (Ms. RIVERS), a member of our committee.

Ms. RIVERS. Mr. Chairman, I rise in support of the Enterprise Integration Act of 2002. This bill directs the National Institute of Standards and Technology, NIST, to establish a program to help major manufacturing industries, especially small businesses, standardize and better integrate exchange of data between manufacturers, assemblers and suppliers.

H.R. 2733 is a timely and smart piece of legislation. Small manufacturers are the backbone of our economy. However, they do not operate in a vacuum. Manufacturers, large and small, work together along a vertical supply chain, making a seamless flow of information critical to their success.

Currently, many small businesses do not have the knowledge or ability to access the type of electronic media large manufacturers use to integrate purposes. In other cases, compatibility issues between different computer networks, software and hardware make it difficult, and sometimes impossible, for the full benefits of virtual manufacturing environments to be realized.

This lack of compatibility in computer hardware, software and their interfaces with machinery makes it difficult for these supply chain firms to supply the goods and services to their traditional clients in an efficient manner, and makes it even harder to develop relationships with new clients.

As we move forward into an international economy, our domestic product must be able to keep up with suppliers and manufacturers overseas. The European Union is already investing substantially in ensuring that its companies will be able to perform in the emerging virtual business environment, where the Internet will permit companies anywhere in the world to exchange data and function as a single virtual company.
H.R. 2733 addresses this need and establishes an enterprise integration initiative at the National Institute of Standards and Technology. This will allow NIST to work with industry to develop road maps that outline the steps a given industry must take to become interconnected electronically and also help industry develop volunteer consensus standards and agree- ments on protocols for information exchange which will provide assistance to conduct pilot projects to support the initiative.

The Enterprise Integration Act of 2002 takes the necessary steps to get standards in place to create the first truly virtual companies. When industries become fully integrated electronically, information can flow freely along the entire supply chain without corruption or loss of important data. All types of manufacturers, from automobiles to furniture to shipbuilding, will stand to benefit from the efficiency gains that this legislation will help usher in. I stand in support of this legislation.

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

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

Mr. Chairman, I just want to conclude by saying that this is a very worthwhile bill which, even though I gave all the examples as benefiting Michigan more, it will have an impact on the industry of every State in this Union, and, for that matter, every territory. It is a good thing for us to do, to help create more jobs and to make sure that we are more competitive in the world marketplace. I urge passage of this bill.

Mrs. MORELLA. Mr. Chairman, it is with great pleasure that I rise in support of H.R. 2733, the Enterprise Integration Act of 2002. I want to commend Chairman EHLERS and Ranking Member BARCIA for their bipartisan efforts in this area before us today.

Enterprise integration is quickly becoming one of the most important business concepts of the electronic age. Developing a seamless exchange of information along a vertical supply chain is essential to maintaining production in our new, fast-paced, just-in-time-manufacturing economy. Companies are increasingly interconnected and must rely on one another in ways we have never before imagined. Standardization of their means of communication is imperative for continued success.

Enterprise integration creates a group of businesses to act as a single "virtual" company. Design or management changes are immediately transmitted throughout the supply chain, allowing real time integration into the various components. The result is a leaner and more efficient manufacturing process. Implementation of such a plan has been projected to save the auto industry over $1 billion/year. Similarly dramatic savings are possible in a host of other manufacturing industries as well. Any industry that relies on a series of companies efficiently working together would benefit.

However, there are significant challenges. Significant numbers of incompatible design, engineering and manufacturing systems abound within a typical supply chain. Various vendors have been selling management systems to individual companies for years without incorporating concern for future interconnectivity. Even new development causes problems. New software packages with greater functionality create difficulties for small and large companies at the bottom of the supply chain, since they can ill-afford to keep up with the latest technology.

One promising solution is in data exchange standards. The creation of standard protocols for the exchange of information between systems could alleviate the difficulties associated with inter-company communication. NIST has over 20 years experience in this critical area and is well positioned to take the lead for enterprise integration in the United States. NIST has a long track record and a close and favorable relationship with industry. It has obtained this reputation by working with industry and including them in the standards setting process rather than imposing one on them. In addition, NIST already has a number of programs designed at improving the role of small businesses and is aware of their particular needs.

Standards are essential to enterprise integration and traditionally it has been the role of government to foster their development. NIST has all of the expertise and experience required to lead this effort. I want to thank the leadership for recognizing the importance of this issue to the small business community and I urge my colleagues to support this bill.

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

The CHAIRMAN. All time for general debate has expired. Pursuant to the rule, the amendment in the nature of a substitute printed in our new, fast-paced, just-in-time-manufacturing economy. Companies are increasingly interconnected and must rely on one another in ways we have never before imagined. Standardization of their means of communication is imperative for their continued success.

SEC. 2. FINDINGS.

(1) Over 90 percent of United States companies engaged in manufacturing are small and medium-sized businesses.

(2) Most of these manufacturers produce goods for assembly into products of large companies.

(3) The emergence of the World Wide Web and the promulgation of international standards for product data exchange greatly accelerated the movement toward electronically integrated supply chains during the last half of the 1990's.

(4) European and Asian countries are investing heavily in electronic enterprise standards development, and in preparing their smaller manufacturers to do business in the new environment. European efforts are well advanced in many smaller, automobile and shipbuilding industries and are beginning in other industries including home building, furniture manufacturing, textiles, and apparel. This investment could give overseas companies a major competitive advantage.

(5) The National Institute of Standards and Technology, because of the electronic commerce emphasis in its laboratories under the National Institute of Standards and Technology Act, has a long history of working cooperatively with manufacturers, and the nationwide reach of its manufacturing extension program, is in a unique position to help United States large and smaller manufacturers achieve success in their responses to this challenge.

(6) It is, therefore, in the national interest for the National Institute of Standards and Technology to accelerate its efforts in helping industry develop and enterprise integration processes that are necessary to increase efficiency and lower costs.

SEC. 3. ENTERPRISE INTEGRATION INITIATIVE.

(a) ESTABLISHMENT.—The Director shall establish an initiative for advancing enterprise integration within the United States. In carrying out this initiative, the Director may, as appropriate, the various units of the National Institute of Standards and Technology, including the National Institute of Standards and Technology laboratories (including the Building and Fire Research Laboratory), the Manufacturing Extension Partnership program established under sections 23 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278g and 278b), and the Malcolm Baldrige National Quality Program. This initiative shall be an ongoing effort by the Institute of Standards and Technology and of the private sector, shall involve consortium that include government and industry, and shall address the enterprise integration needs of each United States major manufacturing industry at the earliest possible date.

(b) ASSESSMENT.—For each major manufacturing industry, the Director, in cooperation with industry, trade associations, professional societies, and others as appropriate, to identify enterprise integration standardization and implementation activities underway in the United States and abroad that affect industry and to assess the current state of enterprise integration within that industry. The Director may assist in the establishment of roadmap supply chains within the industry to operate as an integrated electronic enterprise. The roadmaps shall be based on voluntary consensus standard agreements. 

(c) REPORTS.—Within 180 days after the date of the enactment of this Act, and annually thereafter, the Director shall submit to the Commerce, Science and Technology Laboratories and the Committee on Commerce, Science, and Transportation of the Senate a report on the National Institute of Standards and Technology’s activities under subsection (b).

(d) AUTHORIZED ACTIVITIES.—In order to carry out this Act, the Director may work with industry, trade associations, professional societies, and others as appropriate, to identify enterprise integration standardization and implementation activities underway in the United States and abroad that affect industry and to assess the current state of enterprise integration within that industry. The Director may assist in the establishment of roadmap supply chains within the industry to operate as an integrated electronic enterprise. The roadmaps shall be based on voluntary consensus standard agreements.

(1) to raise awareness in the United States of enterprise integration activities in the United States and abroad, including by the convening of conferences

(2) on the development of enterprise integration roadmaps;

(3) to support the development, testing, promulgation of international standards, and adoption of, and coordination of standards related to enterprise integration including application protocols; and
that the manufacturing Extension Program is prepared to advise small and medium-sized businesses on how to acquire the needed equipment, and training necessary to participate fully in supply chains using enterprise integration.

SEC. 4. DEFINITIONS.

For purposes of this Act—

(1) the term "automotive" means land-based engine-powered vehicles including automobiles, trucks, busses, trains, defense vehicles, farm equipment, and motorcycles;

(2) the term "Director" means the Director of the National Institute of Standards and Technology;

(3) the term "enterprise integration" means the electronic linkage of manufacturers, assemblers, suppliers, and customers to enable the electronic exchange of product, manufacturing, and other business data among all partners in a product supply chain, and such term includes related application protocols and other related standards;

(4) the term "major manufacturing industry" includes the aerospace, automotive, electronics, shipbuilding, construction, home building, furniture, textile, and apparel industries and such other term as the Director designates; and

(5) the term "roadmap" means an assessment of manufacturing interoperability requirements developed by an industry describing that industry's goals related to enterprise integration, the knowledge and standards including application protocols necessary to achieve those goals, and the necessary steps, timetable, and assignment of responsibility for acquiring the knowledge and developing the standards and protocols.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director to carry out the functions under this Act—

(1) $2,000,000 for fiscal year 2002;

(2) $10,000,000 for fiscal year 2003;

(3) $15,000,000 for fiscal year 2004; and

(4) $20,000,000 for fiscal year 2005.

AMENDMENT NO. 1 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

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

Amendment No. 1 offered by Ms. Jackson-lee of Texas:

Page 5, line 6, insert "women, minorities, or both," after "in the United States".

Ms. JACKSON-LEE of Texas. As a Member of the House Committee on Science, I remember having the pleasure of joining this committee when I first was elected and I started out by saying science is the work of the 21st century. This legislation epitomizes that thought.

I want to thank the gentleman from Michigan (Mr. BARCIA) for his understanding leadership on this issue to recognize that it is our job in this Congress to help create jobs and to make a better pathway for those jobs to be created and for the products to be the best products that you can produce here in the United States. This legislation does that. I do thank him for that.

I thank the gentleman from Michigan (Mr. Ehlers) again for his leadership and the bipartisan spirit that this legislation has moved, and the ranking member, the gentleman from Texas (Mr. HALL), and the gentleman from New York (Mr. BOEHLERT), the chairman of the committee, for putting forward H.R. 2733, the Enterprise Integration Act of 2002.

I believe that this country loses when we lose the opportunity to manufacture. We lose the opportunity to have that kind of technology and expertise, because companies that are successful in business must be integrated, that computers are very important in allowing their language to be the same. We speak now in computers. If we want to use computers entirely, they must understand each other.

I believe that manufacturers in the United States will benefit, and I have a particular area in my district where it is necessary to develop technologies for small businesses, and they depend upon producing a product that large manufacturers will buy. They need to have the right language to produce the safest and best product. I believe the work that the gentleman from Texas and Michigan are doing is small businesses, and they company will benefit, and, as well, I believe that we will have a better and more diverse product.

With that, Mr. Chairman, I am now submitting this amendment, as I said, in order to ensure that our women-owned and minority-owned businesses are likewise involved; that they have the same outreach, the same capacity, the same language, the same computer technology.

We said a few years ago, and it seems like it was a long time ago, that we must close the digital divide. The Committee on Science has worked diligently with many members of the Committee on Science to make sure the digital divide is closed and our schools are linked, our small businesses are linked, our communities are linked.

I might say there is work to be done in our rural areas and our urban areas and some of the schools across the Nation. This is a step in the right direction of ensuring that the manufacturing system, large and small, is integrated together. I know the gentleman from Michigan (Mr. BARCIA) has worked very long on this, and again I would like to say this is where Texas and Michigan are working together, because even though we are in different regions, we know that automation, technology and manufacturing speak in one voice and one language.

I would like to make sure that when we talk about these issues, we talk about the richness of the diversity of America and all businesses, small businesses, minority-owned businesses and women-owned businesses, have the ability to access H.R. 2733.

With that, Mr. Chairman, I ask my colleagues to support this amendment.

Mr. Chairman, from the dawn of the computer age, integrated automation has been the Holy Grail of computing. Achieving full integrated automation remains elusive, despite huge investments in a wide array of technologies that promise integration—from data base technologies to single-vendor Application Service suites. The integration challenge is fundamentally twofold: (1) business process assets (programs and documentation) and (2) information assets (databases and files). A complete enterprise integration strategy must encompass both of these critically important asset classes.

The guiding philosophy behind integration at the data layer is that the real currency of the enterprise is its data and that the best path to this data is usually not through the original application. Additionally, the implied business logic must be in the data and not in the applications. The concept of easily manipulated business rules is the Holy Grail.

The manufacturing system, large and small, is critical to the success of externally focused initiatives that are driven by new business processes. For example, service initiatives are driven by the needs of new audiences to access existing information.

Today’s U.S. economy depends more than ever on the talents of skilled, high-tech workers. To sustain America’s preeminence we must take drastic steps to change the way we develop and deploy technology. The continually evolving nature of every business’s application landscape drives the need for easy-to-use automated information integration between application platforms. While the ideal is a single database infrastructure that supports all applications within a business, the evolutionary nature of technology investments makes this an unattainable goal for most.

To address these challenges, companies are devising integration architectures designed to leverage their data assets while insulating themselves from ongoing changes in technology. Unfortunately, there is no single strategy or product that addresses all the diverse integration challenges faced by most enterprises. Therefore, enterprise integration is not a one-size-fits-all problem, and there is no one-size-fits-all solution. The businesses need that can drive the delivery of solutions that demand a mix of technologies. Understanding the dynamics of application-driven data-driven integration solutions empowers technology to implement the right solution for the problem at hand.

By not tapping into the potential of all our groups, we are losing ground by not tapping into the potential of all our groups. We must take some bold steps today, for the rewards to...
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our country and our citizens will be great.

Many minority people feel it’s an impossible field to get into because they have had little or no knowledge about career choices in the field.

Changes are sweeping our computer-inter-twined reality. Differences in brains and our society is being further fragmented, not only by levels of education, financial status, and ethnic background, but also by accessibility to and knowledge of the world of the artificial. The world of interactions with computers has extended from programming to dialog and navigation in virtual and simulated worlds of information that will further divide our children and adults into “haves and have-nots.”

The underrepresented minority population in the United States, while increasing in numbers, is decreasing in numbers of people entering the computer field at a time when the bounty of new opportunities seems to be rising without end in sight. Large segments of the population, on the basis of ethnicity and gender, are not participating in proportional numbers in supplying the information technology needs of the nation.

The lack of diversity in science, engineering and technology education and careers is nothing new. Stereotypes based on race, ethnicity, gender, and disability have long discouraged inquisitive minds whose bodies do not match the public image. This is why I have proposed these amendments. I believe that women and minorities should be included in this technology revolution. They should not be left behind.

I urge support of the amendments to H.R. 2733.

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

Mr. Chairman, it is a pleasure to rise and indicate my willingness to accept this amendment, just as we did in the previous bill.

Mr. Chairman, I have worked with the gentlewoman from Texas on many issues relating to this. I am very familiar with NIST and their work, and, I suspect, in fact, I believe it is correct to say that they are as color-blind and gender-blind as anyone I have known, largely because on issues such as this they are working primarily on the computer language rather than on other issues.

But, nevertheless, given the past history of our Nation and of some business practices, it never hurts to add the language that the gentlewoman from Texas has included in her amendment, and it certainly enhances the bill, does not detract from it, and I am very pleased to accept this amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. EHLERS. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me thank the gentleman very much as well, because we have worked on the Committee on Science for a number of years and I believe he has consistently joined in on issues dealing with outreach to minorities and women. I thank the gentleman for accepting this particular amendment that adds to this very excellent bill on this issue.

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

Mr. Chairman, this is a good amendment, and I want to thank the gentlewoman from Houston, Texas. It is an upgrading amendment. It is in the area of a housekeeper amendment, but it is much more than that.

This amendment actually accentuates awareness, delineates the requirement that all sectors are addressed. The gentlewoman included all businesses in this Act and indicated minorities. It is a good amendment. It certainly helps to close the digital divide, and I support the amendment and ask for its passage.

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

Mr. Chairman, I simply want to thank the gentlewoman from Texas for her amendment, which strengthens the bill and sends the right signal that we must make science and technology and computing available across the country that the major growth of small- and medium-sized businesses in this country is at the behest of women entrepreneurs, as well as minority entrepreneurs. Certainly it is the intent of this legislation to include all of those risk-takers who create jobs and create growth in our economy. Obviously I think the bill is a better bill with the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE). I am fully supportive of the amendment.

Mr. Chairman, I also want to thank the gentleman from Michigan (Chairman EHLERS) for his kind remarks and say that I have enjoyed serving on our subcommittee thoroughly with each and every member of that subcommittee who worked so diligently and in a bipartisan fashion each and every week throughout the year we are in session to produce a great quality of legislation and measures that will enhance competitiveness for our domestic business community, as well as strengthen science in business and our environmental regulations.

I am proud as a member of that subcommittee to say that we always approached these issues with a bipartisan approach, and I am very grateful to the chairman of the subcommittee as well as the members of the subcommittee and the full committee, along with the ranking member, the gentlewoman from Texas (Mr. HALL), and the gentleman from New York (Chairman BOEHRLERT), for moving this legislation so expeditiously.

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It will help, and I am grateful for their support.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was agreed to.

The chair is authorized to send the amendments to the gentlewoman for withdrawing this amendment, and I appreciate her words.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Ms. JACKSON-LEE of Texas.

OFFERED BY: MS. JACKSON-LEE OF TEXAS

Amendment No. 2: Page 5, after line 25, insert the following new subsection:

(1) Women and Minority Awareness Stud-
ies. Not later than 3 years after the date of the enactment of this Act, the Director shall transmit to the Congress a report describing the extent of awareness of, and participation in, the development activities by businesses that are majority owned by women, minorities, or both.

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me frame my interest in this amendment, and that is that I believe to sustain America’s preeminence we must take drastic steps to change the way we develop our technology landscape. The continually evolving nature of every business’s application landscape drives the need for easy-to-use automated immigration between application platforms.

This is an excellent legislative initiative that we are now discussing. And I wanted to make sure that as we implemented this legislation, I encourage my colleagues to vote enthusiastically for H.R. 2733, that we would put in place a women-and-minority awareness study to ensure that we are reaching out to women-owned businesses as we do to all businesses and to minority businesses all over this country.

But I have had the opportunity to discuss with the distinguished ranking member of the subcommittee, the gentleman from Michigan (Mr. BARCIA), and I am very pleased with both the gentleman from Michigan (Mr. EHLERS) and his commitment to this issue, and I would like to work with them with the idea of working this legislation through its process as it works its will to ensure that these aspects of the legislation are included, and we will work together on that. And in that vein, Mr. Chairman, I am going to ask unanimous consent to withdraw this amendment.

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

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Michigan.

Mr. BARCIA. I would like to thank the gentlewoman for withdrawing this amendment, but also pledge my support in work with her and other members of the subcommittee and Chairman EHLERS, as we take the crucial steps at NIST, to accomplish the goals of this amendment, and I appreciate again the intent of what she is trying...
to accomplish. It certainly will enhance the mission that we are attempting to achieve with this bill, and I want to thank the gentlewoman for the amendment which was just adopted which strengthens the bill, but also agreeing today to work further on this issue if the processes move forward. Ms. JACKSON-LEE of Texas. I thank you very much for yielding, and I thank her for offering the amendment that once again raises an issue that deserves to be raised. But I also appreciate her withdrawing this because it would be inappropriate in this bill at this time, and I simply because it would likely detract from the central goal and slow it down, and it is very important to get this into action soon. But once again, this is something we would pursue down the line, and I am sure, if there is a problem that has to be followed. So I appreciate her offering it, and I appreciate her willingness to withdraw it at this time.

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INLAND FORECASTING IMPROVEMENT AND WARNING SYSTEM DEVELOPMENT ACT OF 2002

The SPEAKER pro tempore (Mr. SMITH). The pending business is the question on the passage of the bill, H.R. 2486, on which further proceedings were postponed earlier today. The Clerk read the title of the bill. The SPEAKER pro tempore. The question is on the passage of the bill on which yeas and nays are ordered. This is a 5-minute vote. The vote was taken by electronic device, and there were—yeas 413, nays 3, not voting 18, as follows:

(Roll No. 294)

YEAS—413

Abercrombie  Cannon  Doyle  Ose  Points
Ackerman  Cantor  Dreier  Pence  Ponzi
Aderholt  Capito  Duncan  Poe  Portman
Allen  Caspuno  Ehlers  Rogers  Posadas
Andres  Cardin  Eulberg  Rogers (NH)  Price (IA)
Andrews  Carson (IN)  Emerson  Rogers (OH)  Price (KY)
Armey  Carter  England  Rogers (OK)  Price (CT)
Baca  Chabot  Egilson  Rogers (WA)  Price (DE)
Bachus  Chabot  Etheridge  Rogers (WI)  Price (IL)
Baldwin  Clay  Everett  Rogers (WV)  Price (IN)
Ballenger  Clayton  Farr  Rohrabacher  Price (OH)
Barcia  Clement  Fattah  Rohrabacher (CA)  Price (OR)
Barr  Clyburn  Ferguson  Rogers (TX)  Price (MA)
Bartlett  Cobb  Fincher  Rogers (VA)  Price (MS)
Barton  Combest  Fletcher  Rogers (WA)  Price (NC)
Bas  Comstock  Ford  Romig  Price (RI)
Becerra  Conyers  Forbes  Roybal-Allard  Price (SC)
Bereuter  Costello  Fossella  Roybal (CA)  Price (SD)
Berkeley  Coyne Frank  Roybal (CT)  Price (TN)
Berman  Crane  Frulhy  Ryan  Price (CT)
Berry  Crist  Frost  Ryan (CA)  Price (UT)
Biggert  Crenshaw  Gallaga  Ryan (FL)  Price (VT)
Bilirakis  Crowley  Ganske  Ryan (IA)  Price (WA)
Bishop  Davis  Geatas  Ryan (IL)  Price (WI)
Blumenauer  Gephardt  Gerlach  Ryan (IN)  Price (WV)
Blynn  Grimm  Gibbons  Ryan (KY)  Price (WY)
Boehner  Gunnell  Gibbert  Ryan (LA)  Price (NY)
Boehlert  Cun maritime  Gidengiz  Ryan (MA)  Price (OH)
Bonilla  Davis (CA)  Gillmor  Ryan (MI)  Price (OK)
Bono  Davis (IL)  Gonzales  Rogers  Price (PA)
Boozman  Davis (AR)  Good  Rodgers  Price (RI)
Bosworth  Davis, Jo Ann  Gooden  Rogers (NY)  Price (SC)
Bosworth  Davis, Tom  Gordon  Rogers (OH)  Price (SD)
Boucher  Deal  Gosar  Rogers (OK)  Price (TN)
Boucher  DeFazio  Graham  Rogers (TX)  Price (TX)
Boyd  DeGette  Granger  Rogers (UT)  Price (UT)
Brady (PA)  Delahunt  Graves  Rogers (VA)  Price (VT)
Brady (TX)  Delatorre  Green (TX)  Rogers (VI)  Price (WA)
Brown (FL)  Delay  Green (WI)  Rogers (WA)  Price (WV)
Brown (OH)  DeMint  Greenwood  Rogers (WV)  Price (WY)
Brown (SC)  Deutsch  Gruceri  Rogers (AZ)  Price (WY)
Bryant  Daz-Balart  Gutierrez  Rogers (CO)  Price (WY)
Burr  Decks  Gutknecht  Rogers (CT)  Price (WY)
Buyer  Dengell  Hall (OH)  Rogers (DC)  Price (WY)
Callahan  Doggett  Hall (TX)  Roe  Price (WY)
Calvert  Dooley  Hanen  Rogers (NY)  Price (WY)
Camp  Doctleit  Harman  Rogers (NY)  Price (WY)

NAYs—3

Norton  Sensenbrenner  Traficant

The result of the vote was announced as above recorded. The title of the bill was amended so as to read: “A bill to authorize the National Oceanic and Atmospheric Administration, through the United States Weather Research Program, to conduct research and development, training, and outreach activities relating to inland flood forecasting improvement, and for other purposes.”. A motion to reconsider was laid on the table.

Stated for:
Mr. BALDACCI. Mr. Speaker, on the last recorded vote, I was unable to get to the recorded vote. I would have voted “yea” if I had an opportunity to do that.

PERSONAL EXPLANATION

Ms. DUNN. Mr. Speaker, on Thursday, July 11, 2002, I was unable to be present for rollcall No. 293 and No. 294.

Had I been present, I would have voted “yea” on rollcall No. 293, in favor of H.R. 2733, the Enterprise Integration Act of 2002, and “yea” on rollcall No. 294, in favor of H.R. 2486, the Tropical Cyclone Inland Forecasting Improvement and Warning System Development Act of 2002.

COMMUNICATION FROM THE HON. EDOLPHUS TOWNSEND, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable Edolphus Townsend, Member of Congress:

COMMUNICATION FROM THE HON. EDOLPHUS TOWNSEND, MEMBER OF CONGRESS

WASHINGTON OPERATIONS DIRECTOR, OFFICE OF HON. TOM LATHAM, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from James D. Carstensen, Washington Operations Director, Office of the Honorable Tom Latham, Member of Congress:
H4522

CONGRESSIONAL RECORD — HOUSE
July 11, 2002

CONGRESS OF THE UNITED STATES,

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

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House, that I have been served with a grand jury subpoena for testimony issued by the Superior Court of the District of Columbia.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

James D. Carstensen,
Operations Director, Office of Congressman Tom Latham (IA-06).

GENERAL LEAVE

Mrs. BIGGERT. 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. 2733.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

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.

RECONSTRUCTIVE SURGERY ACT OF 2002

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. Ross) is recognized for 5 minutes.

Mr. ROSS. Mr. Speaker, I rise this afternoon to share with my colleagues the heartbreaking story of a constituent of mine. After hearing of the challenges she has faced and still faces today in order to try and live a normal life, I introduced the Reconstructive Surgery Act of 2002, H.R. 4959.

This bill requires health insurance plans to cover medically necessary reconstructive surgery for congenital defects, developmental abnormalities, infection, trauma or disease.

As an infant, Wendelyn Osborne was diagnosed with a rare, congenital bone disease, craniofacial dysplasia, or CMD, which involves an overgrowth of facial bone that never deteriorates.

At the time of her diagnosis, she was the sixteenth CMD case in the world in medical history. Doctors told her parents that she would not live past the age of 10. After many surgeries, starting at the age of 6, Wendelyn has lived to be 36 years old. But she is not free of the harmful effects of her disease. Her facial muscles are paralyzed. Her optic nerve is damaged, and she must wear a hearing aid in order to hear properly.

The severity of her abnormalities requires further orthognathic surgeries so she may continue to be able to eat properly. Yet, Mrs. Osborne’s insurance company will not cover this procedure because it is considered cosmetic.

Mr. Speaker, I am pleased to have my colleague from Arkansas (Mr. Berry) as a supporter of this legislation. I yield to the gentleman.

Mr. BERRY. Mr. Speaker, I want to thank my colleague from the Fourth District of Arkansas (Mr. Ross) for his leadership on this matter. Clearly, the bill that he has introduced and I co-sponsored, H.R. 4959, that requires health insurance to cover medically necessary reconstructive surgery for congenital defects, developmental abnormalities, trauma or disease is the right thing to do.

People that are so unfortunate that they would be faced with a situation like this and desperately need insurance coverage should be respected by the insurance companies that choose to take advantage of a situation and refuse to pay for the care that these people need.

My colleague from the 4th District has already referred to Ms. Osborne, an Arkansas resident who was diagnosed with a rare, life-threatening congenital bone disease as a child. This should not be something that the insurance companies are allowed to take advantage of. It is time that this House does the right thing. It is time that we make it possible for Ms. Osborne and others that have been unfortunate enough to need this kind of treatment, that they will be allowed and that they will have the opportunity and that the insurance companies will provide the necessary coverage for their treatment.

Mr. ROSS. Mr. Speaker, I appreciate the gentleman from Arkansas (Mr. Berry) for joining me here today in our fight to ensure that the wrong by the big insurance companies.

They covered the surgeries that Wendelyn needed until she was about 18, maybe 21. Then it is like they are saying she was not supposed to live this long so we will not cover her operations any more. That is wrong.

The Reconstructive Surgery Act that we have written defines medically necessary reconstructive surgery as surgery performed to correct or repair abnormalities of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors or disease. The surgery must be designed to improve functions or to give the patient a normal appearance.

It specifically excludes cosmetic procedures defined as surgery that is performed to alter or reshape the normal structures of the body in order to improve appearance.

This bill draws a line between improving looks and improving life, often times, as in Wendelyn’s case, perhaps saving a life. Several States have a law requiring insurance coverage of medically necessary reconstructive surgery up to the age of 18. The Reconstructive Surgery Act is an effort to build upon what the States have started as well as address the arbitrary decision-making of some big insurance plans that refuse coverage and question physicians’ judgments when patients like Wendelyn Osborne try to get coverage under the plan for which they pay premiums every month.

The Reconstructive Surgery Act is endorsed by the National Organization for Rare Disorders, National Foundation for Facial Reconstruction, Easter Seals and the March of Dimes.

I am going to fight to move this legislation forward, to help people like Wendelyn Osborne get the reconstructive surgeries that they must have to stay alive and to live as normal and healthy a life as possible, and I urge my colleagues to join me in this fight.

According to one Harvard researcher, there have been CMD sufferers in their 50’s and 60’s who continue to need surgery to prevent conditions such as this, procedures that will allow them to continue breathing, yet orthognathic surgery is considered cosmetic.

Many of you remember the movie “Mask” in which Cher played the mother of a boy named Rocky who died from a disease similar to CMD. That movie was based on a true story. Rocky died because his mother couldn’t afford the life-saving reconstructive surgeries he needed.

Ms. Osborne has never met another person who suffers from CMD, but she has met countless people who struggle with trying to get the reconstructive surgeries they need. People born with cleft lips and palates, with missing pectoral muscles that cause chest deformities, even burn victims—all cases where reconstructive surgery is considered merely cosmetic.

For these people, falling into the wrong category means denial of coverage for their medical needs.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4600

Mr. FATTAH. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 4600.

The SPEAKER pro tempore (Mr. SHIMKUS). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

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.)

SECURITIES AND EXCHANGE COMMISSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DeFazio) is recognized for 5 minutes.
Mr. DeFAZIO. Mr. Speaker, the President gave a stunning speech the other day and talked about corporate responsibility. This is the new face of corporate responsibility, the chief law enforcement officer of the Securities and Exchange Commission. His name is Harvey Pitt. He is a former lobbyist for securities firms and accounting firms, and as a lobbyist, he opposed all re- forms and tightening of regulations.

He was not there at the President's speech and some would say, well, the President has a kind of hiding place, a guy because he is an embarrassment. Well, no, despite the fact that some of us think there is a crisis in corporate ethics and the meltdown and the bank- ruptcies and the pension losses and the tanking of the stock market and all the basic outright thievery that was going on, he was at the beach on vacation, but it really does not matter much because Harvey Pitt is so con- flicted he cannot vote as the chief law enforcement officer of the Securities and Exchange Commission.

They were recently undertaking an enforcement action against an ac- counting firm. There were three com- missions present. They heard the evi- dence of the staff. It was compelling. They wanted to prosecute that firm, but Mr. Pitt had to say, oh, excuse me, they are my former clients, I represent them, I cannot vote. The other woman commissioner there said, gee, actually, I represented them, too, I cannot vote.

So the commissioner left who could vote, a Clinton appointee, who did not have a conflict of interest. He voted to prosecute them, but then they appealed to an administrative law judge and said, hey, you cannot convict us with one vote, and in fact, the ad- ministrative law judge said you are right.

So here we have the new push for cor- porate accountability and responsi- bility, and we have a Securities and Exchange Commission that cannot prosecute anybody because two of the three sitting members named by Presi- dent Bush are so conflicted because these are their former clients and their future clients when they leave their so-called public service they cannot vote.

So this is wonderful. We can talk about getting tough, but nobody is going to be prosecuted, fined or go to jail. It is a very interesting sort of turn of events.

Mr. Pitt has had and said some pret- ty interesting things. Here is his phi- losophy as the chief law enforcement officer of the Securities and Exchange Commission. In general, Mr. Pitt said in November. My preferred approach to any regulatory issue is one in which the government’s participation is as limited as reasonably possible.

Well, he is at the beach and he can- not vote so I guess he is following his own provisos here.

Thus he delivers his other famous state- ment when he was first sworn in. He went up to his buddies on Wall Street, had lunch, had a great time, lot of champagne and stuff. They are cele- brating his becoming their regulator because they knew they would not have to worry much, and he said and promised, “a kinder and gentler place for accountants. The crooks could come clean, we would have a lunch, and it would be a kinder and gentler SEC.”

If my colleagues saw the President’s speech, there was this wonderful back- drop. Corporate responsibility, it said time and time and time again so one would not miss the message, even though, of course, the President was not advocating anything new or any- thing stringent or anything that might really jeopardize any of his corporate friends and contributors. Actually, what most people in the public do not know is actually that was the punish- ment. There was already very stiff pun- ishment levied on those Wall Street ty- coons. They had had to write 1,000 times on the wall “corporate responsi- bility” before the President’s speech. That was their punishment, and that is, of course, the central thrust about the corporate accountability and responsi- bility.

Unfortunately, last week the EPA de- cided to give a waiver so that the Navy at Earl could dump materials that ex- ceeded the 113 at the site, and yester- day, pursuant to a court action that was by U.S. Gypsum Company, the Federal court in New York ruled that because the EPA had not properly promulgated the 113 standard, that it could not be applied any more for ocean dumping. So there was some concern about whether U.S. Gypsum and other companies would be able to dump again off the coast of New Jer- sey.

So this legislation is necessary in order to guarantee that ocean dumping does not continue. Myself, the two Sen- ators from New Jersey and other Mem- bers of Congress have called upon the administrator of the EPA, Mrs. Whit- man, our former governor, to put the 113 standard into regulation as a mat- ter of law, and hopefully she will do that, but at the same time, in order to back that up, I think it is necessary for us to introduce legislation in the House that would accomplish the same goal, and that is what this legislation would attempt to do.

Mr. Speaker, I do not have to tell my colleagues how important it is that we not continue to dump any kind of toxic waste off the coast of New Jersey or anywhere else in the country. New Jer- sey’s number one industry is tourism, and particularly now in July, after the July 4 holiday, there are so many peo- ple using the beaches, coming down to the Jersey Shore, both from New Jer- sey as well as New York and the State of Pennsylvania and even other States. If people do not eat or do not have the guarantee that the ocean water will be clean, obviously they are not going to swim and they should not swim.

The issue of ocean dumping does not just affect bathers. It affects marine life. It affects people who eat fish. It affects so many things along the coast of New Jersey and around the country. I think it is really just amazing that we stick to this standard of 113 parts per billion to make sure that human health is safeguarded and that we do not go back into the trend that we had so many years ago of continuing to new guideline of 113 parts per billion in terms of PCBs.

We know that PCBs are very dam- aging to human health, particularly when they get into the marine life, and then ultimately pass up the food chain, and we had all agreed pursu- ant to this understanding several years ago that this standard or guide- line of 113 would be the standard for any kind of materials that would have to be placed at the ocean dumping regulation as a ma- terial of law, and hopefully she will do that, but at the same time, in order to back that up, I think it is necessary for us to introduce legislation in the House that would accomplish the same goal, and that is what this legislation would attempt to do.

Mr. Speaker, I do not have to tell my colleagues how important it is that we not continue to dump any kind of toxic waste off the coast of New Jersey or anywhere else in the country.
It does make a difference. We have to have clean water, and this legislation hopefully will move quickly.

It is being sponsored and introduced in the Senate today by Senators Torricelli and Corzine from New Jersey, and hopefully we will get a lot more support for it and we can move it quickly so that it becomes law.

REPORT ON H.R. 5093, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

Mr. KOLBE, from the Committee on Appropriations, submitted a privileged report (Rept. No. 107-564) on the bill (H.R. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore. Pursuant to clause 1 of rule XXI, all points of order are reserved on the bill.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.

RESOLUTION OF CONFLICT BETWEEN ETHIOPIA AND ERITREA

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 of New York. Mr. Speaker, today I would like to discuss an important issue in the Horn of Africa, a final and binding resolution of the conflict between Ethiopia and Eritrea.

The Horn of Africa is one of the poorest regions in the world but also one of the most strategic. It is a region plagued by years of war and conflict, some of which were caused by colonial legacies, the Cold War, and border disputes, but now with the help of the international community, the nations of Eritrea and Ethiopia sit at the cusp of permanently breaking a cycle of conflict.

One of my top priorities when I came to this House was to help end conflict on the continent of Africa by serving as a member on the Subcommittee on Africa, where I have been many wars in Africa. Some were just wars where African peoples fought to overthrow the yokes of colonialism and systems of racism. However, other wars in Africa fall into the category of unjust or senseless wars.

In the category of senseless wars in Africa, very few would top the 2-year border war between Eritrea and Ethiopia, two former brothers-in-arms who once fought together for over 30 years against dictatorships and for the right to self-determination.

The conflict that erupted in 1998 between the two countries was the result of a dispute over land in a barren, roadless area of shrubs and desert, and subsequent claims of military incursions. Two years of fighting left tens of thousands of people dead and more than a million refugees on both sides of the border displaced. What made this war even more destructive was that these nations, two of the poorest nations in the world and dependent upon foreign aid, were able to spend $3 billion to purchase weapons to wage this war.

Mr. Speaker, during the war, I always kept my doors open to officials from both nations. The only side I ever met with during the war was to stand on the side of all Ethiopians and all Eritreans who were committed to peace and who opposed the voices of militarism on either side.

On December 12, 2000, the two countries signed a United Nations-backed peace treaty, resulting in the end of hostilities and the creation of an independent commission to study and demarcate the disputed border area. According to the treaty, the border demarcation by the Hague Commission was to be final and binding. At the time, both countries stated their commitment to peace by vowing to fully implement the commission's ruling no matter what the outcome.

Mr. Speaker, on April 18 of this year, the Hague Commission released its decision on the demarcation of the Eritrean and Ethiopian border. Their decision reiterated the senselessness of the war by leaving the border substantially unaltered. Hence, what was this war about? Why did thousands of Ethiopians and Eritrean men and women have to die to resolve a border dispute?

Following the decision by the Hague Commission on May 13, 2002, the Ethiopian Government requested an interpretation of the commission's decision on order to implement the border demarcation process. While the original peace agreement gave no room for appeals by either party, the Hague Commission decided to accept the request by Ethiopia and pledged to provide a response within 30 days. This is why I wanted to speak on this issue today.

On June 24, the Hague Commission released its clarification report in response to Ethiopia's request. While the commission acknowledged each of the points in Ethiopia's clarification request, it concluded by saying, "The Ethiopian request for clarification and interpretation appears to be founded on a misapprehension regarding the scope and effect of the Boundary Commission's Rules of Procedure. The commission does not find in any of the items that appear in section 2, 3 or 4 of the Ethiopian request anything that identifies an uncertainty in the commission's decision that could be resolved by interpretation at this time. Accordingly, the commission concludes that the Ethiopian request is inadmissible and no further action will be taken upon it."

With this decision, it is high time for a newly created African Union, the United States, and the entire international community to emphasize the following points to the leaders of both Eritrea and Ethiopia:

One, that the Hague Commission's decision and reply to Ethiopia's clarification request must be adopted by both parties as the final decision, once and for all, that both countries must abide by the Hague Commission's ruling, and the international community should offer support to both nations to fully implement the decision.

Two, both societies should learn the lessons of the history of this conflict so that its causes are not repeated in the future. Conflicts over boundaries using extreme forms of nationalism or ethnic exaggerations are senseless struggles.

Finally, I would like to urge the leaders of both nations to have the courage to place the will of their citizens over the interests of their power and outdated ideas about security.

Neither society won anything from the war and both sides lost. Peace and prosperity was set back and both Ethiopia and Eritrea wasted human and financial resources. The only winners in unjust wars, are international arms sellers and traders.

I am confident that the peoples of both nations are tired of war. It is up to the leadership of both nations to serve the will of their citizens and demonstrate the vision to chart an irreversible course towards a permanent peace. I would like to challenge the leaders of both nations to understand that real power comes from leading a strong and prosperous society and can not always guarantee security. Defined borders and territorial integrity do not simply by having defined borders and territorial integrity. In this era of globalization, well-defined borders and territorial integrity do not and can not always guarantee security.

Real power comes from having a strong and prosperous society in a nation that is respected and able to assume its rightful place and responsibilities in the global community.

More importantly, real security and sustainable processes of peace are not attainable simply by having defined borders and territorial integrity. In this era of globalization, well-defined borders and territorial integrity do not and can not always guarantee security.

Real power comes from having a strong and prosperous society in a nation that is respected and able to assume its rightful place and responsibilities in the global community.

So I say to the Governments of Ethiopia and Eritrea: Accept the principle contained in OAU's framework for peace agreement which calls for both sides to: "Reject the use of force as a means of proposing solutions to disputes. Recognize that it is in your national security interests to accept the ruling as final and binding. Recognize that it is in your national strategic interests to put a senseless
war behind you once and for all, because you have real wars to wage.

A war against poverty and HIV–AIDS which demand that both governments shift the focus of your energies and your scarce resources to not only to rebuild your economies to help those hurt most by the war, your citizens. But to also face the challenges of transforming the public and private institutions and structures in the economy for the development of your societies in the 21st century.

These are the wars which must be waged if the vision of a strong and vibrant African Union is going to be realized. An African Union which needs the Horn of Africa to be stable. I will work in this Congress to support new forms of broad based US engagement with both nations, as both nations demonstrate their commitment to fighting for peace, development, health care, education and democracy.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SMITH). The Chair announces that at 2 p.m. we will cut off 5-minute special orders, and so we will expeditiously move forward.

HIV–AIDS

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, the brutality of the corporate scandal that occurred here in this Nation is one that clearly we should all be concerned about. But the idea of ignoring the crisis of HIV–AIDS should be one that we abhor.

When I refer to the tragedy of the corporate scandal here in the United States, it is to the loss that so many have suffered and so many millions and billions of dollars that have been lost. It is my belief that those billions of dollars could be vitally used for the tragedy of what is going on in HIV–AIDS.

It is important to note that the World Conference on AIDS has said progress has been made. But in addition to progress being made, we also find that there is much work to be done, particularly as it relates to the infection of HIV–AIDS, to the issues dealing with immune systems and the kinds of infections that are now becoming more prevalent, various drugs that are being utilized, the lack of monies for developing nations, the lack of dollars for helping with the mother–to–child infection transmission. We have found that where you have the circumstances of mother–to–child transmission and you have intervention, you will find that it works to save lives.

The increase of HIV–infected persons is enormous. The increase in countries like India and Bangladesh and China is enormous. The number of HIV–infected pregnant women who do not know that they are infected is enormous. The key thing we must do is to be able to find a way to address this question.

The Millennium Project has been announced. There has been a request for $1 billion. There has been an additional request for $2 billion. Mr. Speaker, let me suggest that that is not enough. We are being tortured in this country by our own increase in HIV–AIDS, particularly in the developed nation. Unlike American women, and I believe it is important for us to be able to focus our concern on many issues.

Corporate accountability is particularly important, as is corporate responsibility, as is particularly important. So, too, are the concerns regarding HIV–AIDS infection, as has been indicated by the World Conference on AIDS.

I am delighted to have this opportunity to address the House on this very important issue because we cannot forget. As we parallel our track on the issues of corporate accountability and recognizing the billions of dollars that have been lost in insurer training and the need to provide security for our own employees with pension reform and protections as relates to bankruptcy issues, we cannot afford to lose sight of the devastation of HIV–AIDS.

I am looking forward to working on the increase in funds coming from this House and this body, and the President signing legislation to intervene internationally on the tremendous costs of HIV–AIDS. We lose people, we lose the ability for nations to thrive and grow, as we undermine their economy, and they simply cannot thrive. They cannot feed the malnourished, they cannot provide affordable housing, and they cannot provide education because large percentages of their budget are taken up with issues such as HIV–AIDS.

We need to do proactive things, and one of them is to increase the relief or the forgiving of the debt that our Third World developing nations have so they can use those resources to provide good health care for those in need. South Africa has been a leader, Zimbabwe; Zambia has been a leader, and now it is important that we find our way to emphasize HIV–AIDS intervention and protection thereof.

This is an important issue. It is important for this Nation, and I cannot leave, Mr. Speaker, without acknowledging that each is our brother's keeper. We are our brothers' and sisters' keepers, and as we need to help those in this country, we must help those who are seeking our aid in fighting HIV–AIDS and the intervention of such.

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. Mr. Speaker, today I am concerned about Appropriations marked up and passed out the agricultural appropriations bill. That will be on the House floor next week.

In that effort this morning, there was an attempt to put language into that appropriations bill that would have the effect of having limits on the payments that go out to some of the very, very, big, big farmers. That amendment was squelched. A tremendous amount of pressure came to bear.

In the House, where we attempted to instruct conferees when the farm bill went through, that vote was overwhelming in giving the will of this House, this body, that we should have the kind of payment limits for farmers on farm price supports.

Let me just briefly, Mr. Speaker, explain the problem. We sort of hoodwink a lot of the American people by saying there are limits on what a farmer can receive. Not so. Because there is a loophole in the law. It is called generic certificates. After a farmer reaches the $75,000 limit that is allocated in the bill as a limit, from that point on there is a gimmick called generic certificates, that the farmer can take, he can farm or he can sell the generic certificate to pay for the commodity. The farmer ends up getting the same kind of benefit as what is limited under the $75,000 limitation.

I would call to my colleagues' attention that next week we're going to get language in the agricultural appropriations bill that will have some kind of a limit. So some of the farmers that are huge, that are big, are not getting million dollar payments that put the smaller farmer at a very distinct disadvantage, and that is good policy.

We should not have programs that wipe the small farmer out, and that is what is happening. Because the farm program is capitalized on land values, land values have gone up because of this last farm bill, and that means that it is harder for a small farmer to survive.

Let me just ask my colleagues to seriously look at this issue in the next days and consider the amendment that we intend to offer on the floor.

Mr. BACA. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from California.

VIDEO GAME BILL

Mr. BACA. Mr. Speaker, while our Nation is defending ourselves from attacks from abroad, we are facing another battle here at home. We are in a battle for the hearts and the minds and souls of our children. We must address the cultural issues that are influencing the behavior of our children.

They are being drowned by the flood of sex and violence from the video game industry. When four out of five kids walk into the neighborhood toy stores and buy video games that show people having sex with prostitutes, killing police officers, using drugs, and attacking our senior citizens, it is time to take action. These games are brainwashing our children. They teach them the skills and the will to kill.

I am a parent, a grandparent, and I have had enough of violence that we
The 14th International AIDS Conference for Knowledge and Commitment to Action

The video game industry is a $9 billion industry. But it is not about money, it is about our children. As an adult, you can shoot a gun, you can drink a beer, you can smoke a cigar. But if you are giving these substances to a child, you are a criminal. When it comes to video games with violent or sexual content, the same should be true.

The pornography industry, the gun industry, the tobacco industry, and the alcohol industry all accept regulations on their products when it comes to kids. And so must the video industry do the same.

We, as parents, need to take responsibility for our children. We have to monitor where and what they are learning and the type of behavior. We are the first and last line of defense. Parents cannot be undermined by stores that are only looking to make a profit.

Nine out of 10 parents want the stores to prevent our children from buying these games. The fact is that these stores are not enforcing their own policies. When stores have to decide whether to sell a game or make it quick, they do not enforce the policies. That is why, Mr. Speaker, I have introduced H.R. 4645, the Protect Children from Video Game Sex and Violence Act.

The SPEAKER pro tempore (Mr. Shimkus). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair. Accordingly (at 2 p.m.), the House stood in recess subject to the call of the Chair.

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. Jeff Miller of Florida) at 4 o’clock and 43 minutes p.m.

PERSONAL EXPLANATION

Mr. BISHOP. Mr. Speaker, on roll calls 288 and 291, I inadvertently voted “no” when I intended and should have voted “yes.”

The 14th International AIDS Conference for Knowledge and Commitment to Action

Mr. Speaker, the entire Barcelona Declaration is as follows:

Barcelona Declaration

$10 Billion for AIDS Treatment

2 Million People Worldwide in Treatment by 2004

Whereas every single day AIDS claims 8,500 lives, or the equivalent of three World Trade Center disasters daily:

Whereas by December 2001, 40 million people were living with HIV/AIDS, and by 2005 an estimated 100 million will be infected:

Whereas more than 40 million children—most of them in developing nations—will be orphaned by AIDS by 2010;

Whereas the World Health Organization this year has stated that anti-retroviral treatment is medically essential and has issued specific treatment guidelines, monitoring standards and regimen recommendations;

Whereas those on treatment represent less than 2% of all those infected with HIV because such treatment is almost completely unavailable in developing nations;

Whereas over 500 non-governmental organizations globally have endorsed the Barcelona Manifesto for Life, which commits nations to treating at least 2 million individuals in the developing world by the time of the 2004 International Conference on AIDS in Bangkok;

Whereas these organizations represent AIDS activists from Africa, Asia and the Pacific Islands, Australia, Europe, Central and South America, and North America;

Therefore, we declare as activists pledged to life for all persons with HIV/AIDS that we are committed to the following:

1. Securing donation of $10 billion dollars per year for global AIDS;

2. Antiretroviral (ARV) treatment for at least two million people with HIV/AIDS in the developing world by the 2004 Bangkok AIDS conference;

3. Lower, affordable ARV drug prices in the developed world and universal access to generics in the developing world by Bangk

4. A new global partnership between government and NGOs recognizing the primary role of NGOs in the global fight against AIDS.

We call on the delegates of the Barcelona International AIDS Conference to pledge themselves to these goals.

Now, I must mention a very disappointing turn of events leading up to the Barcelona conference. Many African delegates, especially those living with HIV and AIDS, were blocked out and denied visas by Spain for questionable reasons. Therefore, the conference did not benefit from the insights of those living with this disease at its epicenter in Africa. We lost the voices we did not benefit from the insights of the Barcelona Declaration, which was read into the opening session of the conference.

This declaration called for securing donations of $10 billion per year for global AIDS, antiretroviral treatment for at least 2 million people with HIV/AIDS; lower affordable drug prices and universal access to generics in the developing world; and a new global partnership between government and NGOs.

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In Barcelona we heard many strategies and staggering statistics of lives destroyed, but we also heard models of
The CONGRESSIONAL RECORD — HOUSE

July 11, 2002

THEORY OF THE ORIGIN OF MAN

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

Mr. PENCE. Mr. Speaker, I have always been interested in origins. Even though my training is in the law and in history, it has ever been an avocation of mine to contemplate and to study the origins of man and of life here on Earth.

Many theories of origins have been propounded throughout our Nation's history. In 1859, a sincere biologist returned from the Galapagos Islands and wrote, "The Origin of Species," in which Charles Darwin offered a theory of the origin of species which we have come to know as evolution. Charles Darwin never thought of evolution as anything other than a theory. He hoped that someday scientists would come to a new fact.

In 1925 in the famous Scopes Monkey Trial, this theory made its way through litigation into the classrooms of America, and we have all seen the consequences over the last 77 years: evolution not taught as a sincere theory of a biologist, but rather, Mr. Speaker, taught as fact. Unless anyone listening in would doubt that, we can all see in our mind's eye that grade school classroom that we all grew up in with the linear depiction of evolution just above the chalkboard. There is the monkey crawling on the grass. There is the man on all fours. And then there is Mel Gibson standing in all of his glory.

It is what we have been taught, that man proceeded and evolved along linear lines. But now comes a new find by paleontologists. In the newspapers all across America, a new study in "Nature" magazine, 6- to 7-million-year-old skull has been unearthed, the Toumai skull and it suggests that human evolution was actually, according to a new theory, human evolution was taking place, and I am quoting now, "all across Africa and the Earth," and the Earth was once truly, and I quote, "a planet of the apes on which nature was experimenting with many human-like creatures."

Paleontologists are excited about this, Mr. Speaker. But no one is pointing out that the textbooks will need to be changed because the old theory of evolution has been taken for 77 years in the classrooms of America as fact is suddenly replaced by a new theory, or I hasten to add, I am sure we will be told a new fact.

The truth is it always was a theory, Mr. Speaker. And now that we have recognized evolution as a theory, I would simply ask can we teach it as such and can we also consider teaching other theories of the origin of species? Like the theory that was believed in by every signer of the Declaration of Independence. Every signer of the Declaration of Independence believed and women were created and were endowed by that same Creator with certain unalienable rights. The Bible tells us that God created man in his own image, male and female. He created them. And I believe that, Mr. Speaker.

I believe that God created the known universe, the Earth and everything in it, including man. And I also believe that someday scientists will come to see that only the theory of intelligent design provides even a remotely rational explanation for the known universe. And I believe that have no fear of science, I believe that the more we study the science, the more the truth of faith will become apparent. I would just humbly ask as new theories of evolution find their ways into the newspapers and into the textbooks, let us demand that educators around America teach evolution not as fact, but as theory, and an interesting theory to boot. But let us also bring into the minds of all of our children all of the theories about the unknowable that are evident in the future through science and perhaps through faith we will find the truth from whence we come.

We must continue to support these efforts by increasing U.S. bilateral and multilateral funding for vital AIDS, tuberculosis and malaria programs. I am even more convinced that the United States must put at least, and this is a minimum, just at least $1 billion into the global trust fund for starters. Dr. Peter Piot, the director of UNAIDS, said that a $10 billion effort will only begin to make a dent in this crisis. We will never see a favorable result in a crisis of this magnitude if we continue to nickel and dime our efforts.

I agree that we must streamline bureaucracies and facilitate better coordination, but that should happen while we ramp up our response. Together in a bipartisan effort we must now act with purpose and in a way that provides for significant resources for this life-and-death effort. It is time to put our money where our mouth is.

Mr. Speaker, I want to thank the gentleman from Illinois (Mr. HYDE) and his very diligent staff, and the ranking member, the gentleman from California (Mr. LANTOS), and Mary Andrus of his staff, and the gentleman from Iowa (Mr. LEACH) and Michael Riggs of my staff for making HIV/AIDS a priority of the Committee on International Relations.

Mr. Speaker, I want to thank the gentleman from California (Ms. LEE). And Michael Riggs of my staff for making HIV/AIDS a priority of the Committee on International Relations. I would just humbly ask as new theories of evolution find their ways into the newspapers and into the text-books, let us demand that educators around America teach evolution not as fact, but as theory, and an interesting theory to boot. But let us also bring into the minds of all of our children all of the theories about the unknowable that are evident in the future through science and perhaps through faith we will find the truth from whence we come.

THEORISTS OF THE ORIGIN OF MAN

The SPEAKER pro tempore (Mr. LANTOS) is recognized for 5 minutes.

Mr. LANTOS. Mr. Speaker, I want to thank the committee on International Relations.

The SPEAKER pro tempore (Mr. CHRISTENSEN). The previous order of the House, the gentleman from the Virgin Islands (Mrs. CHRISTENSEN) is recognized for 5 minutes.

Mrs. CHRISTENSEN. Mr. Speaker, I too recently had the privilege of attending the 14th International AIDS Conference in Barcelona, Spain. I want to thank the House leadership for making it possible for me to join the gentleman from California (Ms. LEE). AIDS experts, activists and government representatives from all over the world assembled to share their invaluable knowledge and expertise in fighting the global HIV/AIDS pandemic and issuing a call to action.

This is a critically important conference happening at a very important time. UNAIDS and the World Health Organization recently released an updated report of where we are today. The most important message is that we are still at the beginning, the beginning of this terrible scourge. Yet there are already over 40 million people estimated to be living with HIV/AIDS around the world today and an estimated 1 million who died this year. At this incipient stage of the pandemic, there are already 13.4 million children orphaned by this disease. More than a third of those living with HIV and AIDS are under the age of 25.

The United States must put at least, and this is a minimum, just at least $1 billion into the global trust fund for starters. Dr. Peter Piot, the director of UNAIDS, said that a $10 billion effort will only begin to make a dent in this crisis. We will never see a favorable result in a crisis of this magnitude if we continue to nickel and dime our efforts.

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by exerting our influence on the other industrialized nations to meet theirs. Yet the United States, the richest country in the world, despite the fanfare surrounding recent increases in our contributions, ranks last in those who have pledged for the global trust fund.

To continue to fund this epidemic in drips and drabbles would be unconscionable because our delays and the delays of other nations have already caused it the resources completely out of control on a global scale.

Today, at home, our ADAP program needs an additional $80 million and the minority AIDS initiative needs $450 million. Globally, 10 billion dollars is what is needed every year; and we must commit and act to contribute at least our full share, not over a period of time, but now.

It should be exceedingly clear that we cannot continue to fall short of providing the level of funding. If we continue at the present level, we can anticipate another 45 million new infected persons within the next 20 years. It would also mean that there would be 20 million new children left without a mother or father, alone to grow up as orphans, denied of love and nurturing and probably education since the teachers too are among the dying.

This portends a serious and ever-increasing threat to the national security of the most affected countries and, unless we think in this wise, also to ours. Mr. Speaker, clearly the time for arguing over what must come first must be behind us. We must have treatment and prevention. We must find ways in this dire emergency to put life-saving medication within the reach of all who need it. Neither should research be pitied against prevention and treatment, because the need for vaccine, which may be just a few years ahead and which is where hope truly lies, must be given the resources it needs to go forward. As we approach its availability, we must begin to work even now to avoid the gaps in access that we are still working to address in the case of medication.

Lastly, we can not tie the hands of health professionals, community organizations, and workers as they work on the front lines of this epidemic. Family planning funding or population funding provides much of the first line of defense. There is need to impose this funding on a minority of Americans on countries where there are people just fighting to live by denying them the basic staff and supplies is not befitting a country that is built on Christian values and principles.

I join my colleagues today to call on the leadership of this body and our President to provide the funding, to lift the gag, release the funding for all international family planning programs and provide the leadership which has always been our hallmark by making the full contribution to the global trust fund and influencing all of our allies to do the same.

WHERE'S THE MONEY?

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). Under a previous order of the House, a gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, I would like to take my time that I am allotted tonight to talk a little bit about the loss of $17.3 billion.

On June 6 of this year I wrote a letter to the Secretary of the Treasury, and the reason that I wrote this letter is because I had been back in North Carolina during the break and I was listening to a talk show and they were quoting from the New York Post, and I want to read the first two paragraphs of this article.

It says, May 28, 2002, Washington complains about deceptive corporate accounting, but the government last year misplaced an incredible $17.3 billion because of shoddy bookkeeping or worse. Again, the article says, Let me put that into numbers so that you can fully appreciate the amount. It is $17.3 billion, the price of a few dozen urban renewal projects, to place a fleet of warships or about half the tax cut that everyone made such a fuss about last year.

In addition, the London Times also wrote an article on the fact that we in this Nation, this accounting system for this government, that we have lost or misplaced $17.3 billion. I share with my colleagues on both sides of the political aisle my frustration and disgust with what happened with Enron and also with WorldCom, but I do want to make the point, Mr. Speaker, that as sad as that is, and it is terribly sad, that the investors had a choice to make an investment. The taxpayers do not have a choice. They are mandated by law to pay their taxes.

So, therefore, we collect their taxes and yet in the year 2001, we have, and this is the term used, unreconciled transactions in the amount of $17.3 billion.

So this is about my third or fourth week of coming to the floor, and I actually on June 6, I wrote Secretary O'Neill a letter, and I am just going to read two paragraphs. I said, The report provides minimal data and information regarding the amount and nature of these transactions. Not only is the Federal Government missing $17.3 billion but there is no reason given for this loss. While I appreciate the Department of Treasury's statement, the identification and accounting of these unreconciled transactions is a priority. The fact remains, the public nor the Congress has the information on how this loss occurred, what agencies were responsible for this unreconciled transaction; would those transactions have been reduced, what is the time line for this reconciliation; what agency or agencies will be responsible for the reconciliation; will this reconciliation be available to the public when completed.

Mr. Speaker, the reason I am down here on the floor, I realize the Secretary is a very busy man, but I did write this letter on June 6 of this year, and I have not received a response. I am going to give the Secretary the benefit of the doubt, that like many of us here in the Congress, we have wondrous assistants that sometimes get the mail and they go through the letters before we see them. I am going to give him the benefit of the doubt. I did write on June 27 a letter to the gentleman from Indiana (Mr. BURTON), and I have asked that the oversight committee hold a hearing on this issue of where we have misplaced the $17.3 billion.

Again, Mr. Speaker, I will continue to come to the floor. Next week, I will have a chart that I will hold up before me as I speak, reminding the American people that we in Congress, on both sides of the political aisle, want to find out where that $17.3 billion of the taxpayers' money has gone, and if it has been misspent or misplaced, somebody needs to answer for it.

HONORING ANDREA FOX

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, I rise today to honor Andrea Fox of San Rafael, California, a talented professional planner, community volunteer, athlete and breast cancer activist, and an inspiration to everyone who knew her.

Andrea Fox lost her life in a battle against breast cancer on July 2 at the age of 35, leaving a legacy of extraordinary courage and compassion. A beautiful young woman with incredible grace and dignity, Annie Fox was dedicated to finding a cure for breast cancer. Diagnosed with a particularly aggressive cancer in 1998, the former triathlete, who ate organically and exercised regularly, had none of the traditional risk factors for cancer.

Undergoing a lumpectomy, she continued her athletic training and stage IV cancer seemed to disappear. But in April 2000, the cancer came back, and pursuing every treatment she could find, including non-Western, nontraditional methods, Annie appeared to have beaten it back.

Andrea focused her considerable energies on increasing public awareness and getting national attention for this serious epidemic of breast cancer in Marin County, joining the board of Marin Breast Cancer Watch. "Annie was one of our angels," said board president Roni Mentzer.

Whether lobbying in Sacramento for breast cancer research or educating the community about the dangerously high rates of breast cancer in Marin County, Annie made a difference. She made history.

Never daunted, she participated in athletic events such as the renowned...
Dipsea race and the human race, and she organized new events like the July 20, 2002 foot race from Mill Valley to the Mountain Theater on Mount Tamalpais to increase public knowledge and raise much-needed funds for research.

In October 2001, only 2 months after her engagement to long-time partner and soulmate Chris Stewart, the cancer came back and Annie mounted still another heroic campaign. Not one to seek sympathy, she was driven to passionately lead the fight for all women to find a cause for this insidious disease.

Despite increasing pain, she continued her work at the Marin Civic Center. “Annie was a special person,” Stewart said, “bringing a wonderful happiness to all those who knew her. She was passionate about her work and about preserving the environment.”

A woman of uncommon positive spirit, Andrea Fox lost her courageous battle with breast cancer surrounded by friends and family, leaving her devoted fiancé, her mother, her brother and a grieving community.

We are all more fortunate to have been graced by the presence of Andrea Fox, her beauty, her wisdom and her strength. Her love, resolve and remarkable will are cornerstones for the legacy of courage she has left so that we might continue the fight.

While Annie is gone, the spirit of this angel of our community will forever be with us.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. Nussle) is recognized for 5 minutes.

Mr. NUSSLE. Mr. Speaker, I am transmitting a status report on the current levels of on-budget spending and revenues for fiscal year 2003 and for the five-year period of fiscal years 2003 through 2007. This report is necessary to facilitate the application of sections 302 and 311 of the Congressional Budget Act and section 301 of House Concurrent Resolution 353, which is currently in effect as a concurrent resolution on the budget in the House. This status report is current through July 11, 2002.

The term “current level” refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President’s signature.

The first table in the report compares the current levels of total budget authority, outlays, and revenues with the aggregate levels set forth by H. Con. Res. 353. This comparison is needed to enforce section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution’s aggregate levels. The table does not show budget authority and outlays for years after fiscal year 2003 because appropriations for those years have not yet been considered.

The second table compares the current levels of budget authority, outlays, and revenues with the aggregate levels set forth by H. Con. Res. 353 for fiscal year 2003 under H. Con. Res. 353 for fiscal year 2003 and fiscal years 2003 through 2007. “Discretionary action” refers to legislation enacted after the adoption of the budget resolution. A separate allocation for the Medicare program, as established under section 213(d) of the budget resolution, is shown for fiscal year 2003 and fiscal years 2003 through 2012. This comparison is needed to enforce section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 302(a) discretionary action allocates of new budget authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a).

The third table compares the current levels of discretionary appropriations for fiscal year 2003 with the “section 302(b)” suballocations of discretionary budget authority and outlays among Appropriations subcommittees. The comparison is also needed to enforce section 302(f) of the Budget Act because the point of order under that section equally applies to measures that would breach the applicable section 302(b) suballocation.

The fourth table gives the current level for 2004 of accounts identified for advance appropriations under section 301 of H. Con. Res. 353 printed in the Congressional Record on May 22, 2002. This list is needed to enforce section 301 of the budget resolution, which creates a point of order against appropriation bills that contain advance appropriations that are: (i) not identified in the statement of managers or (ii) would cause the aggregate amount of such appropriations to exceed the level specified in the resolution.
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<tr>
<td></td>
<td>BA</td>
<td>Outlays</td>
<td>BA</td>
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<tr>
<td></td>
<td>OT</td>
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<td>OT</td>
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2. Does not include mass transit BA.


**Budget Authority.**—Enactment of measures providing new budget authority for FY 2003 in excess of $738,901,000,000 (if not already included in the current level estimate) would cause FY 2003 budget authority to exceed the appropriate level set by H. Con. Res. 353. Outlays.—Enactment of measures providing new outlays for FY 2003 in excess of $462,441,000,000 (if not already included in the current level estimate) would cause FY 2003 outlays to exceed the appropriate level set by H. Con. Res. 353. Revenues.—Enactment of measures that would result in revenue reduction for FY 2003 in excess of $4,431,000,000 (if not already included in the current level estimate) would cause revenues to fall below the appropriate levels set by H. Con. Res. 353.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 353, the Concurrent Resolution on the Budget for Fiscal Year 2003. The budget resolution figures incorporate revisions submitted by the Committee on the Budget to the House to reflect funding for emergency requirements. These revisions are required by section 314 of the Congressional Budget Act, as amended.

Since the beginning of the second session of the 107th Congress, the Congress has cleared the President and has signed the following acts that changed budget authority and outlays for 2003: the Job Creation and Worker Assistance Act of 2002 (Public Law 107–147), the Farm Security and Rural Investment Act of 2002 (Public Law 107–171), the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188), and the Auction Reform Act of 2002 (Public Law 107–196). The effects of these new laws are identified in the enclosed table.

Sincerely,

BARRY B. ANDERSON
(Dan L. Crippen, Director).

Enclosure.
GLOBAL HIV, TUBERCULOSIS AND MALARIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. Solis) is recognized for 5 minutes.

Ms. SOLIS. Mr. Speaker, I appreciate the opportunity to be here tonight, and I want to especially thank my good friend, the gentlewoman from California (Ms. Lee) and applaud her for her work in bringing us together here tonight to talk about the HIV pandemic. We have all been closely following the happenings this week at the 14th International AIDS Conference in Barcelona, Spain, and although it is exciting to hear about the new research breakthroughs and findings, it is also disheartening to hear about the sheer number of people who are infected and affected by this disease throughout the world.

More than 40 million people are living with HIV worldwide, and nearly 5 million of those people were diagnosed with HIV just last year alone. Ninety-six percent of those people living with HIV reside in developing countries, third world countries and, for example, 1.5 million children and adults in Latin America alone are living with HIV. About 130,000 of these were diagnosed just last year.

Unfortunately, many HIV-positive individuals do not even know they have the deadly disease. We still have a long way to go to raise awareness about the disease and to ensure that Nations have the resources to implement proven prevention and treatment programs. We must do more to help our global neighbors combat this deadly disease.

UNAIDS has estimated that between $7 billion and $10 billion is needed each year to effectively respond to the global HIV/AIDS epidemic, but during this last session, the United States only contributed an estimated $1 billion to HIV and AIDS research. This includes a $200 million contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria, and I think that is great, but we can do a lot better.

It is important to note that aid for global HIV effort is more than a moral responsibility. It is an economic and political necessity. Countries with AIDS face economic and social threats as governments struggle with the burden of trying to pay for HIV treatment and prevention, and often the populations most affected by HIV are the key to the economic stability of these nations.

As an example, these people are the ones between the age of 15 and 24 years old. They represent 42 percent of the newest HIV infections and make up about one-third of the global total of people living with AIDS. When these people face the threat of AIDS, their families and communities are devastated and, of course, HIV also has a particularly devastating impact on the youngest of our global population.

Worldwide, an estimated 14 million children under the age of 15 have lost one or both parents from AIDS. The stories of children who are orphaned by AIDS are heartbreaking to all of us. We cannot afford to ignore the AIDS crisis. We must commit ourselves to doing more, and I hope that this Congress can make that commitment, and I certainly urge and strongly urge the President of the United States to do the same.

CALLING FOR U.S. ACTION ON GLOBAL HIV AND AIDS PANDEMIC

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, it is with a heavy heart that I rise today to talk about the global AIDS pandemic and the catastrophic consequences of doing so little, too little to combat it here at home and around the world.

Here at home, HIV and AIDS is the number one killer of young black men. Here in the United States, where most are able to afford or have access to the standard of care for this disease, the instance of mortality has declined sharply, thanks to antiretroviral combination therapy. But make no mistake about it, HIV is a clever, still lethal virus, and the emphasis of these drugs is limited.

For many who have developed resistance to these drugs, the treatment is called salvage therapy. Think about the term, salvage therapy. It is shocking and sad that the two words are used in the same breath, but it is true.

The pharmaceutical industry, often with substantial government funding and research support from NIH and CDC, has made great strides, and it will have to do so again because many of the newest HIV cases are diagnosed resistant to one or more of the existing drugs. I call on the pharmaceutical industry to redouble its effort to consider spending much less on public relations and marketing and much more on research and development.

I would ask this Congress to take up and pass the legislation authored by the gentleman from New York (Mr. Nadler), who has long advocated for an anti-AIDS effort similar to the Manhattan Project.

Twenty million people have died from AIDS in the last two decades. According to the United Nations AIDS agency, 70 million more people could perish in the next 20 years.

Looking internationally, the picture is bleak and in danger of becoming a world destabilizing force, a holocaust due to woefully inadequate resources. The problem is not limited to African nations, which currently have the greatest share of the infection. Other developing countries, as well as Russia and China, are only just coming to grips with the severity of the HIV and AIDS epidemic.
The devastation of vast percentages of populations in African nations will create national security concerns for the United States and other nations within the near future unless we act now to arrest and eradicate this scourge.

Sub-Saharan Africa represents 77 percent of AIDS deaths, 70 percent of HIV-infected people and nearly 70 percent of all new infections and 90 percent of children infected with the virus.

These are truly, truly grim statistics. We will not begin to change these numbers until we begin to invest as though HIV/AIDS were a profound threat to the public health worldwide and a threat to national security as well. We cannot afford to be penny-wise and pound-foolish. Eight thousand five hundred and eighty children die each day from AIDS, more than twice as many as perished on September 11. Another sobering statistic.

I want to thank my colleague, the gentlewoman from California, for her continuous leadership on the complex issues involved with HIV and AIDS. I share her concern that support for another $1 billion contribution by the United States to the Global Trust Fund is needed. We are obligated to do that. We are morally challenged to do that. We need to do that to support comprehensive prevention and treatment efforts, and, ultimately, to find a cure.

The SPEAKER pro tempore (Mr. KIRK). Under a previous order of the House, the gentleman from Washington (Mr. INSLEE) is recognized for 5 minutes.

(Mr. INSLEE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

HIV/AIDS PANDEMIC

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) is recognized for 5 minutes.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today with my colleagues to draw attention to the ongoing HIV/AIDS pandemic.

This week, the 16th Annual International AIDS Conference was held in Barcelona, Spain. The conference highlighted the fact that, contrary to previous beliefs, the global AIDS pandemic is growing and is only getting worse. According to UNAIDS, 40 million people live with HIV/AIDS in the world today; 28.5 million of them are in sub-Saharan Africa. Three million of those infected are children younger than 15. Last year, five million people were newly infected with HIV, and three million died of AIDS.

In Botswana, almost 44 percent of pregnant women visiting clinics in urban areas are HIV positive. In several countries in West Africa—such as Burkina Faso and Cameroon—the adult prevalence rate surpassed 5 percent, a level that many experts agree precedes a larger scale epidemic. This devastating disease is erasing decades of development and cutting life expectancy by nearly half in the most affected areas.

These statistics are staggering, but they also obscure the human cost of the epidemic. Infected teachers pass away and are unable to transmit knowledge to the next generation. Business owners die and their enterprises die with them. Trained in the fields of professionals, such as nurses, civil servants, and lawyers mean that their skills disappear from their country. By 2010, UNAIDS believes that twenty million children in sub-Saharan Africa will have lost at least one of their parents to AIDS. Mr. Speaker, entire societies are being destroyed by this terrible virus.

There are a few—very few—signs of hope. Some countries, such as Uganda, have stemmed the rate of infection and have averted a wider catastrophe. Other countries are finally acknowledging that HIV/AIDS poses a serious risk to their stability and are beginning to remove the stigma associated with the disease. Last week, the government of Nigeria announced that it had ordered free HIV/AIDS test for half a million of its citizens. And programs that seek to prevent the transmission of the virus from mothers to children are proving to be effective and are being implemented on a larger scale.

But Mr. Speaker, there is more that we as the sole superpower can do to stop the spread of this scourge that threatens the stability of many of the countries. We can increase our assistance for education and prevention efforts and involve more sectors of societies in such prevention campaigns. We can continue to lower the cost of life-saving anti-retroviral drugs so that people in developing countries have the hope of treatment and are more willing to learn their HIV status. We can support the research and development of an effective, practical vaccine for HIV. And we can increase the United States’ contributions for the Global Fund to Fight AIDS, Tuberculosis, and Malaria.

What we are doing simply is not enough to stem this global massacre. As a world leader, we must step up our efforts and contributions in this global struggle.

GLOBAL AIDS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. LEE) for signs of hope.

Ms. LEE. Mr. Speaker, I would like to thank my colleague, Congresswoman BARBARA LEE, for organizing today’s Special Orders on Global AIDS.

Over the past 5 days, the 14th International AIDS Conference has been taking place in Barcelona, Spain. The statistics that have been reported at the Conference are devastating. More than one in five adults in seven sub-Saharan African countries are already infected with HIV. In Botswana, Lesotho, Swaziland and Zimbabwe, the rate is one in three.

The African continent is experiencing a decline in life expectancy in 51 countries over the next two decades. This demographic effect is without precedent in modern times. Seven countries in sub-Saharan Africa now have average life expectancies of less than 40 years. By the end of this decade, 11 African countries will have life expectancies of less than 40 years. This is a level they have not experienced since the end of the 1800s. Sub-Saharan African countries could lose 25 percent of their labor forces by 2002.

At the Conference, there was overwhelming support for a $7–10 billion annual commitment to fight global AIDS. This worldwide commitment should begin with a commitment of $2.5 billion from the United States in fiscal year 2003. Unfortunately, the countries that attended the recent G–8 Summit offered only empty promises of more development assistance for Africa. We need to do more.

I call on this Congress to provide $2.5 billion for the fight against global AIDS in fiscal year 2003.

U.S. ROLE IN HIV/AIDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, I appreciate my colleague, the gentlewoman from California (Ms. LEE) for bringing this issue up and for taking the time to make the trip to Barcelona and go to the conference.

One of the striking things this morning was looking at the newspaper clips and finding that the Secretary of Health and Human Services of the United States of America was booted off the stage. When you look at that, you ask yourself, why is it that we, the strongest, the most wealthy, the most advanced, the most scientifically creative country in the world is booted off the stage of an international conference on a world plague?

I think that it is important for us to think about what role we in this country have played. We have not taken our rightful leadership. There has not been an international conference in the United States since this Congress passed the Helms-Burton amendment some years ago, which excluded from this country anybody who has AIDS. If you have AIDS, you are not supposed to be able to get into this country.

Now, the statement we made to the world with that particular amendment from this Congress was that somehow coming in here you are bringing something that is not already here. AIDS is in this country. We have already heard from previous speakers, like my friend from North Carolina, it is the leading cause of death among young black men in this country, and it is a leading illness among Hispanic women in this country.

We in this country have a problem that we have not dealt with. This Congress has not put money into the kind
of prevention and education programs that we ought to be doing for young people in this country. But that statement of the Helms-Burton amendment said to the world, you have got the problem, do not bring it over here. Clearly, this was not looking at our own problem.

Now, the reason that conference in Barcelona was so important is that it is starting to talk about more and more advances of treatment and more and more complicated illnesses being found. In all kinds of research, there, but one must not lose sight of the fact that education and prevention still are the best hope for the world. We can have retroviral therapy, and we want that, and we should push the drug companies, and we should do everything possible, but administering those drugs and monitoring them, and it is as somebody described it, savage therapy. It is tough treatment. It is not an easy regimen. It has only so much effectiveness.

The real thing we have to get is people educated and aware of their own status. That is not expensive. If we would spend the money for the diagnostic tools that we have available and developed in this United States by USAID, we could make it possible for everyone to know their status. So at least they would know whether or not they were passing it on to their partner. But we do not put our money where our mouth is.

We say we want to do things for the world. We go and we make speeches, we put up a little bit of money, and then we double-count it so it looks like more. But the fact is, the United States is not putting up their fair share. Kofi Annan asked for an enormous contribution, said how much would be necessary, and the United States put up a pitiful amount.

Our contribution is something like 0.1 percent of our gross domestic product. The Norwegians, the Swedes, the Danes, the Dutch put up 0.2, 0.3 percent. Why can these little countries do that, while we, the country with all the resources in the world, not put the money into the Global AIDS Fund that Kofi Annan has set up, or through our USAID? Or there are many ways in which we could put that money out there, but it requires a commitment.

Now, thanks to the work of people like the gentlewoman from California (Ms. LEE) and the gentlewoman from California (Ms. MILLER-MCDONALD) and other Members of the Congress, the devastation that is occurring in Africa is now much better understood than it was 10 years ago.

I remember in 1991 having lunch with the President of Zambia, Mr. Kaunda, who said, what will I do with 500,000 orphans? Today, we are dealing with those orphans worldwide. And if we do not do something about it, it will not be 500,000, it will be millions and millions and millions of orphans. We must do more.

HIV AND AIDS IN AFRICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PAYNE) is recognized for 5 minutes.

Mr. PAYNE. Mr. Speaker, let me begin by commending the gentlewoman from California (Ms. MILLER-MCDONALD) for the outstanding work that she has done in her tireless efforts to bring to the attention of America, the Congress, and the world the need for us to do much more as relates to the HIV and AIDS pandemic. I also commend the gentlewoman from the Virgin Islands (Ms. CHRISTENSEN), a physician, who also has been spearheading this. Let me commend them for attending the 14th International Conference on AIDS where the question of HIV and AIDS, of course, was the center of discussion.

It has been indicated that AIDS will kill at least 68 million people by 2020 unless rich nations invest far more in global prevention, says a report that was released this year. It is now clear to me that we have only seen the beginning of the worst epidemic in human history, says Peter Piot, Director of the joint United Nations program for HIV and AIDS, UNAIDS. He said that the disease will not only destabilize Africa but it will affect economic and political stability worldwide, particularly when the epidemic begins to peak in the most populated countries, such as China, India, and Russia.

The UNAIDS update, released ahead of the planned meeting that started on July 7 in Barcelona, indicates the number will grow to 40 million people worldwide, there has been a jump of 6 million cases, new cases, in 2 years, and that the infection rate continues to steadily rise in India, China, Russia, and Eastern Europe.

So we have a very, very serious situation. This terrorism is far more deadly than anything we could ever imagine. As we have indicated, the numbers are staggering, and AIDS is ripping through every continent destroying everything in its path. But let me concentrate a bit on Africa.

Botswana is currently experiencing the worst of the pandemic, with over 30 percent of its population affected. South Africa has also been hard hit. It is estimated that one out of three adults are infected. We have seen, to date, with President Mbeki, that there is currently no national agenda to deal with the problem. We have seen statistics from Zimbabwe which say that 35 percent of that population has been infected with HIV and AIDS.

In many countries the largest number of victims are from the public service sector: teachers, civil servants. So we can imagine what that will mean for most of the developed world when we are losing the leaders in those countries, with 14 percent of the teachers in a single year. The current rate is expected to increase to 30 percent in 10 years. So we have a very, very serious problem.

What we need to do, though, is to increase the amount of funds that are available. On the eve of the G8 meeting, President Bush announced a new initiative to address the pandemic through a pledge of an additional $500 million over 5 years to help prevent transmission. It focuses on the most affected parts of Africa and the Caribbean. As little as a single dose of medication to mother and child at birth is reported to prevent transmission 50 percent of the time.

While this is a positive step, it does not address the problem itself. The disease many times is transmitted through sexual activity, but this initiative focuses on the least politically sensitive aspect of care and treatment.

U.S. AIDS programs, through the Agency for International Development, focus on education and do not offer treatment. Fewer than 2 percent of the people living with AIDS in sub-Saharan Africa have access to antiretroviral drugs that are saving lives and improving the quality of life for those who are fortunate enough to receive them.

So focusing primarily on the innocent newborns, Bush’s pledge leaves out women and children and communities and families. So I urge that we pass and stress that the U.S. House of Representatives step up to the plate and offer additional funding.

BARCELONA CONFERENCE ON HIV–AIDS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. MILLER-MCDONALD) is recognized for 5 minutes.

Mrs. JONES of Ohio. Mr. Speaker, I stand here, along with my colleagues, to commend the gentlewoman from California (Ms. LEE) for her leadership and our continuing issue of the epidemic internationally. My colleague already read the declaration from the Barcelona conference. I am going to read the whereas clauses, because I think they set forth specifically the status of this AIDS pandemic internationally.

“Whereas every single day AIDS claims 8,500 lives, or the equivalent of three World Trade Center disasters daily;

Whereas by December 2001, 40 million people were living with HIV–AIDS, and by 2005 an estimated 100 million will be infected;

Whereas more than 40 million children, most of them in developing nations, will be orphaned by AIDS by 2010;

Whereas the World Health Organization this year has stated that the antiretroviral treatment is medically essential and has issued specific treatment guidelines, monitoring standards, and regimen recommendations;

Whereas those on treatment represent less than 2 percent of all those infected with HIV because such treatment is almost completely unavailable in developing nations;
Whereas, over 500 nongovernmental organizations globally have endorsed the Barcelona March for Life, which demands treatment access to at least 2 million people in the developing world by the time of the 2004 International Conference on AIDS in Bangkok;

Whereas these organizations represent AIDS activists from Africa, Asia and the Pacific Islands, Australia, Europe, Central and South America, and North America, therefore, we declare as activists pledged to life for all persons with HIV/AIDS that we are committed to the following goals, which the gentlewoman from California (Ms. Lee) has set forth.

Mr. Speaker, I had an opportunity to represent the gentlewoman from California (Ms. Lee) at World AIDS Day in Seattle 2 years ago during the WTO, and it was my pleasure to sit on her behalf. What was most interesting to me was the fact that an epidemiologist came and testified before the organization that there were hundreds and thousands of grandparents raising grandchildren because the parents of these children have been infected with the HIV/AIDS virus and, therefore, were unable to take care of their own children. So grandparents are taking care of as many as 25 of their grandchildren.

I think we need to pay attention to, as the United States of America, and when we start thinking about the companies and corporations that are doing business in these developing countries, that they will not have available to them the workers to do the work in these countries. We need to pay attention to the HIV/AIDS virus and pay attention not only in developing countries, but in our own Nation.

In the United States, 950,000 have been diagnosed with AIDS. African Americans make up 13 percent of the total U.S. population, but 54 percent of the new infections, 82 percent of the women who are newly infected with HIV/AIDS are African American and Latino.

The time is up for us to sit back and believe the HIV/AIDS virus is affecting people other than Americans and we can just think about it being in another country and not deal with the issue. I stand here in support of the Barcelonada Declaration. I stand here in support of all the people of the world, but particularly on behalf of the people of the 11th Congressional District of Ohio, and I salute the gentlewoman from California (Ms. Lee) for her work in this area.

PRESIDENT BUSH REFUSES TO SUPPORT REAL REFORM

The SPEAKER pro tempore (Mr. KIRK). Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, on Tuesday of this week, President Bush gave a major speech on his administration's plan to curb executive greed and corporate misgovernance in America. Why was the President's speech so poorly received? Why did the markets drop by several hundred points in the 2 hours following the speech? Why did so many Wall Street workers who attended the speech ask, How much of this speech was politics, and how much of it is about real change?

Because despite his calls for corporate reform, President Bush, at the behest of his corporate sponsors, his major contributors, his political base, his political friends, continues to oppose real reform on Capitol Hill. He has refused to support pension and accounting reform and takes millions of dollars from the securities and accounting professions. He will not support legislation to halt offshore tax avoidance, while receiving contributions from many major companies who have moved offshore to avoid paying taxes. He is severely underfunding the Securities and Exchange Commission.

To make matters worse, the President has pushed to turn the public program of Medicare over to the health industry. Congress, in advocating managed care, again while receiving millions of dollars from that health industry for his campaign and for Republican campaigns in the House and Senate.

The President also advocates turning Social Security over to the same Wall Street banks that advised American investors to buy WorldCom, Enron, Adelphia, and Bristol-Myers, and all those other companies over the last few years, while their analysts have privately ridiculed these companies and investors.

More recently, the President endorsed a prescription drug plan that would be administered by the health insurance industry and would make no provision for those uninsured Americans (Mr. Greenwood). The plan would undercut seniors who are being gouged by the predatory pricing of the pharmaceutical industry. Instead, it is a clever industry-written legislation for the Republican leadership and the White House legislation on energy. Wall Street has written for the White House and Republican leadership legislation on privatizing Social Security; and the President's industry has written legislation dealing with pharmaceuticals for the White House and Republican leadership.

Coincidentally, Mr. Speaker, the most recent example of the President taking industry's side can be found in today's headlines and also concerns prescription drugs. To avoid more questions about corporate accountability, President Bush left town today to give a speech in Minnesota on prescription drug prices. Meanwhile, of course, the Republican fundraiser, his 34th this year, while we fight the war on terrorism.

The speech is timed to coincide with the release of an administration report, which conveniently concludes that the drug industry, America's most profitable industry after year after year over the last 20 years, and an industry which enjoys the lowest tax rate of any industry year after year, his report concludes that the drug industry will be harmed by additional regulatory burdens, by lower prices imposed in part by this Congress.

Democrats are more concerned about the burden on seniors and their families who are being gouged by the predatory pricing of the pharmaceutical industry. That is why we support a direct prescription drug benefit with guaranteed coverage inside Medicare, not an insurance policy plan written by the drug industry.

Mr. Speaker, when will the administration do work in the public interest rather than on corporate interests?

CORPORATE ACCOUNTABILITY

The SPEAKER pro tempore. The Speaker's announced policy of January 3, 2001, the gentleman from Pennsylvania (Mr. GREENWOOD) is recognized for 60 minutes as the designee of the majority leader.

Mr. GREENWOOD. Mr. Speaker, it is fitting that this new hour follows that last 5-minute presentation which was a perfect example of classic partisanship rhetoric aimed more to gain political favor than to shed light on an issue.

What we are going to do for the next hour is exactly the opposite, that is, my colleagues from the Committee on Energy and Commerce and I are going to talk about how we can, in bipartisan fashion, deal with the corporate malaise, the corporate scandals that have
rocked our country to make sure that American investors are in better shape and enjoy more confidence in the market in the future.

We are here to talk about the best way to ensure corporate accountability and the confidence in our markets, and build a 21st-century model of corporate governance that will give us an honest, open, transparent and efficient marketplace.

Before I am joined by my other colleague, I want to describe the challenges we in Congress, the administration, and the overwhelming number of honest men and women who run our country’s publicly traded companies face in this effort. I want to begin by placing our work in the larger context of the remarkable events that have occurred in the executive suites of some of America’s largest corporations and the unsettling erosion in corporate accountability.

What we have been witness to this year with the collapse of WorldCom, Adelphia Corporation, Tyco International, ImClone, Enron, and Global Crossing is almost beyond comprehension. Certainly the markets themselves remain confused. The Standards & Poor’s index of the largest 500 companies is down the 17 percent since the year began, and as Business Week reported, “The inability of investors to distinguish honest companies from dishonest ones have caused them to sit on the sidelines. They are not buying stock.”

More disturbing, however, is the behavior of overseas investors. They are getting out. They are selling off their holdings and driving down the dollar, which has slipped 9 percent against the Euro since February.

Clearly we need in bipartisan fashion to take every reasonable and prudent step to restore confidence in our markets. But in doing that, we need to remember that this decline in the character of corporate governance did not occur overnight. What we are now experiencing are the terrible costs of the 1990s corporate culture that placed too high a premium on the effort to do well at the expense of doing what is right.

Look at the evidence. While there will probably be nearly 250 corporate earnings restatements this year, the number has been mounting since the mid-1990s. For example, while there were 157 financial restatements last year, nearly 30 in 1997 and 100 in 1998. The cost to investors has been high. It is estimated in a just-released study that these restatements resulted in total market value losses of $31.2 billion in 2000, but 1998 and 1999 restatements which accounted for market value losses of roughly $10 billion and $24 billion respectively were disturbing as well.

This brings me to a remark of one of our witnesses, Professor Bala Dharan of Rice University. He made it 2 weeks ago at our first hearing on the reform of the Financial Standards Accounting Board. When I asked if perhaps the boards of directors of our largest companies were too busy at the shrimp bowl to pay attention to their duties, his reply was that they were either “snoring or ignoring.”

Then he went on to make what I believe was a chilling and sobering observation. The facts that led to the unraveling of firms like WorldCom, Tyco, and Enron he said, “What is going on is that this is a case that involves an enormous number of people, and that is why I refer to them as the law of the jungle rather than just accounting. In order to do this, you also have to have the compliance of lawyers and investment bankers from the outside.”

He then concluded, “We are witnessing a comprehensive approach to financial engineering that has been going on for the last 5-10 years.”

This is what we are confronting in our markets and in too many executive suites with self-dealing and private arrangements which were conceived in a culture poisoned by a downward spiral in corporate ethics and management character.

This spectacular expansion of the Enron supernova brought all this to light in a dramatic fashion, but it did not happen overnight, nor can we hope to restore the integrity of our markets and the character of the men and women who run America’s publicly traded companies without a long-term commitment to comprehensive reform in a wide array of areas.

We believe that our Republican approach both in the Congress and the White House embraces nearly all of the steps needed to accomplish our goal. We also believe that there is broad agreement by the members of both parties on nearly all the critical issues that need to be addressed.

I would be remiss if I did not mention that there will be a temptation in this political year to play partisan differences by Members on both sides of the aisle. The heated rhetoric of the past few days has convinced me, and no doubt many of you, that there are some in this body who are more interested in acquiring political capital than in protecting the financial capital of America’s investors.

As we are a political body, nobody should be surprised at this. But I am asking my colleagues to remember this: what we are dealing with is very large, and it is about so much more than money or crime or greed, although there has been plenty of that. We must restore investor confidence and market integrity in the most potent weapon in democracy’s arsenal, free markets directed by a free people. This is a sobering task, and my hope is that each of us will bring the level of seriousness and cooperation to it that allows us to achieve a common goal.

Mr. Speaker, I yield to the gentleman from New Hampshire (Mr. BASS).

Mr. BASS. Mr. Speaker, I thank my friend from Pennsylvania for yielding to me.

I have to say in the 8 years I have been here, at no time has it been more painful for me to listen to partisan rhetoric associated with an issue than has been the case in this debate. The issue of corporate governance is not a Republican issue or a Democratic issue; it is not the fault of one administration or another. Certainly the problems arose and occurred during the previous administration, but I do not blame the previous administration, any more than I blame this administration. If we do not solve these problems, we will not address these problems proactively and effectively, by pointing fingers at each other and trying to accuse each other and make political hay out of a situation that demands calm, pragmatic and cooperative work on the part of everybody in this body to come up with a solution that restores confidence and creates growth and begins the process of growth again in our economy.

Mr. Speaker, I want to commend the work that has been done by our President and the speech that he made earlier this week in New York City. I want to pay particular attention to the exhaustive hearings that have been held by the Subcommittee on Oversight and Investigations and the Subcommittee on Commerce, Trade, and Consumer Protection over the past 6 months.

Some of these hearings were held well before the crisis erupted to the point where it is today and may have in their content given regulators significant assistance and information and a prodding, quite honestly, to move forward and to make changes that may be way overdue.

Let me just say from the outset that the problem we face in corporate America is that there are a few very bad apples that have broken the law, and, as our distinguished committee chairman has said on different occasions, these individuals should be prosecuted to the fullest extent of the law and they should be sent to jail, just like any other common criminal in this country. There is no difference between stealing money from investors and robbing a bank and stealing money or shoplifting in a store, except it is more serious, and they ought to go to jail for it.

Secondly, as I alluded to in the beginning of my comments, a solution to this problem should be bipartisan, bipartisan. The more we talk about whether it is a Republican’s fault or a Democrat’s fault, the harder it is going to be to come to a good, quick, effective solution, and the only people who are going to suffer from that are going to be consumers, investors, retirees, parents and families. So it is time we got together and cut out this partisan discussion.

Third, I think we should direct regulators to move expeditiously to clean up the problems that we face and provide recommendations, which we have done in two pieces of legislation, one
that was marked up by the Subcommittee on Commerce, Trade, and Consumer Protection yesterday and another one passed earlier by the committee.

But what we should not do, in my opinion, is put into statute what should be done by regulators, because when you place ideas into statute, they are there forever, effectively, for a long time, and conditions in the financial world change and you have to have flexibility to deal with problems as they arise and change things over time. We run the risk by forcing regulators to do things that we want or by passing laws that set regulations in statute that we will create problems in the economy that were unintended.

Thirdly, we should be very careful not to stifle capitalism in this country, that we should not stifle the ability of the hundreds of thousands of honest entrepreneurs in this country and hardworking Americans who are trying to make a go of it and are doing it honestly.

We do not want to turn every CPA in this country into a Federal bureaucrat. We do not want to have chief financial officers and executives answerable to the Federal Government instead of to their shareholders and to their boards of directors. We want to have a system of regulations in place that is flexible, accountable, transparent; no more, no less.

The fact is, we cannot in Congress legislate honesty. We never have and we never will. But we can work together to make sure the Federal Government complies and to make sure the Federal Government complies with regulations and with the law.

That, as you know, has led to a Federal indictment and now a conviction. We had to literally examine thousands and thousands of documents, and in those documents we found indeed the whistleblower memo that told us an awful lot about what had happened and what was going on at Enron that caused it to collapse and why, in fact, all the special partnerships and the outside special entities that were created were not for economic reasons, but simply to hide debts and inflate income.

We have seen that replicate now in a number of different cases that the gentleman from Pennsylvania (Chairman GREENWOOD) has already mentioned and that most of us know about now, including with the latest criminal investigation announced of Quest Communications and the collapse of WorldCom.

The one thing that we have learned out of all of these hearings is that when greed is unchecked by the fear of discovery, a lot of bad things happen. I suppose it is a little bit like having a lot of supposed police officers, but then leaving the doors open and telling the policeman to go home, and then being surprised when somebody robs the bank.

Banks get robbed and laws can be as strong as we want to make them, but we still need good policemen on the beat and still need good laws to ensure that vaults are secure at night and managers of banks take care of the money in the bank on behalf of those who put their confidence and money in those banks.

So it is true with corporate America. More and more Americans are invested now in publicly traded companies. More and more Americans, without even knowing it sometimes, have their pension funds invested in corporate America and public funds. More and more Americans directly now invest over the Internet and trade stocks every day in the stock market. More and more Americans, in fact, are now owners of American corporations, instead of just the few who might have owned them in years past. So more and more millions of Americans have a great stake in the way corporate America is run.

The notion that corporate government in the cases of these massive failures has now let these Americans down and that workers have been put out of their jobs and that pension funds have been devastated, not simply at the companies whose workers have their pension funds, but all the pension funds around America that were invested in these companies, the notion that that is happening in America at a time when we should have indeed a strong protective system at the SEC, we should have indeed strong enforcement of our laws, we should have boards of directors who carefully are representing the interests of those millions of Americans who are held accountable, transparent; no more, no less.

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some efforts to either hide debt or inflate income beyond that which really existed, some effort to convince investors they were doing a lot better than they really were, and have now collapsed, and we have seen the loss of millions and billions of dollars to those investors.

We are investigating those 13 companies right now and looking particularly at the boards of directors. We are very interested in knowing who those boards of directors were, how were they selected, and who selected to represent the interests of the investors, or were they selected to represent the interests of the managers? Were they selected to be the CEO’s men and women on the board of directors, or were they selected to represent the interests of the real owners of the corporation, the American investors who put their hard-earned dollars into a belief that those companies were being run properly?

It shocked us in the Enron hearings to see boards of directors who testified before our committees knew what was going on, how much they took at faith the statements of the executives in that company that everything was okay and that they were doing everything correctly and they should not ask any hard questions. It shocked us at how little the audit committees had done in reviewing those special partnerships in those companies right now and looking particularly at the boards of directors. We are very interested in knowing who those boards of directors were, how were they selected, and who selected to represent the interests of the managers? Were they selected to be the CEO’s men and women on the board of directors, or were they selected to represent the interests of the real owners of the corporation, the American investors who put their hard-earned dollars into a belief that those companies were being run properly?

Just this week our committee produced a bill to reform the accounting standards at the FASB, the board under our jurisdiction that sets accounting standards for America. In addition, a committee of this House passed through this Congress a bill to protect the pension funds of America to make sure that corporate executives could not sell their stock while the pensions were still holding theirs. That legislation is now in the Senate waiting for final action.

The bottom line is, we are beginning to see legislative action. We are beginning to see executive action, as the President himself has now issued an executive order. We are beginning to see reforms in corporate boardrooms across America and at the Wall Street offices in New York and around the country. We are beginning to see turnaround.

So the outrage that we have seen in our committee, the ugly picture we have seen in our committee of corporate misbehavior, corporate criminal conduct, is at least beginning to produce some good results. People are beginning to seek justice. As my colleagues and friends have said, the Justice Department and others are beginning to look seriously at indictments and, hopefully, convictions of those corporate criminals, and reforms are literally in the wind.

So it will take a little while for investors to really feel like things have changed, that they can put their money into an American corporation again and really believe that the boards of directors are going to represent them instead of someone else; who can really believe that corporate managers are going to be looking after their interests and not their own golden parachutes. Things are changing. We know the results of our hearings, the result of our ongoing investigations, I think, are going to build a better market for this country and beginning to have the investor confidence that really means something again.

But if anyone in this country owes to investors to really feel like things have changed, that they can put their money into an American corporation again and really believe that the boards of directors are going to represent them instead of someone else; who can really believe that corporate managers are going to be looking after their interests and not their own golden parachutes. Things are changing. We know the results of our hearings, the result of our ongoing investigations, I think, are going to build a better market for this country and beginning to have the investor confidence that really means something again.

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do its part by acting on that which falls within our jurisdiction, which is accounting standards.

Now, the President just recently offered additional steps to stem the tide of investor mistrust of the capital markets. The markets themselves have taken significant steps in that direction, as seen in the new rules that have been proposed by the New York Stock Exchange. Of course, on the legislative front, the House has already passed legislation out of the Committee on Financial Services to reform the corporate governance and the audit system. The Senate, as we speak, is moving towards legislation as well.

Mr. Speaker, all of these efforts have primarily been focused on corporate and auditor governance. I believe changes to accounting standards and the process of setting those standards is another critical component of complete reform. I think that in addition to procedural reforms addressing governance issues, we must also carefully study and address substantive reform, which means that the content of the GAAP principles of accounting must be reexamined in light of Enron-like accounting scandals.

So this is why our bill, H.R. 5058, which passed out of my subcommittee, the Financial Accounting Standards Board Act, is just an important first step for improving the transparency and reliability of financial accounting. Now, I thought I would review just briefly what the bill does. The bill does simply four main things. First, it gives FASB standards Federal recognition for the first time.

Second, it directs FASB to promulgate rules in areas in which our investigations have revealed current standards need improvement: specifically, off-balance sheet accounting, revenue recognition, and mark-to-market accounting.

Third, it requires FASB to promulgate a primary standard that must be used to ensure the application of accounting rules complies with principles of transparency and comprehensibility. This will go a long way to preventing the abuse of accounting standards like those that have been revealed in the oversight committee investigations, as the gentleman from Pennsylvania (Mr. GREENWOOD) is involved in with Enron and Global Crossing.

Fourth, finally, the bill requires the GAO and FASB to report on FASB’s compliance with the act and other issues relevant to the standard-setting process.

Again, Mr. Speaker, this was within our jurisdiction and this is the only thing that we could attack. I had an amendment in the bill which would also create a blue ribbon commission to study accounting standards and standard-setting processes. Specifically, the commission will evaluate FASB’s role in the setting of accounting standards, how they played in recent accounting failures, and explore alternative standard-setting mechanisms. This commission is not involved with governance. It is all involved with accounting standards and the standard-setting process. The commission, of course, will then present its findings and recommendations to the House.

I would like to just mention one of the witnesses that we had in our hearing dealing with financial accounting standards, a Professor Coffee, who is an expert; and he testified that “Reasonable people can disagree about what the proper standards are and that these are needed to result in more reliable financial reporting.”

So I think our passage of H.R. 5058 will move forward, and when it moves to the full committee in the House and hopefully, to the conference, we will be able to add, expand, and make it more comprehensive.

Mr. Speaker, I just wanted to conclude by bringing to the attention of my colleagues some comments from the former president of Arthur Andersen, Mr. Andersen and, of course, we know Andersen was found by the Justice Department to be guilty of shredding documents. But sometimes when you go to somebody who has seen the failure intimately they can sometimes bring to bear some very important points, so I would share with my colleagues some of his points.

He admits we need to rethink some of our accounting. Heaven knows, the Tax Code has gotten so complex. Likewise, our accounting standards have gotten complex and technical. Enron used sophisticated financial vehicles known as special purpose entities and other off-balance-sheet structures to hide debt, and they did it in such a way that no one could even understand them. In fact, the management’s discussion and analysis in their profit and loss statement was 16 pages of footnotes. That was in its 2000 annual report.

Now, some of them, institutional investors as well as sophisticated investors, they all studied these 16 pages. Some sold short and made profits, but others who were also sophisticated analysts and were given an editorial saying, well, I may be confused, but they went ahead and bought the shares anyway of Enron, and, of course, they lost money.

So if these people, institutional investors, fund managers, cannot understand these 16 pages of footnotes, how can the common investor understand them? We need to change that. We need to fix this problem. We cannot maintain trust in our capital markets with a financial reporting system that delivers volumes of complex information about what happened in the past, but leaves some investors with limited understanding of what is happening in the present and, more importantly, what is likely to occur in the future.

So the current financial reporting system has to be changed, and I would say to my colleagues, it was developed in the 1930s. It was developed for the Industrial Age. That was a very different time when assets were very tangible and everybody understood them. The investors who were involved at that time were very sophisticated, but they were few. There were no derivatives, the derivatives at Enron and all of these organizations used to hedge their bets; none of that was happening in the 1930s. There was no structured off-balance-sheet financing, no instant stock quotes or mutual funds, no First Call estimates and, of course, there was no Lou Dobbs on CNBC.

So we need to move quickly here in Congress to establish and rethink our accounting standards and to modernize them, because I think the public is right, they have lost credibility, and this can be changed.

The other area that I would like to discuss is the patchwork of regulatory environment we have here. We have an alphabet soup of institutions, from the American Institute of Certified Public Accountants to the Securities and Exchange Commission to the Emerging Issues Task Force to the Financial Accounting Standards Board, FASB, to the Public Oversight Board. All of these have important roles in our profession, in the accounting profession, of regulation, and they are made up of very smart, very diligent, competent people.

But the problem, I submit, is all of these alphabetized, this alphabet soup of institutions, there are too many of them, there are too many cross-purposes. Somehow we need to bring them all together so they are focused better. And so the process, the whole process of oversight of all of these different institutions I talked about, needs to be redesigned. I do not think we should eliminate them, but I think somehow we have to get them more flexible and more suitable for the modern world.

Lastly, I would say improving accountability across our capital system. Two years ago, scores of new-economy companies were worth billions. They were gone to nowhere. Of course, they had public offerings, initial public offerings, and they went up and they collapsed in dust. A lot of investors questioned their business model and prospects. The dot-com bubble cost investors trillions of dollars.

So I think if we come together in a bipartisan fashion and look how to increase the market’s integrity, I think
Mr. Speaker, I yield to the gentleman from Florida for his contributions in this Special Order, as well as excellent statements in the leadership of his subcommittee.

Mr. Speaker, I wanted to cite another example of how the gentleman’s committee has worked on a problem in America that was awful, the Firestone tire failure problem just last year.

When the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce did the deep investigations of Firestone and followed through in the current cycle of Congress, through to a point where not only did Firestone itself begin to fix its own problems, but it is reestablishing its name, it is beginning to find its way back into the marketplace with confidence again; and it has now realized that it cannot have a defective product out there.

It is doing much better today. I should report to the American public; but Congress has not forgotten its duty to follow up the very extensive hearings, those awful hearings where we looked at so many people who had died on the highway because of the failure of tires on the traveling roads of our country, in Congress who had testified. We amended for the first time in 30 years the highway safety laws of our country. NHTSA, our National Highway Safety Administration, was empowered to gather much more information about the safety of tires. It was empowered to do much deeper testing. It was empowered to require the companies to build better tires and to test them more efficiently and effectively.

It is now going through a rulemaking that is going to give all of us a chance to know, in the new automobiles we buy, just what our tire pressure looks like and whether or not we are losing tire pressure so our tires become more dangerous again. The work the Subcommittee on Oversight and Investigations of the Committee on Commerce produced is now producing stronger regulations, legislation which mandated stronger tires, safer automobiles; and therefore we are saving lives because of what we did with that extensive investigation and the subsequent legislation.

We are in the same position here, except the lives we are trying to save are the financial lives of the citizens of our country; the financial life of Wall Street, to try to restore its confidence again; the financial life of corporations that are suffering.

I bleed today for the workers at Enron. I bleed for the good accountants who worked for Arthur Andersen who have lost their jobs, who have seen their company come under such disastrous publicity and indictment and conviction for what occurred in the

we can do it. I think some of the comments from the former managing partner and CEO of Andersen are some ideas we should think about, and I think some of the things we have started in my bill, H.R. 5658, that came out of my subcommittee. The other good start is the accounting reform that is occurring in this country. I look forward to continuing this process.

Mr. GREENWOOD. Mr. Speaker, I thank the gentleman from Florida for his contributions in this Special Order, as well as excellent statements in the leadership of his subcommittee.

Mr. Speaker, to underscore the importance of this issue, I would like to make a few more remarks.

America’s place in the world, our leadership place in the world, is derived in many respects from the character of our people. It is derived large measure from the nature and the beauty of our Constitution; but it is also derived in no small manner from our wealth, from our economy, the strength of our economy.

Our wealth as a Nation is the wealth that produced the military apparatus that fought wars and preserved democracy. Our wealth as a Nation is the wealth that is used to pull people from poverty into middle-class luxuries. Our wealth as a Nation is the wealth that enables us to find cures for diseases.

Also, our wealth is derived from our marketplace. Our wealth is derived because our marketplace is extraordinary in its ability to allow Americans to use their savings, and we are not good at savings in this country. Compared to the rest of the world, we save very little. But our marketplace is so efficient that the relatively meager savings of America can be used in the marketplace so that investment goes to the most productive and to the brightest ideas. That has enabled us to create a level of productivity that is unrivaled in the world, even by those nations that save far more money than we do, because we have this efficient market.

Now, the efficiency of that market is completely dependent upon the notion that investors can, on a regular basis, look at the independently audited financial statements of companies and make decisions about where they want to make their investments.

They want to make their investments in companies that are doing well, that are showing progress, that are showing profit, that are showing promise. They get to make a decision. They get to decide if they want to take a lot of risk in the marketplace. If they think they have analyzed a company and it has a promising product, if it has not made it yet, but may emerge and may solve a problem in this country; they can make a decision; they may decide to take a little bit of risk and invest more modestly. But they do that based on their ability to trust the audited financial statements that these companies put out pursuant to law.

Now, what has happened? What has created this problem? What has created this problem is that the companies that we read about in the headlines of America’s newspapers are companies who refused to abide by the simple premise that they have a responsibility to issue audited financial statements that can be believed.

They have decided to do what is called “managing revenues,” not just reporting their revenues, not just saying to their auditing committee, how much money did we make this year, what were our revenues, but saying to their auditors and accountants, how we boost those revenues above what they really were? How can we phon up the numbers?

Why did they do this? They did this because, particularly in a market which was heavily invested and experienced, they had to find a way to finance their status quo, because they knew if their revenues began to fall, if they did not meet expectations, investors might take their money and go elsewhere. That is one reason they did it.

Another reason they did it in some of the worst cases is because corporate executives had stock options, and they knew if they could push the revenues way beyond where they really were, if they could report revenues way beyond the value of the company, that the stock prices would follow, and then they could cash out, sell their stock at a very high price, and yet leave a company or leave the rest of the investors with a company that really was a phony company and a false company and a company that did not have the value that they had reported in their own financial statements.

This is not the first time that this kind of thing has happened in our history. We have had a savings and loan debacle which cost the American taxpayers and investors billions of dollars. We went through problems with junk bonds.

I was reading a book over the last week called “Financial Shenanigans.” There was a story, a true story, about a man whose business was vegetable oil. He was bringing in, or allegedly bringing in, boatloads of vegetable oil to this repository. He would impress his investors with all of the vegetable oil that he had accumulated; and they would take the tops off of his tanks and say, I can produce is now producing stronger regulations, legislation which mandated stronger tires, safer automobiles; and therefore we are saving lives because of what we did with that extensive investigation and the subsequent legislation.

We are in the same position here, except the lives we are trying to save are the financial lives of the citizens of our country; the financial life of Wall Street, to try to restore its confidence again; the financial life of corporations that are suffering.

I bleed today for the workers at Enron. I bleed for the good accountants who worked for Arthur Andersen who have lost their jobs, who have seen their company come under such disastrous publicity and indictment and conviction for what occurred in the

reforms that we take here in a bipartisan fashion are going to have to have the effect on this corporate greed that ultimately happened when they let the water out of the tanks on this gentleman’s vegetable oil barrels.
shredding. I bleed for the folks at WorldCom today, who are suffering through layoffs because their corporate executives participated in an apparent scheme to cook the books, and now their company is on the verge of bankruptcy.

We should bleed for those workers, but we also bleed for the American public who invested in those companies and who trusted them.

So what is the work product we have to come out with? We have to come out with a work product that literally strengthens our regulations, strengthens our laws, strengthens the enforcement agencies, but also does something the President called upon, and that is restraints in corporate America, in those companies who may have lost their way, an understanding that character counts and that truth telling is important. When they sign on the dotted line what the value of their company is, it should be a true value.

If executives, when they go and audit the books, they ought to do a fair auditing. They ought not hide debt and inflate income, and they ought to give people the truth about how well their corporation is doing.

The good news is that most American corporations, the vast majority of American corporations, are not experiencing these problems. They have good boards and good managers, and the American public can have faith in them. But for those who have violated the trust of the American investors and the laws of our land, there are laws to punish them today, without us passing a single new law. There is justice coming, and there is reform in the wind.

Again, I think the Firestone story tells the truth about this situation. When we shed light on the problem honestly, faithfully, get all the facts on the table, put the witnesses in front of the public, let them tell their stories, when we do that, Congress acts, the regulatory agencies act, and the American public responds.

Corporate America is waking up. I believe, to their responsibilities. I believe they are going to learn out of this horrible experience how important it is to keep, not just to build and to have, but to keep the trust of the folks who put their money into those corporations, who fund them, essentially, in their boardrooms, through their investments and their pensions and 401(k)s, and the daily buying and selling of stock in our major markets.

Mr. Speaker, again I want to thank the gentleman for the great work that the Subcommittee on Oversight and Investigations has done. The Committee on Financial Services, led by the gentleman from Ohio (Mr. OXLEY), is doing a good job; and the combination of that and the work the gentleman from Ohio (Mr. BÖNNER) is doing in the Committee on Education and the Workforce on pension reform, I think that work together with what the Senate will do on the Sarbanes bill and what may happen yet on our FASB legislation and other bills that may make it through in terms of strengthening the criminal penalties against bad behavior.

All that work will complement, I hope, the work that is going on in corporate America now to clean up their act, and the good work that is going on in the accounting field to make sure that aggressive accounting is a thing of the past and that honest accounting is the way of the future.

Mr. Speaker, I thank the gentleman from Louisiana (Mr. TAUZIN), the chairman, for joining us again on this Special Order.

Mr. Speaker, there has been a fear, a nervousness, that if we continued these investigations, if we brought these corporate moguls before our Subcommittee on Oversight and Investigations, that somehow that would rock the markets and it would shake the confidence of the investors and make things worse.

We thought long and hard about that in our subcommittee, but we decided to continue on with our investigations and to continue to pursue these matters because we cannot, we cannot get away from the responsibility to protect the investor in this country until we lance the boil. We have to pick the scab. We have to open the wound, look at it, allow it to be seen by the American people, to show the American people that the United States Congress understands that this cannot stand and it will not stand, and that we will move to make reforms. There are those who want to do too little. I think, frankly, some of the most conservative Members of Congress want to do too little. They are afraid that these reforms are too much of an invasion into the private sector. They are not.

The marketplace of this country that drives our economy, that provides our wealth and provides our greatness, does not spring up like Topsy. It is the result of the laws and the regulations that we impose on the marketplace to keep it honest, to maintain its integrity so that investors can make smart decisions, so money can move efficiently to smart ideas and efficient companies and products, and make us wealthy as a result.

There are those who would do too much damage to the marketplace. We could create a new Department of Auditing and make sure that every auditor in every company was a Federal employee. That would be bureaucratic and costly and invasive and wrong.

So we do have to find the middle way. We do have to find that which separates the most liberal Members of Congress from the most conservative Members of Congress, and I think we are well on our way.

I think the legislation that we passed in this House in April, the bill of the gentleman from Ohio (Mr. OXLEY), was the middle way. I think what Mr. SARBANES did yesterday with 100 percent support in the Senate represents the middle way. I think the President’s bold remarks of 2 days ago were right on and illustrated the things that the executive branch particularly needs to do to bring us these reforms.

The only thing we need to worry about now is what we began this Special Order with, and that is the fear of partisanship. If Members of Congress and if political consultants and if leaders in political parties decide that, rather than solve this problem, rather than do the things that we need to do in a bipartisan fashion to restore confidence in the marketplace, they want to exploit this issue, create fear among the American people, try to cast false blame on particular individuals in the Congress or in the White House or elsewhere, then we will fail.

Then we will fail to meet our obligation to the American people and solve this problem. When this Congress, the 107th Congress of this country’s history, concludes its work at the end of this year, I think we two things must occur. We must be able, as we wish each other well for the holidays, clap each other on the back and say I think, number one, we have done everything we could in a bipartisan fashion to win the war on terrorism and provide security for America’s people, and, secondly, we must say, as we leave this body for our Christmas holidays, I think that we have done everything we possibly could in bipartisan fashion to restore the confidence in the marketplace that this country so relies upon, that we did that in bipartisan fashion and that we can feel good about beginning a new year with growth in the economy and with security for the American people, not only physical security but economic security as well.

UNINSURED AMERICANS

The SPEAKER pro tempore (Mr. REHBERG). Under the Speaker’s announced policy of January 3, 2001, the gentlewoman from Wisconsin (Ms. BALDWIN) is recognized for 60 minutes as the designee of the minority leader. Ms. BALDWIN. Mr. Speaker, I am pleased to have the next hour on the floor to discuss with my colleagues a grave situation in our country, the issue of the uninsured. I would like to put on the record that according to the poll I am calling on a number of my colleagues who are equally committed and tenacious about fighting to bring this issue back to the forefront.

We are facing an extremely serious health crisis. I listen carefully to those that I represent in Congress. I hear from constituents every day who have lost their health insurance and have nowhere to turn. I hear from mothers and fathers who are afraid that their healthcare premiums will become so high that they cannot afford them any more. I hear from small business owners who are facing skyrocketing premium increases and may
not be able to offer health care coverage to their employees any more. I believe that it is time once again to bring the issue of the uninsured and health care for all back to this House floor. I believe we need to act so fast we are coming to save the families suffering on the edge of losing their health insurance, and I believe that it is unconscionable that in our country, the richest country on earth, that almost 40 million Americans have no health care coverage at all.

During 1999, about 15 percent of our population was uninsured. The Government defines being uninsured as being uninsured for a full year, but almost three out of every 10 Americans, more than 70 million people, were uninsured for at least a month over a 3-year period between 1993 and 1996. Although the uninsured population decreased slightly in 1999, the long-term trend has been growing of uninsured people. Without substantial restructuring of the health care system, this trend is likely to continue. It is clear that the time to take action to solve this crisis is now.

I am sure many are aware of the recent reports issued by the Institute of Medicine and the National Academy of Sciences regarding the uninsured in America. The Institute of Medicine is in the process of conducting a 3-year study on the uninsured. It has two major objectives. The first is that the study will assess and consolidate evidence about the health and economic consequences of being uninsured for persons without health insurance and their families, for health care systems and institutions, and for communities as a whole.

Secondly, the study will raise awareness and improve understanding for the public and the policymakers about the magnitude and nature of the consequences of lacking health insurance. The Government committee on the consequences of the uninsured has already issued two reports and plans to issue four more by September of next year. The first report, Coverage Matters: Insurance and Health Care, concluded, and I should mention not surprisingly, that the high cost of health insurance along with public policies prevent tens of millions of Americans from obtaining health care coverage. The Institute on Medicine report also found that people were often misinformed about the uninsured that present obstacles to addressing the issue constructively.

I would like to talk briefly about some of these misconceptions. First, many people may think that the number of uninsured in the United States is not large and that it might not have increased in the recent years. But despite a very modest dip at the end of the 1990s and in 2000 following an obviously extended period of economic prosperity, rising and low unemployment in our country, the number of uninsured people has grown over the long term.

According to the Institute of Medicine report, the number of uninsured people is greater than the combined population of Texas, Florida and Connecticut.

In 1992 Congress debated health care reform. We should guarantee every American the health care they needed. That vision was never realized. And now we have more Americans who are uninsured than we did back in 1992. The second misperception is that it is assumed that the people who are uninsured do not live in families that work. This is incorrect. According to the Institute on Medicine study, 80 percent of the uninsured children and adults live in working families. Included among the uninsured are parents who are working two, sometimes three, jobs just to make ends meet. But increasing they work in sectors of our economy like small business, family farms, the service sector or maybe part-time employment. One result of health insurance coverage to their employees or that require them to pay so much of it that they simply cannot afford it and do not take the coverage. Even families with two full-time wage earners have one-in-ten chance of being uninsured.

The third myth is that it is improper to assume that the uninsured get adequate medical attention. A report by the Kaiser Commission on Medicaid and the Uninsured found that the uninsured receive less preventative care and are diagnosed at more advanced stages of diseases. The uninsured are less likely to see a doctor within any given year and have fewer visits annually, and they are less likely to have a regular source of medical care. Uninsured persons receive fewer preventative services and less care for chronic conditions than those who have health insurance. This ultimately adds to the cost of care in many cases their medical conditions become much more serious, producing adverse outcomes that will need extensive follow-up care.

It is clear that the costs associated with the delay of care for the uninsured could be prevented if they had access to affordable coverage.

Another problem we are facing in our system is that the cost of health care services and insurance premiums have been steadily increasing and more employers are finding coverage as prohibitively expensive. A gap in the ability to purchase health care coverage has been growing ever since the growth in the cost of health insurance has outpaced real income. This gap has added almost 1 million people to the ranks of the uninsured every year.

Now many employers absorbed premium increases during the economic boom of the 1990s, but they cannot be expected to continue that practice in our current economy. Many lower-wage workers pass up on coverage because they cannot afford their share of the premium. On average, workers pay 14 percent of the costs of individual coverage and 27 percent of family coverage. Over the past 20 years, private sector employers have become less likely to cover part-time workers or new employees. And small businesses are faced with hurdles such as higher premium rates. In fact, there are 41 million people who do not offer coverage these days to their employees.

A business owner in my district could no longer provide health insurance to her employees because of the high cost. The president of a small business who owned a bakery in New Glarus, Wisconsin for 25 years. Her health insurer left the region, and when she sought coverage from other companies, the quotes she received represented a 180 percent increase in premiums. She would have had to pay an additional $50,000 each year to continue offering coverage. Unfortunately, she had to tell her 20 employees that she could no longer provide health insurance to them and their families. Even more devastating to her was the knowledge that one of her employees had recently been diagnosed with cancer and was undergoing treatment. This tragic state of affairs is not isolated and it is simply wrong.

On that note I would like to recognize one of my colleagues who has been a champion of the uninsured and of health care for all. We have worked very closely together and it is my privilege to yield to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I would like to thank the gentlewoman from Wisconsin (Ms. BALDWIN) for her leadership on health issues as well as on each and every issue that affects Americans on a daily basis, and also I want to just thank the gentlewoman for organizing the special order. We know that health care remains under the radar, and thank the gentlewoman for raising the level of awareness of this issue for all Americans, because for the wealthiest country in the world which claims liberty and justice for all, the fact that there are millions of people without health insurance is really a shame and disgrace.

The fact that the bulk of the uninsured are low income and people of color is really no surprise. Although our Nation has a record low unemployment level, we still have one in six Americans who do not have health insurance. How fair and how just is that? Most Americans receive health insurance through their employers, but millions lack coverage because their employers do not offer insurance or simply cannot afford to pay it. Medicaid covers 40 million low income individuals, but millions more do not meet its limiting income and eligibility requirements because of really, quite frankly, savage welfare reform restrictions, leaving the most vulnerable uninsured.

Although State Children’s Health Insurance Program is supposed to cover all low income children, 16 million low
incomes children still remain uninsured. Who are the uninsured? The uninsured are predominantly workers and their families, low income people, and oftentimes people of color. Fifty-six percent of the uninsured population is low income African-American or Latino. One third of the uninsured are low income children.

Although people of color comprise only 34 percent of the population, over half of the Nation’s uninsured are minorities. Twenty percent of those uninsured are African-Americans, 34 percent are Hispanic. In my own district we have one of the only organizations studying the disparities in the minority community. The Ethnic Health Institute is a community service of Summit Medical Center engaged in coordinating health education, research, health provider training and community outreach and awareness for the entire community with a very special focus on the underserved and community of color.

We must correct this imbalance in access which results in racial and ethnic disparities in care, and I am very proud that the Ethnic Health Institute is a wonderful example of an organization committed to this goal. People of color and the underserved bear a real disproportionate burden of mortality and morbidity rates across a wide range of health conditions. Mortality is a cruel indicator of health status and demonstrates how critical these disparities are in every community. For African-Americans and Latinos, these disparities begin early in life and they persist. African-American infant mortality rates are more than double those of whites, 14 percent versus 6 percent; and the rate for Latinos is 9 percent compared to 6 percent for whites. The death rate for African-Americans is 55 percent higher for whites, with AIDS being the sixth leading cause of death for African American males.

I could go on with the multitude of statistics that clearly illustrates the stark disparities that exist for people of color. Yet the point remains that these disparities are the result of a lack of insurance, lack of access to health care, and, of course, still we are dealing with the economic divide.

Health insurance is important because it impacts health outcomes. Nearly 40 percent of the uninsured have no regular source of health care and, oftentimes, use emergency care more due to avoiding higher costs of regular business. This situation creates an ongoing cycle of adults and children skipping routine checkups for common conditions, recommended tests, and treatments because of the financial burden, resulting in serious illnesses that are, of course, more costly. The uninsured are more likely than those with insurance to be hospitalized for conditions that could have been avoided such as the flu.

I would ask my colleagues, are the people dying who have no access to health care, are they really important to you? Is it because mainly that they are maybe children or poorer people of color or the working class that really blinds us all to their importance?

I do not believe that this is the message that any of us want to send, but that is the message that is being communicated.

The message that we must have then, however, is that universal health care, which provides high quality health care, should be provided without discrimination.

This challenges us as Americans to take another look at the fundamental role of government. We must do this if we are ever to achieve an equitable health care system, and as long as health care remains big business, an industry, we never have equal access to health care.

Universal health care is the only way we can provide equal access and fairness to our health care system. The uninsured are suffering, and if we do not acknowledge health care, sooner or later, as a basic human right, our society’s most vulnerable will continue to grow.

Our Nation is the only industrialized nation that does not have a health insurance program for every American and our health care system is truly failing. So we should make health care accessible. We should make health care affordable. We should really make health care a guarantee, and I want to once again thank my colleague from Wisconsin for continuing to beat the drum on health care and for calling us all down here tonight so we can ensure that our country knows that there are many Members of Congress who are going to insist that this be part of our legislative agenda.

Ms. BALDWIN. Mr. Speaker, I would next like to recognize a physician Member of this House of Representatives, and a distinguished member of the Committee on Ways and Means, and a champion for universal health care, the gentleman from Washington (Mr. McDERMOTT).

Mr. McDERMOTT. Mr. Speaker, I thank the gentlewoman very much for yielding to me. I am pleased that she has called this special order today. Of the lady from Wisconsin, from the day she ran, do not, they told her, do not run on universal health care. She ran on it, anyway, and she is here. That tells us something about what is out there in this campaign program for everyone.

American people know that there is really no excuse for what is going on in this country, and my colleague from California (Ms. LEE) just gave us the statistics about the unfairness and the inadequacy of our health care system in this country.

I think the fact that we are the richest country in the world and that 27 percent of the uninsured are from a family where somebody works full time, and, in fact, 13 million or 16 percent are in a family where two people work full-time and still do not have health insurance is simply a disgrace to this country.

There are people out there who say, well, it is going to cost so much money and we cannot handle it. Let me tell my colleagues what the real facts are, because a lot of what we will hear and see in advertisements is simply misleading.

Today, the United States spends $1.2 trillion on health care. That averages out to $4,350 a person. The average in the next 29 industrialized countries in the world, Sweden, Norway, France, Japan, Australia and so forth and so on, the average is $1,760. We spend $4,350. They spend an average of $1,760. Switzerland, which is the next one below us in amount of expenditure, twenty or thirty pounds. If we just look at what we spend, and none of those people have the problem we have in the United States that a person can be bankrupted by an illness or an injury at any time because we do not have health insurance.

We take care of people, oh, yes, we do. We take care of them in the emergency room, in the absolutely most inefficient way, when they have had a major catastrophe, no prevention, in an attempt to deal with it when it is a small problem. But when it is a catastrophe, they come into the emergency room. We see the strokes, the heart attacks. We see all of the things that could have been dealt with by prevention, by indication for blood pressure or heart medication, a variety of other things.

Low birthweight children in this country. We spend a quarter of a million dollars on a child that is born at two or three pounds. If we had taken care of that young woman during the time the child was being developed, we would have had a normal child without the expenditure of a quarter of a million dollars. We could have done it for nylons and dimes.

So it is simply not that we do not have enough money in our health care system, it is that we spend it inefficiently and very wastefully.

A recent article in Health Affairs highlighted that most of the money for health care comes from, where do my colleagues suppose? Government spending. Either through direct expenditures of Medicare and Medicaid, but also through public employee health benefits and tax breaks offered to businesses that give insurance.

That means that $720 billion out of the $1.2 trillion that we spend every year, remember that, $1.2 trillion, and one half of that, or about 60 percent. More than half is presently paid for by the government.

$213 billion comes from Medicare. That is about 18 percent of the spending. $186 billion is for Medicaid, which is 15 percent of the spending. $65 billion is spent on public employee benefits between Federal and State and local people, and then there is $110 billion worth
of tax subsidies to businesses to provide health insurance for those companies that do it for their employees. If they do not, of course they do not get the benefit.

When we take that, that is over $2,600 billion a year. We have seen recently two companies that have had to lay off many people in the country from the government. The average, remember, in industrialized countries is only $1,760. So we already spend more money in our country from the government than they spend in any country in the world.

So then the question we ask ourselves is, why, if we spend that much money and we still have forty some million people without insurance, how can this be? What is going on? We have the best technology in the world, the best physician training. Doctors come from all over the world to train here. We have the most advanced services in the world. Those are good things. So we have good things for our money, and then what do we pay for it? Well, we pay for a profit of a myriad of health care companies and two groups, I think, deserve special attention.

One is insurance companies. Every time there is an attempt to deal with a health insurance program for the country, we see the insurance companies throwing millions of dollars out there as they did when Mrs. CLINTON in 1993 and 1994 tried, they spent over $10 million advertising at the American people that you do not want the government to get into your health care. We are in health care. We are paying 60 percent of the bill right now.

The insurance companies get 15 percent or more for their overhead costs. Medicare, for example, the government program, gets 1 percent, 1 percent; insurance companies, 15 percent. So right there we have got heaps of dough. We have got way more than $100 billion right there that we waste on insurance company overheads, and then they have to take away a profit, of course. So we have got all kinds of ways.

The argument that they help control costs may have worked in the mid-1990s, but they do not hold up today. Premiums have increased 50 percent in the last 5 years and are projected to go up as much as 15 to 20 percent per year in the foreseeable future. So the insurance companies, everybody says, well, oh, they are so efficient and they are so creative and the private sector can do all this. I am not doing a thing. It is totally out of control.

The second place that we spend more money than we need to is with drug companies. They are the single most profitable industry in this country. We have seen recently two companies that have had to lay back and kind of recalculate because they were playing with the numbers a little bit, but the profit margin as an industry has been 16 percent. If we put money into the drug industry, we can get 16 percent a year. That is not a very high average over the years. On revenues of about $200 billion a year, they make money. Do not even listen to their crying.

They are right out there. They had a fundraiser for the Republicans the other day. The president of a British company, his pharmaceutical company came in, laid down a quarter of a million dollars, and they said, well, if you are going to lay down that much, why don’t you be chairman. They raised $30 million. If my colleagues do not think that affects what goes on the floor of this House, they do not understand how this place works. The argument they need these profits to continue research into new drugs is very questionable, not when so much money for the development of the drugs has been done by the Federal Government itself through the National Institutes of Health and the government pays for the trials and everything else.

They spend three times as much on marketing as they do on research and development. Every time a person opens the newspaper and there is a full-page ad that says if you feel this in your stomach, you should go to your doctor and get X, Y, Z drug, that is where that is going. They are direct-advertising to the American people. The people then go to the doctor and say, well, I should have that drug. I saw the ad in the newspaper, it is right there, here is the ad, doctor. That costs us money. Whether that is necessary or not, they are doing advertising just like selling cars and Coca-Cola and new clothes and whatever. They are just like every other company and they are using three times as much, yes, three times as much for advertising as they spend on research. They always say, well, if we clamp down on our profits, we will not have any money to develop any more new magic drugs. Nonsense. They are taking us for a ride.

I think it is time, and I think the gentleman from Wisconsin (Ms. BALDWIN) is absolutely correct in bringing up the issue again of a universal health care plan for this country. We want public insurance that can never be taken away. We can do it a lot of different ways.

I have one plan that I have been pushing for 10 years, but there are other ways to do it. Why do we not say in Medicare, if you are 50 years old, between 50 and 65, you can buy into Medicare. If you get laid off by your company or you get an early out for retirement or whatever, you can buy into Medicare and you have guaranteed coverage. My brother is laid off, I forget, 50 or 57. He is at Boeing. Boeing’s laid off 30,000 people. My brother’s 57 years old and he is going to go out and he is going to find insurance as an individual. Do my colleagues know how much it costs? Most people cannot afford it even when they are working to buy an individual policy. That is why we buy group policies, but to do it on an individual policy, on our own, when someone is unemployed, is simply not possible.

So why not let my brother buy into Social Security early or buy into Medicare early? Or we could say, let us start with all the children and we could work our way up. There are many ways to do it. It is simply what is lacking in this House is the will to do it.

We know it can be done. It is done all over the world, and health insurance in this country is only the tip of the iceberg. We will not look over and see how the Germans do it or how the Canadians do it or how the British do it or how the Australians do it or the Japanese. We say no, our way is the best way, and we have got 44 million people without health insurance, and we have got people bankrupted all the time. It is a disgrace, and we must begin to work on this, and I commend the gentlewoman for bringing this issue to the floor.

Ms. BALDWIN. Mr. Speaker, next I would like to recognize the gentlewoman from Indiana (Ms. CARSON), a colleague who has been a tremendous champion in advocating for the uninsured and advocating for universal health care.

Ms. CARSON. Mr. Speaker, let me first and foremost enthusiastically and without any great deal of hesitation commend the gentlewoman from Wisconsin (Ms. BALDWIN) for her leadership in bringing this issue to the fore, to the United States House of Representatives, and certainly to the United States of America.

It is unconscionable, I believe, that there are over 40 million people in the country who are living without insurance. That is over 14 percent of the population of the most advanced nation of the world.

I am a Member of the Democratic Party. This House represents, for the most part, a two-party system, and of course, we have a list of sundry Independents and Libertarians, et cetera, but it is like the mathematical axiom that the whole equals the sum of its parts, and there is not a Member in this House who does not have universal health care.

We pay a pittance of a fee on an annual basis and we have top-drawer medical care, emergency care, we get all kinds of physical examinations, and it is just wonderful. So if anyone wonders why we stay here sometimes until 2 a.m. in the morning debating issues that have nothing to do with anything, it is probably because we have good insurance and we do not want to walk off and leave it. I am just going to be perfectly honest about it.

I am very concerned about all the women in this country. We had welfare reform, which was needed in a lot of ways, but we threw a lot of women out of the job market with no insurance. They have children who are uninsured.

I come from the State of Indiana, where there are countless people who are in dire need. Something happens to a family and they need emergency medical attention. Our urban hospitals are on the brink of bankruptcy right now. We have one large caregiver of the
indigent, a hospital, who can dispatch an ambulance out to an emergency situation. When the ambulance returns, if that person is uninsured, oftentimes that person gets turned away at the emergency room even though they are in dire need of medical service.

In Indiana, there are over 625,000 non-elderly people without access to insurance. I say nonelderly because those over the age of 65 have access to medical care through Medicare, no matter what. And small and medium-size firms, or employees in small firms.

These are the kind of people that represent a major segment of the population, not just in my district of Indiana, but in the country as a whole.

We have corporate greed that has knocked so many people out of work. WorldCom, 17,000 people, boom, unemployed. People who wanted to work, who enjoyed going to work and being responsible, American citizens who paid their taxes, abruptly, suddenly, without notice, unemployed and uninsured.

Now, there is a tendency of some to accuse doctors of being insensitive, and it is true that a lot of doctors are no longer interested in the medical field because they cannot even get reimbursed for what they did to a patient. We have to be realistic about what is right in terms of how we reimburse medical providers.

This country has a major, acute shortage of nurses, and we do not have the wherewithal to insist and provide opportunities for people to go to nursing school if they do not have the resources.

We in this House last week raised the debt ceiling for some reason. I am still trying to figure out why Congress voted to raise the national debt ceiling. For what? It certainly was not for we the people of the United States.

According to the nonpartisan Congressional Budget Office, 14 million people who lack health insurance differ totally from the population as a whole. They are more likely to be young adults, poor, Hispanic, other minority cultures, or employees in small firms. More than 17 percent of the uninsured were 19 to 24 years of age, even though this age group represents less than 9 percent of the under-65 population.

For the first time since 1994, when the Congressional Research Service first began this annual analysis, the percentage of the uninsured who were white fell below 50 percent. Also for the first time since 1994, more than three-quarters of the uninsured were above the poverty level. Our country accounted for 12 percent of the under-65 population, but represented 24 percent of the uninsured.

About 76 percent of the uninsured were native citizens, and 27 percent were the working poor who worked in small firms. More than half were full-time, full-year workers or their dependents; 27 percent had less than full-time attachment to the labor force; and 17 percent had no labor force ties at all.

We need to ensure that even women who have cardiovascular disease, even though they may not be insured, can have access to quality medical care. I stand here today as an example of the benefit of quality medical care when a woman like me finds herself confronted with a very critical and serious medical situation diagnosed as a cardiovascular problem. Many women who we can count are dying every year with this benefit of cardiovascular and heart attacks. Many of them are uninsured, and they avoid going to see about how they are feeling and why they are having the symptoms because they cannot afford it.

A lot of people who work lost their insurance and are now losing their assets because of the spiraling costs of medical insurance, which wiped them out. They do not have any way to compensate for their medical needs. We need to make sure that the uninsured have access to health care, that it is affordable, and that it covers all the people all of the time within this great country ofours.

When I first came to Congress, I introduced legislation calling for universal health care. I believe that this country of ours, this superpower nation, can actually access the resources when it needs the resources. It makes it happen. And certainly one of the priorities that this Congress should have is to ensure that we the people, all of the people, regardless of who they are, where they are, how they look and how they do not look have access to insurance and that they become insured for the benefit of getting quality medical care whenever and however it may be needed.

I applaud the gentlewoman once again for her keen interest, her compassion, her concern, and her incredible leadership, Mr. BALDACCI, Mr. Speaker, I appreciate my colleagues who have joined me this evening to share their concerns about this issue and offer practical solutions to the problem.

Before I close, I would like to discuss a couple of messages that are or have the capacity to reignite the debate on the uninsured and health care for all. One was just referenced by the gentlewoman from Indiana, and that is House Concurrent Resolution 99. It is a resolution that was crafted by the Universal Health Care Task Force, of which I am a member.

This resolution directs Congress to enact legislation by October of 2004 that provides access to comprehensive health care for all Americans. The resolution designates 14 separate principles that would guide us in that process. They include issues such as affordability, comprehensive care, including making mental health parity a priority, and promotion of prevention and early intervention. Our health care system should eliminate disparities in access to quality health care.

One of the other guiding principles is that it should address the needs of people with special health care needs and Ameriserved with guarantors in rural and urban areas. These are basic guiding values that we should look to as we reform our health care system.

Now, my colleagues and I mentioned various approaches to assuring health coverage for all and addressed needs of the uninsured. I have offered universal health care legislation, as have a number of our speakers here this evening, and I have certainly cosponsored many of their bills. All of these bills abide by the principles that I just outlined and are an effort to reach the goal of health care coverage for all.

The legislation that I have offered achieves this goal by allowing the States to decide for themselves how to provide quality, affordable health care to all of their residents, and it provides broad Federal guidelines and financial assistance. My Health Security for All Act will secure health insurance for all Americans, guarantee affordable health care for all of their residents, and it provides broader Federal guidelines and financial assistance. My Health Security for All Act will secure health insurance for all Americans, guarantee affordable health care for all of their residents, and it provides broader Federal guidelines and financial assistance.

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Organization has ranked the United States number 37 among nations in this world in terms of meeting the health care needs of its people. More and more people are slipping through the cracks in the system of health care coverage.

So what are the consequences for all of us in having tens of millions of Americans uninsured? We have a sicker population, we as a society have to assume the loss of productivity and the costs of medical care that go undiagnosed and untreated. We suffer the shame of being the richest nation on Earth that cannot provide basic health care to all of its citizens.

In just a few decades, we have put astronauts on the moon, we have created a global village united by computer technology, we have perfected travel from one end of the world to the other in mere hours, and yet 40 million of us cannot afford or cannot get health care. And there are tens of millions of Americans who have lost faith in this system, lost faith that comprehensive, quality health care will be available to them without a struggle when they need it, and the very ones who need it, and from whom they want it.

My colleagues, it is time to put health care for all at the top of our national agenda. Many people have called for it and many more believe it should happen. But universal health care will never happen until we create the national will to make it so. We know that if 40 million uninsured people found their political voice tomorrow, and spoke as one and demanded universal health care, that we would have it.

Mr. Speaker, I ask my colleagues to join me in helping them find their voices. The voters in my district are tired of hearing “we cannot.” They reject the cynicism of the naysayers and the keepers of the status quo. I ask these naysayers if you are not for health care who would leave behind? If you agree that everyone should have health care and affordable access to quality comprehensive health care, then let us talk about the best way to achieve that. That is why we are here tonight. Together we must reignite the debate about extending and improving health care to everyone in our country.

JUSTICE FOR WORLD WAR II POWS

The SPEAKER pro tempore (Mr. KIRK). Under the Speaker’s announced policy of January 3, 2001, the gentleman from California (Mr. HONDA) is recognized for 60 minutes.

Mr. HONDA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my Special Order item.

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

There was no objection.

Mr. HONDA. Mr. Speaker, it is an honor to be here today to address the situation of our former American POWs who fought in the Pacific Theater during World War II. My commitment to addressing these issues is deep-seated. I am proud to be a co-author of the bill H.R. 1198, the Justice for U.S. Prisoners of War Act of 2001, with the gentleman from California (Mr. ROHR-ABACHER). We are joined by 226 of our House colleagues on this bill.

I am a teacher by training, and I am not an expert on the issue of war and the atrocities that all too often accompany the prosecution of war between nations. I want to share with Members why I think it is important to pay attention to events that happened over 50 years ago.

My involvement in the pursuit of justice for American POWs stems from my personal and uniquely American. It is a view that is held by a great many of us that are part of the new generation of Asian Americans whose parents were born in the United States.

The roots of my involvement in the POW reparation movement was embedded in me as a youth, well before I had any idea about the atrocities that some Japanese companies visited upon our servicemen during World War II.

Like many Japanese American families, my family and relatives were interned in a camp in Amache, Colorado, in 1942. We were eventually able to leave the camp because my father volunteered to work as a Navy’s military intelligence service.

Later in the 1970s and 1980s, the Japanese American redress movement focused the United States on coming to terms with the injustices of the internment of Japanese Americans during World War II. This shaped my desire to set the record straight.

It was once taboo in my community to discuss the internment issues. The redress movement led us into the open and allowed the healing process to begin, and this enabled many of us to put aside our bitterness and understand clearly what happened to us in our own country during World War II.

Just as the healing process began in my community, it is my great hope that this historic bill will bring some measure of closure for our brave soldiers, sailors, airmen and Marines who were so severely mistreated as prisoners of war while educating our Nation about what really happened during World War II so that together we can learn from the lessons of those dark times.

As we go forward, it is critical to remember that the relationship between the U.S. and Japan is important to our national interests and that nothing in this bill is intended to harm the strong friendship the United States and Japan have enjoyed for the past several decades.

But we cannot ignore the past and sweep the events of the past under the rug.

When I think about forgiveness, I think about a friend, Dr. Lester Tenney, an American veteran and POW who once told me as he was recalling a conversation he had with a fellow POW, his friend said I cannot forgive nor forget, and he told his friend if you cannot forgive, you cannot love.

Dr. Tenney’s story mirrors what many of the POWs went through. He became a prisoner of war on April 19, 1942, with the fall of Bataan in the Philippines. A survivor of the Bataan Death March, he was sent in a hell ship to Japan where he became part of the slave labor force in a Mitsubishi coal mine. Dr. Tenney has stated and I quote “I was forced to shovel coal 12 hours a day, 28 days a month for over 2 years, and the reward I received for this hard labor was beatings by the civilian workers in the mine. If I did not work fast enough or if the Americans had won an important battle, the beatings would be that much more severe.”

It is important to stress that this legislation we have introduced, H.R. 1198, is by no means an instrument to further anyone’s agenda that fosters anti-Asian sentiments, racism, or Japan bashing. What this bill will do is to join our veterans and millions of Americans who fought in the Pacific Theater and understand clearly what happened during World War II. These heroes survived the Bataan Death March only to be transported to Japan in death ships, forced to work for private companies under the most horrendous and horrific conditions.

Private employees of these companies tortured and physically abused our GIs while the corporations withheld essential medical and even the most minimal amounts of food.

After the war, approximately 16,000 POWs returned, all battered and nearly starved to death, many permanently disabled, all changed forever. More than 11,000 POWs died in the hands of the Japanese corporate employers, among the worst records of physical abuse of POWs in recorded history.

Now, like many other victims of World War II era atrocities, the remaining survivors and their heirs are seeking justice and historical recognition of their ordeal. The POWs do not seek any action or retaliation against the current Japanese Government or against the Japanese people, nor do they seek to portray Asian Americans in any sort of negative light. Rather, they simply seek just compensation from the Japanese companies who were unjustly enriched by the slave labor and sufferings.

The main problem these POWs face today has been the way in which the peace treaty with Japan has been interpreted by our State Department. To date, the State Department has asserted that former POWs can claim no benefits due to the State Department’s
interpretation of the terms of the peace treaty.

However, other countries such as the Netherlands, Spain, and even the former Soviet Union, have helped their nationals in receiving benefits, and Japan failed to pay for the peace treaty settlement terms with those countries, and has continued to settle war claims by nationals of other countries.

The United States State Department has asked in the way of our POWs' efforts to obtain their measure of justice by the State Department's reading of the peace treaty.

In the face of these obstacles, Congress passed a resolution, S. Con. Res. 158, in the final days of the 106th Congress, calling upon the State Department to put forth its best efforts to facilitate discussions designed to resolve all issues between the former members of the Armed Forces of the United States who were prisoners of war forced into slave labor for the benefit of the Japanese companies during World War II and the private companies who profited from this slave labor.

Today, the State Department has apparently taken a significant step to resolve this latter matter. It is, therefore, up to this Congress to press this issue firmly and fairly. Our bill is a balanced and fair response to the situation. H.R. 1198 would, one, pursue justice through the U.S. court system as any former employee of a private company can; two, allows States such as California to extend the statute of limitations applicable to these claims for a period of up to 10 years; and, three, require any U.S. Government entity to provide the Department of Veterans Affairs any medical records relating to chemical or biological tests conducted on any POW and make those available to the POW upon request.

Since the end of World War II, the Japanese corporations that abused these former POWs profited from their forced labor have prospered enormously. Many of these companies are household names in the United States. As an ethical and moral matter, they long ago they should have voluntarily reached out to their victims and settled this injustice.

On the eve of America's entrance into World War II, former U.S. Secretary of the Interior Harold Ickes, Sr., once described constituting what? An American? Not color, nor race, nor religion. Not the pedigree of his family, nor the place of his birth. Not the coincidence of his citizenship. Not his social status, nor his bank account. Not his trade, nor his profession.

"An American is one who loves justice and believes in the dignity of man. An American is one who will fight for his freedom and that of his neighbor. An American is one who will sacrifice property and liberty in order that he and his children may retain the rights of free men. An American is one in whose heart is engrained the immortal second sentence of the Declaration of Independence: 'We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty, and the pursuit of happiness.'

We must remember these men, these heroes that survived the Bataan Death March, the hell ships, and being POWs in Japan. They survived the tortures of slavery. And today, they are surviving our justice system.

In the beginning of this year, there were only 5,300 surviving POWs, but we are losing these men on a daily basis. For the sake of these men, for the sake of reconciliation, for the sake of our future, we must do right by these men. Let us give these heroes their day in court.

Mr. Speaker, I yield to the gentleman from California (Mr. HONDA).

Mr. ROHRABACHER. Mr. Speaker, let me draw Members' attention to the job that the gentleman from California (Mr. HONDA) is doing for these noble Americans. He did not have to do this, but he has put enormous energy into this bill to bring justice to the survivors of the Bataan Death March. He has my respect, and I am very, very proud to be working with the gentleman on this issue.

I could not help but think as he read the definition of what is an American, that the gentleman from California (Mr. HONDA) has brought to our mind the essence of what he was reading: an American is someone who stands for justice first and foremost. Thank goodness we have people who are taking time to care about those people who defended our country.

Eisenhower once said that any country that forgets its defenders will itself soon be forgotten. Mr. Speaker, there are no greater heroes that we have today than those heroes that survived the Bataan Death March. There is no group of survivors of any war to whom we owe a greater thanks; but yet who we have done a great injustice through our inaction, through our unwillingness as a government to step up to do what was right by them.

There are many such causes around, good causes. This is one good cause.

I got personally involved in this because this issue happens to touch my family. My wife's father passed away about 10 years ago, and when we were married 5 years ago, at our wedding my wife was given away by Uncle Lou, now the great male patriarch of our family, because my father has passed away as well.

Uncle Lou is a survivor of the Bataan Death March. What he told me surprised me. I was totally surprised when I heard about what had happened.

First of all, and I went to several of the reunions they have of the Mukden survivors. The Mukden survivors are the people who survived the Bataan Death March and then were sent on to Manchuria where, I might add, they not only were worked as slave laborers, but many times used for experiments and many of them were brutally murdered by their Japanese guards.

What he told me is that originally, of course, they felt that they had been betrayed by their countrymen, or at least had been hung out to dry, as you say, by our fellow Americans who they believed in. My Uncle Lou was unfortunate enough, like these other Bataan Death March victims and survivors, to be held in a prison in the Philippines, just prior to the Japanese attack in December of 1941. They fought hard and they retreated back to the Bataan Peninsula, where they were able to hold out for months against overwhelming odds. But our relief mission just never came. They were supposed to hold out until the Americans came forward.

Now, could we have saved them? We had a tremendous attack on Pearl Harbor that eliminated much of our strength in the Pacific. Maybe we were not able to. Maybe with the ships and planes we had available, if we tried a rescue mission, we would not have succeeded. Maybe that was the right decision to make by our military, not to go there to rescue these men.

Then as they were going through this horrific death march and captivity, which we will discuss in a moment, and then sent off to work as slave labor, those who were fit for slave labor duty in Japan and Manchuria.

After the war again they believe they were hung out to dry, because again, rather than coming to their assistance and their aid, the United States decided to cut a deal, and that is what the treaty with Japan in 1951, the peace treaty, represents, a deal that was cut with the leadership in Japan and of the way we would handle ourselves in a peaceful world.

It was a peace treaty. But instead of including in the peace treaty a consideration for these brave heroes, who had never been compensated by the Japanese or given an apology, not even an official apology issued for the way they were treated, instead of holding out for at least letting them have some modicum of justice, we cut the deal.

The deal in the treaty says that they would not be able to sue. They would
Americans that saved us during the Second World War, we have those movies, and the American people feel that we owe that generation a great debt, and we do. But what kind of debt do we have when we sit and let our government, our government, using our tax dollars, pay to the greatest adversary of those heroes of that war to receive some sort of justice for the crimes that were committed against them?

Do not tell me about Saving Private Ryan. Do not tell me about The Code Talkers and the rest of these, how they made you cry, when we have got people who are our heroes and went through that savagery and took the blows for us, who are now being thwarted in their attempt for justice by our own government.

The gentleman from California (Mr. HONDA) and I have tried to do our best to put at least the legislative branch of government on record, to be on the side of these Bataan Death March survivors. I will have to say that the President, I do not know if he even knows about this issue, but I will say that he should, and if he hears about it tonight, he should intervene and make sure that his State Department who he has appointed there, do not continue on this insult and this attack on the dignity and honor of the Bataan Death March survivors.

But at least we have tried here in the legislative branch. We have 227 bipartisan cosponsors of this legislation, of H.R. 1198. The gentleman from California (Mr. HONDA) has worked hard on this, as I say, and I have worked hard, and we have done our best on this legislation, and that is over half the Members of Congress are cosponsors of this bill to bring justice to the Bataan Death March survivors.

Who can stand against it, you ask? Well, we have not yet been able to get over here. We have yet to get the committee chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), I might add, to agree to have a hearing on this bill. There is always a reason, of course. There is an excuse. But the gentleman from Wisconsin (Mr. SENSENBRENNER) could have a hearing on this bill, if he so chooses. But we do not.

I would suggest that the leadership of the House has not stepped forward to try to put pressure on those that are getting in the way of this bill, to make sure we get a hearing on this bill. I would think that those people who are reading the CONGRESSIONAL RECORD or listening tonight might want to call the White House and ask the President to make sure that we do right by the Bataan Death March survivors and we quit assigning members of the State Department to go into court to undercut their efforts to sue the people who tortured those who worked them as slave labor during the Second World War. I would just suggest even calls to the leadership of the House, or to the gentleman from Wisconsin (Mr. SENSENBRENNER) might be an appropriate thing to see if we can move this legislation forward.

But we did not wait just for this legislation. There was another attempt that the gentleman from California (Mr. HONDA) and I worked out of how we might be able to get a vote on this, even if we were thwarted in getting this bill to the floor.

Last year when the appropriations bills were going through, we wrote an amendment to the Commerce, State and Justice appropriations bill that the State Department could use the funds in that bill in order to thwart the efforts of American citizens to sue the Japanese corporations that had worked them as slave labor during the war for compensation for that slave labor. So we basically were putting the essence of H.R. 1198 into the appropriations bill as a limitation so that no money could be used for that, meaning they could not pay the salary of anybody, they could not send anybody out, because that was using money, appropriated money, for that end.

That amendment caused a great deal of stir in this body, because we had at last got something on the floor. Some people thought that it was going to be ruled out of order. In fact, I believe the leadership felt it was going to be ruled out of order. But the person who was occupying the Chair when someone was asked to rule whether or not the amendment was in order, the person in the Chair took a look at it and said no, that is in order, and the shock waves could be felt all over the world.

Of course, it did not come up for a few days, and during that time period, the Japanese lobby went into full gear, and I am sorry to say that many Americans, who would never believe would take money to undercut America's heroes, people who, yes, it does bring tears to their eyes when they see movies like Saving Private Ryan, people that have lost their lives helping the veterans, signed on to the effort of the Japanese companies to undermine that effort on our part to amend the appropriations bill to underline that effort on our part to amend the appropriations bill, and, I might add, to undercut the bill of the gentleman from California (Mr. HONDA) and myself, H.R. 1198.

There was enormous pressure brought, but when the bill came to the floor in the House, we won overwhelmingly. It was an overwhelming vote. Only 33 votes were against us.

Well, it also passed the United States Senate. The appropriations vote in the United States Senate, Senator BOB SMITH from New Hampshire put forward the very same amendment, exact wording; so we had on both sides, the United States Senate by a majority and in the House by a huge majority, voted for that very same language to make sure that the money was not being used to undermine the rights of the Bataan Death March survivors. And guess what happened?
We have a process here, which is if there is any difference between the Senate appropriations bill and a House appropriations bill, they meet in a conference committee. The rules are supposed to be that they only make changes of the kind that don’t have a difference. Those are the rules. But, of course, who cares for the rules when they have lobbyists paying millions of dollars in order to make just one point, or when they are going to have someone, say the Commerce, State, and Justice Appropriations bill, we all have to protect the stability of the relationship between Japan and the United States, because everything will just go to pieces if we permit these Americans, these heroes, to sue the Japanese corporations that worked them as slave labor.

Of course, the Japanese relations with the Chinese and with the Dutch have not gone to pot. No, only with Americans would that be considered an insult, for us to stand up for our people over here. And so we have these multinational companies, huge Japanese corporations worth billions of dollars. Yes, they cannot afford to do justice by these people whom they treated like animals during the Second World War.

So behind the scenes in a conference committee where we are only supposed to change the things that are different between the House and the Senate, someone stepped forward to take out this particular provision that passed on the floor of both Houses. Now, somebody is negating the democratic process here. Somebody, I do not know who, somebody is negating the democratic process on an issue that concerns America’s greatest heroes; and we need to step up to the plate and make sure that it does not happen again.

Those listening or those reading the Congressional Record should know that the gentleman from California (Mr. Honda) and I are planning again to offer this same amendment to the appropriations bill, but this time, we are going to draw the bead of the American people. We are going to focus people’s attention on the conference committee so that behind closed doors, we will find out who it is that takes away the rights of the Bataan Death March survivors for their justice. We will find out who intercedes to negate the votes in Congress, and behind closed doors, do this dirty deed to America’s greatest heroes. We will find that out, and we will come to this floor, and we will make sure that the American people know exactly who it is that is doing this. Because the American people need to know if the democratic process is going to be thwarted, who it is here who is doing that, especially at the expense of these brave, brave men.

There is probably be in the next few months. I am not sure when the appropriations bill will be coming; it probably will be coming sometime in September, but we will be drawing people’s attention to it, and I hope that people pay attention to this issue. It is only if we mobilize American opinion that we are going to be able to thwart those who are trying to thwart democracy.

Let us take a look at that. Let us take a look at what people are we talking about? After the war, approximately 16,000 POWs returned. These were people that returned, some of them were turned into walking skeletons; most of them had the most painful injuries, both physically and mentally. They had seen their friends murdered in front of them, butchered. Sixteen thousand returned, and 11,000 POWs died in the hands of their Japanese corporate employers. These Japanese companies and the Japanese government had the worst record of abuse of their prisoners in World War II, and that is saying a lot. Unfortunately, of the 16,000 that returned, only 2,800 remain alive today. It is for that reason that we have to do what is right and to bring justice to these 2,000 men, if for nothing else, in memory of those many other thousands that have died waiting for justice, and the many thousands that have died in the hands of those Japanese corporations and the Japanese prison guards.

Uncle Lou, my wife’s great uncle, told me of his capture in the Bataan Death March at Bataan and details of how he was one of the Filipinos who were watching this. By the way, the Bataan Death March had many, many Filipino soldiers, by the way, for the first time, American soldiers with the heat; it was a horrible battle, and many people lost their lives. Many people remained. That truly was, that generation truly was the great generation.

So we have a chance now to repay that debt. We have now a chance to send the message that we believe in justice and even if it is justice delayed, we will do our part to try to bring this honor, this honor that these men, the survivors of the Bataan Death March who were the hero of all those people like my father who went after them, it was their courage that inspired my father and others to be involved.

Let us know this: This is not an anti-Japanese piece of legislation. The gentleman from California (Mr. Honda) would be the last person who would come forward and try to do something anti-Japanese. The fact is that many people in Japan, and I would say if not most, these people in Japan, understand that there were those that were done wrong in World War II.

As we know, our own Japanese Americans who joined up in our own military were some of the most decorated war heroes in World War II. Of course, they were the heroes among us in the European theater, but they were heroic. So we know that. This is not against the Japanese Americans and it is not against the Japanese people, because we know that they would like to make it right and move on and try to do it right, some of the evil
things that they did. And they knew that it was not them, they did not do wrong; it was another generation of Germans that did that. But they have not run away from their history.

Mr. Speaker, there are many people in Japan who want to shut the book. Let the Japanese government know if they do not want us to go through this, let them step forward and make a settlement with the Bataan Death March survivors. Let them make a settlement. But we are not going to stand by and believe they are still with silence after they had been tortured and worked as slave laborers during the war. We will not let the indignity of the crime against them, and the indignities that they had to suffer, we will not let that continue and go without being addressed.

As I say, there are many Japanese who would like to see the book closed, and I would plead with the powers in Japan to step forward and just close this book, get it over with.

This will not disrupt American-Japanese relations. Those people who are suggesting that they are justional or official words, meaningless phrases and words, to try to say something that would justify the insult that they are giving to America’s greatest war heroes; or perhaps they have been lobbied by someone, someone who they respect or they owe a special favor to, who told them not to vote for this, or to oppose it in some way.

This is not going to disrupt American-Japanese relations. The corporation that we are talking about are worth billions of dollars. They can afford to compensate these men who they treated as animals and dogs, and beat. They can afford it. In fact, it would be money well spent, because it would establish a tie, a bond between all of us, knowing that if we were willing to do it. There would be no disruption of American relations. It is ludicrous to say that.

So tonight we draw attention to this bill, to this piece of legislation that has not been permitted on the floor, or that the gentleman from California (Mr. ROHRABACHER), for his passion, for his conviction, and for his understanding of what it is that we need to do, to make sure that the survivors, to the survivors of the Bataan Death March, and let us pass H.R. 1198. Let us make sure that our amendment on the Commerce-State-and-Justice appropriations bill is passed and remains in the bill, and is not taken out behind closed doors this time.

Mr. HONDA. Mr. Speaker, I want to thank my good friend, the gentleman from California (Mr. ROHRABACHER), for his passion, for his conviction, and for his understanding of what it is that we need to do. I want to say that they are being compensated if they understand what the issues are.

So let us join together and let us make sure we do what is right by the survivors, to the survivors of the Bataan Death March, and let us pass H.R. 1198. Let us make sure that the survivors, to the survivors of the Bataan Death March, and let us make sure that our amendment on the Commerce-State-and-Justice appropriations bill is passed and remains in the bill, and is not taken out behind closed doors this time.

The spirit that I have learned in this process is the spirit of the victims, the ex-POWs, the spirit that was exhibited by Dr. Lester Tenney, by Mr. Frank Bigelow from Florida, who at 64, as a young man hunched over in the tunnels of the Bataan Death March, his leg broken by a boulder that fell down and shattered his leg; no medical facilities, no medical attention.

In a couple of days they realized that his leg was gangrenous, and they needed to do something in that to save his life. The choice was, do we amputate his leg and the take the chance that he may die because of that, or do we allow the gangrene to continue and know that he will die? And he said, take it, and they took it with a pocket knife and a hacksaw and no anesthesia.

Yet today, both Dr. Tenney and Frank Bigelow have the spirit and the grace to say that they forgive what had happened to them, and what they seek today is just justice in their own court system.

The other word is ‘reconciliation.’ We just left a millennium of wars and a new millennium of peace. We have an opportunity in the new millennium to make this the millennium of reconciliation, of forgiveness, of healing.

I believe if this bill is passed and considered by our committees that is supported by over 226 Members of this House, that would move right through our committees if heard, that would move right to the President’s desk, and to be signed by him would be the stroke that would allow our Members, the generation that we consider the greatest generation of our time in this country, to be able to attain the measure of dignity, the recapturing of justice, that they would seek and would move forward when they have their day in court.

That is all we are seeking. We are not seeking to predetermine the outcome of the court action, but we are seeking their day in court. In June 2000, Senator UDALL of New Mexico, Mr. Speaker, I would like first to thank my distinguished colleague Mr. HONDA for organizing this special order to raise awareness of the former POW’s who were used as slave laborers in Japan during World War II. This is a particularly important issue for my constituents because of the significant role that New Mexicans played in the South Pacific during World War II. I am very glad to have this opportunity to come here tonight to honor those brave soldiers who battled in Bataan.

Shortly after the United States formally declared their entry into World War II, American forces stationed in Bataan, Luzon, and Corregidor on the southern coast of the Philippines began their valiant six-month defensive struggle against overwhelming Japanese forces. Included in these American and Philippine forces were New Mexico’s 200th and 515th Anti-Aircraft Coast Artillery units. In fact, when the Japanese bombed Clark Field and Fort Stotsenberg, Philippine Islands on December 8, 1941, eight hours after the attack on Pearl Harbor, the 200th Coast Artillery was the first to fire on the enemy.

The superior numbers of Japanese forces, however, compelled these brave American and Philippine forces to surrender on April 9th. And then forced prisoners, as they were called, on the horrifying 85-mile Death March to the now infamous Japanese prison camps north of Manila. It is estimated that during the march over 10,000 American and Filipino soldiers died as a result of malnutrition and torture. Following the march, the thousands of men were not given enough food and water to survive, were unknowingly placed on ‘hell ships’ and transferred to Japan, Taiwan, Manchuria, and Korea to perform slave labor in support of the Japanese war industry.

The American soldiers captured on Bataan, Luzon, and Corregidor endured a longer captivity—over three and a half years—than any other POW’s in World War II. Of the approximately 36,000 U.S. soldiers who were captured by the Japanese during World War II,
only 21,000 survived to return to the U.S. at the end of the war. Of the 1,800 men deployed in New Mexico’s 200th and 515th Coast Artillery Regiments, fewer than 900 returned to the United States after the three and a half years of captivity.

Today, the men forced to perform slave labor in the Japanese corporations still await their just and overdue compensation and recognition for the labor performed. Recently, however, a California law was enacted that enables these men to seek damages up to the year 2010 against responsible Japanese companies. Seventeen lawsuits have been filed on behalf of former POWs, but their claims are currently pending in the California State court system and have been since they were filed in 1999.

Over the past few years, the U.S. government has helped facilitate the resolution of claims for thousands of individuals who were forced to perform slave labor for German companies during World War II. However, the U.S. State Department and the Department of Justice have been opposing, rather than supporting, the claims of the U.S. POWs who were forced to perform slave labor in Japan. I am a cosponsor and strongly support the important legislation introduced by several Members present at this special order today.

H. R. 1198. ‘The Justice for U.S. POWs Act of 2001,’ will allow POW suits against Japanese companies to go forward without interference from the Department of State. This legislation has broad bipartisan support and I am hopeful that we can soon bring this legislation before the full House for consideration to help bring compensation and recognition for the hardship these POWs endured at the hands of their captors.

Finally, I would like to invite my colleagues here as well as anyone else to visit the recently dedicated Bataan Memorial Park in Albuquerque, New Mexico. This touching memorial is a poignant reminder of the sacrifices made by both the living and the dead for the freedoms we enjoy today.

Again, thank you Mr. HONDA for organizing this special order. I look forward to working with you further to bring H.R. 1198 to the floor for passage.

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

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mrs. Christensen, for 5 minutes, today.

Mrs. Clayton, for 5 minutes, today.

Ms. Solis, for 5 minutes, today.

Mr. Payne, for 5 minutes, today.

Mr. Inslee, for 5 minutes, today.

The following Members (at the request of Mr. Bishop) to revise and extend their remarks and include extraneous material:

Mr. Conyers, for 5 minutes, today.

Ms. Eddie Bernice Johnson of Texas, for 5 minutes, today.

Ms. Waters, for 5 minutes, today.

The following Members (at the request of Mrs. Biggert) to revise and extend their remarks and include extraneous material:

Mr. Bilirakis, for 5 minutes, July 18.

Mr. Pence, for 5 minutes, today.

Mr. Foley, for 5 minutes, today.

The following Members (at the request of Mr. Bishop) to revise and extend their remarks and include extraneous material:

Mr. Nussle, for 5 minutes, today.

The following Members (at their own request) to revise and extend their remarks and include extraneous material:

Mr. McDermott, for 5 minutes, today.

Ms. Jones of Ohio, for 5 minutes, today.

SENATE BILLS REFERRED

A bill of the Senate of the following title was taken from the Speaker’s table and, under the rule, referred as follows:

S. 997. An act 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; to the Committee on Agriculture.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the following titles, which were thereupon signed by the Speaker:


H.R. 2287. An act to extend their remarks and include extraneous material:

Mr. Honda, Mr. Speaker, I move that the House do now adjourn. The motion was agreed to; accordingly (at 8 o’clock and 8 minutes p.m.), the House adjourned until tomorrow, Friday, July 12, 2002, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker’s table and referred as follows:

7827. A letter from the Administrator, Department of Agriculture, transmitting the Department’s final rule—Irish Potatoes Grown in Colorado; Increase in the Minimum Storage Requirement for Nectarines Grown in California; Decreased Assessment Rate [Docket No. FV02-981-1 IFR] received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7828. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department’s final rule—Nebraska Grown in Nebraska; Minor Economic Impact Analysis for the Proposed Lower Assessment Rate [Docket No. FV02-982-1 IFR] received June 25, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7829. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department’s final rule—Raisins Produced From Grapes Grown in California; Addition of a New Varietal Type and Quality Requirements for Other Seedless-Sulfured Raisins [Docket No. FV02-989-1 IFR] received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7830. A letter from the Administrator, Cotton Program, Department of Agriculture, transmitting the Department’s final rule—Revision of User Fee Assessment Rate for Growers [Docket No. CN–02–001] (RIN: 0581–AC06) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7831. A letter from the Administrator, Cotton Program, Department of Agriculture, transmitting the Department’s final rule—Cotton Board Rules and Regulations: Adjusting Supplemental Assessment on Imports, (2002 Amendments) [Docket No. CN–02–002] received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7832. A letter from the Chief Financial Officer, Government of the District of Columbia, transmitting a report of two violations of the Antideficiency Act by the District of Columbia, pursuant to 31 U.S.C. 1351(b); to the Committee on Appropriations.


7834. A letter from the Director, Regulations Policy and Management Staff, FDA, Department of Health and Human Services, transmitting the Department’s final rule—Listing of Color Additives Except From Certification; Sodium Copper Chlorophyllin [Docket No. 06C–0692] received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7835. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department’s final rule—Status of Certain Additional Over-the-Counter Drug Category II and III Active Ingredients [Docket No. 916–001] (RIN: 0910–AA01) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7836. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department’s final rule—Food Additives: Food Contact Substance: Food Contact Substance: Certification System [Docket No. 99N–5556] (RIN: 0910–AB94) received June 20, 2002, pursuant to
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7867. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department’s final rule—Airworthiness Directives; Boeing Model 747-400, 747-400ER, 747-400F, 767-200, 767-300, and 767-300F Series Airplanes [Docket No. 99-NM-350-AD; Amendment 39-12250; AD 2001-11-68; RIN: 2120-AA46] received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7868. A letter from the Acting Deputy General Counsel, Small Business Administration, transmitting the Administration’s final rule—Small Business Size Standards; Travel Agencies [RIN: 3245-AE36] received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

7869. A letter from the Acting Deputy General Counsel, Small Business Administration, transmitting the Administration’s final rule—Small Business Size Standards; Travel Agencies; Economic Injury Disaster Loan Program [RIN: 3245-AE36] received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

7870. A letter from the Acting Director, Office of Regulatory Law, Veterans Health Administration, Department of Veterans Affairs, transmitting the Department’s final rule—Filipino Veterans Eligible for Hospital Care, Nursing Home Care, and Medical Services [RIN: 0914-A101] received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans’ Affairs.

7871. A letter from the Chief, Regulations Branch, Customs Service, Department of the Treasury, transmitting the Department’s final rule—Passenger Name Record Information Required for Passengers on Flights in Foreign Air Commerce; to the United States (T.D. 02-31) [RIN: 1515-A006] received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.


REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing to conform to the proper calendar, as follows:

Mr. HANSEN: Committee on Resources. House Concurrent Resolution 408. Resolution honoring the American Zoo and Aquarium Association and its accredited member institutions for their continued service to animal welfare, conservation education, conservation research, and wildlife conservation programs (Rept. 107-565 Pt. 1). Referred to the House Calendar.

Mr. YOUNG of Florida: Committee on Appropriations. Report on the Revised Sub-allocation of Budget Allocations for Fiscal Year 2002 (Rept. 107-566). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Florida: Committee on Appropriations. Report on the Revised Sub-allocation of Budget Allocations for Fiscal Year 2003 (Rept. 107-565 Pt. 1). Referred to the House Calendar.

Pursuant to clause 2 of rule XII the Committee on Agriculture discharged from further consideration House Concurrent Resolution 408 referred to the House Calendar.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H: Con. Res. 408. Referral to the Committee on Agriculture extended for a period ending not later than July 11, 2002.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. GRAHAM (for himself, Mr. BORINNER, Mr. BURR of North Carolina, Mr. COOKSEY, Mr. GRAVES, Mr. GREENWOOD, Mr. HILLYARD, Mr. IKEE, Mr. KOKOSKI, Mr. NORWOOD, Mr. PLATTS, Ms. ROSE-LIEHTEN, and Mr. TARRANT):

H.R. 5090. A bill to increase the amount of student loan forgiveness available to qualified teachers, with an emphasis on special education teachers; to the Committee on Education and the Workforce.

By Mr. FALLONE (for himself, Mr. ANDREWS, and Mr. HOLT):

H.R. 5092. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to restrict ocean dumping at the site off the coast of New Jersey, known as the “Historic Area Remediation Site”, to dumping of dredged material that does not exceed polychlorinated biphenyls levels of 113 parts per billion; to the Committee on Transportation and Infrastructure.

By Mr. SKEEN:

H.R. 5094. A bill to establish the Federal Accounting Standards Advisory Board; to the Committee on Government Reform.

By Mr. THOMAS (for himself, Mr. MOORE, Mr. JOHNSON of Connecticut, and Mr. Houghton):

H.R. 5095. A bill to amend the Internal Revenue Code of 1986 to improve and simplify the income tax law to prevent unreasonable increases in certain taxes; to the Committee on Ways and Means.

By Mr. CHRISTENSEN:

H.R. 5096. A bill to direct the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the St. Croix National Heritage Area in St. Croix, United States Virgin Islands, and for other purposes; to the Committee on Resources.

By Mrs. CHRISTENSEN:

H.R. 5097. A bill to adjust the boundaries of the Salt River Bay National Historical Park and Ecological Preserve located in St. Croix, Virgin Islands; to the Committee on Resources.

By Mr. DINGELL (for himself, Mr. UPTON, and Mr. WAXMAN):

H.R. 5098. A bill to provide disadvantaged children with access to dental services; to the Committee on Energy and Commerce.

By Mr. HANSEN:

H.R. 5099. A bill to extend the periods of authorization for the Secretary of the Interior to implement capital construction projects associated with the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins; to the Committee on Resources.

By Mr. SMITH of New Jersey (for himself, Mr. LOBONDO, Mr. SAXTON, and Mr. ANDREWS):

H.R. 5100. A bill to deem a certain memorandum of agreement issued by the Environmental Protection Agency and the Corps of Engineers to be a final rule; to the Committee on Transportation and Infrastructure.

By Mr. HEPLEY:


By Mr. HEPLEY (for himself, Mr. UDALL of Colorado, Mr. MCNINNIS, Mr. HAYWORTH, and Mr. TASCARO):

H.R. 5102. A bill to expedite the process by which the Secretary of the Interior and the Secretary of Agriculture may utilize military aircraft to fight wildfires, and for other purposes; to the Committee on Agriculture, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as may be in the jurisdiction of the committee concerned.

By Mr. LEVIN (for himself and Mr. MAYS):

H.R. 5103. A bill to amend the Internal Revenue Code of 1986 to simplify certain rules relating to the taxation of United States businesses operating abroad in order to avoid double taxation; to the Committee on Ways and Means.

By Mr. LYNCH (for himself, Mr. CAPUANO, Ms. BROWN of Florida, Ms. MILLER-LINDSAY, Mr. MURPHY, Mr. SCHUMER, Mr. SLAUGHTER, Mrs. CAPPs, Mrs. JONES of Ohio, Mr. DAVIS of Illinois, Mrs. NAPOLITANO, Mr. SERRANO, Ms. LEY, and Mr. WYNNE):

H.R. 5104. A bill to amend the Public Health Service Act to provide for expanding, intensifying, and coordinating activities with respect to research on autoimmune diseases; to the Committee on Energy and Commerce.

By Mr. NADLER (for himself and Mr. CROWLEY):

H.R. 5105. A bill to amend the Internal Revenue Code of 1986 to deny any deduction for direct-to-consumer advertisements of prescription drugs; to the Committee on Ways and Means.

By Ms. RIVERS:

H.R. 5106. A bill to provide for coverage of scalp hair prosthesis for individuals who have undergone or are expected to undergo alopecia areata under the Medicare and Medicaid Programs, State children’s health insurance program (SCHIP), Federal employee health benefits program (FEHBP), veterans health care programs, TRICARE, and Indian Health Service (IHS); to the Committee on Energy...
By Ms. BALDWIN (for herself and Mr. MCDONALD): H.R. 5109. A bill to direct the Secretary of Agriculture to amend the McKinney-Vento Act to allow funds to be used to provide mental health services and mental health consultation services in public schools.

By Mr. RYUN of Kansas: H. Res. 481. A resolution providing a sense of the House of Representatives that a standing Committee on Homeland Security should be established; to the Committee on Rules.

MEMORIALS

Under clause 3 of rule XII, memorials were presented as follows:

312. The SPEAKER presented a memorial of the General Assembly of the State of Pennsylvania, relative to Senate Resolution No. 26 memorializing the United States Congress to urge the citizens and representatives of the State of Pennsylvania, and the people of the United States, to take all necessary actions to establish a sister-state relationship with the Province of Pangasinan; to the Committee on International Relations.

313. Also, a memorial of the Legislature of the State of Hawaii, relative to Senate Resolution No. 26 memorializing the United States Congress to support legislation to repeal the Rescission Act of 1946 and the Second Supplemental Surplus Appropriation Act of 1946, and to restore Filipino World War II veterans to full United States veterans' status and benefits; to the Committee on Veterans' Affairs.

By Mr. THOMPSON of California: H.R. 5108. A bill to authorize leases for terms not to exceed 99 years on lands held in trust for the Yurok Tribe and the Hopland Band of Pomo Indians; to the Committee on Resources.

By Mr. WATKINS: H.R. 3131. A bill to direct the Secretary of Energy to convey a parcel of land at the facility of the Southern Power Administration in Tupelo, Oklahoma; to the Committee on Resources.

By Mr. COBLE (for himself, Mr. SPRATZ, Mr. NORWOOD, Mr. GRAHAM, Mr. TAYLOR of North Carolina, Mr. TAYLOR of Mississippi, Mrs. CLAYTON, Mr. EVERTT, Mr. WILSON of South Carolina, Mr. HUNTER, Mr. FROST, Mr. PRICE of North Carolina, Mr. BOUCHER, Mr. KENNEDY of Rhode Island, Mr. JONES of North Carolina, Mr. MCINTYRE, Mr. HAYES, Mr. THOMPSON of Mississippi, Mr. PALLONE, Mr. GOODE, Mr. SHOWS, Mr. Cramer, Mr. COLLINS, Mr. WATT of North Carolina, Mr. DEAL of Georgia, Mr. MCHUGH, Mr. CLYBURN, Mr. DUNCAN, Mr. CLEMENS, Ms. KAPTUR, Mr. HILLIARD, Mr. ETHERIDGE, Ms. MCKINNEY, Mr. EVANS, Mr. LEWIS of Georgia, Mr. Rangel, Mr. BAXTER, Mr. CHAMBLISS, Mr. PICKERING, and Mr. MCGOVERN):

H.J. Res. 165. A joint resolution calling on the President to take all necessary steps under existing law and international trade agreements to support the acquisition by the United States National Park Service of Kahuku Ranch for expansion of the Hawaii Volcanoes National Park and of Kilauea Village for expansion of Pu’u’ouhona O Honauanu National Historical Park; to the Committee on Resources.

315. Also, a memorial of the House of Representatives of the State of Hawaii, relative to House Concurrent Resolution No. 117 memorializing the United States Congress that Governor Benjamin Cayetano, of the State of Hawaii, or his designee, be authorized and is requested to take all necessary actions to establish a sister-state relationship with the Province of Pangasinan; to the Committee on International Relations.

316. Also, a memorial of the House of Representatives of the State of Hawaii, relative to House Concurrent Resolution No. 117 memorializing the United States Congress that Governor Benjamin Cayetano, of the State of Hawaii, or his designee, be authorized and is requested to take all necessary actions to establish a sister-state relationship with the Province of Pangasinan; to the Committee on International Relations.

317. Also, a memorial of the House of Representatives of the State of Hawaii, relative to House Concurrent Resolution No. 117 memorializing the United States Congress to support the acquisition by the United States National Park Service of Kahuku Ranch for expansion of the Hawaii Volcanoes National Park and of Kilauea Village for expansion of Pu’u’ouhona O Honauanu National Historical Park; to the Committee on Resources.

318. Also, a memorial of the House of Representatives of the State of Hawaii, relative to House Concurrent Resolution No. 117 memorializing the United States Congress that Governor Benjamin Cayetano, of the State of Hawaii, or his designee, be authorized and is requested to take all necessary actions to establish a sister-state relationship with the Province of Pangasinan; to the Committee on International Relations.

319. Also, a memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 16 memorializing the United States Congress that the Legislature supports the acquisition by the United States National Park Service of Kahuku Ranch for expansion of the Hawaii Volcanoes National Park and of Kilauea Village for expansion of Pu’u’ouhona O Honauanu National Historical Park and of Kilauea Village for expansion of Pu’u’ouhona O Honauanu National Historical Park; to the Committee on Resources.

By Mr. RYUN of Kansas: H. Res. 481. A resolution providing a sense of the House of Representatives that a standing Committee on Homeland Security should be established; to the Committee on Rules.

320. Also, a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 34 memorializing the President and the United States Congress to support legislation to repeal the Rescission Act of 1946 and the Second Supplemental Surplus Appropriation Act of 1946, and to restore Filipino World War II veterans to full United States veterans' status and benefits; to the Committee on Veterans' Affairs.

321. Also, a memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 26 memorializing the President and the United States Congress to take action necessary to honor our country's moral obligation to provide these Filipino veterans with the military benefits that they deserve; to the Committee on Veterans' Affairs.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 275: Mr. SHIMKUS.
H.R. 822: Mr. BOSWELL.
H.R. 902: Mr. SCHIFF and Mr. OBREENSTAR.
H.R. 945: Mr. Sanchez.
H.R. 975: Mr. INSLEE.
H.R. 1301: Mr. DEUTSCH.
H.R. 1311: Mr. SCHOPF.
H.R. 2395: Mr. ROTHMAN.
H.R. 2125: Mr. LEWIS of Georgia and Ms. PELOSI.
H.R. 2141: Ms. HOOLEY of Oregon.
H.R. 2282: Mr. HOYER.
H.R. 2357: Mr. COLLINS.
H.R. 2498: Mr. THUNE.
H.R. 2677: Mr. RANGEL.
H.R. 2968: Mrs. MEEK of Florida, Mr. DAVIS of Illinois, Mr. OWENS, Ms. BERKLEY, Mr. GEORGE MILLER of California, and Mr. HOEFEL.
H.R. 3017: Mr. BOSWELL.
H.R. 3135: Mr. GHRUCI.
H.R. 3154: Mr. KIND.
H.R. 3238: Mr. BOSWELL and Mr. CARDIN.
H.R. 3303: Mr. STENHOLM.
H.R. 3368: Ms. BALDWIN, Mr. SCOTT, Mr. TRAPFANT, Ms. EDDIE BERNONIC JOHNSON of Texas, and Mr. MCGOVERN.
H.R. 3414: Mr. COYNE.
H.R. 3394: Mr. HORN.
H.R. 3616: Mr. JACKSON of Illinois.
H.R. 3961: Mr. HOLDEN and Mr. RANGEL.
H.R. 3974: Mr. HOLT.
H.R. 3992: Mr. BLAJOJEVIC and Mr. BALDACCI.
H.R. 4010: Mr. SAM JOHNSON of Texas.
H.R. 4081: Mr. FRANK.
H.R. 4096: Mr. WAXMAN and Mr. BLAJOJEVIC.
H.R. 4132: Mr. MICA.
H.R. 4194: Mr. CHAMBLISS, Mr. KILDEE, Ms. JACKSON-LEE of Texas, Mr. FROST, Mr. DAVIS of Illinois, and Mr. HILLIARD.
H.R. 4463: Mr. FREILINGHUSEN and Mr. LUCAS of Kentucky.
H.R. 4548: Mr. GILCHREST, Mr. WHITFIELD, and Mr. GEKAS.
H.R. 4655: Mr. PASTOR and Mr. PARCELL.
H.R. 4696: Mr. KILDEE, Mr. GEORGE MILLER of California, Ms. WATERS, Mrs. MINK of Hawaii, and Mr. BALDACCI.
H.R. 4732: Mr. STUDDIS and Mr. WAXMAN.
H.R. 4622: Mr. SIMPSON and Mr. OTTER.
H.R. 4668: Mr. EHRlich and Mr. WATT of North Carolina.
H.R. 4705: Mr. KNOXLENGER.
H.R. 4738: Mr. GREEN of Texas, Mr. WYN, and Ms. WATSON.
H.R. 4778: Mr. ROTMAN.
H.R. 4815: Mr. SOURcek, Mr. DAVIS of Illinois, Mr. FATTAH, and Mr. ROCHEs of Michigan.
H.R. 4633: Mr. Frank.
H.R. 4937: Mr. Wynn.
H.R. 4943: Mr. Wexler.
H.R. 4947: Ms. Waters, Mrs. Davis of California, and Mr. Wexler.
H.R. 4951: Mr. McGovern, Ms. Kilpatrick, and Mr. Clay.
H.R. 4964: Mr. Frost and Mr. McGovern.
H.R. 4967: Mr. Garcia.
H.R. 4998: Mr. Owens.
H.R. 5001: Ms. Millender-McDonald and Mr. McGovern.
H.R. 5005: Mr. Schiff.
H.R. 5033: Mr. Latham, Mr. Fossella, Mr. Wolf, Mr. Culberson, Mr. Diaz-Balart, and Mr. Goss.
H.R. 5059: Mr. Hayes.
H.R. 5060: Mr. Wexler, Mr. Young of Alaska, and Mr. Quinn.
H.R. 5064: Mr. Shadegg, Mr. Goode, Mr. Pitts, Mr. Toomey, Mr. Doolittle, Mr. Cunningham, Mr. Sam Johnson of Texas, Mr. Tiberi, Mr. DeMint, Mrs. Myrick, Mr. Flake, Mr. Schaffer, Mr. Sullivan, Mr. Manzullo, Mr. Smith of Michigan, Mr. Hayworth, Mr. Bartlett of Maryland, and Mr. Wilson of South Carolina.
H.R. 5075: Mr. Tom Davis of Virginia, Mr. Gohlbatte, Mr. Scott, and Mr. Wolf.
H. Con. Res. 367: Mr. Terry, Mr. Sessions, and Mr. Bark of Georgia.
H. Con. Res. 385: Mr. Rothman.
H. Con. Res. 399: Mr. Fossella.
H. Res. 313: Mr. Crowley and Mr. Bonior.
H. Res. 398: Mr. Cardin.
H. Res. 437: Mr. Forbes and Mr. Waxman.

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. Fattah.
The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable Debbie Stabenow, a Senator from the State of Michigan.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, the Reverend Dr. David Jefferson, Sr., Metropolitan Baptist Church, Newark, NJ.

PRAYER
The guest Chaplain offered the following prayer:
Eternal and all wise God, we assemble this morning thanking You for this opportunity that You have given us. We thank You for the abundance of Your grace, for the extension of Your mercy, and the assurance of Your protection. Help these Senators to be faithful to the higher ideals of justice, liberty, and righteousness. Speak to their collective consciousness as they endeavor to make our Nation, and, yes, even the world, a house of hope, love, and peace.

Gracious Master, hold Your ideals over the women and men of this governing body. Place a crown of righteousness above them, and encourage them to grow tall enough to wear it. Your sacred scripture says that without a vision, the people will perish. Give the Senators a vision for America—a vision that will enable this country to be a responsible citizen of the world.

Now, Lord, grant unto these Senators the courage to lead this Nation in complex and confusing times. Help them to rely on that which is greater than themselves. May they be guided by Your Spirit and Your intelligence as they seek to establish the laws of this land. Bless us all. Amen.

PLEDGE OF ALLEGIANCE
The Honorable Debbie Stabenow led the Pledge of Allegiance, as follows:

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

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable Debbie Stabenow, a Senator from the State of Michigan.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, the Reverend Dr. David Jefferson, Sr., Metropolitan Baptist Church, Newark, NJ.

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Gracious Master, hold Your ideals over the women and men of this governing body. Place a crown of righteousness above them, and encourage them to grow tall enough to wear it. Your sacred scripture says that without a vision, the people will perish. Give the Senators a vision for America—a vision that will enable this country to be a responsible citizen of the world.

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friend and minister who led us in prayer this morning.

I say to my colleagues in the Senate, it is an honor that we were able to have Rev. David Jefferson from the Metropolitan Baptist Church in Newark with us today. I assure my colleagues, from my own life experience, this is a remarkable man of tremendous energy, leadership, and moral character. He leads the largest Baptist church, a very dynamic community of believers, in Newark, NJ. Not only are they active in their religious life, but they make an enormous contribution to redevelopment and the support of the community, reaching out to all who are part of the community who sometimes have been left behind. Through their example, they are demonstrating that access to the American promise is true for everyone.

In his spare time, he is a senior executive at AT&T where he brings both great skills as a business person and moral character and leadership to his efforts in the business world. We need examples of people who are able to both recognize that our free enterprise system needs to be strong and powerful and have brilliant people who care about producing good services, good products at the right price but on an honorable basis. Reverend Jefferson is one who I think demonstrates we can do that, and he does it with great grace.

Most importantly, he is a moral leader for a broader community by demonstrating with all aspects of his life how important it is to recognize that we all live under a greater power than what I think we sometimes think we live under in our own lives. Sometimes we are too focused on what we are about, and he is a great teacher about the importance that we are one nation under God.

I am honored and privileged he has joined us today. I am honored and privileged that he is my friend. I thank the Presiding Officer for the opportunity to welcome Rev. David Jefferson to the Senate Chamber.

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 Republican leader or his designee.

The Senator from Maine.

Ms. COLLINS. I thank the Chair. Madam President, I ask unanimous consent that I be permitted to proceed for 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LAPSES IN CORPORATE RESPONSIBILITY
Ms. COLLINS. Madam President, as every Member of this Chamber knows and, more importantly, as every American investor knows, we have recently witnessed lapses in corporate responsibility unlike anything that has occurred during the past 70 years. It is our role to determine why this has happened and what can be done to prevent it from continuing to happen. I rise to offer some thoughts, as well as to lend my support, to the accounting reform legislation now on the Senate floor.

Several years ago, Federal Reserve Chairman Alan Greenspan characterized the latter stages of the great bull market of the 1980s as irrational exuberance. Although investors made those decisions for a few years after that statement, they ultimately collided with economic reality and embarked upon an extended decline. It now appears that that irrational exuberance was being sustained in some instances by improper accounting. Put differently, on the way of satisfying the insatiable appetite of some for ever-increasing corporate profits, as well as for rich compensation packages, was to cook the books. Many, although not all, of the recent allegations occurred in what has been the hot sectors of our economy.

Electric deregulation, the development of the Internet, new medical treatments, and the spread of broadband are all thought to hold enormous prospect for future growth. Unfortunately, for some of the companies in those areas the growth in accounting creativity outstripped the growth in business fundamentals. I make this point because I think it contains a lesson for those of us in Congress, as well as for Federal and State regulators.

During my years as a financial regulator in my home State of Maine, the advice we gave to investors, to the point where it began to sound like a broken record, was that if it seems too good to be true, it almost certainly is. The comparable message for those of us with oversight responsibility is that if one is not vigilant during the boom, when things seem too good to be true, cleaning up after the bust will be far more difficult.

During my first 4 years in the Senate, I was privileged to serve as the chairman of the Senate Permanent Subcommittee on Investigations. During that time, I held more investigations into fraud and abuse in our securities markets than on any other subject, despite the fact we were in the midst of a roaring bull market. Indeed, the roaring bull market made those investigations seem all the more necessary.

More recently, Senator LEVIN and I teamed up in an investigation of Enron Corporation, an investigation that is ongoing. In fact, we just released our first report on the failures of the Enron board of directors to exercise its fiduciary responsibilities. We found that too many of the Enron directors acted as rubber stamps rather than as watchdogs.

In short, the principal lesson of recent events for those of us in Congress may be the need to remember the importance of vigorous oversight and tough enforcement during the good times as well as the bad.

Let me now turn my attention to the conflicts of interest faced by some accountants, brokers, and corporate directors. American capitalism relies heavily on the fiduciary duty concept to protect those who entrust their money to large and often distant corporations. Accountants have a duty to investors to ensure the accuracy of financial statements. Directors have a duty to make certain that managers act in the best interest of the corporation, and stockholders have a duty to give advice that will best serve their client’s needs. I believe that this structure is fundamentally sound, but I also believe we have allowed these trust relationships to be seriously eroded by conflicts of interest.

Confidence in our capital markets depends upon accurate and fair financial statements. To achieve that objective, we follow a maxim that President Reagan put forth in another context; namely, “trust but verify.” We trust corporate managers to give us honest financial statements but, just in case, we look to accountants to verify the numbers. Too often in the recent past accountants have let us down, principally because, in my view, conflicts of interest have undermined their fundamental fiduciary duties. The source of this problem is that some accountants can depend on those whose books they examine not only for their auditing jobs but much more worrisome for lucrative consulting contracts.

In some ways, the situation for brokers can be even worse, because they frequently have a personal, as well as an institutional, relationship with those to whom they owe a duty. As the recent Merrill Lynch settlement demonstrated, when the same individuals are involved in giving advice to retail customers and securing underwriting business from the corporations they are supposed to be objectively rating, it is the investor who loses. Again, the fiduciary duty concept is not inherently flawed. Rather, it has been eroded by conflicting interests that cannot comfortably coexist.

The third component of what might be called the fiduciary duty triad is the corporate board. Frequently owing their position to those whose activities they are to monitor, some board members suffer from the appearance, and in some cases the reality, of conflicts of interest. In my view, given
their part-time status and their dependence on management for information, the role of the independent directors, perhaps even more than the role of accountants or those of brokers, needs more scrutiny.

In support of our role on the board of directors in the corporation’s failure, the Permanent Subcommittee on Investigations found that the board ignored countless warning signs of wrongdoing. In some cases, the board and management approved highly regular, off-the-books partnerships that masked the company’s true liabilities. The board’s audit committee failed miserably to ensure the independence of the company’s auditor, allowing Andersen to provide internal audit and consulting services while at the same time serving as Enron’s outside auditor. In other words, in some ways, Andersen was auditing itself.

Finally, directors blessed financial deals that created conflicts of interest for the officers of Enron and others. Such conflicts of interest are rotting the pillars supporting an essential element of capitalism, and that is the ability of investors to rely on those to whom they entrust their money.

Enforcement requires tough steps. First, we must redefine the roles of the accountant, the broker, and the board member. We must make it absolutely clear that their undiluted responsibility is to the investor.

Second, we must enforce those obligations with tough sanctions, such as those we approved yesterday, that will deter those who would breach these fiduciary duties. This leads logically to the role of the Government regulator. I do not see regulation replacing the fiduciary roles I have described for the accountant, the broker, and the board member. We must make it absolutely clear that their undiluted responsibility is to the investor.

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and difficult transition to stability, security, and, ultimately, to a democratic government. We are at the beginning of a long process. We cannot be distracted or deterred from this objective. Our credibility, our word, and our security depend directly on our policies in Afghanistan. And there cannot be political stability and economic development in Afghanistan without security.

My legislation, and the companion legislation passed by the House, would authorize $1.15 billion over 4 years for economic and democratic development assistance for Afghanistan, as well as up to $300 million in drawdown authority for military and other security assistance. The main elements of my legislation are as follows:

It authorized continuing efforts to address the humanitarian crisis in Afghanistan and among Afghan refugees in neighboring countries; it authorizes resources to help the Afghan government fight the production and flow of illicit narcotics; it assists efforts to achieve a broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan; it supports strengthening the capabilities of the Afghan government to develop projects and programs that meet the needs of the Afghan people; it supports the reconstruction of Afghanistan through creating jobs, clearing landmines, and rebuilding the agriculture sector, the health care system, and the educational system of Afghanistan; and it provides specific resources to the Ministry of Women’s Affairs of Afghanistan to carry out its responsibilities for legal advocacy, education, vocational training, and women’s health programs.

This legislation also strongly urges the President to designate within the State Department an ambassadorial-level coordinator to oversee and implement these programs and to advance United States interests in Afghanistan, including coordination with other countries and international organizations with respect to assistance to Afghanistan. In general, the Afghanistan Freedom Support Act provides a constructive, strategic framework for our Afghan policy, and flexible authority for the President to implement it. We must not allow this fragile interim Afghan government to unwind. We must put forward the appropriate investment of men, effort, and resources to complete the objective of a democratic government in Afghanistan.

If Afghanistan goes backward, this will be a defeat for our war on terrorism, for the people desiring freedom in Afghanistan and in central Asia, for America, and, in this nation, and for the world. It would be disastrous for our country because it would crack the confidence that people all over the world have in the United States. Afghanistan is the first battle in our war on terrorism. We must not fail.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CLELAND). The clerk will call the roll. The legislative clerk proceeded to call the roll.

Ms. STABENOW. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with. The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Michigan.

ORDER OF PROCEEDURE

Ms. STABENOW. Mr. President, I yield myself 6 minutes this morning to speak, and then I ask that the distinguished Senator from Georgia, Mr. MILLER, be yielded 6 minutes; additionally, the senior Senator from North Dakota, Mr. DORGAN, be yielded 6 minutes; and 6 minutes also to the Senator from Florida, Mr. GRAHAM; and an additional 6 minutes to the distinguished junior Senator from Georgia, Mr. MILLER. The PRESIDING OFFICER. Without objection, it is so ordered.

PRESCRIPTION DRUGS

Ms. STABENOW. Mr. President, next week we begin one of the most important debates that we will have. I believe, as a Senate, throughout this session and possibly for years to come. That is a debate about whether or not we are going to meet two goals that the American people have been asking us to address. The first is a Medicare prescription drug benefit for our seniors, for those who have disabilities—a comprehensive Medicare prescription drug benefit. Second, we want to lower prices—lower prices for everyone.

We know in fact not only do seniors, who use the majority of prescriptions, have high prices, but everyone who has prescription drugs does. If you are paying through insurance, you are paying higher insurance rates. If you are a businessperson, you are seeing your health care premiums rising. Small businesses—many in Michigan come to me and talk about 30-percent, 35-percent, 40-percent increases. The big three automakers are juggling between being able to afford new materials for their automobiles and research and all the other costs that they have, versus health care, most of which is prescription drug increases. So everyone is paying.

We have two goals. We as Democrats are working hard, working hard behind the scenes on behalf of PhRMA [which is the drug industry lobby] to make sure that the party’s prescription drug plan for the elderly suits drug companies.

This was in the Washington Post, June 19 of this year. They are:... working hard behind the scenes to make sure that their... plan... suits the drug companies.

I hope next week we will work just as hard in this body for a prescription drug plan that suits the American people.

I am so pleased to see my distinguished colleagues from Georgia here, one in the chair and the junior Senator who came into the Senate with me, who is one of the authors of the bill that we have in front of us along with the Senator from Florida, Mr. GRAHAM.

We have a plan. We have a plan that works, that pays the majority of the bills, that does the job, that brings together the collective buying power of 39 million seniors, and which will require that prices be lowered. We have the plan. Our plan is not the plan of the drug companies. It is not the plan which drug companies are advertising about—the pretty ads from Seniors United that are on the air from the drug company, the front senior group that thanks the Republican colleagues in the House for voting for their plan, the plan that supports the drug companies.

We have a plan for the American people.

I would like to share for a moment two stories from the Web site which I set up. I set up the Prescription Drug People’s Lobby. There are six drug company lobbyists for every one Member of the Senate. I invited the people of Michigan to join with me to be part...
of our people's lobby to make sure the real story gets heard. I would like to share a story from Rochelle Dodgson of Oak Park, MI. I thank her for being a part of our Prescription Drug People's Lobby.

She writes:

My mother is currently insured under COBRA after losing her job in August 2001. While she has her basic Medicare coverage, she will lose her supplemental medical coverage in January 2003. She has recently been diagnosed with Multiple Myeloma and will require treatment for this blood disorder the rest of her life. The medications she was taking before that cost over $200 per month. I have not checked the prices of the ‘chemo’ she takes monthly nor the cost of the Procriit she takes weekly. I expect her monthly out-of-pocket expenses to be around $700 a month. Her social security is just over $800 monthly. I can’t imagine having to budget food and housing expenses along with medication on that kind of income. My husband and I will try to find a way to budget some of her medical costs into our own expenses but we also care for my husband's mother.

My mother is still a viable part of society. She doesn’t deserve to be struggling just because she has chronic illness.

Rochelle, thank you for your story. Your mother does not deserve to struggle with $700 medical bills with a $700-a-month income.

I shared that one story today from Michigan. For those who want to get involved, please go to my Senate Web site around the country at FairDrugPrices.org. You can be involved and make your voice heard, and the right thing will happen here in the Senate.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. Dorgan). Who seeks recognition?

The Senator from Georgia is recognized.

Mr. CLELAND. Mr. President, I echo the eloquent words of the distinguished Senator from Georgia. I, too, have yeoman service for this body, for seniors and the disabled of America in helping put together and advocate for a meaningful drug benefit under Medicare. And special kudos go to my colleague from Georgia, Senator MILLER, and to my distinguished friend from Florida, Senator GRAHAM, for really taking the lead in articulating a Medicare supplement that we can embrace in this body and that the American people can embrace.

When I talk to my fellow Georgians about the issues that are most on their minds, that most affect their lives, the one that I hear about more often than any other is the high cost of prescription drugs. Everywhere I go, people ask me, “When are Congress and the President going to make good on their promise to help us with prescription drugs?” And all I can tell them is, That’s a fair question; I’d like to know, too. Over the past couple of years, their comments have become increasingly urgent. The cost of prescription medications rose a staggering 19 percent in 2000, and another 17 percent in 2001. I can assure you most people's incomes didn’t rise by 17 percent in 2001. It is an iron-clad law of economics that if you live on a fixed income, and one portion of your monthly expenses rises dramatically, other portions must be reduced. For many of those seniors who are already struggling as thin as they can go, an increase in prescription drug costs means that expenditures on the other necessities of life—basics like groceries or rent—must be cut. The choice between medically necessary life-sustaining prescription drugs and the other basics of life is an impossible one—and one that no American should be forced to make. The Medicare program has provided for many critical aspects of health care for seniors over the course of its 36-year history, and by and large it has been a great success. But it has been said that while Medicare is a Cadillac program, its model year is 1965. Indeed, if we are to claim that Medicare provides help for seniors, we must update it to cover the component of health care that for many has become more burdensome than any other—prescription medications. People are desperate for any help they can get. Congress and the President promised to do something, and if we won’t, the people ought to send this Congress home and elect one that will.

There are a number of options on the table right now. Some are serious efforts to provide meaningful relief to seniors. Some are not. No one in Congress wants to admit that they are against providing a prescription drug benefit for seniors. And I don’t blame them. That’s an indefensible position. So some, especially in the House, write weak legislation that they call a Medicare prescription drug benefit but which allows drug companies to charge whatever premiums they want, leaves huge gaps in coverage, charges a high deductible, relies on private insurers who have already said they will not participate, and will cover just 19 percent of seniors drug costs over the next decade, according to the CBO. Such a proposal amounts to little more than a ‘‘legislative placebo,’’ which its authors know has no chance of really helping seniors, and no chance of passing this Senate. But they draft such legislation not because they think it will help seniors but so they can go back home and say that they supported legislation that cost $25, receive drug company funds from the very companies they endorse by the insurance lobby, and will find genuine hardships, and you will see that it is the most vulnerable among us who are struggling the most. This is a serious problem, and we need serious people who will work in good faith toward a solution. In the Senate, I am pleased to have teamed up with Senators ZELL MILLER and BOB GRAHAM as an original cosponsor of the Medicare Outpatient Prescription Drug Act of 2002, which will provide a voluntary Medicare prescription drug benefit that will deliver real, meaningful help to seniors. Under this proposal, which has received high marks from the AARP, any Medicare beneficiary who chooses to participate would, for a monthly premium of $25, receive drug coverage from the very companies that charge seniors premiums every year in the year the prescription filled of the year. There is no deductible, and there are no gaps in coverage. The lowest-income seniors would receive full subsidies for premiums and co-payments, and those who earn a little more would receive partial assistance. Our proposal, if adopted, will dramatically reduce seniors’ out-of-pocket costs for prescription drugs, allowing them to use their food money for food and their rent money for rent. It is with full confidence that I say that this measure is the best proposal on prescription drugs I have seen to date, and I commend Senators GRAHAM and MILLER in particular for their leadership on it. I urge my colleagues in this body and in the House to act favorably on it without delay.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota.

Mr. DORGAN. Mr. President, I join my colleagues in saying that the piece of legislation we are considering, authored by Senator GRAHAM, Senator
Miller, and others, is a good piece of legislation. I am proud to support it. But let me talk just for a few minutes about this issue that brings us to the floor of the Senate, the issue of prescription drugs, and prescription drug prices.

Last year, the cost of prescription drugs in the United States rose 18 percent; the year before that, 16 percent; the year before that, 17 percent. So 16, 17, 18 percent: relentless increases in the price of the cost of prescription drugs.

What does that mean to the American people? It is devastating to all Americans who must access these life-saving, miracle prescription drugs but cannot afford them. It is especially devastating to senior citizens. They make up 12 percent of our population in this country, and they consume one-third of all the prescription drugs. They have reached those declining income years and discover that miracle and hope for the future thing they need to take are beyond their reach.

A woman in North Dakota, at a meeting 1 day, came up to me and said: May I speak with you a moment? She was a thin, frail-looking lady close to 80 years of age, grabbed me by the arm and said: Could you help me? I said: I’ll sure try.

She said: I have problems—diabetes, heart disease—and need to take medicine that the doctor has prescribed, but I can’t afford that medicine. Could you help me?

And then her eyes filled with tears and her chin began to quiver and she began to cry.

All over this country there are men and women—particularly senior citizens, but others as well—who need access to these prescription drugs and cannot afford them.

We are going to pass a prescription drug benefit, and we are going to put it in the Medicare program, support that. Senator Graham, Senator Miller, and others have done wonderful work in that area.

We are going to do two other things as well. We are going to pass a piece of legislation, I hope, that deals with the issue of generic drugs, which is another way to bring down costs; for if we do not do something about driving down costs, or at least putting downward pressure on drug costs, then we will simply break the bank. We will attach a drug benefit to the Medicare Program but if we don’t lower drug costs we will suck that tank dry, and break the back of the American taxpayer. We have to put downward pressure on prices on prescription drugs.

One other piece of legislation that we are going to consider next week is the issue of reimportation. Senator Stabenow and I, and others, have worked on the issue of reimportation, not because we want Americans to buy their prescription drugs from Canada— and that is what our bill will allow to happen; pharmacists and distributors will be able to access from Canada the FDA-approved drugs and bring them to this country and pass the savings along to the consumer—it is because we want to use this mechanism to put downward pressure on drug prices in this country and force the pharmaceutical manufacturers to compete. If we do not make this a reality, then we will not be able to import prescription drugs in the United States. That is exactly what will happen.

With unanimous consent, I would like to show two pill bottles on the floor of the Senate.

The PRESIDING OFFICER (Mr. Cleland). Without objection, it is so ordered.

Mr. Dorgan. This is Celebrex, widely advertised, used for pain, particularly arthritis. It is widely advertised all across this country. The company that makes this markets it successfully, and good for them for helping produce this medicine. But let me describe the pricing strategy.

If you buy this medicine, Celebrex, in Canada, you get it in this bottle, and it costs you 79 cents per tablet in the United States, and you get it in this bottle which is essentially the same.

So 79 cents for this prescription drug per tablet in Canada, but if you are a U.S. citizen, you pay $2.22. It is the same pill, made by the same company, put in the same bottle, FDA approved. The difference? The price.

The U.S. consumer is told: You should pay nearly triple what a Canadian consumer is charged by the same company.

Question: Why should we allow that to happen? Why should the U.S. consumer pay the highest prices in the world for prescription drugs that are sold at a fraction of the cost in virtually every other country of the world?

The answer is: It should not continue to happen. We need to put downward pressure on prices in this country on prescription drugs, and we are predicting it will then we should be ashamed of ourselves.

I am telling you, our seniors are not going to accept just a shrug of the shoulders and a “well, I tried” explanation. I don’t think that is going to get it this time around.

There is a lot we can do to help seniors with the cost, as the Senator from North Dakota has discussed, and also about the coverage of their prescription drugs. I will work hard to make sure the bill we pass in the Senate offers real help for our seniors, especially our neediest seniors.

I recently saw the results of a new study that was shocking to me. It said nearly 1 in 5 American women ages 50 to 64 did not fill a prescription for needed medication because they could not afford it. That is ages 50 to 64. Think what the number must be for those over 65.

Those are our mothers and our grandmothers. They are those women who gave us life and tended to our needs as we were growing up. They are the people whose lives are being endangered. Their years on this Earth are being cut short. Make no mistake about it, if we allow that to continue, to Canada to get a fair price on a prescription drug made in the United States. That ought not happen. We aim to change it, even as we debate this issue of a prescription drug benefit in the Medicare plan.

What do we want to do that? Because I believe there should be a benefit in Medicare for prescription drugs. But I believe if we do not do something to put downward pressure on prices, we simply break the back of the taxpayers and break the bank of the Federal Government. That is why reimportation goes hand in hand with the underlying legislation I am pleased to support, and I commend Senator Graham and Senator Miller and Senator Stabenow and others for their leadership.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. Miller. Mr. President, first, I congratulate my colleague from North Dakota on that very timely and very convincing message.

I rise today, also, to speak, once again, about prescription drugs and the struggle our seniors are facing each and every day.

We are on record as saying we will have a vote in this Senate before the August recess on a prescription bill. I have always hoped that meant adding a prescription drug benefit to Medicare. We must stick to that schedule. We must honor that commitment.

We have kept our seniors waiting in line for too many years, and we have bumped them too many times in the past. We have disappointed them time and time again. We cannot make them wait through another election cycle for who knows how many years. If that happens—and a lot of political pundits are predicting it will—then we should be ashamed of ourselves.

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Those are our mothers and our grandmothers. They are those women who gave us life and tended to our needs as we were growing up. They are the people whose lives are being endangered. Their years on this Earth are being cut short. Make no mistake about it, if we allow that to continue,
this Congress is an accessory to that crime. I believe the bill I am a cosponsor of, along with Senator GRAHAM and Senator KENNEDY and Senator DACSHLE and the senior Senator from Georgia who is presiding, and about 30 other Senators, provides to our seniors and offers the most for our neediest seniors.

Our bill gives our neediest seniors their medicine for free. For those who earn less than $11,900 a year—and that is about 12 million seniors out there—there is no premium, there is no copayment. They receive 100-percent coverage from the first prescription filled. To that widow with trembling hands who is trying to cut that pill in half so her medicine will last a little longer, I hope the Senate will send a message to her that help is on the way. To that old man, proud and self-sufficient all his life, who has to whisper to his pharmacist that he doesn’t have quite enough money in his checking account and he will have to come back later, I hope the Senate will send the message to him that help is on the way.

I look forward to debating this provision of our bill and many others when we take up prescription drug legislation next week. I urge my colleagues in both Houses and in both parties to keep this in mind: Our duty to seniors is not to just debate an issue. They have heard all that before. Our duty is to pass meaningful bills. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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.

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 disclosures, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

Pending:

Edwards modified amendment No. 4187, to address rules of professional responsibility for attorneys. Graham (for McConnell) amendment No. 4200 (to amendment No. 4187), to modify attorney practices relating to clients.
The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, this has been cleared by both managers of the bill. We have had a number of inquiries about the need for more time to talk on various amendments. From 12:30 until 2 o'clock, we have our policy luncheon, and normally we don’t have votes.

I ask unanimous consent that the previously scheduled order, which provided for Senator Enzi to be recognized at 12 noon today to make a motion to table the McConnell amendment No. 4200, be modified to provide that the recognition of Senator Enzi occur at 12:45 today, with the additional 45 minutes, from 12 to 12:45, equally divided and controlled between Senators SARBANES and GRAMM, or their designees, and that all other provisions of the previous order remain in effect.

Mr. DORGAN. Mr. President, reserving the right to object, I would like to engage in a discussion with my colleague from Nevada under my reservation of an objection, if I might. I shall not object to the specific request of the Senator, but I have just visited with the chairman of the committee and understand there exists a list of amendments that Members of the Senate wish to offer to this legislation.

As I have watched this process over the last couple of days, it appears to me that we have been setting up a gatekeeper of sorts, for determining who can offer amendments and whether there will be votes on the amendments, and it appears to me we are not making very much progress. I would like to get some sense of whether we have a clear process beginning this afternoon, so that this afternoon and this evening we might be able to move through 6, 8, 10 amendments and get time agreements so Members of the Senate have the opportunity under the rules to offer and have their amendments that they consider important in this legislation.

Mr. REID. Mr. President, I say to my friend, the chairman of the committee has worked for hours and hours trying to get movement so people could offer relevant amendments. We have been not very successful, to be very candid with the Senator from North Dakota. I have stood by the Senator from Maryland and coaxed, urged, and we haven’t gotten to the debating point yet. We have done everything we can. There are the number of Senators, not the least of whom is the Senator from North Dakota, who have amendments. There is the Senator from Michigan, the Senator from New York, and others who have spent a lot of time wanting to offer amendments. We are doing everything we can. We hope the Enzi motion to table will break some of this loose.

I say to my friend from North Dakota that I do not understand how he feels. The only thing I will say is that I am a gatekeeper. On one bill the two managers said they would oppose any amendment that was not relevant, but that is not the case now. The Senator from Maryland has expressed to me that there are some relevant amendments which should be offered. He has done everything he can to—

Mr. BYRD. Mr. President, who controls time?

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia controls the next 45 minutes. There is a unanimous consent request pending.

Mr. BYRD. Mr. President—

Mr. DORGAN. Mr. President, reserving the right to object.

Mr. REID. If I can ask my friend to let me finish my unanimous consent that the time in the colloquy between the Senator from North Dakota and the Senator from Nevada not take away from the time of the Senator from West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, continuing on my reservation—and it is not my intention to delay the Senator from West Virginia but to try to understand what is happening.

First, my comments should not in any way suggest that the chairman of the committee hasn’t done an extraordinary job. I have great respect for him. But it has been difficult to get amendments up and get votes on them in the last day or two. There are a good number of very important amendments.

Under the reservation, I say that we know what has happened to the stock market in the last few days. We know this is a critically important issue—this legislation and the amendments to it. We ought not to treat this lightly. This piece of legislation ought to be on the floor open for amendment, having a robust discussion on the very important issues dealing with corporate responsibility.

Instead, what is happening is we have a company or the floor who seem to want to stall this process and prevent amendments from being considered in order. I hope—and I will come back after lunch today—to offer at least two amendments. I want to debate them and get them voted on. At least as a Senator I have a right to do that.

It is very important to me that I be able to add these amendments. If the Senate doesn’t like them, fine, we will vote on them. But it is important to me to have that opportunity. I shall not object to the unanimous consent request with respect to the tabling motion.

I wanted to say to the Senator from Nevada and the Senator from Maryland that I am doing everything humanly possible to try to make this process work, that there are others in the Chamber who are trying to drag this process out and prevent others from offering amendments. I am going to assert my rights, to the extent I can, to say that the bill is completed. We need to have the best ideas everyone in the Senate has to offer about how to do this job.

The economy in this country is in significant trouble. We know it. The confidence the American people have in this economy and corporate governance has been shattered in many ways. It rests upon the shoulders of this institution to pass this legislation and do nothing can make it the best piece of legislation possible to restore that confidence and give some lift to this economy. I wanted to make that point.

I appreciate the patience of the Senator from Nevada. If the Senator from Maryland will give me a chance to say this once again: In no way am I saying the chairman hasn’t done everything humanly possible to move this along. He wants to move quickly. I shall not object.

Mr. GRAHAM. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I express my great admiration for what Senator SARBANES has done in presenting to America such a meaningful piece of legislation to deal with one of the great scandals that has occurred in the history of our investment system, and taking a step toward restoring the confidence of the public in the investment community.

But as Senator DORGAN, I have an idea which, in fact, in one instance, is parallel to Senator DORGAN’s; that is, I believe we need to be very clear that we are applying the same standards to corporations that have their corporate headquarters inside the United States as we do to corporations that take advantage of our capital markets and have chosen to locate or relocate their headquarters outside of the United States.

Mr. REID. Mr. President, I am reserving my time.

Mr. GRAHAM. Reserving the right to object, there are enough incentives to do that already in the Tax Code and otherwise. We should not be creating additional incentives for companies to run from their responsibilities within the United States. My specific example is—

Mr. REID. Mr. President, I want the floor back.

Mr. GRAHAM. I am raising this today.

Mr. REID. Mr. President, I have the floor.

The PRESIDING OFFICER. The Senator from Nevada has the floor.

Mr. GRAHAM. Mr. President, I am reserving my right to object.

Mr. REID. Mr. President, I have the floor.

Mr. GRAHAM. I will conclude my comments in short order.

The PRESIDING OFFICER. The Senator from Nevada has the floor.

Mr. GRAHAM. Mr. President, I am reserving my right to object.

Mr. REID. Mr. President, I have the floor.

Mr. GRAHAM. I will conclude my comments in short order.

Mr. REID. Mr. President, we have built too much for people to speak. It is parallel to Senator BYRD and others who have been waiting to speak. I have no problem with Senator GRAHAM coming. I agree with his position. There is
time to be allowed under this unani-

mous consent agreement. Otherwise, the time will be all gone, and there are two Senators who have an hour and a half, by virtue of a unanimous consent agreement entered into last night.

It would fail to use the extra half hour with the speeches that are tak-

ing away from Senator BYRD and Sen-

ator MCCONNELL.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, I object.

The PRESIDING OFFICER. Objec-

tion is heard.

Mr. BYRD. Mr. President, I will be happy to yield to the Senator when I get the floor. We cannot make long speeches on reservations to object. We either object or we don’t. I object and then I will be happy to yield to the Senator. I want to be fair. Am I recognized?

The PRESIDING OFFICER. The Sen-

ator from West Virginia is recognized.

Mr. BYRD. How much time does the Senator wish?

Mr. GRAHAM. Just 1 minute.

Mr. BYRD. Mr. President. I yield to the distinguished Senator from Florida for 1 minute, reserving my right to the floor.

Mr. GRAHAM. I appreciate the courte-

sy of the Senator. I want to bring to your attention an article from the Washington Post today. I ask unanimous consent that this article be print-

ed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SEC CHAIRMAN PITT A POTENTIAL LIABILITY

TO ADMINISTRATION

(By Dana Milbank)

While President Bush was delivering his long-awaited speech on corporate governance Tuesday, Securities and Exchange Commissi-

on Chairman Harvey L. Pitt was exactly where many Bush aides wanted him to be: on a westside board meeting.

“We were not surprised that the chairman was not included in administration plans for public appearances,” SEC spokeswoman Christi Harlan said. “The commission is an independent agency.”

White House officials, though calling it a coincidence, acknowledged they had no de-

sire for Pitt’s presence.

The arms-length treatment of Pitt under-

scores a dilemma for Bush and his radio-

active inner circle. Many Democrats long-

even a few Republicans have called for Pitt’s resignation because of his alleged conflicts of interest and ties to the accounting indus-

try. This is so since Pitt is the chairman of a Securities and Exchange Commission, Pitt’s presence as the government’s top securities watchdog is dangerous for Bush, too. Even some Pitt defenders say his close ties to the accounting industry limit his credibility as a reformer. In his first speech as chairman, Pitt told an audience of auditors that the SEC would be “a kinder and gentler place for account-

ants.”

“Pitt has been in hot water since day one and WorldCom turned it into a full boil,” said GOP operative Scott Reed. Because Bush will not drop Pitt, Reed said, “McCain and the Democrats have turned him into a political pinata, and that will continue ad infinitum.

Democrat Chris Lehane, who defended Bill Clinton and Al Gore during that adminis-

istration’s scandals, said Bush is making the worse political choice in keeping Pitt, even though Pitt helped craft some of Bush’s reforms. “Pitt could do everything right and nobody’s going to give him credit for it,” he said.

Pitt’s woes point to his past legal work for executives of now-sullied corporations, in-

cluding MCI, Merrill Lynch & Co., Arthur An-

dersen LLP and other accounting firms. He has also admitted to meeting in April with a former client, KPMG Consulting Inc., while KPMG’s audits of Xerox Corp. were being investigated by the SEC. Critics also noted that a new agency Pitt favored restricting federal oversight of auditing firms. Over the years, Pitt has represented figures such as Ivan Boesky and Michael Saylor in SEC ac-

tions.

Bush, in his Monday news conference, gen-

erally defended Pitt. “I support Harvey Pitt—Harvey Pitt has been fast to act,” Bush said. Later, Bush added: “I’m going to give him a chance to continue to perform.”

Privately, Bush has expressed amazement at the criticism Pitt has received. “It’s only in this town that people want someone who doesn’t know what they’re talking about to lead an agency,” he told congressional Rep-

ublicans visiting the White House yester-

day.

Pitt has an unlikely defender in Lanny J. Davis, one of President Clinton’s scandal han-

ders. “The attack being made by Demo-

crats could be made on most anyone for hav-

ing conflicts from prior positions,” he said. But Davis said the administration has been making it very clear that if anyone you bot-

tle up Harvey Pitt, the more you allow the

Democrats to make him an issue,” Davis said.

Observers on both sides expect Pitt to make a public effort to build his credibility by demonstrating that he can be hard on his old friends. Indeed, some in the adminis-

tration joked that Pitt had to resemble a model Democratic SEC chairman, one heavy on regulations.

The White House has distributed evidence of Pitt’s activity on the job: requiring chief executive and chief financial officers of the 97 largest companies to personally recertify the accuracy of their disclosures; seeking to bar 54 officers and directors; and issuing a long list of new reporting rules and regu-

lations.

Pitt was not Bush’s first choice for the SEC job, and officials say he continues to be far from Bush’s inner circle. The reforms

Bush announced Tuesday were developed largely by Treasury Secretary Paul H. O’Neill and White House deputy staff chief Joshua Bolten, with help from Bush economic advisers Lawrence B. Lindsey and R. Glenn Hubbard.

But Bush is stubborn about demonstrating loyalty to his aides, which enables him to use reciprocal loyalty. Officials say he continues to defend Army Secretary Thomas E. White, embattled because of his Enron Corp. ties and personal travel, because White has been loyal to Bush.

But when underlings act disloyal, Bush can quickly cut them loose. Linda Chavez was dropped as Bush’s nominee to labor sec-

tion because it appeared she had misled those vetti-

ing her background. Michael Parker, the civilian chief of the Army Corps of Engi-

neers, was ousted for complaining about ad-

ministration budget cutting.

Pitt so far has demonstrated fealty to Bush, and Bush aides remain loyal to him. “The best thing to do is vigorously enforce the law, and that’s what he’s doing,” Lindsey said.

Mr. GRAHAM. In this article, the President of the United States has given as one of his reasons to continue his support for the Chairman of the Se-

curities and Exchange Commission, Chairman Harvey L. Pitt, the fact that Pitt has required chief executives and chief financial officers of the 97 largest companies to personally recer-

tify the accuracy of their disclosures.

What was left out were all the Ameri-

can companies which have their cor-

porate headquarters outside the United States of America. Apparently, the Chairman of the SEC believes he can discriminate and apply a principle only against those companies which are a-

sited in the United States and exclude corporations outside the United States.

That is an irrational and unfair dis-

tinction and one that we should correct as promptly as possible in this legis-

lation.

I thank the Senator from West Vir-

ginia.

The PRESIDING OFFICER. The Sen-

ator’s time has expired.

Mr. REID. Mr. President, will the Senator yield for an unanimous consent request?

Mr. BYRD. Gladly.

Mr. REID. Madam President, I renew my unanimous consent request.

The PRESIDING OFFICER (Ms. LANDRIEU). Without objection, it is so ordered.

The Senator from West Virginia.

Mr. BYRD. Madam President, since the nomination last week of yet another corporate accounting scandal—

this time involving the second largest telecommunication provider, WorldCom—the Bush administration seems to have lost its patience with corporate America. In fact, from the rhetoric we have heard from the ad-

ministration in recent weeks, I ex-

pected to hear the President tell cor-

porate America this week that his top advisers had been in the White House basement planning, not just a corporate fraud task force, but a new De-

partment of Corporate Security.

The President said last month at the G8 summit in Canada, “The revelations
that WorldCom has misaccounted [3.8] billion is outrageous.

In his June 29 weekly radio address, the President warned corporate America that “no violation of the public’s trust will be tolerated. The Federal Government will be vigilant in pursuing those who would seek to deceive investors and workers even in the most extreme cases.”

The President apparently is so miffed with these corporate “wrongdoers” that he is ready to roll them in a rhetorical to a bad-guy level that is almost, but not quite as bad, as al-Qaeda’s “evildoers.” Almost the same level; perhaps not quite.

WorldCom president and CEO John Sidgmore, in a June 28 letter to President Bush, joined the President in expressing his outrage. “I want you to know that we, the current management team, are equally surprised and outraged about past accounting irregularities at WorldCom,” he said.

So the Bush administration and the CEO of WorldCom now both agree that American corporations teaming up with unscrupulous (or incompetent) accountants to mislead shareholders about how much money the company is making is a “rogue” practice.

Madam President, how comforting it is. As Jackie Gleason used to say: “How sweet it is.” How sweet it is. How comforting it is to know that we have finally reached a consensus on that issue.

Despite the excuses and the explanations, I find little credibility in the argument that certain corporate executives lacked sufficient knowledge to ask the right questions about their companies’ accounting practices.

If CEOs are worth their generous pay, one would think they could take the time to make sure that the company’s chief financial officer is not padding earnings by omitting costs from the balance sheet.

In fact, one finds disconcerting the acute lack of shame—the acute lack of shame—S-H-A-M-E—on the part of some of these corporate executives. Former Enron CEO Jeffrey Skilling told the House Energy and Commerce Oversight Subcommittee that Enron had tight control on financial risk, but that he could not be expected to oversee everything and “close out the cash drawers . . . every night.” Oh, that poor man. What a heavy burden he carried. That poor man. We can all shed crocodile tears for someone who is put into that very difficult position and then consider the kinds of salaries these people draw decently.

Shakespeare said: “The quality of mercy is not strain’d, it dropeth as the gentle rain . . . upon the place beneath.” I will tell you, it does strain gentleness when you read about these scandalous violations that have swept over this country and how these people plead the fifth amendment when they are called up before Senate committees and House committees—plead the fifth amendment. That is a stunningly irresponsible attitude for a chief executive.

It is something that you might hear from the teenage manager of a fast food restaurant who cannot account for a handful of change missing from the cash drawer at the end of the night. You might hear that from the teenager and manager of a fast food restaurant who cannot account for a handful of change missing from the cash drawer at the end of the night. But we are not talking about a handful of change. We are talking about the American public. Those eyes that are peering—they are peering at this Senate floor at this very minute through the lenses of those cameras. They are the taxpayers out there. I see them looking through those cameras. They are the investors in West Virginia. I see them in Texas. I see them in Wyoming. I see them in New York looking through those cameras.

We are talking about them, the American public having lost by some estimates tens of billions—not millions—tens of billions of dollars in invested savings in companies that issued false—the Ten Commandments, I keep them on my walls; some of these CEOs should keep them on their walls and talk to the tens of thousands of workers who have lost their jobs, and many have lost their meager earnings that they, too, invested, that is what we are talking about.

So here is an individual who tells a House committee he cannot be expected to oversee everything and close out the cash drawers every night—such a stunning, irresponsible, arrogant attitude on the part of a chief executive. They say it is 2:00 a.m. in New York when you might expect to hear—you might from the teenage manager of a fast food restaurant who could not account for a handful of change missing from the cash drawer at the end of the night.

We are not talking, let me say again, about a handful of change. We are talking about the American public, those people out there, Republicans and Democrats and Independents, in the Alleghenies, along the eastern coast, in the storm-beaten coast of Maine, the fisherman on the mighty deep, the people in the Plains and the Rockies and beyond. These are the people, north and south, the public. We are talking about the American public having lost, by some estimates, tens of billions of dollars of invested savings in companies that issued false—and they knew they were issuing false—financial reports. Tens of thousands of workers who have to wash the grime from their hands out of the fields, in the mines, in the shipyards, those are the people we are talking about, the public, tens of thousands of workers who have lost their jobs.

Even after these corporations’ fraudulent accounting methods are exposed, the accounting games seem to continue. After telling the Securities and Exchange Commission that it hid nearly $4 billion in expenses last year, WorldCom submitted revised financial reports to the SEC which the SEC Commissioner, Harvey Pitt, immediately called wholly inadequate and incomplete. Apparently, WorldCom’s revised financial statements included additional accounting errors dating back to 1999 and 2000. That, Chairman Pitt said, could add at least $1 billion to the company’s financial revision.

No wonder the trust of those people is broken. No wonder the public’s trust in corporate America has eroded. What kind of trust can the public have in companies that hide information in an effort to pull the wool over the eyes of American investors?

After WorldCom’s announcement, the Bush administration sharpened its rhetoric and is now working to assure the American public that it recognizes the importance of transparency and disclosure. The Chairman of the White House Council of Economic Advisers, Glenn Hubbard, said in an interview last month that the President wants to reassure investors about the economy while also delivering a shot across the bow to leaders of corporations that abuses of the public trust will not be tolerated.

In the midst of congressional hearings last March, after the collapse of Enron, the President lectured corporate America about how to regain the public’s trust. He said corporations must disclose relevant facts to the investing public and they must focus on the interests of shareholders, who are the real owners of any publicly held enterprise, to properly inform shareholders and the investing public that we must adopt better standards of disclosure.

That is nice rhetoric, but this administration hardly sets the model for openness and transparency. In fact, this is an administration that prides itself on operating by surprise. Remember the secret government that was being set up? In fact, this is an administration, let
me say again, that prides itself in operating in secrecy and governing by surprise.

I find it difficult to watch this administration lecture corporate America about virtues of disclosing information when it is withholding records under the Freedom of Information Act, the law that gives the American public the legal right to certain Government information. The Attorney General even told the Federal agencies that the Justice Department would defend agency decisions to deny FOIA, Freedom of Information Act, requests.

Last October, Attorney General John Ashcroft issued a memo encouraging Federal agencies to withhold uncov- ered records under the Freedom of Information Act, the law that gives the American public the legal right to certain Government information. The Attorney General even told the Federal agencies that the Justice Department would defend agency decisions to deny FOIA, Freedom of Information Act, requests.

This reorganization of Government sprung like Aphrodite from the ocean foam, and she was carried on a leaf to the island of Crete. She later appeared in full dress before the gods on Mount Olympus. They were stunned with her beauty.

This is what we see. These ideas sprang from where? This idea to reorganize the Government—and I am concerned it will also reorganize the checks and balances of the Constitu- tion unless we are watchful—sprang from the bowels of the White House, the creation of four individuals who are named in the public press. Not exactly the equal, perhaps, of that committee that wrote the Declaration of Independence—Thomas Jefferson, Benjamin Franklin, Roger Sherman, John Adams, and Livingston, those five. Not exactly.

But look at all the commotion that ideas have created. Look out, the Congress is being stampeded into putting its imprint on that idea. Well, some parts of the idea may be OK, but we should not be in too big a hurry.

And that is to say nothing of the fact that these executive actions toward secrecy have occurred during a period in which the President has refused to allow Tom Ridge, in his capacity as the Director of Homeland Security, to testify before the Congress, and in which the Comptroller of the General Ac- countability Office was forced to sue the White House Chief of Staff Andrew Card even arrogantly proclaimed, “We consulted with agencies and with Congress, but they might not have known we were consulting.”

What a reflection on Congress. What is he saying about Congress? That is hard to make a model of transparency that I want corporate America to follow.

We don’t want to hear corporate CEOs saying we shared information with the American public, but they might not have known we were sharing it with them. The administration’s euphoria for secrecy seems motivated in large part by its desire to implement a political agenda. That is what it is. A political agenda, regardless of whether it has the support of the American people.

Mr. REID. Will the Senator yield?

Mr. BYRD. I would be glad to yield.

Mr. REID. Mr. President, I have been listening to the Senator from West Virginia give his speech, and I am of the opinion maybe the reason all that secrecy takes place is they are running the White House like people run corporations. Rather than having a public institution such as the administration and White House should be, maybe they are running the White House like a corporation.

I say to my friend that the White House, this administration is covered with corporate America. Maybe they think the White House is to be run like a corporation.

Mr. BYRD. The distinguished Senator from Nevada introduced an inter- esting idea. Maybe they do. Maybe anything goes. All is fair in love and in war they say. Now we can add, big business, Big business.

That is not a fair thing to say about many big businesses really because many of the people in big business are honest and try to do the right thing. They are open, they are transparent. It is too bad a few bad apples reflect on the whole barrel. I used to sell produce. I was a produce boy, married, with a wife coming on; I was quite happy. I had a few bad peaches would quickly ruin the whole bushel. The same thing with appi- es and other fruits and so on.
When the administration’s polls suggest opposition to certain policies from the American public, it limits access to information about that policy. I fear that the American public, and their elected representatives in Congress, at times are viewed by this administration as obstacles to the ends that is to be avoided. There is a contempt, there is an arrogance in this administration, there is a contempt for Congress. They hold Congress in contempt.

The kind of executive mentality can only emanate from the arrogance of an administration that believes the White House is the fountain of wisdom in Washington. Wisdom is the principal thing. Such a mentality is dangerous, it is absolutely dangerous. I was here in the Nixon administration. I remember what happened to that administration. Such a mentality is dangerous. We need only look to the corporate accounting scandals which this administration has so harshly criticized in recent weeks to see why.

Most economic pundits seem convinced that the hyperactive stock market of the late 1990s was the catalyst for a slow, steady deterioration in professionalism and ethical standards in corporate America. The pressure on CEOs and companies to produce earnings, quarter after quarter, resulted in a kind of competitive behavior that encouraged companies to push the accounting limits to the breaking point. Rising profits and stock prices provided cover for underlying ethical lapses. The longer the boom lasted, the more brazen these corporations became in cutting corners and taking a little more off the top.

By the end of the boom, many companies appear to have been engaged in the kind of fudging, gamesmanship and ethical corner-cutting that, while legal in some cases, was certainly less than ethical. Unfortunately, it was only in some cases, was certainly less than ethical. Unfortunately, it was only in some cases, was certainly less than ethical.

So far, the reflexive instinct of the executive culture has not all his. The President probably didn’t realize at the time that he would be faced with the exposure of a corporate culture—not all his. The President probably didn’t realize at the time that he would be faced with the exposure of a corporate culture—not all his. The President probably didn’t realize at the time that he would be faced with the exposure of a corporate culture—not all his. The President probably didn’t realize at the time that he would be faced with the exposure of a corporate culture—not all his. The President probably didn’t realize at the time that he would be faced with the exposure of a corporate culture—not all his. The President probably didn’t realize at the time that he would be faced with the exposure of a corporate culture—not all his. The President probably didn’t realize at the time that he would be faced with the exposure of a corporate culture—not all his. The President probably didn’t realize at the time that he would be faced with the exposure of a corporate culture—not all his. The President probably didn’t realize at the time that he would be faced with the exposure of a corporate culture—

The public’s trust in government, when the public loses its trust, all is lost: The public trust. And sooner or later, high poll numbers will tumble, as they always do. We have seen them do it before.

Don’t read the polls, I say to my colleagues, so assiduously, read the Constitution—which I hold in my hand. Read the Constitution. I say to the administration, I say to the executive branch, read the Constitution. Don’t be so enamored with the polls. They are fleeting. Read the Constitution.

This administration’s Chief Executive came into office touting himself as the first President to earn a master’s degree in business administration. That is certainly more than I have. He announced that he would run the White House like a modern-day corporation. Ha-ha-ha; watch out.

To be fair, the President probably didn’t realize at the time that he would be faced with the exposure of a corporate culture—not all his. The President probably didn’t realize at the time that he would be faced with the exposure of a corporate culture—not all his. The President probably didn’t realize at the time that he would be faced with the exposure of a corporate culture—not all his. The President probably didn’t realize at the time that he would be faced with the exposure of a corporate culture—not all his. The President probably didn’t realize at the time that he would be faced with the exposure of a corporate culture—not all his. The President probably didn’t realize at the time that he would be faced with the exposure of a corporate culture—not all his. The President probably didn’t realize at the time that he would be faced with the exposure of a corporate culture—not all his. The President probably didn’t realize at the time that he would be faced with the exposure of a corporate culture—not all his. The President probably didn’t realize at the time that he would be faced with the exposure of a corporate culture—not all his.

In hiding its own actions from the American public, for all of its expressed concerns about the public’s loss of confidence in corporate America, this administration seems to have given little, if any, consideration to the loss of the public’s trust in government. That is the most basic of commodities in republican government. I do not refer to it, as many politicians who ought to know better glibly refer to this, our system, as a democracy. They ought to go back and read Madison’s 10th and 14th essays in the Federalist Papers. They will finally learn the difference—or be reminded of the difference. They probably have forgotten the difference between a democracy and a republic.

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In hiding its own actions from the public view, this administration is fostering the same kind of arrogant, arrogant culture in which these corporate accounting scandals were allowed to flourish. This administration would do well to take preventive measures to keep the nasty, nasty little seeds of arrogance and secrecy that have affected corporate America from taking root in the executive branch and threatening the public’s trust.

I close with a Biblical parable: Pride goeth before a fall, and the haughty spirit before a fall.

I ask unanimous consent to have printed in the RECORD an article from today’s Washington Post titled “Bush Took Oil Firm’s Loans as Director”; today’s Washington Post titled “Cheney named in fraud suit.”

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BY MIKE ALLEN

As a Texas businessman, President Bush took two low-interest loans from an oil company where he was a member of the board of directors, engaging in a practice he condemned this week in his plan to stem corporate abuse and accounting fraud.

Bush accepted loans totaling $180,375 from Harken Energy Corp. in 1986 and 1988, according to Securities and Exchange Commission filings. Bush was a director of Harken from 1986 to 1993, after he sold his failed oil and gas exploration company. He used the loans to buy Harken stock. Corporate loans to officers came under scrutiny after WorldCom Inc., the long-distance carrier that last month reported huge accounting irregularities, revealed it had lent nearly $400 million to Bernard J. Ebbers to buy the company’s stock when he was chief executive. He resigned in April as the stock price tumbled.

Bush attacked corporate loans during his speech on Wall Street on Tuesday, when he offered proposals to increase the accountability of corporate executives while stopping short of the tougher measures headed toward passage in the Senate. “I challenge compensation committees to put an end to all company loans to corporate officers,” he said.

As a senior administration official, briefing reporters on Bush’s plan, said Tuesday that Bush wants public companies to ban loans to their officers, including directors. “Corporate officers should not be able to treat a public company like their own personal bank,” the official said.

The contrast between Bush’s record as a business executive and his rhetoric in the face of corporate scandals underscores the challenge his administration faces in trying to credibly foster what he calls “a new era of integrity in corporate America.”

Bush was investigated by the SEC in 1991 for possible illegal insider trading, although the SEC did not take action against him, and he has admitted making several late disclosures to the agency, which regulates public companies.

Harken’s loans to Bush—at 5 percent interest—were the prime reason the SEC probed several times in filings to the SEC in the years before the debt was retired in 1993 and were noted in news accounts at the time. The loans were for the purchase of Harken stock, which was then held as collateral.

Rajesh K. Aggarwal, a Dartmouth College professor who specializes in executive compensation and incentives, said such loans “are not unique, but are by no means widespread.”

White House communications director Dan Bartlett said Harken offered the loans to directors to buy shares in the company as part of an incentive for board members: “to have a long-term commitment with the company.” Bartlett said the loans to Bush were “totally appropriate—there was no wrongdoing there.”
"This is a common practice in small, medium, and large companies," Bartlett said. 

"These recent abuses of certain types of loans led the president to believe that the government had a bright idea concerning loans going forward. This is one of the main things that undermined the confidence of investors and shareholders."

Bartlett said that Bush had engaged in illegal insider trading records of its investigation into whether Bush had violated securities laws when they did not disclose and justify the accounting change in a letter to investors. Halliburton’s financial statements starting in 1998 do note, however, that it was booking uncollected revenue from cost overruns.

Mr. REID. Madam President, if the Senator will yield for a parliamentary inquiry.

Mr. BYRD. Yes, I yield. Mr. REID. The Senator was allocated 45 minutes. Of course, we have other time. We have an extra 15 minutes. It is my understanding there are 4 or 5 minutes left. Is that correct?

The PRESIDING OFFICER. There are 3½ minutes remaining.

Mr. REID. If the Senator so desires, we could also allocate 15 minutes to the Senator from West Virginia if he has more to say.

Mr. BYRD. Madam President, I thank the distinguished majority whip for his courtesies and generosity, and for his characteristic ways of helping his colleagues. I think I will let my remarks remain today as they are. I thank him.

I yield the floor.

Mr. REID. Madam President, while there are a couple of minutes remaining of the Senator’s time, I am sure the Senator would be very happy with me in expressing our pleasure at being able to listen to such a profound statement which the Senator made. I think it again is what this is all about. By this, I am talking about the legislation. I talked with a friend of mine. We played football together as young men. He runs a company in Las Vegas. He said: HARRY, I took all of my money out of the stock market. I will never invest in the stock market until something like this is done. He said: I am afraid. I said: We all feel that way. I think the Senator really condensed what is going on in corporate America. It needs to be changed, and hopefully this legislation will help that.

I yield the floor.

Mr. BYRD. Madam President, let me express my gratitude to the distinguished Senator for his comments. And with respect to the manager of this legislation, let me state without any equivocation that this is one of the finest minds I have seen in the Senate. I have been here for 44 years. I have never seen the equivalent of the entire Senate come and go, and I have never seen a sharper intellect. I have seen some
sharp ones—John Pastore, Herman Talmadge, and there are others. I have never seen any sharper than that of PAUL SARBANES, in my judgment. I don’t know a great deal about the intelligence quotients. I don’t know what the high range is. I assume it could be 150, whichever it is. PAUL SARBANES is the brightest.

Also, he has a way about him of not flaunting his intellect in front of others. Most of us—not because of that kind of intellect—have been inclined to speak it often—maybe too much, and perhaps I do already, but not because of that kind of intellect. But I salute the manager and commend that kind of intellect. He applies it. I watch him in the committees, and I watch him on the floor as he managed a bill. He is never a man to act in haste, or to be too rhetoric in haste. I admire his patience. He is studying; he is working; and he is extremely effective.

When I was majority leader, there were certain Senators I would call into my office from time to time. I would try to pick their brains as to what we should do on this or that. Scoop Jackson was one. PAUL SARBANES is always there.

Mr. REID. Madam President, will the Senator yield for a comment?

Mr. BYRD. Yes.

Mr. REID. What the Senator is saying is that the Rhodes Scholar Committee a number of years ago made a good choice in selecting PAUL SARBANES to be a Rhodes scholar. Is that what the Senator is saying?

Mr. BYRD. I am saying exactly that. I am happy the distinguished Senator put it that way.

This bill before the Senate is the product of that kind of mind, that kind of attention, and that kind of dedication.

I hope we can pass this bill with an overwhelming vote, and also in conference so that when put on the President’s desk he can sign it. I am eager to support it in any way I can.

Before I yield the floor, let me say that when we talk about intellect and sharp intellects, this man from Texas, Phil Gramm, is another. He is sharp. I have talked to my staff many times about that kind of intellect. He can talk about anything. He doesn’t need a script. I have prided myself on working with him on several challenges, and I have found him to be fair and straightforward.

I admire people—like these two—having that kind of sharp intellect.

I was told by an old Baptist pastor, former chief chaplain in the Army, during the war, don’t remember which war it was. But he always said: The mark of brilliance is to surround yourself with brilliant people.

I am really proud to look around this Chamber and see people such as PAUL SARBANES and Phil Gramm. Sometimes I say that North Dakota has the highest overall quotient, perhaps of all, with its two Senators—Senators Conrad and Dorgan. I don’t know whether they are Rhodes scholars or not. I am not a Rhodes scholar. I was not fortunate enough. I just barely made it by working at night for 10 years just to get a law degree. But these people make me proud to serve in this body.

Let me yield to the Senator from Maryland.

Mr. SARBANES. Madam President, I thank the distinguished Senator for his extraordinarily generous remarks. I am very thankful for them.

I want to echo what the very able Senator from Nevada said about the Senator’s eloquent address just a few minutes ago, which is reflective of the pattern that he has established—which is to go on the floor of the Senate and go to the very fundamentals of what our system is all about. His constant reference to the Constitution draws us back to those fundamentals. The Senator has always put before the Senate to ignore a course, it is the way we are here, what we ought to be doing, and calling us back to our basic principles as a nation—right back to the Founding Fathers—as the Senator pointed out in his talk today. Important aspects of that are being challenged today in a very serious way.

I echo what my colleague said and express my appreciation to the Senator from West Virginia.

Mr. BYRD. Madam President, I thank the distinguished Senator. I am going to yield the floor.

Before I yield it, I apologize to the distinguished Senator from Kentucky, Mr. McCONNELL. He is a Republican and I am a Democrat.

I have been known to go down into Kentucky at his invitation and speak, and I value his friendship. I apologize to him for imposing on his time.

Mr. GRAMM. Before the Senator yields, if he would yield very briefly to me, I thank him for his very sweet comments. I am very happy to be named along with PAUL SARBANES. And someday when I am talking to my grandchildren about the fact that their grandpa actually was a pretty important guy in his day—though his mind, I am sure, at that point will have seemed to have largely slipped away—I will say: I got to serve with the great ROBERT C. BYRD.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senator from Kentucky will now be recognized for up to 45 minutes.

Mr. McCONNELL. Thank you, Madam President.

I rise to speak on behalf of the McConnel amendment which will be voted on sometime in the not too distant future. It is my understanding that my own colleague, Senator ENZI, may make a motion to table at the end of the debate. So let me, at the outset, say I support the Edwards-Enzi amendment.

The second-degree amendment that is pending at the desk, which I will shortly discuss, does not in any way, change or diminish the Edwards-Enzi amendment. I think it is a good idea. However, I think it simply does not go far enough.

I also supported the Leahy amendment yesterday. My amendment to combat union fraud was defeated. I will continue to support responsible corporate accountability measures in this bill.

My only point is, corporations do not have a monopoly on misconduct, deception, and fraud. As long as we are addressing professional misconduct, deception, and fraud, we ought to recognize this is a problem in our entire professional culture, not just in corporate culture. Let me repeat that. This is a problem in our entire professional culture, not just in corporate culture.

I understand the mood at the moment is to beat up on corporations. And they deserve it. That is what the underlying bill is about. On the other hand, if we ignore the problem that seems to me, is to miss an opportunity to address the problem in a broader way.

The Senator from North Carolina raises real problems with the ethics and conduct of counsel. I commend him for that. And I commend the Senator from Wyoming for that. But I have long sought to curb similar and well-documented abuses in the general practice of law, specifically in the case of personal injury law.

Let me say at this point that the McConnell amendment applies only to Federal claims and Federal courts. We are talking here about Federal claims and Federal courts. My point in offering this amendment is not to obstruct but to extend and enhance our debate on professional conduct.

We ought to set standards for corporate attorneys. I favor that. And we ought to set standards for personal injury lawyers as well. Corporations and corporate attorneys do not have a monopoly on misconduct. We are doing a real disservice to the American public if, during this important debate on professional misconduct, we turn a blind eye to abuses in our society that have been piling up for a long time.

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All too often we hear stories about lawyers who take advantage of their clients by not informing them of the legal fees and costs those clients will incur. This sad practice results in consumers of legal services receiving next to nothing in personal injury and other claims.

Let me recount the story of Diana Saxon. Ms. Saxon was a victim of, among other things, attempted forcible rape. The defendant was convicted, and Ms. Saxon brought a personal injury case of her injuries. Corporations and corporate attorneys do not have a monopoly on misconduct. We are doing a real disservice to the American public if, during this important debate on professional misconduct, we turn a blind eye to abuses in our society that have been piling up for a long time—before—Enron, WorldCom, and Global Crossing.

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Let me recount the story of Diana Saxon. Ms. Saxon was a victim of, among other things, attempted forcible rape. The defendant was convicted, and Ms. Saxon brought a personal injury action against that defendant. The attorney she hired said the fee he was going to charge was 40 percent, plus costs.

Ms. Saxon received an award of $25,000. Of that, per her agreement,
$3,300 went to her lawyer in attorney’s fees. But an additional $20,716 went to her lawyer for expenses. However, none of those costs was made known to Ms. Saxon during the course of the litigation. She was only informed of them after the case was concluded.

Now, it gets even better—or, for Ms. Saxon’s unfortunate situation, it gets worse. After her lawyer charged her his costs, she ended up owing her attorney $4,000—$4,100. That is right. For poor Ms. Saxon, she was actually left over $4,000 in debt.

Now, to be fair, Ms. Saxon’s lawyer was actually magnanimous in that he waived a few costs and a small portion of his fee so that she was actually able to walk away with the princely sum of $385—$593.

In his letter to her, where he agreed to offer her these few hundred dollars from her award of $25,000, he wrote:

I am agreeable to pay the sum of $833. This is the money you will receive from your $25,000 settlement.

So, in sum, even though Ms. Saxon’s lawyer told her that the lawyer would get 40 percent of her award, plus costs, in reality, after including these costs, he got 96 percent—96 percent—of her award. That is right. Ms. Saxon was left with 4 cents on every dollar that Ms. Saxon received.

We need to make sure that consumers of legal services are not duped by this type of inaccurate and incomplete information.

Let me quote Ms. Saxon. She has put the problem better than I could. Here is what she had to say:

This is not how our civil justice system is supposed to work. What happened to me should never happen to anyone again. You have a choice today to make a difference by passing a law to protect people from the kind of thing my attorney did to me. Had I known in advance or at some point along the way how little of my lawsuit was going to benefit anyone but my lawyer, I might have thought different about ensuring 2 years of emotional trauma by the litigation.

Summing up what she had to say: Had she had any idea how little of the money she might get, she might not have wanted to endure the trauma of this litigation for 2 long years.

Now, Ms. Saxon, in a sense, was lucky in that at least her lawyer told her she would be liable for costs, although he obviously did not tell her the magnitude of the costs she was looking at and, thereby, completely miscalculated the fees.

But as these excerpts from the Yellow Pages here in the District of Columbia area phonebook indicate, some lawyers are not even that candid.

So let’s take a look at the first chart out of the DC phonebook. On this first chart, we have an ad with the big banner entitled “AUTOMOBILE ACCIDENTS.” There is a line almost as big—the fourth line down—proclaiming: No Recovery, No Legal Fees No recover, No Legal Fees. “It does not say anything about the costs the plaintiff is going to have to bear, and, therefore, does not paint an accurate picture.

Let’s take a look at the second chart, again out of the DC phonebook. It has a big banner down the right side entitled “PERSONAL INJURY.” At the top it says: “Personal Injury Lawyers Who Put You First.” “The Firm Boasts an All-Star Personal Injury [Lawyers].” And it makes the point: “No fee if no recovery.”

But, again, like the last ad, it does not mention at all anywhere in the ad—nowhere in all of that—that the client will be liable for costs.

Let’s take a look at chart No. 3. This ad is marginally—marginally—better. At the top of the ad there is a headline, in bold, saying: “Legal Problems Require a Lawyer.” Obviously, legal problems require a lawyer. About midway down is a line item saying: “Call Me. I can help.” “Call me. I can help.” And right below this line, another line says: “No Legal Fee If No Recovery.” In a little bit smaller print you will notice: “No Legal Fee If No Recovery.”

But since this lawyer, at least, has an asterisk by this line. If you look very carefully, you see an asterisk; and way down here at the bottom of the ad, in minuscule print—which might require you getting your glasses adjusted or to get a magnifying glass—it says: “Cost May Be Additional.”

This lawyer, at least gets credit in his ad for mentioning that there might be some cost, although you better have your glasses adjusted in order to find it.

Chart No. 4 is a familiar pitch, that there be “no legal fees unless recovery.” This lawyer, to his credit, at least has it in print large enough to where you might actually see that line. But there is, of course, an asterisk: down here at the bottom, again, in tiny, minuscule print, “Clients may be responsible for reasonable fees.”

This lawyer, at least, gets some credit—be the print ever so small—for pointing out that there could be a cost involved, and maybe a careful client would see that in the ad.

Chart No. 5, really my favorite one, it has a big banner at the top, “accidents,” all the way across the top. You wouldn’t have any trouble missing that. Underneath, “No legal fee if no recovery.” Very enticing observation to an injured client, potential client, and there is an asterisk after it.

Going to the bottom of the page, below the Visa and MasterCard logos, it says, “excluding costs.” That is about the smallest print on the ad. But a careful potential client might be able to find that there could conceivably be a cost attached to this.

From everything I see, if this phrase means that costs are excluded and, therefore, you don’t have to pay for these either, or if it means that costs are excluded from the exclusion, which you mean do you have to pay for them. A consumer of legal services should not be encouraged to sign up for free legal services, including what appears to be an exclusion of cost from the charges for which he is responsible.

As I will shortly describe, the amendment I am offering would help prevent people from being duped by incomplete and misleading representations such as these. Let me repeat that the scope of my amendment is not every court in the country, but the Federal claims and Federal courts.

Shifting gears for a moment, we also hear stories of ambulance chasers who take advantage of grieving families when they are most vulnerable. For example, at the scene of the collision between two commuter trains in Gary, IN, witnesses reported seeing lawyers’ business cards being passed around at the scene of the accident. And the injured were being videotaped as they were removed on stretchers.

After an August 1987 crash of a commercial airline flight in Detroit, a man posing as a Roman Catholic priest, Father John Irish, appeared at the scene of the accident. He hugged crying mothers and talked with grieving fathers of God’s rewards in the hereafter. Then he would hand them the business card of a Florida attorney, urging them to call the lawyer, and that the father would represent them.

We should make sure that misleading ads and shameless ambulance chasing do not occur. I propose a clients’ bill of rights for consumers of legal services. We have talked a lot in recent years about a Patients’ Bill of Rights to make sure patients are treated properly by health maintenance organizations. We need a clients’ bill of rights to make sure consumers of legal services are treated fairly.

This clients’ bill of rights would do two things. The first thing it would do is require consumers of legal services to receive basic information at the beginning, during the course, and at the end of the case. That is, at the way the client, the consumer of legal services, has a clear understanding of what the financial relationship is between the lawyer and the client.

As the old saying goes: Knowledge is power. My amendment would require consumers by giving them the knowledge they need to make informed decisions about their legal representation. As I pointed out earlier in one of my examples, there was a lady who had no earthly idea, because of not receiving proper information about the extent of the costs that could be involved in her case, that after getting a $25,000 settlement, she would essentially get nothing. The lawyer then benevolently gave her $385.

So clients need information all along the way to make informed decisions about legal representation.

At the initial meeting before they agree to retain, under my amendment, attorneys would have to provide would-be clients with the following things—and this is not unreasonable; it’s elementary justice—No. 1, the estimated number of hours that will be spent on the case; No. 2, the hourly fee or the contingent fee that will be charged; No. 3, very importantly, the probability of a successful
outcome; next, the estimated recovery reasonably expected; next, the estimated cost or expenses the plaintiffs will bear; and whether a client will be subject to fee arrangements with other lawyers.

This is elementary consumer protection. Let me say to my friends in the Senate who are close to and allied with the plaintiffs’ lawyers in America: We are not talking about capping anybody. This is not about capping fees. The fee arrangement could still be whatever astronomical amount the lawyer believes he can charge. But we are talking about providing basic information to the client so the client can understand what the case is going to be. There are no fee caps in this amendment.

Monthly statements: My amendment would also require lawyers to provide their clients with monthly statements so the clients can understand what the case is going to be. They will be informed on a regular basis of the basic progress of their case. Specifically, the lawyers would have to tell clients how much time they are expending on their case, what they are spending their time doing, and what expenses they are incurring in the case. Again, this is basic information clients should receive so they know how their case is progressing and how in essence their money is being spent.

There is an accounting at the end of the case: Clients should receive basic information at the end of the case so they know exactly what they paid for during their representation. To this end, my amendment provides that within 30 days after the end of the case, attorneys shall provide clients with the number of hours expended; the amount of expenses to be charged; the total hourly fee or the total contingency fee in a contingency fee case; services will be informed on a regular basis of the basic progress of their case. Specifically, the lawyers would have to tell clients how much time they are expending on their case, what they are spending their time doing, and what expenses they are incurring in the case. Again, this is basic information clients should receive so they know how their case is progressing and how in essence their money is being spent.

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Secondly, we provide for a bereavement rule of 45 days to give the victims and their families an opportunity to get back on their feet during an atmosphere in which unsolicited efforts to retain these victims are put off. If, however, the family at any point during that 45-day period decides it is ready to proceed and wants to look at its legal options, there is nothing in the amendment that would prevent the victim or victim’s families from retaining a lawyer at any time. All this does is protect them from unwanted solicitations for a brief period of 45 days following the occurrence of the event.

As I pointed out, there is already precedent in Federal law for such a bereavement period of 45 days. That applies in the wake of airline disasters.

Finally, let me repeat this because I know this is something that is offensive to many Members of the Senate, particularly on the other side of the aisle. As much as I would like to see fee caps established, this amendment has no fee caps in it. Even though, under the Federal Tort Claims Act, since the late 1940s, we have had a fee cap of 25 percent in tort actions against the Federal Government, no such fee cap is in this amendment.

So I think this is a modest proposal to provide consumer protection to victims of accidents as they contemplate their futures and determine, first, which lawyer to hire, and after hiring the lawyer, have appropriate information along the way to make sure they understand what the fee arrangement is. I yield the floor and retain the remainder of my time and now urge—and I will also do so later—the Senate to adopt this amendment.
The PRESIDING OFFICER. That is correct.

Mr. SARBANES. Can the Chair inform us as to the allocation of time from now until quarter to 1?

The PRESIDING OFFICER. The unanimous consent agreement provided that the time between the conclusion of Senator McConnell’s remarks and the 12:45 p.m. vote will be evenly divided between Senators Gramm and SARBANES, and Senator McConnell has a remaining amount of time of 16 minutes.

Mr. SARBANES. Sixteen minutes?

The PRESIDING OFFICER. That is correct.

Mr. MCCONNELL. Madam President, is it the Senator’s thought we move up the vote?

Mr. SARBANES. Staff has made an announcement, and people have planned accordingly. I understand that is the situation on both sides of the aisle for that matter. It was announced earlier on. People, therefore, made plans accordingly.

The PRESIDING OFFICER. If Senator McConnell used all of his remaining time, each side would have approximately 10 minutes.

Mr. MCCONNELL. I say to my friend from Maryland, I will be happy to hear from the other side on the amendment.

I am reluctant to yield back my time until I know the extent of the debate in which we are going to engage. In any event, the vote, Madam President, occurs at quarter to 1?

The PRESIDING OFFICER. That is correct.

Mr. MCCONNELL. I retain the remainder of my time until such time we decide otherwise. I have not heard from the other side.

Mr. SARBANES. As I understand the agreement, I do not think others can use time until the Senator from Kentucky uses his time.

The PRESIDING OFFICER. That is the Chair’s understanding.

Mr. MCCONNELL. I suggest we divide the remainder of the time between now and the vote. Will that be acceptable?

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. I ask unanimous consent that the remaining time between now and quarter of 1 be divided equally to the manager of the bill, to Senator Enzi, and to Senator McConnell, which will give us about 10 minutes each, I think.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maryland.

Mr. SARBANES. Madam President, I will speak briefly to the McConnell amendment which has been added as a second-degree amendment to the Edwards-Enzi amendment. Before I address that amendment itself, let me again indicate my very strong support for the underlying first-degree amendment, which was very carefully worked out and I believe represents a constructive suggestion. I am hopeful we can get to that amendment and have a vote on it sometime in the near future.

Obviously, the way things are now structured, we have to dispose of the McConnell second-degree amendment in order to get to the Edwards-Enzi amendment. The Edwards-Enzi amendment warrants both the attention and the support of this body. I hope at some point we will be able to do that.

I am not going to address the substance of the McConnell amendment, or perhaps I will discuss it only in passing. I simply wish to observe that it is not relevant to this bill. It is talking about a client’s bill of rights which may or may not be a worthy subject to examine.

How we regulate the lawyers is a complicated problem, obviously. It has mostly been done at the State level. The Senator from Kentucky has some sweeping proposals on a national basis, and they may warrant examination, but only do not think they warrant coming into this debate on a very different issue. I do not know that there has been any study of it. I do not think this represents the recommendation or the report of any committee that has been undertaken an appropriate series of hearings in order to examine the subject.

I have not had the benefit of testimony from the proponents and opponents. In fact, if the Senator from Kentucky will yield for a question, has a committee of the Senate recommended anything like this?

Mr. MCCONNELL. I say to my friend from Maryland, no committee of the Senate recommended the energy bill on which we spent 6 weeks in the Senate, and the majority leader has bypassed committees consistently throughout the last year. So I do not know that the Senate was constrained in any way.

Mr. SARBANES. It may be a response to say to me it was done somewhere else. I have a very specific question: Has a committee of the Senate recommended this proposal?

Mr. MCCONNELL. I would like to provide my own answer. If the Senator is asking for an answer from the Senator from Kentucky, I would like to be able to express myself, if that is OK with the Senator from Maryland.

Mr. SARBANES. The Senator from Kentucky is very skilled. I watched him on these television programs. I know he is very good when the question is put to him to give the answer he wants to give, even though it is not directed to the question. Obviously, I will have to go through that same experience on the floor of the Senate now.

Mr. MCCONNELL. I thank my friend from Maryland for his compliment and respond, as with many other bills over the last year, that we dealt with on the floor of the Senate. It has not been reported by a committee. But many worthwhile ideas have been adopted and made a part of law that have been recommended by both Democratic and Republican Senators that, in the years my friend and I have been here, were not officially reported out of a committee.

Mr. SARBANES. Have any hearings been held on this proposal? Has the bereavement period and the fees proposal? Have hearings been held on those issues?

Mr. MCCONNELL. I am unaware of any hearings to that effect, but I ask my friend from Maryland—on the Edwards-Enzi amendment, he thinks something as elementary as this, something as obviously as fair as this, and in the case of the bereavement rule, which we adopted in Federal law for families and victims of airline crashes, would not be an appropriate thing to do with or without hearings?

Mr. SARBANES. It seems to me there are complicated issues that are raised by the Senator McConnell’s proposal, and they certainly should have been preceded by hearings in which the merits of issues could have been carefully examined.

Madam President, I reiterate my point, this amendment is not relevant to the issue before us. It does not come to us on the basis of any hearings that have been undertaken. It has not worked through any committee. It certainly has not been recommended by any committee, and there have not even been any hearings, as I understand it, by any committee.

The appropriate questions I will be very strongly supportive of the motion to table that will be offered by the able Senator from Wyoming. This is, of course, the second McConnell second-degree amendment we have had to deal with on this legislation.

I hope the Senator from Kentucky does not view this as a kind of fair hunting game to bring forth at each step along the way, whenever there is an opening for a second-degree amendment, whatever sort of pet project he has been harboring in his office for whatever period of time.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. I yield myself some of my time to respond to my friend from Maryland.

As I listened carefully to my friend from Maryland, he is straining to think of a good argument against this worthwhile whatever sort of pet project he has been harboring in his office for whatever period of time.

So let me repeat again what the merits are. It seems to me we do not need committee hearings or committee action to convince us that a 45-day bereavement rule for victims and their families, which we have already adopted in Federal law for victims and families of plane crashes—we do not need committee action to tell us this is a fundamentally appropriate thing to do.
Do we need hearings and committee action to tell us that in Federal claims and in Federal cases it is appropriate and only right that lawyers provide information to their clients at the beginning, during, and at the end of their handling of the case as to the possible costs, strengths, and weaknesses? That is what is before us, not the issue of whether or not we should have hearings on this or whether or not the committee should act. My goodness, we spent 6 weeks on an energy bill that the committee did not pass, and they are working on a bill that I have spent hundreds of hours on, part of them inhearings, much of the time in drafting my own legislation, then working with Senator Gramm to come up with an even better bill, and then working with Senator SARBANES to come up with the bill we have before us.

There is a crisis in the stock market. Two days ago, it dropped by 185 points. Yesterday, it dropped by 265 points. Some suggest that is because Congress is working on this issue and it is scaring the hell out of the people of the United States. I hope that is not the case. I hope it is a sign that they do not want to have more problems. But perhaps at that time it is a hitchhike on a different road with a different vehicle to provide a free ride for a non-germane amendment. I will make a motion to table the amendment, but it is an addition that at least does not change anything in my amendment.

The McConnell amendment is a clients’ bill of rights to reform the way attorneys treat their clients. It is not about securities and exchange. It is all about attorneys. Senator EDWARDS and I modified our amendment so it applies only to bars and the Securities and Exchange Commission. That was so that if this debate draws out with multiple second-degree amendments well beyond the time we have the cloture vote, our amendment will still be germane.

A standard that the Senator from Texas, Mr. GRamm, has put on amendments is that they be germane. He did an extensive speech last night about the need to do germane amendments and get this finished. This amendment is good and well intended. It requires attorneys to do a number of things in representing those who put their trust in attorneys’ hands, and this includes requiring attorneys to provide written disclosure to their clients on the number of hours that will be spent on their case, the attorney’s hourly or contingent fee, the probability of successful outcome, estimated recovery of costs, and bereavement.

Under normal circumstances, I probably would be very excited about this bill. The reason I am opposing it is simply because it does not have anyplace in the accounting reform bill that we are debating today. I realize it does not change anything in my amendment. It is not a substitute amendment, but it is an addition that will cause problems further down the road. It will delay actually getting accounting reform into place. The accounting reform bill is to be used as a corporate client. It is much broader than the underlying amendment which does deal strictly with Federal securities laws, attorneys appearing and practicing before the SEC. It does not deal solely with attorneys working for publicly traded companies but to any attorney and any client practicing any form of Federal law. It does not deal with an attorney’s professional responsibilities of reporting Federal securities law violations to its corporate client. It is much broader than the underlying amendment which does deal strictly with Federal securities laws, attorneys appearing and practicing before the SEC, and internal reporting by an attorney within a publicly traded company.

In addition, the McConnell amendment is going to require study and determining more time spent diverting passage of the much needed accounting reform bill. We are running out of time before the next recess and have several important bills yet to consider, including Homeland Security Department legislation. While the McConnell amendment is well intended, the timing is simply wrong. I respect my colleague from Kentucky and his constant support and earnest effort to make attorneys play it straight with their clients. But I must respectfully oppose this amendment at this time. I hope we will be able to debate and vote on it on another day. When the time is appropriate, I would vote to defeat the amendment. If it comes up again, I will make a motion to table the amendment once again.

Yesterday, it dropped by 285 points. Two days ago, it dropped by 185 points. There is a crisis in the stock market. Some suggest that is because Congress is working on this issue and it is scaring the hell out of the people of the United States. I hope that is not the case. I hope it is a sign that they do not want to have more problems.

The McConnell amendment needs to go ahead and table the amendment. We do that frequently. The Senate is not known to be constrained by tight rules of germaneness, nor by official committee action.

So I urge my colleagues to look at the amendment itself, not these other extraneous arguments seeking to divert our attention away from what the amendment itself provides, which is protections for consumers of legal services.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields the floor to?

The Senator from Wyoming.

Mr. ENZI. Madam President, I yield myself such time as I may consume. At 12:45, I will be making a motion to table the McConnell amendment. We are working on a bill that I have spent hundreds of hours on, part of them in hearings, much of the time in drafting an appropriate context, we can then address its substantive weaknesses or strengths. Perhaps at that time it would have evolved into a different animal. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields the floor?

The Senator from Wyoming.
on this side, supports my amendment.显然是, it is not his view that this is in any way inappropriate for this legislation.

I also say to my good friend from Wyoming, this will not slow down the bill. This amendment will be voted on at 12:45. There is a time agreement on it. We certainly are not in any way trying to slow down the passage of the underlying bill which I fully expect to support.

The issue is whether we are only interested in corporate defense counsel misbehavior. Why are we only interested in corporate defense counsel misbehavior? My amendment applies to the other side, the plaintiff's side. It would apply to cases, for example, brought under the Federal Employers Liability Act, which governs injury and wrongful death actions against railroads in interstate commerce by railroad workers and their families. It would apply to cases brought under the Longshore and Harbor Workers Compensation Act, which establishes no-fault compensation for employees injured on navigable rivers. And it would apply to plaintiffs bringing action under the Price Anderson Act amendment of 1980, which creates a federal cause of action for nuclear accidents. It would also apply to the Federal Tort Claims Act, which creates Federal causes of action for tort claims against the U.S. Government. It would apply to lawyers representing clients bringing cases under the Public Health Service Act, which are suits against certain federally supported health centers and their employees brought under the Federal Tort Claims Act. And finally, it would apply to lawyers representing clients bringing cases under the Federal Black Lung Benefits Act of 1972, which establishes a compensation scheme for coal miners allegedly suffering from black lung disease and surviving dependents died from or were totally disabled by the disease.

Let me sum it up again: it is not my intent to slow the bill down. This amendment will be voted on at 12:45, so it clearly is not slowing anything down. It seems to me entirely consistent with the underlying amendment dealing with corporate defense counsel misbehavior to also address the question of a plaintiff's lawyer's misbehavior.

Beyond that, we are talking simply about providing consumers of legal services with basic information, at the beginning, during, and at the end of a lawsuit, and a modest 45-day bereavement rule giving the victims and their families a chance to get back on their feet before they are contacted by lawyers seeking to represent them in court. It would not in any way prevent families from contacting a lawyer during that time but would protect them from solicitation of legal services for a mere 45 days.

This is a very modest proposal. I would love to go a lot further. I like the fee caps in the Federal Tort Claims Act. That is not what we have offered. That is not what I offered. There is no impact on fees, no caps on damages. This is strictly consumer protection in the area of legal services. It is a very modest proposal which I hope the Senate will adopt when we vote on it at 12:45.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I will give a little explanation for the point raised that this particular bill—because a time has been set for the vote—will not hold things up. There are about 60 amendments out there; there are probably 10 that actually deal with what is in the bill. There has to be some point where we have to ask, Can we not concentrate on what is in the bill instead of bringing up the other things? I am sorry that yours is the bill on which we sit.

Mr. McCONNELL. Will the Senator yield?

Mr. ENZI. Sure.

Mr. McCONNELL. It was my understanding that cloture was filed last night. Would my friend from Wyoming not agree, that cloture vote brings the bill to a conclusion? I am not in any way trying to delay the passage of the bill. I support the underlying bill. I believe my amendment is appropriate to be considered.

Mr. SARBANES. Will the Senator yield?

Mr. ENZI. Yes.

Mr. SARBANES. Actually, I will use my own time, and the Senator may reserve his time.

We must table this amendment. Otherwise, it becomes an invitation for others to come in and offer second-degree amendments that are not relevant to the bill. This amendment is not relevant to the bill—nowhere close. If we start this process now, opening up the bill to these nonrelevant amendments, this will happen to the relevant amendments, some of which are germane under cloture and others of which might miss the tight test of germaneness but are relevant material, which are pending, which other colleagues have offered, if they want to get to those amendments?

We could have done the Edwards amendment yesterday and moved on to something else, but we came in with a second-degree amendment, not relevant—not only not relevant to the Edwards amendment, not relevant to the bill.

Frankly, we are well beyond the point where we at least ought to set aside amendments that have no relevance to the underlying legislation.

Mr. McCONNELL. Will the Senator yield?

Mr. SARBANES. Certainly, I yield.

Mr. McCONNELL. I ask my friend from Maryland, if he believes my amendment to be on the merits, whether he would support taking it up as a freestanding measure with a time agreement.

Mr. SARBANES. No, I would not support that.

Mr. McCONNELL. I thank the Senator.

Mr. SARBANES. Why would I support a request like that? Surely the Senate from Kentucky is just making a joke on the floor of the Senate by making that inquiry. That must be apparent to all. I appreciate the Senator's sense of humor in that regard. I also appreciate his indication, just a moment or two ago, he intends to support the underlying bill. Of course, we are gratified to hear that.

I yield the floor and reserve whatever time I may have left.

What is the time situation?

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. It was my understanding that Senator SANTORUM was on the way. But if he has not arrived yet, I suppose the best thing to do would be to enter a quorum call knowing full well my time is running out. I suggest the previous state of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I will alert Members we are going to have a vote later. The two members of the Appropriations Committee have finally gotten a meeting with the House appropriators on the supplemental appropriations bill. I think it would be in everyone's best interest that they are allowed to go forward with that most important meeting.

We received a request from the chairman of the Appropriations Committee, Senator BYRD. Therefore, I ask unanimous consent that the order that is now in effect be modified and that Senator ENZI would be recognized at 2 p.m. to move to table the amendment, and that 8 minutes prior to that would be devoted to debate between the two managers of the bill, Senator SANDERS and Senator GRAMM, and that Senator ENZI would be recognized for 2 minutes, and Senator McCONNELL for 2 minutes—a total of 8 minutes. All other provisions of the unanimous consent agreement now in effect would remain the way they are.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Madam President, the vote will occur at 2 o'clock today. In the meantime, I ask there be a period from noon then for morning business, with the time equally divided between Senator DASCHLE or his designee or Senator LOTZ or his designee.
The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum, and I ask the time be charged equally between Senator DASCHLE and Senator LOTT.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. CLINTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MIL- LER). Without objection, it is so ordered.

UNEMPLOYMENT INSURANCE EXTENSION

Mrs. CLINTON. Mr. President, I rise in this period of morning business to raise a continuing and serious problem that we believe most acutely in New York but which I know is shared in other parts of our Nation.

Last month, the Nation joined New Yorkers in our reflection and sorrow as the workers at ground zero removed the first debris from the 16-acre World Trade Center site.

While this event, which was accomplished ahead of schedule and below budget by the most dedicated work force that I think you could find anywhere in the world—unionized building trades and construction workers who worked on that pile for 12- to 15-hour days, 7 case days a week, for months, and, therefore, because of their heroic efforts we moved one step closer to the beginning of the rebuilding process—there are many workers who have not been able to begin rebuilding their lives simply because there are not enough jobs right now.

Many of us will remember a photograph shortly after September 11 that the press ran showing hundreds of people standing in lines at a job fair that was held in the city, people who had lost their jobs, both directly because of the attack on the World Trade Center and indirectly because of the ripple effect through the economy—there were many workers who have not been able to begin rebuilding their lives simply because there are not enough jobs right now.

Prior to September 11, our economy was beginning to slow down. Our national unemployment rate rose from 4.5 percent a year ago to 4.9 percent in September and to 5.9 percent today. But I think that somehow does not even tell the whole story because what we have experienced since September 11 is this so-called jobless recovery.

The Wall Street Journal just ran an article about it stating that employment has now shown 13 consecutive months of gains through April. That exceeds the 11 straight months of loss in the 1990-91 recession, the only recent comparable period, about a decade ago. I ask unanimous consent that article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal]

UNEMPLOYMENT HIT 5.9% IN JUNE; REVISIONS SHOW GRIEVED JOB PICTURE

—By Greg Ip

WASHINGTON—Widespread stock prices and corporate scandals damping companies’ hiring plans, the recovery is starting for workers to look as bad as, if not worse than, the end of 1991-92.

The number of nonagricultural jobs rose just 36,000 in June from May, and the unemployment rate edged up to 5.9% from 5.8%, the Labor Department said Friday. Government statisticians once again revised down prior months’ levels of employment, revealing a job market far weaker than previously thought.

“The economy is on the road to recovery [though] the recovery is a bit anemic,” said Labor Secretary Elaine Chao. “The labor market lags behind changes in real economic activity.”

While the Labor Department regularly revises its payroll estimates, those revisions have been strikingly negative this year, with every month’s report being revised downward—often sharply. The agency originally said payrolls rose 66,000 in February, but now it says they increased 40,000. An originally reported gain of 58,000 jobs in March is now a loss of 5,000, and a gain of 43,000 in April is a loss of 21,000. May’s gains were revised down to 24,000 from 41,000.

A “benchmark” revision a month ago also reduced employment throughout last year. Employment in November 2001 was 340,000 below original estimates.

As a result, employment now shows 13 consecutive monthly declines through April. That exceeds the 11 straight losses in 1990-1991, though those declines were steeper. Back then, job losses continued intermittently through 1991 and into early 1992. A labor market late for workers now, with the recovery so far subpar and employers more determined than usual to boost output per employee rather than the number of new hires.

Lois Orr, acting commissioner of the Bureau of Labor Statistics, said recent revisions haven’t been statistically significant, but she couldn’t explain why they have been overwhelmingly negative. Data compiled by the Federal Reserve Bank of Philadelphia show that in 1991, as the economy emerged from recession, payroll revisions were alternately positive and negative, though benchmark revisions years later sharply lowered employment levels.

While job growth was stagnant last month, there were still signs in the jobs report that the economy is continuing to grow. The average work week rose to 34.3 hours from 34.2 hours, and in manufacturing it jumped to 41.1 from 40.9. When firms see an increase in business but aren’t sure if it will last, they often boost the hours of current employees before hiring new ones, because it is easier to cut back hours later than to sack workers.

The other side of the coin is that every employment, another way for firms to raise output without adding to permanent payrolls, edged up by 0.9%.Manufacturing payrolls fell 23,000, though that was the smallest decline in two years. In services, losses in retail trade were offset by gains in health care and government.

“With employment up, due to concerns about the stock market and heightened uncertainty over the geopolitical outlook,” Bank Credit Analyst, a financial-market research firm, said in a report Friday. “The attack on accounting standards and concerns about re-regulation are additional factors keeping corporate executives from expanding labor.”

Long-distance phone company WorldCom Inc. announced 17,000 layoffs two weeks ago when it disclosed it had understated operating expenses by $3.8 billion. Electronic Data Systems Corp., a major supplier to WorldCom whose accounting has also come under scrutiny by investors, said last week it would lay off about 3,000, in response to sluggish demand for its computer services.

The “jobless recovery” doesn’t mean a shrinking economy because firms are squeezing increased production out of their current employees.

Merrill Lynch estimates that productivity, or output per hour worked, expanded at more than a 3% annual rate in the second quarter, down from the first quarter’s remarkable 8%, but still robust.

Mrs. CLINTON. So here we are with a national unemployment rate of 5.9 percent, and the situation in New York is even worse. In our State, it is 6.1 percent unemployment, and in New York City, 8 percent unemployment.

We did the right thing a few months ago when we passed unemployment insurance and disaster unemployment assistance for 13 weeks. Those are both very important programs.

Disaster unemployment assistance, which comes through FEMA, goes directly to those workers who actually lost their jobs because of the physical destruction of September 11. Unemployment insurance, as we know, is triggered when there is a lack of jobs for whatever reason. And, of course, more people are out of work in New York and throughout our Nation because of the impact of September 11.

Unfortunately, these extensions, which were provided a year ago, by the Administration, are about to expire for many of those workers. Nationally, 686,000 individuals will have exhausted their benefits with no job to enter. On Monday, I participated in an announcement of a study that was commissioned by a group called the 9/11 United Services, which is a coordinating group that tried to bring all the charities together. A very accomplished corporate executive was asked to chair it and some of the temporary chairman. He immediately said: We don’t have any data. We don’t know what the facts are.
I am introducing two pieces of legislation, along with Senators SCHUMER and KENNEDY, to extend both unemployment insurance and disaster unemployment assistance for an additional 13 weeks. It is our hope that the jobs will start coming back into the economy.

In fact, experts certainly agree that extending unemployment insurance is more likely than anything else we can do to get money into the economy that people will have to start spending because they do not have any choice.

Over the last five recessions, every $1 spent on unemployment benefits generated a $2.15 increase in the gross domestic product. I went back and looked. What did we do the last time we were in any kind of comparable period?

Mr. President, the period of 1990-91 was the most recent time in which to compare this. In the early 1990s, benefits were extended four times, for a total of 13 weeks. If that was clear, if that was clear, if that was clear, if that was clear, if that was clear, if that was clear, if that was clear, if that was clear, if that was clear, if that was clear, if that was clear, if that was clear, if that was clear, if that was clear, if that was clear, if that was clear, if that was clear. We spent a $2.15 increase in the gross domestic product. We are going to have increases in homelessness. We are going to have even greater problems with which to deal.

What are we going to do with people who get foreclosed on and evicted? Not everybody has a family to go to and crowd on to a sofa bed or into a spare room. We are going to have increases in homelessness. We are going to have all kinds of problems that at least we can try to forestall and, hopefully, eliminate.

These benefits would be extended for just another 13 weeks—half the time they were extended back in the early 1990s.

Clearly, I think we need systemic changes to the unemployment insurance system. I think it is kind of an odd position for us all to be in: Coming back, asking to extend it whenever it is needed, that we have to have new congressional action. There ought to be some ways where we can also be more sensitive to different parts of the country.

I know there are parts of the country—that are below the national average in unemployment. But there are concentrated pockets that we don’t, frankly, want to spread and have more expensive problems to deal with, which is one of the additional reasons I hope the Senate will support this action.

I am very, very grateful for the support that New York and New Yorkers have received over the last many months. This has been obviously a traumatic and terrible time for many families. Certainly nothing we can say or do will bring back a loved one or even bring back a job that was there for 20, 25 years. But we do have to continue to try to send out this lifeline, the help that is needed, so people can try to get themselves back on their feet and that we don’t claim more victims because of the horrific attack on September 11.

MRS. CLINTON. 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. REED. 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. REED. I ask unanimous consent the time be equally charged to both sides during the course of the quorum call, if you wish.

The PRESIDING OFFICER. Without objection, it is so ordered.

INVESTOR CONFIDENCE

Mr. REED. Mr. President, I rise in strong support of the Sarbanes legislation.

We have been buffeted over the last several months on a daily basis with news of companies with accounting practices that have led them to bankruptcy, have left them without the means to carry on their business, have left their workers without jobs, and have devastated their pension funds.

Day after day after day, a litany of accounting irregularity has been at the forefront of the national debate. It has translated into a growing lack of confidence in our markets.

We are here today with the critical role of reassuring the American public that we will pass legislation quickly that will restore their confidence in our financial system.

This crisis is deepening with each day. Therefore, we must move forward deliberately, carefully but very quickly, to ensure that we can communicate with the American people and let them know we are aware of these problems and we are correcting them.

I just came from a press conference to which we invited representatives who manage public pension funds. It is a sobering sense that we are seeing out there, not just problems on Wall Street but problems on Main Street.

Essentially what has happened is that the American public has become invested heavily in our capital markets, in our equities, not just individually but particularly through pension funds. Sixty percent of the assets of defined contribution plans are invested in equities or mutual funds. About 70 percent of all of these funds together is creating a situation in which, when Wall Street has a problem, it translates to every corner of the country.

We have to step forward. We are stepping forward. The Sarbanes bill is a strong bill. It has been made even stronger with the adoption yesterday, in a bipartisan vote, of the Leahy amendment. We are going to create an oversight board for accountants that will truly be independent and will have the force and the teeth to get the job done.

The Sarbanes bill also proposes the serious separation of the auditing function and other consulting functions that accountants can perform. If you
are going to be an auditor, you have to be an auditor, not an auditor and consultant. This is an important step forward.

Also importantly, the Sarbanes bill will require that the SEC receive the necessary to get the job done. There have been for decades extensive security laws on our books. Unless these laws are enforced, they are not effective. Frankly, some of what we are discovering is a lack of enforcement. The SEC that overwhelmed with filings and not capable of reviewing all those filings, not capable of taking the kind of proactive action which is necessary to avert the crisis we have seen.

We are indeed at a critical moment in our history. We have seen the market over the last few days take huge losses. That suggests that not just the American public but the world is growing more and more concerned with our accounting practices. Our transparency, whether or not a financial statement by an American publicly traded company can be relied upon.

One of the ironies of this is a year or 2 ago certainly, we were out offering our market to an emerging economy in Russia as the model; in a way, sort of looking at them, saying: Boy, if only they would adopt our accounting practices, the kind of tough rules we have, it would be a huge step forward in their development as a market economy.

Well, ironically, today we have discovered that what we thought was a very thorough, comprehensive system is not as thorough and comprehensive as we thought and did not have the kind of integrity we need to ensure investors that when they read a report from an American company, that report is accurate. That used to be the standard.

I mentioned previously that I had the occasion to attend a press conference with representatives of public pension funds. One of the individuals was the first of our city, the city of New York. Let me give you an idea of the dimension of a problem we are talking about. On an annual basis, the city of New York has been contributing about $900 million a year to their pension funds in order to make sure those pension funds are actuarially sound, that they can pay the benefits for all of their retirees. They still can do that today, but the price tag has gone up to over $1 billion in a year. They estimate, if the market continues, that they will be paying on the order of $3 billion in a few years. That money comes from taxes paid by the people of New York, and it comes from cutting others off a huge problem.

The core of the problem is this lack of confidence, the daily spate of news reports saying essentially that the accounting practices of major publicly held companies are absolutely erroneous. We have to reverse that tidal wave, and we have to do it quickly. We can begin to do that by strong support of the Sarbanes bill.

Many people have called this an investors’ bill of rights. I think they are correct. I commend and compliment the chairman of the Banking Committee, Senator SARBANES.

This is an example of how legislation should be: A careful, thoughtful process through the committee. I know the Presiding Officer, as a member of that committee, contributed substantially to that process. It was a delight and pleasure to watch and to be part of the Banking Committee, to see that careful, thoughtful approach—with 10 hearings, witnesses from every sector of our economy, including perspectives from those who manage pensions, those who are security experts, and those who are business leaders. All of those perspectives were brought together in this legislation, which is thorough, comprehensive, and, in my view, outstanding.

Then, also, to be able to fashion a bipartisan group of support was critical here and throughout our country. This is a textbook example by a master of how to move legislation through this body, but, more importantly, how to respond to the compelling needs of the American public. I commend and thank Senator SARBANES and his staff for their great effort.

We are at a point we can begin to see—if we move forward in the next few days—a new regime of securities laws. That is a significant move. Full-time professional oversight board to monitor the behavior of accountants. We will also see guidelines on which nonaudit services are prohibited, so there will be a separation between the audit and nonaudit services. That should prevail. This is very important.

I was an attorney in private practice and did corporate work. Frankly, I assumed that what I saw in that report, signed by a distinguished auditing firm, was going to be contradicted; that it was the final judge about disputes on costs and facts about what the company was doing and what they were disclosing and what they didn’t have to disclose. I always assumed that it was the accountants who were answering those tough questions. They were literally the bad guys. There were a lot of creative CEOs, CFOs, and lawyers. In fact, they were often satirized, and the most uncreative part of the management was that auditor who was supposed to be contrived to do this. That, obviously, over the last few years, has eroded tremendously.

With the Sarbanes bill, we will clearly delineate those activities that can and should be performed by an auditor. It will also shore up tremendously corporate responsibility and require CEOs and CFOs to certify the accuracy of the company’s financial statements. It will also increase the amount of the financial disclosure that a company must make in the course of their business.

Many of the exotic arrangements that brought down Enron were never disclosed to shareholders and the investing public. As a result, those entities, when discovered—such as CHEWCO—were the instruments of the demise of that company. Those kinds of off-balance-sheet transactions will have to be disclosed if the bill passes, and I think it is necessary to do that. I also think it is a very real need for increasing funding for the SEC. That is a critical component of the legislation.

The President was in New York City making a speech, calling for $100 million—or probably closer to $300 million, or more—that we need to ensure that the SEC has to conduct their activities. So we are moving forward and ensuring that, I hope, we do this.

Our record over the last several years has not been as aggressive as I would have liked it to be. I supported a measure a few years ago—in fact, I think last year—in which we passed legislation that lowered various fees that are involved in securities transactions, and I think the idea that in the same time, increase the pay within the SEC to attract better workers and more sophisticated individuals there, to complement what is going on in the private market where legal salaries are very high. The transaction reduction fee went down, but the pay parity never went into effect. So I think we have to follow through not only with this authorization but also with appropriations to make sure that can occur.

So we have a situation where we are moving forward and in which the Sarbanes legislation, I hope, will be complemented by legislation proposed by Senator KENNEDY to directly affect pension operations in the United States. These two pieces of legislation—hopefully brought together quickly, passed through this body and by the other body, and signed by the President—will send a signal to the American public, the investing public in the U.S. and around the world that our markets are there, that they can rely upon every word in a financial report, and to have fully disclosed the financial conditions of publicly held companies in the United States. If we do that, it will be a huge benefit not just to Wall Street but to Main Street.

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. GRAMM. 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. GRAMM. Mr. President, I support the McConnell amendment. I think it is a good government amendment. I think it is a full disclosure amendment. I don’t even see why we are voting on it. I am convinced it will be defeated. The McConnell government amendment that has anything to do with plaintiffs’ attorneys is routinely defeated in the Senate.
Having said that, I make note of the fact that the Dow is down again today. I do not believe the primary problem in the markets today is the disease we are fighting. The primary problem we have now is fear about the absurd prescription of the doctor. I believe there is confusion among investors, that there are going to be done that will have a long-term negative impact on the capital market.

If you take the bill the House has already passed and the Senate bill as it is now, and we allow the President’s position reiterated yesterday by the Secretary of the Treasury, we have the makings of a good bill that can be broadly supported.

I reiterate my hope and desire that we bring this debate to a close. We could, by unanimous consent, have a vote on cloture today. We could deal very quickly with germane amendments. We could pass this bill tonight, and next week we could be going to conference. That would be prudent policy.

We are going to have a lot of amendments offered, if my list is indicative, that if anyone really believed they would be adopted, would be terribly frightening to investors.

The Senator from Kentucky.

Mr. GRAMM. I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. If anybody took this list of amendments seriously, they would not be willing to risk thousands, millions, or billions of dollars. But they should not take this list seriously because these amendments are not going to become law.

The sooner we bring this debate to an end, the sooner we pass this bill in the Senate, the sooner we go to conference, the sooner we put together a bill that will get our country together, the more certainty there will be on Wall Street and the quicker we will rebuild equity values in America and rebuild confidence in our market.

I urge my colleagues, let’s move ahead. Nothing good is going to happen today to this bill. Nothing bad is going to happen either, I make that clear, but it will not be clear to people watching this debate. The sooner the debate ends, the better off we will be. The sooner we get to conference, the sooner we will be there. That cannot come soon enough to suit me.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. Mr. President, what is the time situation? I have 2 minutes?

The PRESIDING OFFICER. The Senator from Maryland has 2 minutes and the Senator from Wyoming has 2 minutes. The Senator from Maryland.

Mr. SARBANES. Mr. President, I urge my colleagues to table this amendment. I do not know what amendment the Senator from Kentucky will come with next out of his grab bag, but he has obviously got a whole set of pet projects that he has been husbanding there in his committee and that he will seek to offer. They are not relevant to this legislation.

Here we are again trying to deal with an issue that is relevant. I suggest to the distinguished Senator from Kentucky that he allow the second-degree amendment staffer to take the week-end off so we do not have to continue to go through this exercise of being confronted with these second-degree amendments not relevant to the legislation. We have important legislation to deal with here. We have some good amendments pending out there. This kind of maneuvering up the works is difficult to understand.

In any event, I urge my colleagues on the vote that is shortly to come to vote to table the McConnell amendment.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, we have, I think, before us, about 60 amendments. I join my ranking member, the Senator from Texas, in his comments about how we need to get this bill done as quickly as possible. The stock market is dropping. It may be because of what we are doing. It may be because of the need to have this bill done. Either way, getting this bill done will give some assurance to the stock market both that we are not dallying in it anymore, and that we have completed our work and have provided a solution.

As a result—and I regret that it is on this amendment with my friend from Kentucky—I will begin making tabling motions on amendments that do not have a direct aspect to the bill. I also would be doing that to amendments that put specific accounting language into the bill, even if it is relevant. This bill is not designed to put in specific accounting language; it is designed to set up a process for getting to specific accounting language. That is a very fine distinction and a very important one if we want to have the kind of stock market and the companies that we envision. With those comments, at this time I move to table the McConnell amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. I ask unanimous consent we be permitted 1 minute to make an introduction.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCING THE HONORABLE PAT COX, PRESIDENT OF THE EUROPEAN PARLIAMENT.

Mr. DASCHLE. Mr. President, one of the privileges accorded the majority leader is the opportunity to welcome and introduce our fellow legislators from the European Parliament. This is a tradition that was begun in 1972, and has continued every year since.

I find it especially meaningful, because although the Atlantic Ocean separates us from our European friends, we are connected by a belief in the rule
July 11, 2002

PUBLIC COMPANY ACCOUNTING REFORM AND INVESTOR PROTECTION ACT OF 2002—Continued

AMENDMENT NO. 4269

The PRESIDING OFFICER (Mr. CARPER). The question is on agreeing to the motion to table amendment No. 4269. 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 South Dakota (Mr. CRAPO) are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote “no.”

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 62, nays 35, as follows:

(Rollcall Vote No. 172 Leg.)

YEAS—62

NAY—35

Akaka
Allen
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Chafee
Clisby
Clinton
Collins
Conrad
Corzine
Dannche
Dayton
Dodd

Dorgan
Durbin
Edwards
Raz
Biden
Feinstein
Graham
Breaux
Harkin
Hollings
Inouye
Jeffords
Johnson
Kerry
Kohl
Lieberman
Leahy
Levin

McCain
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reed
Rockefeller
Sarbanes
Schumer
Shelby
Snowe
Stabenow
Thompson
Torricelli
Warner
Wyden

McConnell
Markowitz
Nichols
Roberts
Sanorum
Sessions
Smith (OK)
Smith (OH)
Thomae
Thurmond

The motion was agreed to.

Mr. SARBANES. I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

AMENDMENT NO. 4269 TO AMENDMENT NO. 4187

(Purpose: To address procedures for banning certain individuals from serving as officers or directors of publicly traded companies, civil monetary penalties, obtaining final judgments, records, broadened enforcement authority, and forfeiture of bonuses and profits)

Mr. DASCHLE. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. DASCHLE), for Mr. LEVIN, for himself, Mr. NELSON of Florida, Mr. HARKIN, Mr. CORZINE, and Mr. BIDEN, proposes an amendment numbered 4269.

Mr. DASCHLE. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today’s RECORD under “Text of Amendments.”)

Mr. DASCHLE. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan, Mr. LEVIN, Mr. President, this amendment is offered—and I thank the majority leader—on behalf of myself, Senator BILL NELSON, Senator HARKIN, Senator CORZINE, and Senator BIDEN.

Our amendment would grant the SEC the authority to impose civil fines on persons who violate securities laws, regulations, and rules. Now the SEC has to go to court, which is difficult and burdensome. We, just the other day, decided we wanted to give the SEC the power to remove directors and officers from public companies who violate rules and regulations and laws without having to go to court.

Of course, those decisions administratively by the SEC are subject to an appeal. That is always true and always must be true. The same approach is essential relative to the imposition of civil fines. If the SEC is going to have power without a lot of cumbersome, costly, and expensive procedures, to really take on those directors and those auditors who violate the law, who impose rules and regulations, the SEC must have the same authority which other regulatory bodies have to impose civil fines.

A few examples: The Commodity Futures Trading Commission has authority to impose civil fines up to three times the monetary gain from a violation plus restitution of customer damages. The Department of Transportation can impose civil fines. The Consumer Product Safety Commission can impose civil fines. The Occupational Safety and Health Administration, OSHA, can impose civil fines. The Federal Communications Commission can impose civil fines.

As a matter of fact, the Securities and Exchange Commission can impose civil fines on some of the people it regulates—brokers. But unless we act today, there will be a great gap in the enforcement power of the SEC, a conning gap. This bill does not have the power, without legislation, to impose an administrative civil fine on auditors and members of boards of directors who violate rules and regulations in the law of the land.

Our amendment will give the SEC that authority to impose administratively civil fines on those people who violate our securities laws and regulations and rules. That includes officers, directors, and auditors of publicly traded companies.

I emphasize, these fines would be, and must be, subject to judicial review, as are the other SEC administrative determinations which they have authority to answer at this point. That is the first objective of the amendment.

Secondly, our amendment would significantly increase the civil fines the SEC can impose on law violators. I particularly thank Senator NELSON of Florida for highlighting the problem and supporting the inclusion of these provisions in the amendment.

The civil fines that currently can be imposed on broker-dealers administratively have maximum that start at $6,500 per violation. That is the maximum amount under the so-called tier 1 civil fine. If a broker-dealer now violates the securities laws under so-called tier 1 where there is a violation found, not yet proven to be fraudulent but a violation nonetheless, $6,500 is the maximum fine under current law. Tier 2 for individuals is a $60,000 fine. That is where you find fraud, deceit, manipulation, and deliberate or reckless disregard—$60,000 for an individual for that violation.

It is laughable. The current structure of fines which can be imposed on those people who administratively can be subject to a civil action or civil fine by the SEC is so low as to be a joke. We are talking about people who frequently are walking away, lining their pockets, violating rules and regulations for millions of dollars, sometimes tens of millions of dollars. To have a system where the maximum fine under tier 1 is $6,500 for an individual and under tier 2 is $60,000 is just simply inadequate.
Here is what the SEC staff said in June of this year: The current maximum penalty amounts may not have the desired deterrent effect on an individual or a corporate violator. For example, an individual who commits a negligent act is subject to a maximum penalty of $5,000 for each violation.

This is the conclusion of the SEC staff: The amount is so trivial that it cannot possibly have a deterrent effect on the violator.

We would, under our amendment, increase the maximum fines from a range of $6,500 to $600,000, which is the current amount, to a range of $10 to 14 days—which gives us the desired deterrent and punitive effects on wrongdoers in the corporate world.

Our bill also has language which is similar to the language in the Leahy and Lott amendments that were adopted relative to the removal from office. We do this for the sake of completeness, so that we can lay out the entire structure being proposed in our bill for administratively imposed civil fines. That part of the amendment is the same as the removal from office provision adopted by the Senate yesterday in the Leahy and Lott amendments.

Finally, our amendment would grant the SEC new administrative authority, when the Commission determines that it is necessary to do so, to make a formal request to a court for a court order to require that financial institutions not compromise investigations by notifying any persons or entities that their bank records have been subpoenaed.

Mr. NELSON of Florida. Will the Senator yield for a question?

Mr. LEVIN. I will be happy to yield for a question, but I do have an additional thought.

Mr. NELSON of Florida. I am proud to be here today with my colleague from Michigan to offer these reforms aimed at preventing and punishing perpetrators of corporate fraud. The questions I want to ask the very distinguished Senator from Michigan, who has the foresight of why we need this act at this particular time, are these: Would it not intrigue the Senator from Michigan and other Senators here that all of this is happening in an environment when 17,000 workers at WorldCom had a loss of $335 million more than any other State—from Enron stock purchases, and that the money managers of that Florida pension fund, which covers all of the public sector retirees in Florida—the money managers keeping Enron stock, based on the assertions from the company’s management that everything was OK, that doesn’t surprise us either, does it?

Mr. LEVIN. No surprise. I am afraid that the public, having lost so much of its pension money, is disgusted but no longer surprised.

Mr. NELSON of Florida. The management said everything was OK, but it wasn’t. OK. While dropping like a rock, but not before the company’s management had unloaded their shares, the money managers were buying that stock as it dropped like a rock, and it caused to a dozen or so pension funds, retirement systems, public pension funds in this country over a billion dollars in losses. My State had the most losses of $335 million.

So we have seen in the last year and a half corporate abuses of monumental proportions, and it is time for us to stop it. I am grateful to the Senator from Michigan for his leadership in bringing forth the amendment that he has described, which is basically going to give us some additional teeth to the Securities and Exchange Commission to cause disclosure and to cause some hurt when these corporate managers, motivated and operated by greed, cross the line.

I thank the Senator for his leadership.

Mr. LEVIN. I very much thank the Senator from Florida for his comments.
and his questions, and also for the active role he has taken in shaping this language. He has identified the feeble nature of the fine structure that we have in the current law. We have some ruthless people out there who have lined their own pockets in violation not of any code of morality and fiduciary duty. We have some ruthless people.

We also have some toothless laws. The SEC, when it has to go to court to impose a civil fine, is put through hoops that other regulatory agencies are not put through. They can impose civil fines administratively—always subject to an appeal by the respondent or the defendant. But they have the capability to seek civil fines administratively—these other agencies. I have given examples of some of them. But when it comes to the SEC—outside of the brokers, where the SEC has that power—they have to go through the cumbersome proceedings of going to court.

Now, we have cured some of this already in the bill. When it comes to the removal of office, yesterday we took action to give the SEC the ability to act administratively and to order the removal of directors or executives from office. What we didn’t do yet, and what this amendment does, is add a critical component to regulatory effectiveness, which is the ability to impose civil fines administratively.

That is what the administration said in supporting the grant to the SEC of the power to remove directors from office, which we have now already done. It says that if we didn’t do that—and now I am quoting the Statement of Administration Policy:

It would continue to require the SEC to expand significant time and resources in order to attempt to gain similar relief in the Federal courts.

That is what we are talking about now when we talk about the SEC.

If we do not adopt this amendment, if we do not give the SEC these enforcement tools that other agencies have relative to directors and auditors, we will be requiring the SEC to be wasting time and wasting resources that they otherwise should be using to chase these corrupt and immoral people.

Mr. NELSON of Florida. Will the Senator yield for another question?

Mr. LEVIN. I will be happy to yield.

Mr. NELSON of Florida. The distinguished Senator from Michigan has laid out how this amendment will give stronger enforcement measures to the Securities and Exchange Commission. We have a saying in the South: It is beyond me. It is beyond me why there are other people in this Chamber, when confronted with such corporate and auditor misconduct, would not want to strengthen the law to prevent and punish such corporate abuse.

Does the senior Senator from Michigan have any idea why people would oppose us trying to strengthen existing law and, indeed, strengthen the underlying bill?

Mr. LEVIN. I am hopeful there will be broad support for this amendment, just for the reason the Senator from Florida gives. There should be. This is not novel. This capability of imposing civil fines administratively belongs to other regulatory agencies. The protection for the American consumer extends beyond the SEC. But without this tool, the SEC has a weaker capability. They are not in a position then to do what other enforcement agencies can do in the face of some of the worst deception this country has ever seen which is now unfolding in too much of corporate America.

This is of the worst attack on our system we have seen. It is unfolding in front of our eyes, and the SEC should be given the powers to deter it or punish it—all the power.

We want the court to be able to review administrative actions. I think most Members of this body do not want any administrative agency to be able to act without court review if they are excessive or if they are wrong. I think most of us believe in that. I believe in that. But I also believe an administrative agency has to have enforcement tools.

We have given the SEC some additional tools in the last few days. Senator LEAHY and Senator LOTT, for instance, in the criminal law area, toughened the criminal penalties, and the SEC now has the capability to impose these fines against the stockbroker, although they are pitifully small.

Our amendment would include directors, corporate executives, and auditors in the purview of the SEC power to act administratively and would toughen the fines so they would be far more realistic and could have some deterrent effect. The current fine structure against a limited class of people is useless; it is toothless.

This is a huge gap in the bill before us. This is a huge bill, by the way, and I do not want anything I say to suggest otherwise. The Banking Committee has given the Senate, and hopefully the country—if we can get some support for it from the administration and if it can get through conference—the Banking Committee has come up with a very strong law. We have strengthened it so far on the floor.

This amendment will strengthen it further by filling a gap that exists in the toolbox of enforcement capabilities that the SEC should have.

Mr. NELSON of Florida. The Senator’s timing is just uncanny. We need look back no further than to yesterday when the stock market dropped almost 300 points, all the way down close to 8,800, the stock market being a reflection of the confidence of the American people in their investments in public corporations. Lo and behold, that confidence is sinking, and the American people have a right to be shocked.

We want the SEC to give the SEC this power, and this agency must have that power.

We have carefully circumscribed that power in a number of ways. We have not just simply said you can subpoena any documents you want. We have criteria for doing that or else they have to give notice.

One of the criteria is that it has to be an official investigation that has been ordered by the Commission. That is an important safeguard. This is not just the beginning of an investigation. This is not during a discovery process. This is where the Securities and Exchange Commission has initiated an official investigation, which is a very formal act on the part of the Securities and Exchange Commission.

At that point, they should be able to subpoena documents under certain circumstances. These are the circumstances that we set forth in the amendment.

Mr. LEVIN. The Commission so directs in its subpoena, no financial institution or officer, director, partner, employee, shareholder, representative or agent can directly or indirectly disclose that records have been requested or produced in accordance with subparagraph (A).

In other words, you cannot disclose to the subject of the investigation that you, as a financial institution, have been subpoenaed for those records if the Commission finds reason to believe that such disclosure may—and then we set forth the rules, and the rules are intended to make sure that the Commission can act after it has announced or greedy corporate executives or greedy auditors who blur the lines on what their auditing duties ought to be and instead get in bed with those who would mismanage the finances of a corporation. The people of America who invest their hard-earned dollars ought to have the confidence that when they look at these financial reports are accurate. That confidence is not there, and we saw it yesterday in the reaction of the people in their purchases and sales in the stock market.
determined there should be an official investigation but does not want to risk that the subject of the investigation is going to remove documents or remove money or hide assets.

So we set forth the protections, and they are: if the Commission finds it rea-
sion to believe that disclosing the fact of the official investigation to the sub-
ject of that investigation by a financial institution would, one, result in the transfer of assets or records outside of the territorial limits of the United States. Second, it would enable us to have reason to believe if that person is notified in advance of those records being obtained by us or if there is a delay in our obtaining records that person may transfer assets or records outside of the United States, there could be nondisclosure.

The second criteria which, if it ex-
ists, would permit this to happen is if the disclosure would result in improper conversion of investor assets.

Third, if the requirement that there be nondisclosure is that such disclosure would impede the abili-
ty of the Commission to identify, trace, or freeze funds involved in any securities transaction. That speaks for itself.

The fourth way in which nondisclo-
sure would be permitted is that if it en-
dangers the life or physical safety of an individual. If the Commission has rea-
sion to believe the life or physical safety of an individual would be endangered by disclosure, surely we ought to not require disclosure.

Fifth, if it results in flight from pros-
cution, if they have reason to believe that could happen, or if the Commiss-
ion has reason to believe that the dis-
closure may result in destruction of or tampering with evidence, or if such dis-
closure may result in intimidation of potential witnesses or otherwise seri-
ously jeopardize an investigation or will unduly delay a trial.

Those are carefully set forth reasons for why disclosure should not be re-
quired. These are similar to what other agencies have in terms of powers, and it seems to me with this careful delin-
eation of this subpoena power that we should surely give the Securities and Exchange Commission that power.

Again, staff has given the reasons for the importance of that amendment, and I hope that reasoning of the SEC staff has been persuasive on this body. We have to give the SEC some adminis-
trative authority to impose civil fines. It would provide a tool that is now missing from the toolbox. It would add this tool, this weapon, to their arsenal. Without this weapon in their arsenal, they still have one hand tied behind their back. Without this amendment, they do not have the same administra-
tive authority that other agencies have.

Given the environment we are in, that we must use all legitimate means to put an end to the abuses and the de-
ceptions of too many of our corporate leaders, corporate executives, cor-
porate directors, and auditors, we must surely bring our laws up to date in terms of the powers we give to the SEC, and in terms of the civil fines we authorize them to impose, always sub-
ject to an appeal to the courts.

I yield the PRESIDING OFFICER.

The PRESIDING OFFICER. (Mr. CORZINE.) The Senator from Texas.

Mr. GRAMM. Mr. President, some of my colleagues change positions on issues like privacy so quickly that it gives me whiplash, and I will get to that point. I do not know how many people have seen the movie “Minority Report.” If you have not, I want to tell you the story. I never thought I would see a real-life example of what happens in this movie, but I have found one right here on the floor of the Senate.

In the movie “Minority Report,” you have a cop who has almost super-
natural powers, and his job is to arrest people before they commit a crime. It starts with two guys—two guys who naturally do not have very much ESP, and then you have this lady, who natu-
rially is quite attractive, who has these massive powers of ESP. They visualize crimes that are going to happen, their brain waves activate a computer, and then they try to arrest the people.

They see crimes happening that have not yet occurred.

The action in the movie begins with a guy finding his wife in bed with an-
other man. The husband is obviously a nice guy, and he is a little upset about it, and he is leaving his house. His wife seems so eager for him to leave, he figures out something is going on. He is sort of an old, balding fellow and as he is leav-
ing, he misses his bus. While he is wait-
ing for the next bus, a young guy comes in and walks in his front door. Needless to say, the husband is upset about it. (Who wouldn’t be upset about it? No one would want that to happen to them or anybody they knew.) So the husband goes in, and he is sort of in shock. He finds himself in the bedroom, sitting by the bed. He goes crazy, and picks up a pair of scissors.

At this point, the computer system (hooked up to the people with ESP) alerts this superwarrior for law en-
forcement that there is about to be a murder. He jumps in this sort of minijet that flies fast and stops on a dime. The officer zooms in—have you seen this movie, Senator McCain?—and just as the guy is getting ready to stab his wife, the officer finds the knife, puts the handcuffs on the husband, takes him off and they put him in pris-
on for murder.

Mr. MCCAIN. Will the Senator yield?

That is a better description than the movie.

Mr. GRAMM. Now, I thought, the whole thing is sort of a moral question: Were these people really going to com-
mits these crimes? They put them in prison for life. They put them in these metal cylinders and wired them up to control their brain waves. It is not very pleasant. So the question is, Do you have a right to do this to people who have not yet committed a crime simply because some person with extrasensory perception said it was going to happen?

That is what the movie is about. It is a big hit movie. It made over $100 million the first week and I am giving this speech.

In any case, I thought, what an ab-
surd plot. Who in the world could ever believe—this is the U.S. of A, by the way. This movie is off in the future.

Senator LEVIN is going to fine people because we are concluding that they are about to do something before they have done it. Or that they “will be” the cause of a violation.

I submit, first of all, this is not from the SEC. The SEC has not asked for this provision. This is from staff at the SEC—maybe “a” staff person, for all I know.

The point is, do we really want to say we are going to penalize people because they are about to do something before they believe they are going to do it? How can you tell? How are you going to tell that they will be the cause of a violation? I submit that is a standard I am unaware has ever existed. If so, I didn’t know about it or I would have tried to change it.

Let me mention a second problem. The second problem has to do with fi-
nancial records. Correct me, my col-
league on the Banking Committee, if somehow I have fallen into a time warp and am in a different world than last year. Was it not last year we were going to shut down the Internet, we were going to put people in prison for putting out your mailing address or for mailing you a letter where someone could read your address off of it and go murder you? Were we not just in this time warp where privacy was the be-all and end-all of society?

I get whiplash, we change positions so often.

I want to state what the current law is and then read what Senator LEVIN is proposing. The current law is the fol-
lowing: The SEC and other Federal agencies have the power to get your fi-
nancial records, and they can do it through administrative subpoena or ju-
dicial subpoena.

Now, normally there is one little in-
convenience. Normally, they have to tell you they have taken your financial
records. Not an unreasonable thing, it would seem to me, if this is still America. But we are talking about business people here, and there is a different standard. Two consenting adults can engage in any activity other than commerce, with full constitutional protection, without finding that there is any risk that you are going to flee from justice or destroy evidence or jeopardize an investigation, they can take them and not tell you about it.

Under current law, the Government can take your financial records, but they have to tell you they have done it—"except." And there are three reasons they can do it without telling you. I think we all would say they make reasonably good sense. They can not tell you if they have reason to believe that there is going to be a flight from prosecution; or if they believe there is going to be destruction of evidence or it will jeopardize the investigation, they can take them and not tell you. I think we all would say they make reasonably good sense. They can not tell you if they have reason to believe that there is going to be a flight from prosecution; or if they believe there is going to be destruction of evidence or it will jeopardize the investigation, they can take them and not tell you.

Now, what does the amendment of the Senator from Michigan do? It says notwithstanding—that is always dangerous—nondespite sections 1105 or 1107 of the Right To Financial Privacy Act of 1978—that law has been around here a long time. But notwithstanding it, which means throw it out, the Commission may obtain access to and copies of or information contained in financial records of any person held by a financial institution, including financial records of a customer, without notice to that person.

If you think someone is going to flee prosecution or destroy evidence or that will jeopardize an ongoing investigation, maybe we would accept the limits of our individual liberty. But under the Levin amendment, you don’t have to find any of those things. The government wouldn’t have to find those circumstances is the case to be able to go in and take financial records.

Since this bill is a bill that amends our securities laws and our financial laws, this bill falls under this jurisdiction. So what this literally means is that a government agency, without even going to the courthouse, could come and take all of your financial records—your banking records, your investment records, any financial record you have ever had without finding that there is any risk that you are going to flee from justice or destroy evidence or jeopardize an investigation, they can take them and not tell you about it.

There is a limit, it seems to me, to the logic in this case. If the Senator had an amendment that simply raised these fines for people who are criminals, that would be an amendment I could support. I could support it. I could have flown from reality when we are talking about penalizing people because they are "about" to violate the law; or that "will be" the cause of a violation.

It is very hard to know when someone is going to violate the law. I have not yet gotten any kickback. I am not a stockholder even, I don’t think I have received a contribution from the PAC of the people who made the movie I’ve described—though if they had any decency, they would have contributed to my campaign over the years. But if you watch this movie, you are going to see what the problem with the Levin amendment is.

The problem with the Levin amendment, as it turns out, is these psychics are not always right, and they don’t always agree. Sometimes there is a "Minority Report." The superwoman cop discovers this. It turns out they try to frame her for murder. A good movie. I recommend seeing it.

In any case, I am opposed to this amendment. It is a thick amendment. There are a lot of things in it. There are some things in it that I support. There are a lot of things in it that I don’t support. But I do not support penalizing people for what they think they are going to do. I do not support taking people’s financial records without telling them about it. It sounds to me as if somebody at the SEC has got the idea that they can just move in and take financial records of any person held by a financial institution, including financial records of a customer, without notice to that person.

Mr. LEVIN. For a question, I will be happy to.

Mr. REID. I don’t want to take away from the seriousness of the debate, but I haven’t seen “Minority Report.” I have seen “Big Fat Greek Wedding,” and I would recommend that.

Mr. LEVIN. It sounds as if I have not been doing too much else, but I have also seen that—since we are giving testimonials to movies here.

The language to which the Senator from Texas objects, about penalizing people for what they are going to do—that is language which the good Senator from Texas, as chairman and ranking member of the Banking Committee, has overseen for years. That is the language in the amendment. We are not adding anything new here. This is the SEC law, section 77(h)(1); Cease and desist proceeding, authority of the Commission.

If the Commission finds after notice and opportunity for a hearing that any person is violating, has violated or is about to violate any provision—That is existing law. The Senator from Texas has overseen that for all these years. He has done a brilliant job as chairman and ranking member of the Banking Committee, and we are just simply following the language that exists already in the SEC law and applying it to folks who are not now covered.

Mr. GRAMM. Will the Senator yield? Mr. LEVIN. For a question, I will be happy to.

Mr. GRAMM. What the Senator says is they can issue cease and desist orders without finding these things, but they can’t fine somebody. You are not only ceasing and desisting them—I have no problem. In the movie—and that is where you got this idea from. I thought it was.

In the movie, I don’t object to them grabbing the guy who is about to stab his poor wife. It is putting him in prison, not for attempted murder—he did that—but for killing her when she is not dead.

Mr. LEVIN. The Senator from Texas raises an issue which, I am afraid, is also addressed in current law. It is not just cease and desist orders, it is the implementation of civil fines. We are
Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4271

Mr. REID. 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 Nevada (Mr. REID), for Mr. Edwards, for himself, Mr. Enzi, and Mr. Senator Majority Leader, proposes an amendment numbered 4271 to the instructions of the motion to recommit S. 2673 to the Committee on Banking.

Mr. REID. Mr. President, I ask unanimous consent of the amendment be dispensed with.

Mr. MCCAIN. I object. I would like to hear what the amendment says.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to read the amendment.

Mr. REID. Mr. President, I want you to know that I am not my friend. I will be happy to have it read, but it is the exact same amendment that was pending beforehand.

Mr. MCCAIN. Thank you.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To address rules of professional responsibility for attorneys)

At the end of the instructions add 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 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 (adapting 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. REID. Mr. President, I ask for a yeas and nays vote.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

AMENDMENT NO. 4272 TO AMENDMENT NO. 4271

Mr. REID. Mr. President, I ask unanimous consent 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. REID. Mr. President, I appreciate the cooperation of the Senator from Arizona. There are other ways we could have gotten to the point we are now. This just made it a lot easier. I appreciate that very much.

I say this, before I yield the floor, to my friend from Arizona. We are now in the exact same posture we were in prior to the Senator from Arizona offering his amendment—his instructions, I should say.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, before the Senator from Nevada leaves the floor, I wonder if he would respond to a question. Do we intend to vote on these pending amendments and the motion to recommit?

Mr. REID. I say to my friend, we have been trying very hard. I have received instructions—it is probably the wrong word, but Senator Edwards has been here for 2 days, and he left here for a while this afternoon waiting to vote on his amendment. Senator Levin has been here for several days—2 days. We would like very badly to vote on the Levin second-degree amendment and the Edwards first-degree amendment.

I have spoken to the manager of the bill for the minority. It appears very unlikely that we are going to be able to do that. I think that is a disappointment. I think some of these relevant—I shouldn’t say some—I think all of these recent amendments we can get up to prior to the cloture vote, we should try to dispose of.

But I understand the rules of the Senate. I am disappointed to say, my friend from Texas also understands them, so even though I would like votes, it does not appear we are going to be able to have votes.

Mr. MCCAIN. Mr. President, I thank my friend from Nevada for his candor. I think it is pretty obvious. Everybody ought to understand what is happening as we go through these arcane procedures.

The whole purpose of this—the whole purpose of what we just went through—is to not have a vote on anything that has to do with stock options. Let’s be very clear what that is all about.

Whatever side you are on the issue, the fix is in, and we say all to often in the sport of boxing. The fix is in and we will now have cloture invoked and there will not be a vote on stock options.
S6626

CONGRESSIONAL RECORD — SENATE

July 11, 2002

While my friend from Nevada is still here, I can tell him, I understand the rules of the Senate. I have been through other difficult issues on which I have been blocked from getting votes. I tell my friend from Nevada, and all of my colleagues, we will have a vote on stock options. We will have—sooner or later—a vote on stock options. And I only regret that we cannot do it now, get it over with, and get everybody on record.

I also would make one additional comment. I hope I do not hurt the feelings of any of my colleagues. This is an important issue. This is a very important issue, no matter where you stand on the issue of stock options and how they should be accounted. It is a very important issue.

Why is it that this body would not take up the issue and have an up-or-down vote on how stock options are treated? We would ask the manager of the bill, why should we not at least allow a vote up or down?

I will read editorials. In fact, it may be sometime before I give up the floor because I have a lot to say about this issue. I will read from Mr. Greenspan’s speech, a fairly widely respected individual, a says—well, I will read his speech in just a minute. He is in favor of treating stock options as an expense. So is Mr. Stiglitz and Mr. Buffett, and so many others, who are aware of this issue and its impact and the way it has been terribly abused by the same people we are after.

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Mr. President, it is curious to me—why a vote on this amendment is blocked. It is because every lobbyist in this town for the high-tech community has said: Don’t do it. Don’t do it. The one thing that the folks in Silicon Valley are scared of more than anything else is that they would lose their precious stock options—all of it, of course, in the interest of the employee, only the employees, the secretaries, the work- ers, those people there who are toiling in the bowels of the corpora- tion, trying to get some incentive to stay there and have their retirement.

Meanwhile, Mr. Ellison, the CEO of Oracle, last year, cashes in $706 million worth of stock options. $706 million worth of stock options in 1 year. Are we going to vote on it? Yes, we will vote on it. Maybe not now, but unless there is clout on every single bill that comes before this body, there will be a vote on stock options. I want to assure my friend from Nevada of that.

I will just remind him, there were many who wanted to block a vote on campaign finance reform for a long period of time. Well, we got our vote on campaign finance reform, and we will get a vote on stock options.

We have to end the double standard for stock options. Currently corpora- tions can hide these multimillion-dollar compensation plans from their shareholders because these plans are not counted as an expense when calculating company earnings.

I want to make it perfectly clear to all, I am not in favor of doing away with stock options. Stock options have a valuable place in American corporate life. What we are addressing here is how they are treated so investors can know exactly what the profit and loss of a corporation is.

I repeat: I am not in favor of elimi- nating stock options. What I am trying to do is exactly in accordance with Mr. Greenspan’s comments from which I will quote. Federal Reserve Chairman Alan Greenspan, New York University, March 26, 2000.

Some changes, however, appear overdue. In principle, stock-option grants, properly con- structed, can be highly effective in aligning corporate officers’ incentives with those of shareholders. Currently, however, accounting for options has created some per- verse effects on the quality of corporate dis- closures that, arguably, is further compli- cating the evaluation of earnings and hence diminishing the effectiveness of published in- come statements in supporting good cor- porate governance. The failure to include the value of most stock-option grants as em- ployee compensation and, hence, to subtract them from reported re- ported earnings and presumably stock prices. This would be the case even if offsets for ex-pired, unexercised options were made. The Federal Accounting Standards Board pro- posed to require expensing in the early to middle 1990s but abandoned the proposal in the face of significant political pressure.

The Federal Reserve Act itself estimates that the substitution of unexpensed option grants for cash compensation added about 2½ per- centage points to reported growth in earnings of our larger corporations between 1995 and 2000. Many argue that this distor- tion to reported earnings growth contributed to a misallocation of capital investment, es- pecially in high tech firms.

Especially in high-tech firms? Where is most of the opposition coming from to the proper accounting of stock op- tions? From the high-tech firms. I re- peat:

Many argue that this distortion to re- ported earnings growth contributed to a misallocation of capital investment, espe- cially in high tech firms. Where is most of the opposition coming from to the proper accounting of stock options? From the high-tech firms. I repeat:

Mr. President, it is curious to me—especially in high-tech firms? Where is most of the opposition coming from to the proper accounting of stock options? From the high-tech firms. I repeat:

Critics of option expensing have also ar- gued that option expensing will make raising capital more difficult. But expensing is only one of many taxes that a firm may be levied on to attract more-productive employees. That may well be true. But option expensing in no way precludes the issuance of options. To be sure, lower reported earnings as a result of expensing, it means only that they were less informed than they should have been. Capital employed on the basis of misin- formation is likely to be capital misused.

Critics of option expensing also argue that the availability of options enables corporations to attract more-productive employees. That may well be true. But option expensing in no way precludes the issuance of options. To be sure, lower reported earnings as a result of expensing could temper stock price increases and thereby exacerbate share dilution. That, presumably, would inhibit op- tion issuance. But again, that inhibition would not be appropriate but the way it would re- flect the correction of misinformation.

I am not sure this debate is between me and the high-tech community. I think the debate is somewhat different. When you look at the preponderance of opinion, not only that stock options need to be accounted, they are already accounted for, but there is an incredible effect that it has had on the whole dis- tortion of the market, then it is an im- portant issue.
I ask again: How can we really address the entire issue we are facing without addressing the issue of stock options? That is like playing a baseball game without third base.

Mr. Joseph Stiglitz, noble laureate professor of economics at Columbia University, testified on Tuesday, March 12, 2002:

Some contend that it is difficult to obtain an accurate measure of the value of the options. But this much is clear: zero, the implicit value under current arrangement, is clearly wrong. And leaving it to footnotes, to be sorted out by investors, is not an adequate response, as the Enron case has abundantly shown. At the behest of Economic Advisers, we devised a formula that represented a far more accurate lower bound estimate of the value of the options than zero. Moreover, many firms use formulas for their own purposes, in valuing stock options (charging them against particular divisions of the firm). However, Treasury, in its opposition to the FASB concerns, was singularly interested in these alternatives. I leave it to others to hypothesize why that might have been the case.

In the stock market, in which investors are to have confidence, if we are to have a stock market which avoids the kind of massive misallocation of resources that resulted from providing information that did not accurately report the true condition of firms, we must have accounting and regulatory frameworks that address these issues. As derivatives and other techniques of financial engineering become more common, these problems too will become more pervasive. While headlines and journalistic accounts of the inequities—those who have seen their pensions disappear as corporate executives have stashed away millions for themselves—what is also at stake is a loss of confidence in our economy. The problems of Enron and Global Crossing are part and parcel of the current downturn.

I was under the impression this legislation was all about trust and transparency—regaining the trust of the American people and investors in the stock market and, frankly, the economy that drives America and has been so successful, and transparent. Perhaps under this legislation, by beefing up many of the penalties and the Board's enforcement powers, we will have further amendments, but how in the world do we say that we have given transparency when, in the view of most experts, this is one of the greatest hindrances to transparency in the system as it exists today?

I would like to read the opinion of Mr. Warren Buffett, in the Washington Post, April 9, 2002, Stock Options and Companies:

In 1994 seven slim accounting experts, all intelligent and experienced, unanimously decried that stock options granted to a company's employees were a corporate expense.

Six years later, similar economists, unanimously declared these grants were no such thing.

Can it really be that girth, rather than intellect, determines one's accounting principles? Yes indeed, in this case. Obesity of a monetary sort—almost certainly explained the split vote.

The same proponents of expense recognition were the members of the Financial Accounting Standards Board, who earned $313,000 annually. Their six adversaries were the managing partners of the (then) Big Six accounting firms, who were raking in multiples of the pay received by their public-interest counterparts.

In this duel the Big Six were prodded by corporate CEOs, who fought ferociously to bury the option issue, in order to keep their reported earnings artificially high. And in the pre-Enron world of client-influenced accounting, their auditors were only too happy to accommodate.

The members of Congress decided to adjudicate the fight—who, after all, could be better equipped to evaluate accounting standards?—and the Big Six and their auditors stormed the Capitol. These forces simply blew away the opposition. By an 89-9 vote, U.S. senators made a historic contribution to our broken system by declaring option grants to be expense-free. Darwin could have foreseen this result.

The argument, it should be emphasized, was not about the use of options. Companies could then, as now, compensate employees in any manner they wished. They could use cash, cars, trips to Hawaii or options as rewards—whatever they felt would be most effective in motivating employees.

But those same grants of options had to be recorded as an expense, whereas options—which were, and still are, awarded in widely dispersed amounts to the top dogs—simply weren't counted.

The CEOs wanting to keep it that way put forth several arguments. One was that options are not compensation. They can be bought and sold options for 40 years and know their pricing to be highly sophisticated. It's far more problematic to calculate the useful life of an option. That makes the annual depreciation charge merely a guess. No one, however, argues that this imprecision does away with a company's need to record them. Likewise, pension expense in corporate America is calculated under widely varying assumptions. And those regulars allow whatever assumption management picks.

Believe me, CEOs know what their option grants are worth. That's why they fight for them.

It's also argued that options should not lead to a corporate expense being recorded because they do not involve a cash outlay by the company. Not true, and yet more of these things—many of which I have recommended and strongly supported and will have in further amendments, but how in the world do we say that we have given transparency when, in the view of most experts, this is one of the greatest hindrances to transparency in the system as it exists today?

One irony of this debate is that the companies that awarded options to their employees—and then we do away with the option program?—such a company is competing a sale to us, its management rightly expects us to proffer a new performance-based cash program to substitute for the option compensation being lost—and we—have no trouble calculating the cost to the company of the vanishing program. And in making the substitution, of course, we take on a substantial expense, even though the company that was acquired had never recorded a cost for its option program.

Companies tell their shareholders that options do more to attract, retain and motivate employees than does cash. I believe that's often true. These companies should keep issuing options. But they also should account for this expense just like they do the other.

A number of senators, led by Carl Levin and John McCain, are now revising the sub judicature of executive pay. They believe that American businesses, large or small, can stand honest reporting, and that after Enron-Andersen, no less will do. Nothing is normally a better way to force Congress to meddle with accounting standards. In this case, though, Congress fathered an improper standard—and I cheer its return to the crime scene.

This time Congress should listen to the slim accountants. The logic behind their thinking is simple.

One, if options aren't a form of compensation, what are they?

Two, if compensation isn't an expense, what is it?

Three, if expenses shouldn't go into the calculation of earnings, where in the world should they go?

Mr. President, I have to admit to you that I stood fifth from the bottom of my class at the Naval Academy. I don't pretend to understand a lot of the nuances and hidden workings of the stock market. Or many of the issues we are facing today because there were some very imaginative CEOs and corporate officers who have deprived investors of their money and hundreds of thousands of people of their jobs. But even I can understand Mr. Buffett's questions.

If options aren't a form of compensation, what are they?

If compensation isn't an expense, what is it?

If expenses should not go into the calculation of earnings, where in the world should they go?

Mr. President, that is why this amendment is simple.

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.

That is not a complicated issue, and there will be discussion from time to time about what the tax implications are and all those things. I would be glad to have smarter people than I figure it out.

I want to read a letter to the editor of the New York Times by Steven Barr, July 11, 2002

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senior contributing editor of CFO Magazine, April 5, 2002. Reference: “Leave Options Alone” by John Doerr and Frederick W. Smith:

What if, in the mid-1990s, accounting-rule makers had not caved in to lobbyists and instead had resisted temptations to recognize options as a compensation expense on financial statements? There would still have been a technology boom, a bear market, and a period of recession. Such cycles are immutable. But there may have been less of the accounting gamesmanship that is now the object of government investigation and investor ire.

Options should count as an expense to the corporation, and the ability to exercise them should be based on stock performance that exceeds an index of peers.

Mr. President, one of the more egregious activities we have seen with some of these really unsavory people has been that while their company stock was declining, they exercised their stock options and sold them, making hundreds of millions of dollars. As I said earlier, in the case of Enron—I heard WorldCom was $1.8 billion, or Enron, I am not sure which—at the same time in the case of Enron, the employee in testimony before the Commerce Committee, said they were urged to hang on to the stock, hang on to the Enron stock. Meanwhile, the executives were selling the stock. I do not know of anything quite as egregious as that.

As I mentioned, according to a recent analysis from 1996 to 2000, Enron issued nearly $600 million in stock options, collecting tax deductions which allowed the corporation to severely reduce their payment in taxes. I repeat, no other type of compensation gets treated as an expense for tax purposes without also being treated as an expense on the company books. This double standard is exactly the kind of inequitable corporate benefit that makes the American people irate and inequitable corporate benefit that is intended to persuade make-believe profits, companies may have conned investors into bidding up their stock prices. This is one cause of the Internet bubble, whose bursting helped precipitate last year’s economic slowdown.

It is not surprising, therefore, that the expert consensus favors treating options as a corporate expense, which would mean that companies voluntarily reported earnings after deducting the cost of post-1993 stock options. But the dissenters are intimidated by neither experts nor logic. They claim that the value of options is uncertain, so they have no idea what that cost is. The dissenters also claim options are crucial to the health of young companies. But nobody wants to ban this form of compensation; the goal is merely to have it counted as an expense. Finally, dissenters say that options need not be so counted because granting them involves no cash outlay. But giving employees something that has cash value amounts to giving them cash.

The dissenters include weighty figures in both parties. Sen. Joe Lieberman (D-Connecticut) is the chief opponent of options sanity in the Senate, and last week President Bush himself declared that Mr. Greenspan is wrong on this issue. What might be behind this opposition? Executives who give generously to politicians are themselves the beneficiaries of options—often to the tune of millions of dollars. High-tech companies, owners of companies that are struggling to pay cash, are fighting options reform with all they’ve got. But if these lobbyists are allowed to win the argument, they will undermine a key principle of the financial system. Accounting rules are meant to ensure investors get good information. Without good information, they cannot know which companies will break their backs and which will be the lifeblood of the whole economy suffers in the long run.

Mr. President, again, transparency and trust. Transparency and trust. Without transparency, we are not going to have trust.

A Washington Post, April 21, 2002, editorial, byline David S. Broder. Mr. Broder writes:

Thanks to the Enron scandal, the public is getting to know about a scheme that corporate America, which has exercised $4 billion of options in just three years. Enron has been that options have not yielded a staggering 15 percent of all shares outstanding.

This is obviously a good deal for the executives. One of them, Oracle Corporation’s Lawrence Ellison, exercised options worth $706 million in one week. A nice morsel of cake, by any standard.

But here’s how his company—and all others—can have it both ways: If the value of the stock options granted to Ellison is a cost to Oracle for tax purposes, but it doesn’t come off the bottom line when Oracle is reporting its earnings for the year.

This would seem to defy common sense—and it does. Almost a decade ago, as the options craze was getting under way, the Federal Accounting Standards Board—the watchdog group that said when options are granted, they should be treated as an expense in company reports as well as in tax reports—said the corporate CFOs and the accounting firms they hire went nuts, and the next thing you knew, the Senate in 1994 was passing a resolution . . . telling the watchdog group to forget it.

Mr. Gramm, Mr. President, will the Senate yield? I do not want to break in, but a key point I would like to make—and I thought the Senator might want a breather—

I would appreciate it if the Senator would yield the floor in the form of a question, as he is very adept at doing. I will be glad to yield for his question.

Mr. Gramm, I thought it was very important to make this point. What happened almost a decade ago when we saw this blossoming of stock options? The answer is, in 1993, we passed a law that said that if you paid a corporate executive more than $1 million a year in a plain old paycheck, you could not deduct it as an expense in running the business.

At that time, the largest companies in America—and I am trying to make a point that is in no way contradicting anything the Senator says, though I do not agree with a word of it, but what I am saying is you could not pay a corporate executive, through their paycheck, more than a million a year, even though the 50 largest companies in America were paying their corporate executives $3 million a year, on average.

When we passed that law, what happened? What happened is that corporate America, being clever—you do not make $3 million a year if you are not pretty smart—figured out ways around the law. The way of the ways around the law was getting loans from the company at low interest rates and getting stock options, which are now criticized as giving corporate leadership a very short-term horizon.

The only point I want to make is that everybody has forgotten that in 1993 Congress, in a demagogic amendment aimed at “rich people,” started this whole process.
It struck me when you were saying this group of accountants got together in 1994, what they were doing was responding to a bad law, and the bad law helped trigger this. One of the things— and God knows it is not going to happen in the environment we are in now—but of the things Congress ought to do is to repeal that law so General Electric could pay its CEO with a paycheck, like everybody else, instead of trying to find all these ways around the law. I just wanted to get in that advertisement.

Mr. MCCAIN. I would like to respond to the Senator’s question by saying that I think the Senator makes a very valid point. I think this is probably none of Congress’s business as to what salaries should be bestowed on a corporate executive, with truly independent boards of directors and with a voice of the stockholders.

Let me say to the Senator before he leaves, I am not talking about doing away with stock options. I am talking about how they are treated. They may have gotten around that, but it is how they are treated. As we get into the debate further, I would be glad to hear him respond to Mr. Buffett’s three questions.

Mr. GRAMM. I would be happy to respond to Mr. Buffett.

Mr. MCCAIN. I ask unanimous consent for Senator GRAMM to respond without me losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. I would be happy to respond to him. First, I would have been happy to have voted on the Senator’s amendment.

Mr. MCCAIN. I thank the Senator.

Mr. GRAMM. Second, this is something I am happy to debate. The only point I wanted to make is that while we are all damning corporate America, our last word, if you paid somebody more than $1 million a year it could not count as a business expense, really helped trigger all of this. One of the things we ought to be doing in the name of reform is to repeal that law.

When I tried today in Finance—the Senator said this would not be brought up in Finance, but today in the Finance Committee I thought we ought to have one Good Government amendment, and it failed, like logic and truth, for the lack of a second. That is my only point.

Mr. MCCAIN. I thank the Senator. I especially thank him for agreeing because the Senator from Texas—we have had our agreements, mostly agreements and occasional disagreements—has never, in all the years we have known each other, which goes back to our days in the other body, wanted to deprive anybody of a vote on an issue, no matter where he stood on that issue. I regret deeply that it is clear, as I said earlier, the fix is in; there is not going to be a vote on this issue before cloture is invoked, but I want to again assure my colleagues there will be a vote. There will be a vote on this issue, just like when I was blocked for a long time on the line-item veto, I was blocked for a long time on campaign finance reform, I have been blocked on a lot of other issues but we always got a vote because that is my right as a Senator to get a vote.

It is not my right as a Senator to determine the outcome, but it is my right as a Senator to get a vote on an issue, particularly when, in the view of any observer, stock options are a key issue in the entire debate.

Again, I respect the views of the Senator from Texas who disagrees with my position. I think it is a respectful disagreement that we have. I look forward to debating him. I do so at some disadvantage because he is a trained economist and former professor of economics.

I can also see why he would want to do away with that million-dollar cap because I am sure the Senator from Texas will want to go back more than a million dollars when he leaves this body, and justifiably so given his talent, expertise, and experience. I wish him well. I wish him every success in doing so.

At least the Senator from Texas is in agreement that we should have a vote on this issue.

The question is going to be raised by me and others, time after time: Why did we not have a vote on this issue? If we are truly committed to reforming the system, restoring trust and transparency to the system, why do we not have a vote on it? That is a very legitimate question. There will be a vote.

I will return to Mr. Broder’s editorial. He talks about that:

The Federal Accounting Standards Board said that when options are granted, they should be treated as an expense.

And the Senate passed a resolution telling the watchdogs, forget it.

And that has had a truly wondrous effect. On average, the Federal Reserve Board estimates, a ruling that inflated earnings growth of corporations by 3 percentage points from a realistic 6 percent to an inflated 9 percent. Enron, it is estimated, used that same ruling in 2000 to inflate its earnings by more than 10 percent. Overstated earnings, of course, boost stock prices, thus benefiting the executives who have been given stock options.

By the way, I might add, not only stock options but it increases compensation because the stock value is inflated.

But that is not the end of it. Because these stock options are deductible for tax purposes, and their cost can be carried forward for years, they also enable companies that hand out a lot of options to stiff-arm the IRS. Enron, for example, was permitted to cut its tax bill by $625 million between 1996 and 2000.

Especially on my side of the aisle, there is this continuous drumbeat: Let us make the tax cuts permanent; let us do away with the death taxes; let us get our economy moving; let us help the American taxpayer. Should we not try to make a corporation pay its legitimate taxes? In Enron’s case, because of the use of stock options, they allowed the company to cut its tax bill by $625 million over a period of 4 years. Amazing.

Thanks to Enron, another push is underway to stop the double-dealing. But it faces serious hurdles. The Coalition to Preserve Stock Options, which includes 32 influential trade associations, is flooding Congress with ‘talking points’ claiming that stock options are a vital tool in the battle for economic growth and job creation . . . (and) to attract, retain and motivate talent. The coalition is trying to kill a bill that would prevent companies that pay executives with stock options from avoiding taxes on their stock gains.

It has had no such effect on President Bush. As a consequence of avoiding rich, he told the Wall Street Journal he opposes this kind of legislation. . . . But Federal Reserve Board Chairman Alan Greenspan testified recently on the need to stop the double-dealing. But it faces tough sledding. The Coalition to Preserve Stock Options, which includes 32 influential trade associations, is flooding Congress with ‘talking points’ claiming that stock options are a vital tool in the battle for economic growth and job creation . . . (and) to attract, retain and motivate talent.

The bill has bipartisan sponsorship: Democratic Senators Carl Levin of Michigan, Mark Dayton of Minnesota and Dick Durbin of Illinois; Republican Senators John McCain of Arizona and Peter Fitzgerald of Illinois. Fitzgerald is particularly interesting. He is from a wealthy banking family and is a staunch conservative, but Enron has made him almost a raging populist.

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That is what Alan Greenspan says: Is income being properly reported? And I would submit to you that the answer is no.

And superinvestor Warren Buffett, who hands out bonuses but not stock options to his employees—

By the way, I have not heard of any bad morale or failure to attract employees out at Berkshire Hathaway out in Omaha, a lovely place to live—for years has been asking three questions:

If options aren’t a form of compensation for what are they? If compensation isn’t an expense, what is it? And if expenses shouldn’t go into the calculation of earnings, where in the world should they go?”

That is what Mr. Broder has to say.

Paul Krugman, on May 17, 2002:

On Tuesday Standard & Poor’s, the private bond rating agency, announced that it would do something unprecedented: It will try to impose accounting standards substantially stricter than those required by the federal government. Instead of taking corporate reports at face value, S.&P. will correct the numbers to eliminate what it calls the inappropriate treatment of “one-time” expenses, pension fund earnings and, above all, stock options—a major part of executive compensation that, according to federal standards, somehow isn’t a business expense.

S.&P.’s estimate of “core earnings” for the 500 largest companies slashes reported profits in an astonishing 26 percent.

Why does S.&P.—along with Warren Buffett, Alan Greenspan and just about every serious financial economist—think that current accounting standards require a drastic overhaul? And if such an overhaul is needed, why doesn’t the government do it? Why does S.&P. think that it must do the job itself?

To see the absurdity of the current rules, consider stock options. An executive is given...
the right to purchase shares of the company’s stock, at a fixed price, some time in the future. If the stock rises, he buys at bargain prices. If the stock falls, he doesn’t exercise the option. At worst, he loses nothing; at best, he makes a lot of money. Nice work if you can get it.

Yet according to federal accounting standards, such deals don’t cost employers anything, as long as the guaranteed price isn’t below the market price on the day the option is granted. Of course, this ignores the “heads I win, tails I lose” aspect: executives get a share of investors’ gains if things go well, but don’t share the losses if things go badly. In fact, companies literally apply all the standard deductions; they take costs of options from taxable income, even while denying that they cost anything in their profit statements.

So how could it possibly make sense not to count options as a cost? Defenders of the current system argue that stock options align the interests of executives with those of investors. Even if that were true, however, it wouldn’t justify ignoring the cost—no more than it would make sense to deny that wages and benefits to workers, are a business expense. Furthermore, it’s now clear that stock options, far from reflecting the theoretical world of economics, which I will discuss later, are a license for some executives to exploit by self-dealing insiders. So who could possibly be surprised? Harvey Pitt, the accounting industry lawyer who heads the Securities and Exchange Commission, has clearly been dragging his feet on reform.

Bear in mind, this is not a left-right issue. It is about protecting investors, middle class and wealthy alike, from exploitation by self-dealing insiders. So who could possibly be opposed? You would be surprised. Harvey Pitt, the accounting industry lawyer who heads the Securities and Exchange Commission, has clearly been dragging his feet on reform. Mr. Blitzer of S&P points out that in previous periods of corporate scandal, legislators and prosecutors took the lead with public concern over the market.

It is a sad commentary on our leadership that this time he believes he must do the job himself—referring to Standard and Poor’s—and announced that it would impose accounting standards, substantially stricter than those required by the Federal Government.

Boston Globe, June 10, 2002: Stock options have become the currency of choice to attract and reward executives in part because under current rules the company need not count them as an expense with much of their compensation. Depending on the difference between the price of the stock and the market price, it is no wonder that some executives have used trickery to show quarterly growth and inflate the worth of their companies. Excessive reliance on stock options is a license for some executives to drive their companies along treacherous roads.

I have a number of other views, but I think I have made my point. The point is this: Why should we, in the name of restoring confidence, trust, and transparency to the American people on an issue of this import, not have a vote? That is the first question.

The second question that needs to be answered is Mr. Buffett’s question, not mine; not mine because I don’t claim to have a corner on expertise and knowledge on this issue. But I believe that Mr. Buffett does. I believe that Mr. Greenspan does. I believe that Mr. Volcker does. I believe that Mr. Arthur Levitt does. I believe that Mr. Greenspan, Paul Volcker, Arthur Levitt, Warren Buffett, as the Senator mentioned, and others, have been able to attract good and talented employees and retain them without having to resort to stock options.

But the real question is not whether stock options are good or bad because the intent of the amendment is not to do away with stock options. The intent of the amendment is simply to give an accurate depiction of what stock options are. And that is clearly compensation. Depreciation is listed as an expense. In the view of many, that is much harder to calculate than a stock option.

Another argument I anticipate will be, how do you treat it taxwise? Frankly, I would be glad to treat it taxwise as to how the smartest people at the SEC would say it should be treated. I would leave that to the two experts. I do not treat it as an expense, as Mr. Buffett says, of course is just Orwellian. It is Orwellian.

Mr. LEVIN. Will the Senator yield for a question?

Mr. MCCAIN. I would say to my colleague, yes. I think there is another important question. I wonder if the Senator would agree that the following individuals and organizations support the change in accounting for stock options, which the Senator has outlined: Alan Greenspan, Paul Volcker, Arthur Levitt, Warren Buffett, as the Senator mentioned, The New TIAA-CREF, Paul Volcker, Arthur Levitt, Warren Buffett, as the Senator mentioned, The New York Stock Exchange, The New Poor’s Council for Institutional Investors, The New Consumer Federation, The New Consumers Union, The New AFL-CIO—among others? Would the Senator agree that those organizations support a change in the accounting for stock options?

Mr. MCCAIN, I would say to my friend, yes. I think there is another important organization, the Federal Accounting Standards Board—I believe it is—the international.

Mr. LEVIN. There are some additional organizations.

Mr. McCAIN, Yes.

Mr. LEVIN. I wanted to give the Financial Accounting Standards Board.

Mr. McCAIN, Yes.

Mr. LEVIN. Does the Senator remember, as I do very vividly because I appeared before the Federal Financial Standards Board in the middle 1990s to support their independence, when they decided that you had to expense options, that it was compensation, that it had to be like all other forms of compensation?

Does the Senator remember what the Financial Accounting Standards Board
decided when they left it optional, as to whether or not to either expense options or to show them as a footnote—just to disclose them without actually expensing them? Because if the Senator does not, I would like to read what the Financial Accounting Standards Board said. They expressed the thought that they were put under, the horrid, horrid pressure they were put under, and how they could have, indeed, been put out of existence if they went forward with what they believed was right, which at least three board members thought was correct.

If the Senator does not remember those words, I wonder if he might yield to me to read them, without losing his right to the floor.

Mr. MCCAIN. Yes.

Mr. LEVIN. This is what the Financial Accounting Standards Board said. They had proposed that stock options be expensed. That was their proposal. This is the board of accountants.

The debate on accounting for stock-based compensation, unfortunately, became so divisive that it threatened the future of accounting, and when the Exposure Draft was issued was not attainable that was envisioned when this project was started. It is an area that then executives—mainly executives—were able to cash in on these options and make tens of millions of dollars based on financial accounting which was deceptive.

Would the Senator agree with that and agree that indeed these standards that were set by an independent financial accounting standards board?

Mr. MCCAIN. I say to my friend from Michigan, first of all, it was the Senator from Michigan who first initiated discussion with me on this issue several years ago. We were treated as vir
tual pariahs for having the audacity to challenge what was then, as we now know, a high-tech bubble in the way stock options came to be. By the way, let’s do away with the myth that these stock options are for the average worker. The fact is the overwhelming majority of the stock options have gone to the chief executives. That is just a matter of record and fact.

But I think the Senator is correct. I think the Senator has also an additional, I think important, corollary to this amendment, that we could have pointed out that it would be consistent with accounting for the cost of all other goods and services received as consideration for equity instruments. However, in December 1994, the Board decided that the extent of improvement in financial reporting that was envisioned when this project was added to its technical agenda and when the Exposure Draft was issued was not attainable because the deliberate, logical consideration of issues that usually leads to improvement in financial reporting was no longer present.

That is the climate that was created for this Board in 1994. And when the accountants, the Board, the Financial Accounting Standards Board of this country, said they have value, these options, they are compensation, they should be accounted for in the financial statement, they were hit upon so hard that even when they said we are throwing in the towel because it could destroy us, even when they said we will allow it to be shown as a footnote, not required to be taken as an expense— even then, they said this is not the right way to proceed.

We are now creating—I should ask a question, I think, given the request I made.

Does the Senator not agree that ideally what we should be allowing here is an independent Financial Accounting Standards Board to determine the rules?

Mr. MCCAIN. I could not agree more with the Senator from Michigan. I think he knows how strongly I believe that stock options should be expensed because they are compensation and they have value and there is no other form of compensation that is not expensed.

It is a stealthy form of compensation and has driven the excesses of the 1990s. These options have driven the deceptions that make financial statements for corporations look better than those corporations’ situations really are because they have created an illusionary value. It is no coincidence that then executives—mainly executives—were able to cash in on these options and make tens of millions of dollars based on financial accounting which was deceptive.

Would the Senator agree with that and agree that ideally these standards should be set by an independent financial accounting standards board?

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Mr. MCCAIN. I could not agree more with the Senator from Michigan. I think he knows how strongly I believe that stock options should be expensed because they are compensation and they have value and there is no other form of compensation that is not expensed.
We can’t get a vote on it. Senator Levin has had an amendment pending. We have a list of people who want to offer amendments. We have been trying to work through these amendments. Now the Senator has come with his amendment. There are a lot of amendments on which people are trying to get votes. I think they are entitled to those votes.

I know you have a problem. But I take some umbrage as sort of having it placed on my shoulders. In fact, I think that is totally inaccurate, and I just want to make sure I put that on the record.

Mr. McCaIN. Thank you.

I ask unanimous consent that the McCaIN amendment be allowed postcloture.

Mr. REID. Objection.

Mr. McCaIN. So you see.

Mr. SARBANES. No. That doesn’t appear to me anything. The Senator wants his amendment.

Mr. McCaIN. I have the floor.

Mr. SARBANES. And denies everybody else.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. McCaIN. I thank the Chair.

I think I have made my point.

Mr. SARBANES. No. You haven’t made your point.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. McCaIN. I would like to respond to the question of the Senator from Nevada, if he would like.

Mr. SARBANES. Will the Senator yield?

Mr. McCaIN. I would be glad to yield, if the Senator from Michigan would be glad to yield.

Mr. SARBANES. It is a very clever trick, but you haven’t made your point. There are other Members here with amendments that are very important to them which they are trying to have considered. We have been trying to process these amendments in an orderly way. The Senator arrives on the scene and apparently thinks, well, there should be a special set of rules for the Senator to do his amendment. So he just now tried to jump ahead of other people, and a reasonable objection was made. And I think it ought to have been made. The Senator from Arizona comes in, and, all of a sudden, there is going to be a special set of rules to deal with his amendment. The Senator doesn’t even recognize what is going on. The people here try to address to some extent this problem with independent funding and FASB that this legislation provides for—which everyone agrees is long overdue and is an important contribution. But around here on these people lined up here who want to do amendments. We have the Edwards amendment, we have the Levin amendment, and we have a whole list of people with amendments. We have been trying to process those amendments, and we have not been able to do it.

As one who is down here trying to work overtime to get these amendments processed, I want to very strongly register that point.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. McCaIN. I have the floor. I thank the Senator from Maryland. I appreciate his hard work managing the legislation. I have managed bills in my time. I know that sometimes it gets very frustrating and difficult.

I have some doubt that the Senator oppose cloture so that we can address all of these issues and prevail on his colleagues to do so that we can have relevant amendments considered.

I also think—it is not just in this Senator’s view but in the view of almost everyone, in the view of Alan Greenspan, in the view of Warren Buffett, in the view of the Washington Post and the New York Times, and everybody—that this is a serious and vital issue.

So my suggestion is that we not have a cloture vote, and that we go ahead and take up the amendments in an orderly fashion. The Senator from Nevada, obviously, will not allow my amendment to be considered postcloture.

The Senator from Nevada has a question. Would the Senator from Nevada, the distinguished whip, like to wait until the Senator from Michigan is finished, or would you like to go ahead?

Mr. LEVIN. My question was actually touched upon by the Senator from Arizona relative to the independence of the Financial Accounting Standards Board, and as to whether or not the Senator was aware—at least now in this bill—that we have the source of financing for that board which hopefully will not only allow it to reach its own conclusion, as it did once before, that options have value and should be expensed but also that it carry through with it without threatening their own survival.

I think that is an important part of this. But at least that gives us hope this time that when the Financial Accounting Standards Board reviews this matter—if it does—it will reach a conclusion not only that it believes it, but it can then implement it through an accounting standard.

That was my question about that funding source in this bill.

Mr. McCaIN. I would like to respond. I understand now it is part of the bill. I also know what has happened in the past. The fact is that we have not made the changes which are necessary because of enormous pressures that have been brought to bear.

The Senate should be on record on this issue. This is not a minor issue. This is not a small item. The Senate should be on record on this issue, and it apparently will not be at this time.

I thank my colleagues, though I do think it is important to keep forward. But I also believe this is something that we could address in a straightforward fashion.

Mr. LEVIN. Mr. President, will my colleague yield for 60 seconds so I can make a statement on this subject prior to a unanimous consent, or an address on a different part of my amendment?

Mr. McCaIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank Senator McCain for his steadfast support on the issue which is critically important.

Unless we address the way stock options are dealt with in this country—the fact that it is now a free ride, and stealth compensation which has caused in large measure, the problems because accepted accounting practices, as we have seen, are significantly driven by the option accounting which allows options to be left off the financial statements as an expense, and, therefore, cashed in when those books of the company show great value, which is not reality, but nonetheless drives up stock prices—I want to say that I agree with the Senator from Arizona. Unless this issue is addressed, leaving a huge gap in our reform efforts.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Senator from Maryland has tried now for several days to figure out a way to have amendments. We have tried to negotiate. We have had those which have been arbitrated. We have had some ca-joling. We have had a little bit of begging. We have gotten nowhere. But the rules of the Senate are rules of the Senate. Therefore, it would be contrary to my beliefs to have a special set of rules for the Senator from Arizona, as well intentioned as his amendment may be.

I have had phone calls. I have had personal visits from at least 15 Democratic Senators saying they have amendments that they believe in very strongly. They and their staffs have worked on some of these amendments for months. They are not going to be able to offer those amendments.

Mr. GRAMM. There are 58 Democratic amendments.

Mr. REID. So it would be totally unfair to have a non-germane amendment that would be available for us postcloture. That is why I object. If I had to do it again, I would do the same thing.

But let me say this. People can complain—and I have no problem with their doing so—that we have not been able to go through the relevant amendments, but this legislation that has been brought to us by the Banking Committee and has now been improved by the Judiciary Committee’s amendment of Senator Leahy is a very fine piece of legislation.

Let’s not lose track of that. This is a very fine vehicle. Maybe we could do a better job—put some rearview mirrors on the things we are addressing on the Senate floor, but the legislation we have that will be voted on and approved by the Senate is very good.
The Public Company Accounting Reform and Investor Protection Act would establish the Public Company Accounting Oversight Board to set standards for auditing public companies. It would require accounting firms to conduct investigations into possible violations of its rules and impose a full range of sanctions. It would restrict the nonaudit services a public accounting firm may provide to its clients that are public in nature. It would require an accounting firm to rotate its lead partner and review partner on audits after 5 consecutive years of auditing a public company.

It would require chief executive officers and chief financial officers to certify the accuracy of financial statements and disclosures. It would require CEOs and CFOs to relinquish bonuses and other incentive-based compensation and profit on stock sales in the event of accounting restatements resulting from noncompliance with Securities and Exchange Commission financial reporting requirements.

It would prohibit directors and executive officers from trading company stock during blackout periods. It would require disclosures of adjustments to statement adjustments. It would establish bright-line boundaries to prohibit stock analyst conflicts of interest.

It would authorize about $300 million more than the President's budget for the SEC to enhance its investigation and enforcement capabilities.

I will not go through all the details of the amendment that has been approved by the Senate, offered by Senator LEAHY, making certain things criminal in nature and increasing the penalties.

This is a fine piece of legislation. But I do say this. The Senator from Maryland is making certain things criminal in nature and increasing the penalties.

This is a fine piece of legislation. But I do say this. The Senator from Maryland is making certain things criminal in nature and increasing the penalties.

I would like to give Members an opportunity to offer an amendment. I would ask my friend, the junior Senator from Texas, to yield for just a short period of time. I would be happy to interrupt my remarks at that time. I would hope my remarks would appear as uninterrupted.

Mr. REID. I would agree.

I yield the floor for just a short period of time. I would interrupt my remarks at that time. I would be happy to interrupt my remarks at that time. I would hope my remarks would appear as uninterrupted.

Mr. REID. I would agree.
agreed to; the bill, as amended, be read three times; that section 303 of the
Congressional Budget Act be considered waived; and the Senate then vote
on passage of the bill; that upon pas-
sage of the bill, the Senate insist on its
amendment and then request a con-
ference with the House on the dis-
agreeing votes of the two Houses; and
that the Chair be authorized to appoint
conferences on the part of the Senate
without further intervening action or
debate.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Madam President, reserv-
ing the right to object, first, I would
say that I am glad we have reached the
point where we are prepared to start
trying to move some appropriations
bills. We are way late in the year. But
ordinarily, we move anywhere from as
few as one to two weeks before the fis-
sal year ends the 1st of October.

I hope we can begin to get on a roll
here pretty soon on the appropriations
bills. We are way late in the year. But
ordinarily, we move anywhere from as
few as one to two weeks before the fis-
sal year ends the 1st of October.

I am glad this is being asked for con-
ideration now. I want to thank the
managers and both sides of the aisle for
their efforts over the past several days.
I hope we can begin to get on a roll
here pretty soon on the appropriations
bills because there are a lot of things
we need to do, but there are a few
things we must do. One of them is, we
have to put funds to fund the gov-
ernment for the next fiscal year, and
the fiscal year ends the 1st of October.

I am sympathetic to those worried
about that and the fires. But I don’t
think that is what I am think-
ing forward on the military construc-
tion appropriations bill. I support this
request. I want the RECORD to be clear
about how I feel about the request and
the legislation.

With that, I withdraw my reserva-

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada.

Mr. REID. Madam President, I know
there is another objection, but I just
want to respond to the leader because I
want him to be able to retire to his of-
cine when he feels necessary.

I had the opportunity to chair the
Military Construction Subcommittee
and worked as ranking member. It is
an extremely important subcommittee
for the military. With what has been
going on in Afghanistan, it is com-
ounded as to its importance. That is
why the two Senators who run this
committee, from Califor-
nia and Texas, Mrs. FEINSTEIN and
Mrs. HUTCHISON, have worked so hard
getting it in a posture that has been
signed off by literally everyone, includ-
ing Senator McCAIN, who has reviewed
the work done. They have done a won-
derful job.

I would also say to my friend from
Arizona, Nevada, last year and the year
before, was scourged with terrible fires.
We didn’t have forest fires; we had
range fires millions of acres. We were able to get money to
help replenish those rangelands so de-
pleted as a result of the fires.

I have been here a long time. I never
remember a time when we did not re-

send to take care of the needs caused
by fires in this country. Most of the
dises occur in the West. We have always
handled that.

We have 12 other appropriations bills
coming through here. With all due re-

The Department. I hope we can get all of
this worked out.

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about that and the fires. But I don’t
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I would say to my friend, the Repub-
lican leader, I had the opportunity to
speak to Senator BYRD a short time
ago. There is hope that the supple-
mental conference will be completed
tomorrow. Great progress is being
made. I hope we can move forward on
this bill. This is so important that we
got it out of here and get it to the
House.

I have no doubt, as tight as money is,
that we will take care of the fire needs
in the western part of the United
States. We always take care of emer-
gency needs, whether it is fire or flood.
We will do so in the future.

The PRESIDING OFFICER. The Sen-
ator from Arizona.

Mr. KYL. Madam President, I object,
and I would like to explain the reason
why. I concur with the comments Sen-
ator LOTT has made about the impor-
tance of moving this legislation for-
ward. The ranking member of the com-
mittee, the Senator from Texas, who makes a strong
case that the legislation has been care-
fully crafted, and it is important to
move it forward. I totally concur with
her on that.

I also have no problem with the way
in which the unanimous consent agree-
ment has been constructed in terms of
moving forward as soon as it is possible
to do so. I have no objection to any of
that.

I do simply want, as the minority
leader said, preserve the option of deal-
with the subject of the recent
floods and droughts on this appropria-
tion bill. The reason is as follows: The
ranking member of the committee, the
chairman of the Appropriations Com-
mittee, and the ranking member of the
Energy and Water Subcommittee are
all meeting today with other people,
including the Director of the OMB, the
Senator from Texas, and others, to try
to figure out the best way to deal with
the new issue of the fire and flood and
drought damages that have occurred in
this country since the supplemental
appropriations bill was put together.

My personal view is that the supple-
mental would probably be a preferable
place to include the disaster relief to
replenish the funds for the forest fires
to the BIA and the Forest Service.

There are those, however, who dis-
agree. If the Director of OMB and
chairman and ranking member of the
Appropriations Committee believe that
it is not appropriate to use the supple-
mental funds to help replenish the funds
that have been used to make sure money
is there for upcoming needs.

I am sympathetic to that. I don’t
think this is the last train out of the
Senate. If this bill moves, there will be
another one, and hopefully we will be
moving two or three appropriations
bills every week.

There are other considerations about what do we do if we don’t get an
agreement on the supplemental this
week. I hope that within the next 24
hours something can be worked out on
the supplemental appropriations bill,
which, by the way, has been hanging
around for 90 days, probably closer to 120 days by now. It is time to
get an agreement. At some point, if we
do not get the supplemental funds, we
may wind up not having adequate funds for our airport security workers,
the Transportation Security Agency,
and it will begin to affect the Defense
Department. I hope we can get all of
this worked out.

I am sympathetic to those worried
about that and the fires. But I don’t
think that is what I am think-
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entire budget of the Forest Service now consumed in fighting forest fires; whereas, ordinarily it is something like 4 percent of their budget, or something like that. So they have borrowed from other accounts in order to pay these fires.

The fires in Arizona cost almost $50 million to fight. As a result, they have had to borrow that money from other accounts. The result of that is that right after the fire is over, before it is even out, they can’t be able to go into the area of these fires and prevent the erosion that inevitably occurs as soon as the rains start, and now the rainy season is beginning, and the planting of the grasses and trees and so on that further inhibit that erosion. They literally want to go in as soon as they can after the fire to stabilize the ground. If they wait too long, it doesn’t do any good. So they have to do that right away.

The problem is, they have spent all the money in the restoration accounts. The head of the Forest Service put a stop on the expenditure of any money that doesn’t have to be spent almost on an emergency basis. So right now, both the Department of the Interior and the Department of Agriculture are significantly precluded from doing the other things Congress mandated that they do. We need to make sure they know they are going to have the funds to restore those accounts so they can get on with the jobs we have asked them to do; and, most importantly, in the very near term they can get into the area of these fires and begin the restoration that is essential in a timely fashion. That is why the first vehicle in terms of an appropriations bill that can be used should be used for this process—whether it is the supplemental or this appropriations bill.

There have been suggestions that the Interior Appropriations bill would be a better vehicle. From a purely substantive point of view, that is true, but that would be before us for another month, or 6 weeks, or 2 months. That is, obviously, way too late.

That is the reason why we need to preserve this particular option. I hope we can move quickly to the consideration of the MILCON bill, both for the purpose of completing the work of the Senator from Texas, as well as the work we are talking about.

I will ask the Senator from Nevada a question: Are we now at a point where we are going to put this amendment on one of the bills?

I yield the floor to my colleague from New Mexico.

Mr. DOMENICI. I don’t need the Senator to yield for a question, but I will talk for a moment. Sometime yesterday I raised this issue with my colleagues. In particular, the Republican Senators were in a meeting. It seemed, from the feedback, that most of them agreed with the comments that were made then. Essentially, we don’t often have this situation, but what really happened—I used the word “yesterday”—the supplemental has been around here for so long that it has run into a new problem. It ran into the problem of forest fires—huge ones—and into flooding that has been described by those who live in close proximity to them. It has occurred. But there is no question that the forest fires and the floods, because they came a long time after these urgent supplemental, should have cleared it.

In normal times you would be beyond the supplemental and you would be waiting for something else; but the supplemental bumped right into the fires and the floods, it took so long to get its rightful place here on the Senate floor. It didn’t seem to be very urgent when it took 2 months to get done. But now we want to try to live by the facts the White House put into the budget before this new set of facts occurred. After that meeting yesterday, I was very pleased to note that the distinguished Republican leader joined with us and submitted to the White House, to the Budget Director for the executive branch the fact that this was going to happen sooner or later, that most of the people we had talked to across the country, from California, Arizona, Colorado, New Mexico, and Texas, were doing the right thing for the people of our State, and we are running out of money.

I hope that people have also seen the floods in my home State of Texas. The Governor is now saying that the damage is estimated to be $2 billion. It only happened last week, so I cannot tell you exactly what we are going to need to clean up the floods. But I know that the people are suffering. I am going to Texas this week, and Senator Domenici and Senator Craig of Alaska, who is chairman of the National Commission on the Fire, to look at the damage myself because I want to make sure we are doing the right thing for the people of Arizona, the people of Colorado, the people of New Mexico, the people of Idaho, and the people of Texas. We have always done that.

So I understand Senator KYL’s frustration. I am sorry he is holding up this bill, but I am committed to seeking a vehicle for an amendment that would ensure that the money is there to fight the forest fires in this country and to clean up the flood damage that we see happening in Texas. We will do that. We will find the vehicle to do it. I commit that we will. We are not going to appropriate money that isn’t needed. We are going to have a contingency appropriation so that if the money is needed, it is there.

We all want to be careful with taxpayer dollars, but there has never been an instance where for a fire we have not responded to as a country and said we are not going to let people suffer when they have nowhere to turn but to us. We will be there for them. So I am committed to trying to find the right vehicle. I want to make the decision now so we can get on with MILCON. If military construction is the right vehicle, let’s put that emergency appropriation on military construction. I would prefer to see it on the supplemental appropriations on which we are having a conference tomorrow. I would like to put it there.

This is an emergency. We have had a change in circumstances since the President sent his request to Congress. It seems to me that it is common sense that we have had a change in circumstances that would warrant a change in the cap. That would be the preferred way to handle this emergency, which we all acknowledge we need to do. If we cannot do that, I want to ask the distinguished Senator DOMENICI, for the Senator from Colorado, that we will handle this issue. So if it is not going to be on the supplemental, then I am willing to try to help them put it on military construction. If it is not military construction, then I don’t think we will be handling any appropriations bills until we get a commitment to address this issue.

We need to pass this bill. I appreciate the support of Senator LOTT, along with, of course, Senator REID and Senator DASCHEL and Senator FEINSTEIN, that we need to move this forward. However, I wanted to say that although Senator KYL and Senator KENNEDY have not been co-axing for me to consider the bill, I disagree with his decision to do so—I understand his frustration, and Senator REID said he understands his frustration. We see it every night on the news—the fighting of these incredible fires, people being put out of their homes, ruining vast hundreds of thousands of acres of our forestland in this country, and we are running out of money.

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I yield the floor to my colleague from New Mexico.
I cannot imagine that Senator BYRD and Senator STEVENS would have the fire money in the military construction bill. We reported, as the Senator knows, another bill out of the committee, the legislative branch appropriations bill. There are other bills coming up that the Senators from New Mexico and Arizona said, fire money should be in the supplemental, but it is not. I just do not think it is going to be in the military construction bill. That is why we should get it out of the Senate and the House.

Mr. DOMENICI. Madam President, I said yesterday that I do not recall—I have been here a few years longer than the Senator from Nevada—a situation where we would not pay for an emergency of forest fires and the damages and costs that ensued.

Frankly, there are a lot of people in the West, particularly in Nevada and my State, who have seen these fires and now hear on the television that the Forest Service does not have money in its budget to pay for them. They do. They are borrowing from another account.

As the Senator said and I have said, they are going to get reimbursed short-ly. The sooner we do it, the sooner we keep faith with the hundreds of thousands of people in Nevada, Arizona, Utah, New Mexico, and Colorado who have been watching. It would be good if it is sooner rather than later. While we are paying for many things, we should pay for their account also. I assume that is what you are going to try to do in the Senate.

Mr. REID. Yes, and I say to my friend, these moneys are so important to the people of our respective States, there is no question about that. I think it is a shame, for lack of a better description, that we do not have it in the supplemental. I repeat that. If there ever was an emergency, this is it. We have not budgeted for these moneys, and the fire that swept Arizona is 400,000 acres.

We had a fire in Nevada at Lake Tahoe—we are so thankful it did not ravage that basin—of only 1,000 acres. In the last 2 years, we have had over 2 million acres burn in Nevada, not forestland but rangeland.

We cannot take care of this emergency. It should be done in the supplemental, but the majority leader, myself, and anyone on this side who has jurisdiction will do whatever we can to speed this up as quickly as possible.

Mr. DOMENICI. I thank the Senator. I say to those who want to make sure the supplemental not only passes but is signed, the Senator from New Mexico is/certainly not going to do anything to delay that, although it does seem strange to this Senator, an urgent supplemental, which is intended for urgent supplemental needs, would have to be isolated from this need because some kind of arrangement has been made. The arrangement comes very late, but it is an effort to get the bill done and to get the important parties to agree. I yield the floor.

PUBLIC COMPANY ACCOUNTING REFORM AND INVESTOR PROTECTION ACT OF 2002—Continued

Mr. REID. Madam President, I ask unanimous consent that there be a vote immediately on or in relation to the Levin amendment, the second-degree amendment. Following disposition of that amendment, we vote immediately on the amendment, and following that, we vote on cloture, which motion was filed yesterday.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Reserving the right to object, I noticed the McCain amendment was not listed. Was that an inadvertent error or was it the intention to exclude that amendment which was offered after the two listed?

Mr. REID. The last two amendments offered were the Levin and Edwards amendments.

Mr. GRAMM. Madam President, I have to object.

The PRESIDING OFFICER. Objection is heard. The Senator from Texas. Mr. GRAMM. Madam President, I ask unanimous consent that the vote on cloture occur immediately; that we proceed with the process of dealing with germane amendments; and that we set the time of 8 o'clock for all debate on the bill to end.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. I object.

The PRESIDING OFFICER. Objection is heard.

AMENDMENT NO. 4299

Mr. ENZI. Madam President, I do have to answer some of the questions. I am sorely disappointed that the Senator from Arizona left the floor. He asked some important questions. He has asked three questions about accounting. I don’t get to answer questions about accounting very often. I was very excited about that.

Now, I do warn people who may be watching in their offices, or somewhere else, that accounting questions often put people to sleep. So it might not always be that exciting for them.

But I do have to say, from what we saw, there is no passion like the passion of a repentant sinner. This is not the first time somebody has said we are going to tell FASB what to do.

On May 4, 1994, the Senate said: We do not care what you said in your multiple pages of FASB rules, we are going to tell you what to do. And the vote was 88 to 9 the last time we interfered with FASB. I have to tell you, the Senator from Arizona was in the 98. He was the lone voice. People who wish I knew how to do this. I know how to do this better than FASB. So listen to me: I am going to vote my conscience on this and dictate how FASB is going to handle accounting on stock options.

There and several of the people had not voted to tell FASB what to do at that time, we wouldn’t be having this discussion at all.

Now we have another amendment. It is very important to pay attention to the wording.

What I am trying to do is—as I mentioned, there is no passion like the passion of a repentant Senator—I am trying to keep people from sinning again. There are some very important reasons why we cannot isolate a situation such as stock options, which I think all of us can spell but for which not all of us can account, and put it into a simple little paragraph on how it should be handled. This amendment, which is just one sentence which makes up the whole paragraph, says:

Any corporation that grants a stock option to an officer employee to purchase a publicly traded security in the United States shall record the granting of an expense in that corporation’s income statement for the year in which the option is granted.

One of the problems we are having right now is investors are a little bit shaken because there are restatements of income being done. Not all restatements are because something was hidden. Some of those restatements are because of changes in rules. This will be one of the biggest changes in rules we are made in decades. That is why this is written, while it is intended to move to an expense system, does not really say that. It says that you have to expense it in that corporation’s income statement for the year in which the option is granted.

There are a lot of options that are already granted. Some of them are outstanding maybe 25 years. It is more common that it be 2 or 3 years. The new stock options are done on a much shorter period of time. Even if it is just 2 or 3 years, what this amendment is saying is, redo your income statements and restate them for the last 3 years for all of your options that are outstanding. We did not make you do that before; now we want you to show a huge change or, at most, a small change, but at any rate a change, and every time a company announces a change—and I have had some call and say: I am going to have to do a restatement and that restatement is going to be upward; you know what it is going to do to my stock; I am showing an increase in profit, and it is going to destroy me. All I can say is, it is the law: you have to restate.
This will cause the biggest restatement in the history of the United States, the way it is done. One cannot dictate in very simple language something that will take multiple pages to be able to explain and to allow reconciliation. If we listened to the explanation of how the companies are writing this stuff off and nothing ever happens with it. That is not true. Every time there is an exercise, every time somebody trades their option for real stock, there is an accounting for it. This is how our companies are writing this stuff off and it is a reconciliation for it to make sure the taxes are paid on the stock options that are exercised.

We heard something earlier about $625 million that we are losing because of Enron. It is because they went bankrupt. It is not because they are not reconciling, because they are not paying taxes. They do not have anything with which to pay the taxes.

One of the problems with this bill is that the issue is gotten into a feeding frenzy. I think of Enron as this huge, dead carcass. In Wyoming, we have kind of a pecking order of feeding. There are the grizzly bears, there are the wolves, and there are the coyotes. Each one comes up and takes their bite out of the carcass, but not until the previous one has finished, and that is kind of the way that we are handling this bill.

We have this huge carcass of Enron, and we are trying to figure out how to get rid of it and make sure we do not have any more carcasses. We have a bill that has the primary right to feed on it. Then we have the wolves, which are the germane amendments, that have the right to feed on it. Then we have the coyotes, which do not have any right until everything else is finished. Those are the nongermane amendments.

What we are trying to say is let us get the carcass finished off before we have a whole bunch more carcasses, before the stock market has more problems. They are a little bit worried about us working on this stuff at all, and if they see an amendment like this with the oversimplification being thrust on this legislative body to make a massive accounting decision, they ought to panic. We do not want that to happen.

There are a lot of reasons this amendment should not be passed should it ever come to a vote, and I hope everybody would do that. Now, I have an option I had drafted up. I have over 25 cosponsors from both sides of the aisle now. It deals with stock options. What it does is put it back on the aisle now. It deals with stock options. Warren Buffett is one of those. And that is because when stock options are exercised, it dilutes his stock. I think he probably has more than anybody else in the whole world, and I guess if I had more stock than anybody else in the whole world I would have gotten there by being sure that every single piece of that was accounted for. Unfortunately, that is not the case. I also would give one some compunction to make sure that none of it can be diluted, which is what stock options have the possibility of doing.

It is also based on the premise that the company is going to grow and expand, and that is why all of the people who are employees are willing to take stock options instead of hard cash. I think all of them would love to have hard cash as Berkshire is doing.

I suspect that the hard cash does not come to out to quell the increase in value of the stock. So given an option between hard cash and potential in a company that you yourself can work in, you yourself believe in, you yourself know can grow, you want to participate in as much as the stock price grows. So stock options would be something that might lure you from another company, that might lure you into a startup company, that might lure your expertise to where you can make this company succeed.

One of the questions that was asked was: If stock options are not a form of compensation, what are they? At the time they are granted, they are not anything. There is no assurance of them being worth anything. They are a potential liability, and there are some models for determining how to calculate that. They are very complicated. I am not even sure an accountant can handle all of those things. There are computer models now that are designed by engineers that go through this thing to calculate what that worth would be so they could put down some number on their balance sheet. Or they can use the other option, which is to disclose it in a footnote. If I wanted to devote more time to this, I would bring over a chart that shows the disclosure that is in the footnote.

If people read the annual report of the corporation, they know what the potential difference in value of those stock options are.

Then the next two questions are: If compensation is not an expense, then what is it? And if expenses should not go in this calculation, where should they go? Those are two questions built on a false premise. That is why it makes it difficult to answer the last two questions. If you answer the first one, the next two are not answerable.

Like I said, if I were one of those people such as Wayzgo Buffett who wanted to do away with stock options, that is the attack I would take. I would appreciate it if they were a little more honest.

There is another group of people who say all the stock options go to the top employees and consequently they do not want stock options either, but the honest part of that is that they do not want stock options either.

I heard all the references to the newspapers that say expense these things. Of course, I know that all the newspapers have all the technical expertise to make that kind of an evaluation. I say that facetiously, of course.

Senator SARBANES and I have been working on this accounting bill for months, and as we went through the hearings that he did with so much care, very carefully picking the people with the most expertise to be able to explain to us what went wrong in the Enron situation and what could be done in the future to prevent that sort of thing from happening again, it was very educational, and he did a magnificent job.

While we were going through that process, I was keeping notes and he was keeping notes. I think one of the other notes that were kept in the Banking Committee was keeping notes. From those notes, several of us drafted up a bill. I noticed that an editorial in the Washington Post down near the end said something needed to be done, which all of us agree on, and then down at the end it says Senator Enzin’s bill is a sham.

My first reaction was to get ahold of them and say: Can I talk to the accountant that looked at my bill? Well, the newspaper has journalists, not accountants. It might be a small flaw in the most expertise to be able to explain. I have not seen anything in there since I continued to work with Senator SARBANES, and some of the principles I had in mind were some of the same principles that he had, and those were easy to resolve. Some of the other ones that would wound up in the bill and are in this bill that we have before us now. I have not seen any editorial that recognizes their expertise of that evaluation either.

There were comments about Chairman Greenspan, and I did read the speech he gave. As soon as I read the speech he gave, I wanted a little bit more information. So I asked if I could get together with him, and he was nice enough to come to my office. Through the discussion, which, again, was educational, I keep learning things every day. This is such a marvelous institution for education. One of the things he concluded with was to say: Yes, they should be expensed, but Congress should not decide how that is done. He was not in favor of us passing something that said how to handle stock options. I think he concluded with the wisdom or the folly, whichever way you want to consider it.

Now, one may have guessed that I am in opposition to the McCain amendment on expensing stock options. I
think there are some other ways of doing it better. I think there are ways that it could actually be voted on by this group if it were done better. I do not think the one that is presented is the one that is votable, and I assume he will work with us and make some changes.

As we all know, Enron’s executives and employees were issued numerous stock options. It is now clear that months before Enron filed for bankruptcy executives were aware of the true condition of the company. They exercised millions of dollars of options. Enron employees kept in the dark on company finances are left with worthless Enron stock, and retirement savings, while some bad Enron executives absconded with stock options. The financial fraud causing the collapse of Enron had nothing to do with the company’s accounting procedures for stock options.

I appreciate my colleagues’ effort to try to fix the problems posed by Enron, and perhaps WorldCom and Xerox and Global Crossing as we get into those. Congress must react to what happened with Enron, but it must be careful not to overreact. I have a principle with legislation, pass it and wish it strength. It will come back. It is tough to do around here. It was a good, without any amendments. That was here at the time said yes, that is without more difficult accounting. We agreed to fix the problems posed by Enron, but it must be careful not to legislate expensing stock options on company financial statements that occurred a few years ago. At that time, the solution was to give companies the choice of listing the number of stock options issued by a company in a footnote and making it an expense to the company when granted. This would cure the current problem with regard to stock options. The McCain-Levin bill is creating the same problems that we had with Enron. The companies must list these stock options and expense them on the balance sheets, the companies estimate them in a footnote using something called the Black-Scholes model. That is because they don’t know what the future value of the stock will be when the option is actually exercised and sold. That is very important because I have seen a number of different proposals on this, and one of them, unless you expensed it and guess exactly what it was at the time you expensed it, you are not allowed to claim any additional expense. But they don’t realize these things are reconciled so that there is a running value of actually expensed items.

Again, that gets into a lot of the accounting detail that would put people to sleep. I have some fascinating charts that I would love to drag out, but I have already lost most of my audience so I won’t do that. They use that model because they don’t know what the future value of the stock will be when the option is actually exercised and sold. So they attempt to make an educated guess. Their footnote predicts what the expense might be and the diluted earnings per share for the outstanding stock.

Currently, most companies list the outstanding stock options as a note to their financial statements. Unlike Boeing, Microsoft, Winn Dixie, and a few other companies, most companies do not want to list the options as an expense on their financial statement because it creates a perception of a drop in value of the company, even though the stock options have not yet been exercised. In other words, there has been an expense recorded, but the companies believe that if the options are never exercised. Yet under the McCain amendment, companies must list these stock options as an actual expense to their company when granted. This would mean taking the estimated value in a footnote and making it an expense to the company.

A problem with expensing early on, how do you value stock options which have been granted but not exercised or now? I encountered the most difficult current practice of using the Black-Scholes method to value stock options as currently used on footnotes is fatally flawed. Under the McCain amendment, companies are going to have to use this flawed model to make a guess at what the value of the options are to determine an expense to the company.

The tax consequences will also be based on this flawed estimate. But later, when some of the stock options are exercised and the value is different than estimated, this amendment provides no opportunity for a reconciliation of company records or taxes.
That is kind of an accounting principle that there is supposed to be an explanation for how taxes match up with the books of the company. Yes, we do force different kinds of calculations for taxes than we do for the accounting that goes to the stockholders. But the accounting that is required for reconciliation, they are able to show how one number goes to another number. That is a requirement, as well.

Currently, when the estimates are placed in the footnote, they appear as what they are, a best guess at their value, with no effects on the company’s books and no need for reconciliation of records later. Yet an investor can see what outstanding, possible estimated expense might occur to the company.

Another problem with the McCain amendment is it does not provide for a method of reconciliation if the stock options are never exercised. So what appeared as an expense may never happen, yet the value of that stock actually stands up. Ownership confirmed the trend is toward more non-managers receiving stock options. However, the McCain-Levin bill will cause the deduction based on the same amount is $25,000 worth of income to the employees. For example, if the employee owns 10 percent of its 345 large domestic companies, the owners gave options to some portion of their employees. A 2000 survey of Pricewaterhouse-Coopers and the National Association of Securities Dealers reported 44 percent of 345 large domestic companies with stock option plans made grants to all employees, including hourly employees. The San Francisco Chronicle reports that in the technology sector, the average is even higher. Of the top 100 e-commerce companies, 97 percent give options to all their employees.

The San Francisco Chronicle also points out that:

Ten years ago, about a million workers were in a few hundred employee stock programs around the country.

In 2001, that number had grown to 10 millions Americans receiving stock options. The National Center for Employee Ownership confirmed the trend is toward more non-managers receiving stock options. However, the legislation will stop this trend by having the tax system as well. There is plenty of this, but it looks as if we are ready to move on to another decision here so I will pass on that.

If this amendment becomes law, many companies will cut back on giving stock options to rank-and-file employees rather than list those options as an expense, and create a perception of a decrease in the value of a company when options are not exercised but no reconciliation were required.

As a result, the McCain amendment creates a disincentive for companies to issue stock options to those rank-and-file employees. If this amendment becomes law, many companies will cut back on giving stock options to rank-and-file employees rather than list those options as an expense, and create a perception of a decrease in the value of a company when options are not exercised but no reconciliation were required. Meanwhile, the current footnote method shows this estimate to investors as a worst case scenario of what could occur if all the options were exercised but no reconciliation were required.

But, these companies are not going to cease offering CEOs and senior executives this form of compensation—that is deferred compensation. Big companies will continue to issue stock options to attract the best talent to top levels of their companies, because this is the way they can get the most talented people. Big companies are not going to cease offering CEOs and senior executives this form of compensation—that is deferred compensation. Big companies will continue to issue stock options to attract the best talent to top levels of their companies, because this is the way they can get the most talented people. Big companies are not going to cease offering CEOs and senior executives this form of compensation—that is deferred compensation.

Despite what the media and supporters of this amendment want you to believe, stock options are not issued to just executives. In fact, those who claim only a small percentage of stock options are offered to rank-and-file employees are not accountable. For example, Sun Microsystems, which has approximately 40,000 employees, distributed only 9 percent of its stock options to executives in 2000 and 2001. In contrast, distribution of stock options to employees who earn less than $40,000 was whopping 91 percent for both those years.

This is not an isolated example. In 1998, over 66 percent of large companies gave options to some portion of their non-executive workforce. Of this group, 26 percent granted options to all their workers and another 15 percent gave options to at least half of their employees. A 2000 survey of Pricewaterhouse-Coopers and the National Association of Securities Dealers reported 44 percent of 345 large domestic companies with stock option plans made grants to all employees, including hourly employees. The San Francisco Chronicle reports that in the technology sector, the average is even higher. Of the top 100 e-commerce companies, 97 percent give options to all their employees.

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If I have confused anybody, I know that is a lot of complications. But that is the optional part of it. When you are given a stock option, you have the control over when you personally want to take the stock option or not take the stock option.

Then there are some other interesting amendments out there that could deal with stock options and whether lawyers could ever exercise them, or whether they would have to reinvest them—a lot of complications. But even assuming the tax is exercised at the same time, the McCain amendment imposes much more complexity to the current system.

Again, I have some charts that could show how all that complexity comes about, but it looks as if we are ready to move on to another decision here so I will pass on that.

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current accounting methods, rather than passing specific legislation on replacing the current system. We can direct them to look at possibly developing a better pricing model to value stock options than the Black Scholes method. Rather than to provide currently improving disclosure provisions to better inform investors, including using plain English and charts and graphs. We should direct them to create rules that continue to promote ownership of company stock by employees, rather than providing disincentives to companies in granting stock options. Let’s let the entities with expertise study and recommend what will prevent future Enrons. Otherwise, we may create a remedy that is worse than the disease.

As mentioned before, I worked with Senator LIEBERMAN and Senator ALLEN and Senator BOXER and numerous other Senators to come up with an amendment that would give some discretion. It would show them that we do want them to take a look at this, that it is a priority, and that we would like to have a solution as soon as possible, but not one that will destroy the entire market, not one that will require retroactive restatements for all of the companies to bring them up to a specific present point.

There will be companies that will choose to do that, but in the present atmosphere that could be very detrimental to the stock market. I hope we will not try to go with something oversimplified as the McCain amendment is, and that we will take a look at making sure that options are treated properly, as we are trying to do in this bill, with all accounting. We are trying to set up a mechanism—a mechanism, not specific language on accounting—a mechanism for determining proper accounting, and I think the bill before us does a good job of doing that. It sets up oversight for discretion. It will be the first time that we have had centralized any profession. But it will solve some problems, and it needs to be done quickly for the sake of the stock market. I am sure we will get to address this at a later time.

I heard the threat of the Senator from Arizona. I hope in the meantime that his threat will include a little re-write that gives a little bit more latitude and puts the situation in the hands of the people who actually have some expertise on this. I yield the floor.

Mr. LIEBERMAN. Mr. President, I want to talk briefly today about how America got caught in the current quicksand of the corporate marketplace and how we can help dig our economy out of it.

Our economy is in trouble today not because we have a shortage of parts, labor, or ingenuity, but because the American people have a shortage of confidence in the basic mechanics of the marketplace. Every new corporate scandal jostles our markets with the force of a jab or an uppercut. If the punches keep coming and we don’t react, our economy will get even wobblier. It may even get knocked down.

Investors are shaken. They don’t know what’s real anymore. Trust has eroded. The stock exchanges are suffering. These are serious problems that demand a serious response, which is why I strongly support Senator SARBANES’ legislation to reform accounting oversight and strengthen corporate accountability. It is a responsible bill. It is a responsible bill. A vote for it is a vote for a stronger economy in the American economy. And the President’s substantive proposals were late and they were limited. I regret that he still hasn’t committed, and committed forcefully, to the meaningful, systemic reforms in the legislation before the Senate today. This is a responsive bill. It is a responsible bill. A vote for it is a vote for a stronger economy in the American economy. And the President’s failure to speak out in favor of it, in my view, sends the wrong message to our markets.

In the wake of Enron’s collapse, I had hoped self-regulation could heal many of the wounds inflicted on our markets and on our economy. I have called for the markets to toughen listing standards, and for companies to make ethics a front-burner issue, not a footnote. We have made significant progress. The stock exchanges and other business groups have worked to root out conflicts of interest and to demand more independent corporate oversight.

But the new revelations, which seem to come daily, have demonstrated that these problems go far beyond a bad company or two or three. We now have to ask not whether there are more scandals lurking in the fine print, but how many more are there? And we have to ask, what is it about the shape of the system that needs to be corrected to prevent similar debacles from happening again?

The system isn’t broken, but it is strained. And we all now understand that self-regulation, as critical as it is, will not do enough to fix the damage.

The stakes are high. Over the last two decades we have witnessed an explosion in middle-class participation in capital markets of increasing importance to Americans now have a direct stake in stock or mutual funds, usually, through their 401-k plans. Those American investors have discovered, through the painful shock of every new recent revelation, that the basic, traditional ethical values of small businesses, where you respect every dollar, pay back your investors, treat your employees well, and serve your customers honestly, are not always shared in the boardrooms of some large corporations.

Today and tomorrow, the American people deserve every confidence that their government is setting the highest standards of honesty, transparency, and accountability and enforcing those standards without hesitation.

That is why I strongly support Senator SARBANES’ bill. It is a potent prescription for the serious ethical ills that all our economy. The aim here is not to punish those who, when fraud happens; it is to prevent future economic catastrophes, to the degree that we can, and re-instill confidence in the marketplace. I regret that after the collapse of Enron and the pretty parade that has followed of Global Crossings, Tycos, ImClones, and WorldComs, the President still hasn’t awakened to the full scope of the problem or the need for a strong solution like that proposed by Senator SARBANES.

Gene Sperling, former Economic Adviser to President Clinton, put it well. After September 11, we all understood what was necessary to get people back in airports and on airplanes. Cracking down on hijackers with tough new penalties was enough. We knew what was necessary to improve baggage and passenger screening, fortify cabin doors, and make a whole host of other changes that addressed the systemic problems that let the attacks happen in the first place.

The same is true here. If we want Americans to regain confidence in our economy and get back in the market, as they have gotten back in the skies, we need not only get tough on offenders, but also address the structural problems that enable the offenses. That means closing loopholes and rooting out the endemic conflicts of interest that put even decent people in difficult if not untenable situations. Senator SARBANES’ bill would set up a strong, independent board to oversee accountants—a critical step that will give Americans reason to believe their numbers again. The President hasn’t come out clearly in favor of that. The bill would restrict the public’s ability to both consulting and auditing for the same company in most cases, addressing what is a corrosive conflict in the system today. The President hasn’t supported that as a law yet. The bill would also go further than the new NASD or NYSE rules to address the inherent conflicts of interest that currently prevent Wall Street analysts, who make the judgments so many Americans rely upon in making their investment decisions, from being hired and independently scrutinizing the companies they cover. In the hearings of the Senate Governmental Affairs Committee I chair, we discovered that those conflicts are real, deep, and widespread. Unfortunately, the President hasn’t been strong enough or sharp enough on this issue. And the bill would require disclosure within 7 days anytime a corporate executive takes a loan from the company he is working for.

We in Washington cannot and should not pretend to be able to fix all these problems single-handedly, but we have an essential role to play. We must lead.
And at the same time, we must take care not to let this turn into an anti-business crusade. I believe in American business. My father was a small business owner in Stamford, CT. Through hard work he bought a house, sent his kids to school, prepared for retirement, and bettered his community.

You cannot be pro-jobs and anti-business. You cannot be pro-growth and anti-business. You cannot be pro-opportunity and anti-business. Business has created our jobs, our prosperity, and our business will continue to extend more and more opportunities to more and more Americans and people around the world. But not if we let this erosion of confidence, this rust of distrust, keep eating away at our markets.

American values are better than Enron’s values. They’re better than Global Crossing’s values. They’re better than WorldCom’s values. And so is the American economy better and stronger than these companies’ ethical and financial lapses. That’s why this bill will point the way to both better ethics and better economics. It should become law.

Mr. FEINGOLD. Mr. President, I support S. 2000, the Corporate Fraud Accountability, Corporate Financial Restatement, Labor and Accounting Firms Accountability Act of 2002. I also support S. 2088, the Corporate Accounting Reform and Investor Protection Act of 2002, and I commend Senator SARBANES for his efforts to produce this measure. That it is needed is a sad commentary on the state of corporate finance, but it is also a reminder that free markets do not work well without a set of rules and regulations in which the marketplace can be confident. It is also a reminder that if government is to farm out the task of regulating corporate finance, then those entities that are designated to patrol corporate activities must also have the confidence of the marketplace.

The Enron and WorldCom disasters were notable but not isolated. Observers have increased in corporate financial restatements in recent years. In testimony on this point, Robert Litan of the Brookings Institution reports that the number of American corporations whose earnings have been restated has been modestly rising throughout the 1990s, but then took a big jump in 1998 and hit a peak of over 200 in 1999. Many reasons have been offered for this development. Some point to the tying of executive compensation to shareholder value. Others point to the potential conflict of interest that arises when a firm provides both auditing and consulting services to the same firm. Both explanations have some merit.

And I will add to both of those reasons the enactment of a so-called securities reform measure in December of 1995, a law that made it more difficult for stockholders to hold corporations and accounting firms accountable for bad behavior. One newspaper has characterized that law as expanding "a climate that invites the kinds of securities and accounting abuses that investors and employees suffered in Enron’s colossal collapse.”

In reviewing the history of that bill, the Washington Post reported that “accountants at what were then the Big Six firms lobby aggressively for the measure, spending millions of dollars.” The Post also notes that "leaders of Arthur Andersen were so pleased with their efforts they encased the text of the new law in a paperweight and handed it out as a souvenir."

The reforms we consider today are extremely modest, and I look forward to supporting amendments that will further strengthen this bill, including Senator Leahy’s amendment that will strengthen enforcement and sanctions for securities fraud. That amendment passed unanimously out of the Judiciary Committee earlier this year. It creates new criminal laws for altering or shredding documents and provides tougher penalties specifically for securities fraud. It prevents wrongdoers from avoiding those monetary damages by filing for bankruptcy. It provides specific whistleblower protections for employees who provide information to Federal regulators or criminal investigator about corporate wrongdoing. And it increases the statutes of limitation in securities fraud cases, responding to clear evidence that the shorter limits put in place by the 1995 securities reform law have allowed wrongdoers to escape liability. These necessary steps, and I applaud the chairman of the Judiciary Committee for bringing this amendment forward on this bill.

We should also consider other steps, if not on this bill then as part of another vehicle, to close down abusive tax shelters that encourage the kind of creative bookkeeping used by Enron, and to address the standard for allowing certain forms of executive compensation to be deducted from taxes, while remaining hidden from investors.

All of these steps face opposition by interests who are more concerned with their own profits and survival than with the public interest. Unfortunately, these interests have held great sway over the Congress over the last decade, using soft money contributions and lobbying might to smother reform proposals before they could receive a fair hearing and action by the Congress. It is very unfortunate that the measures we are considering today were not enacted then. If they had been in place, thousands of employees might not have lost their jobs and millions of investors might not have lost their life savings.

Let us not forget that the central players in the scandals of the past year are not rogue companies operating at the fringe of American economic life. No, they are some of the biggest companies in the country, and they have been central players in a corrupt campaign finance system that this Congress finally started to address by passing the McCain-Feingold/Shays-Meehan bill a few months ago.

We have all heard of how Enron carried favor in Government. It gave a total of nearly $3.7 million in soft money to the political parties from the 1992 election cycle through June 3 of this year according to Democracy 21. And Arthur Andersen gave $800,000 in soft money contributions during that period. Global Crossing gave just over $3 million to the parties in soft money from the 1998 election cycle to the present. And WorldCom, whose failure has brought us to the point where we will actually pass these long needed reforms, has given over $4 million in soft money, dating back to the 1992 cycle.

Just in this cycle, with all its problems, WorldCom has already made $400,000 in soft money contributions, according to the Center for Responsive Politics. These are enormous sums. They show, frankly, that our political parties are among those who were unjustly enriched by these companies who cheated their shareholders and employees. I understand that some contributions have been returned, but just as in the case of the employees who lost their jobs or the investors who lost their life savings, the damage has been done. These enormous contributions should be a thing of the past starting in the next election cycle. Members of Congress will no longer be allowed to call up the CEOs of Enron, or Arthur Anderson, or Global Crossing or WorldCom, or any other corporation, and ask for enormous contributions for the political parties and then have to come back to this floor and vote on legislation that might affect their activities. At least that is what we intended. But in just the few weeks since the FEC issued its final rule, the Election Commission has undermined the law that we passed after so many years of effort. The new regulations on our soft money ban that are about to be promulgated open enormous new loopholes in the law before it even goes into effect. If we want to remove the stain of soft money from the legislation we pass in this Congress, we cannot allow that to happen.

The sponsors of campaign finance reform intend to invoke the Congressional Review Act to overturn these regulations. That will send the FEC back to the drawing board to do the job of implementing the law right. Doing this is part and parcel of addressing the corporate scandals that have led to our work on the floor today on this important bill. Unless we defend the soft money ban, the influence of unscrupulous corporations on the Congress will continue, and we will find ourselves again in the situation of trying to expand an economy to prevent further corporate and accounting scandals or other scandals before they happened.
According to Consumers Union, just over half of all U.S. households are investing in the stock market, many through their retirement savings. If the public is to have confidence in the financial markets, they must have a comprehensive accounting system that ensures the financial health of the firms in which they invest. This bill is a good starting place, and I look forward to supporting it. And I look forward to maintaining public confidence in the Bipartisan Campaign Reform Act of 2002 that overturned the FEC’s loophole-ridden regulations before they take effect.

Mr. KYL. Mr. President, as Congress debates S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002, it is important to keep in mind certain facts: The United States of America is the most successful country in the world. No other country outworks, outproduces, or economically outperforms the United States. Americans have much to be proud of due to the fact that our businesses, the entrepreneurial spirit of our citizens, and the willingness of both to take risks. For hundreds of years, people from every corner of the globe have chosen to come to our shores, pursue what has become known to the world as the American Dream. The American Dream can and should be available to all Americans who, with diligence, determination, and a sound moral compass, choose to pursue it. Unquestionably, our government has an important role to play in ensuring its viability. By the passage and enforcement of laws to protect Americans seeking to achieve success, lawmakers reaffirm that America’s prosperity rests on the rule of law, on the existence of safeguards, checks, and balances to ensure that all compete fairly in the marketplace. These protections must be transparent and easy to understand. This is not only so that businesses and individuals can readily determine what distinguishes appropriate from inappropriate action, but so that all may have faith in the governmental bodies tasked with enforcing the rules.

The implosion of Enron, Global Crossing, WorldCom, and other public companies has caused widespread concern about the soundness of American businesses. Public confidence in corporate practices has been undermined, and some have begun to lose faith about the accuracy of corporate audits and the integrity of auditors. Many Americans have become worried that neither internal corporate safeguards nor the government’s financial oversight mechanisms are functioning properly. I share these concerns and I am glad that the Senate is seeking to address them. All Americans have a stake in a healthy business climate, and we know that health depends on having an ethical business climate. While the past two decades have unleashed a tidal wave of entrepreneurship and successful business growth, we have also witnessed, most notably throughout the late 1990’s, an “anything goes” relativism that has increasingly penetrated our corporate business and political culture.

We’ve always taught our children a moral principle, a golden rule, by Adam Smith that “The measure of a man’s real character is what he would do if he knew he would never be found out.” We do so because, as parents, we know that we cannot supervise our children forever. When they face the fact that they will inevitably, a choice between the easy road of cheating or the tough road of following the rules, we want them to choose right, not wrong.

Sadly, this lesson seems to have been forgotten lately. In the haze of morally gray areas, corporate executives have come right up against the limits of what is acceptable behavior, and in several cases, have gone beyond it. What’s worse, these companies’ boards of directors have stood by in the face of wrongdoing, protecting their executives from inappropriate action, but so that the Senate is seeking to address what do if he knew he would never be found out.” We do so because, as parents, we know that we cannot supervise our children forever. When they face the fact that they will inevitably, a choice between the easy road of cheating or the tough road of following the rules, we want them to choose right, not wrong.

I am very troubled by the inability of the markets to see through the phony numbers being generated by these en- terprises. As a result, average investors no longer enjoy the protections put in place to ensure accountability and transparency. I agree with President Bush, who said that “to properly inform shareholders and the investing public, we must adopt better standards for disclosure and accounting practices for all of corporate America.”

Yesterday, President Bush outlined an aggressive plan to rejuvenate the mechanisms that ensure corporate responsibility. This plan will expose and punish acts of corruption, make corporate accounting standards more transparent, and protect small investors and pension holders. The President has urged Congress to adopt tough new enforcement provisions in order to punish those who refuse to play by the rules and who choose to undermine the integrity of our financial markets.

The House of Representatives has already passed legislation addressing this slippage in corporate responsibility, while also permitting enough legal and regulatory flexibility to tackle future problems. Rather than seeking to provide a statutory answer to every transgression, the House bill recognizes that this is a job for experts and gives the Securities and Exchange Commission the authority necessary to prevent future abuses.

By attempting to legislate detailed accounting standards, the bill before us puts Congress in the position of micro-managing details that we know less about than SEC experts. So, the legislation before the Senate represents a less workable approach than the President’s plan. Although I support its goals, particularly the need to improve the quality of independent audits and financial reporting and ensure mean-
money. I would remind my colleagues that it is thoroughly disingenuous to rise today to demand clean accounting practices by the private sector, while failing to ensure even basic general accounting standards for the federal government.

In closing, consider the thoughts of George Will on capitalism and ethics. Mr. Will wrote that a properly functioning free-market system is “a complex creation of laws and mores that guarantee, among much else, transparency in a sufficient stream of a torrent, really, of reliable information about the condition and conduct of corporations. By casting a cool eye on Enron’s debris and those who made it, government can strengthen an economic system that depends on it.”

I am confident that, despite these recent abuses of the public’s trust, our economy and our system remain fundamentally sound and strong. The vast majority of businesspeople respect legal norms and comply by them. We will make our free enterprise system better for them, and for all Americans, by penalizing those who did wrong and repairing creaky enforcement mechanisms. The President has acted. The House has acted. Now it is time for the Senate to act, to return trust, accountability and transparency to our financial institutions.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Nevada.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that there be a period for morning business with Senators allowed to speak therein for 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

DROUGHT

Mr. DOMENICI. Mr. President, I rise today to discuss the effects of a natural disaster that lingers across much of the west, drought. There is not a segment of the New Mexico population that will not be touched, in some form or fashion, by drought this year.

People in other parts of the country have turned on their television sets over the past few weeks and have seen the blazes of catastrophic wildfires that are again devastating the western United States. This may be the only effect of the drought that many are aware of. Let me tell you, the devastation is even more profound.

Ranchers are being forced to sell off livestock because they can’t find enough water for them and can’t afford the significant feed costs. Other agricultural businesses are being forced to shut their doors because the agriculture sector as a whole is hurting.

Most of the National Forests in New Mexico are closed to the public. This has added to a decrease in tourism. Let me mention a couple of specific examples. First of all, there is a small rail-

road, the historic Cumbres and Toltec Railroad, that takes people through a very beautiful part of the State. The railroad contributes to the tourism and economic stability of a very poor part of the State. That railroad has had to close because it runs through National Forest system. The fear that the railroad might spark and start a wildfire is a threat to imminent risk. A second example is the river rafting operations that have been forced to cease operations because of the drought conditions and lack of river flows.

Municipal and private wells are running dry. In the City of Santa Fe, emergency wells for municipal water use are needed because Santa Fe’s water storage is at 18 percent capacity, the spring run off is only at 2 percent, and current wells are pumping 24 hours a day. The City of Santa Fe is at a Stage 3 water shortage emergency, which allows outdoor watering once a week, but the City Council is considering going to Stage 4, which would eliminate all outdoor watering. To put this in perspective, the last substantial rain for the area was in late January.

A recent article in the New York Times describes the dire situation. It talks about how gardening in a desert is challenging, especially during a drought and at a time of mandatory water restrictions. The article went on to talk about people spray painting plastic flowers and artificial turf, while also using freeze dried plants to beautify porches and other areas.

Santa Fe is only one of the numerous municipalities that have imposed restrictions on water use. The article also notes that these restrictions are enforced by “water police” and that violators face steep fines ranging from $20 for a first offense to $200 for a fourth offense and stay at $200 for each repeat violation.

A second article appearing in the Albuquerque Journal, referenced a “drought reduction” cattle sale. The sale took place last week on the edge of the Navajo reservation. While most livestock sales generally take place on the reservation during September and October, this year emergency sales are being held almost every weekend. Hundreds of cattle, horses, and sheep have already died as a result of the severe drought conditions.

The article goes on to describe the severity of the conditions. “Stock ponds have gone dry, fish have died in evaporating lakes, and grass has disappeared. Sand blows across reservation roads, and the stiff bodies of dead cattle litter the land.”

The seriousness of the water situation in New Mexico becomes more acute every single day. I reiterate that every single New Mexican will feel the impact of this drought in one way or another—whether they are selling off the essence of their livelihood—livestock, or losing daily revenues in other small business, whether they are actually having to refrain from watering their own lawns and washing their cars to looking for alternative recreational opportunities this summer, the drought and its devastation is very real.

There is a need out west and I stand ready to do what I can. It will be a monumental and expensive challenge, but one we cannot avoid. I ask unanimous consent that the two articles referenced in my remarks be printed in the RECORD.

[From the New York Times, July 8, 2002]

In Santa Fe, it’s time to paint the plants.

Gardening in a desert is challenging. Gardening in a desert in a drought is tough. Gardening in a desert in a drought at a time of mandatory water restrictions is ridiculous.

It’s enough to make a hard-core gardener break out the spray paint and feather dusters. Why? To brighten the artificial turf and plastic flowers, of course, and to keep the crows off the freeze-dried evergreens.

“I’m not a horticulturist,” said Kay Hendricks, a 70-year-old interior designer who cheerfully pointed out a now-dead wisteria vine as she stuffed a plastic spray paint can into a pot of freshly painted silk red flowers. “A little red paint will make any flower a geranium.”

In a whirlwind tour of her house, Ms. Hendricks showed off a bouquet of what may have once been silk purple zinnias, now painted red to match an American flag hanging in her garage; a potted four-foot-tall plastic cactus with fake thorns; and English ivy with fake dewdrops draped from another pot.

With drought gripping several Western states this summer, Santa Fe is one of a number of municipalities that have instituted mandatory restrictions on lawn watering, car washing and other uses of water. The restrictions are enforced by “water police,” who can impose steep fines and even decrease water flows to scofflaws’ homes. Phone lines have been set up so people can report wasteful neighbors to city officials.

Fines for illegal watering here start at $20 and go up to $200 after the fourth offense, and then stay at $200 for each repeated violation.

“There is a guilt to watering things,” said Ms. Thomas, manager of the American Country Collection furniture store in downtown Santa Fe. She used to plant colorful annuals in pots outside her store each spring, but now she has 18 freeze-dried miniature evergreens instead.

“They don’t have to be watered and we can paint them if they lose their color,” she said.

Ms. Thomas said her parents liked the freeze-dried trees so much that they bought some for their own patio.

The city is at a Stage 3 water shortage emergency, which allows watering once a week, but the City Council is considering going to Stage 4, which would eliminate all outdoor watering. Reservoirs that the city relies on for at 23 percent of normal capacity, and the last substantial rain was in late January, said Chandra Marsh, a water conservation educator and compliance specialist with the City of Santa Fe Water Department.

Not every plant here is fake or dead. Established low-water perennials are surviving, and hollyhocks and lilacs are blooming here and there. But, Ms. Marsh said, it is difficult to establish many plants without regular watering.

It seems as if everyone in this town is either adding a few silk and plastic plants to their yards, or knows someone who is doing...
so while letting the grass die in the baking dry heat.

Mary Branham, 71, has switched from pots with nearly 200 red geraniums to all silk and plastic plants and flowers this year. “It seemed irresponsible even when we can water once a week,” she said. Ms. Branham’s terra cotta pots now have blue hydrangeas, ornamental grapes, marigolds and pink and purple lilacs “planted” in the soil.

She said she now dusts her flowers twice a week.

[From the Albuquerque Journal, July 7, 2002]

IT’S LIKE THE SAHARA
(By Leslie Liniticum)

Life-draining drought drives ranchers on Navajo reservation to sell off gaunt livestock.

About 200 people filled the stands of the Naschitti Livestock Association arena on the eastern edge of the Navajo reservation last week, waiting for the start of what was being billed as a “drought reduction” cattle sale.

Livestock auctions usually take place on the reservation in September and October, when sheep and cattle are fat. But this is a year when the reservation is baking in one of the worst droughts anyone can remember, and hundreds of cattle, horses and sheep have already died. This year, emergency sales have been cropping up almost weekly.

In a place where harmony is prized and people live close to the land, hot afternoon winds carry fear and uneasiness as the landscape becomes ever drier and prayers for rainfall go unanswered. Stock ponds have gone dry, fish have died in evaporating lakes, and grass has disappeared. Sand blows across reservation roads, and the stiff bodies of dead cattle litter the land.

“It’s bad, really bad,” said John Blueeyes, director of the tribe’s agriculture department. “Mother Nature’s not too nice to us lately.”

Sagebrush turns black.

Livestock are not the only victims of the lingering drought.

Last week an elk cow wandered into The Gap, a community on the edge of the Grand Canyon, desperate for water.

She was a familiar and sought relief in a sewage lagoon, where she died and lay floating three days later.

Many Farms Lake on the Arizona side of the reservation spreads across about 1,500 acres, shimmering in the summer sun and inviting fishermen to try their luck catching bass and catfish.

With no water flowing in the creeks and washes that feed it, the lake has gone completely dry. It is now a 2-square-mile, crackly graveyard for tens of thousands of fish.

At the base of Gray Mountain just east of the Grand Canyon, usually hardy sagebrush has turned black.

Elsewhere, sand blows across highways in a ripping reminder that rain is a distant memory. The last rain most people can remember was in the spring; the last snow. This year, passenger cars had no trouble slipping across the highway.

“I’m like the Sahara,” Damon said. “It’s just been windy, hot and dry.”

Damon is a lifelong resident of the Navajo reservation and is accustomed to huge winter snows in the mountains that hug the New Mexico-Arizona border. Usually, a three-feet snowpack is needed to make it through the snow. This year, passenger cars had no trouble.

“Almost no snow. No rain whatsoever. It’s bad.”

Damon said, “Hardship bargains.”

Elderly women in velvetene blouses, ranchers in Wranglers and toddlers in pint-sized straw hats helped to fill the stands during a 100-degree afternoon at the livestock auction while a handful of Anglo ranchers from out of state lined the top row.

The Navajos, out of water and feed, had come to sell.

The cattlemen, fortunate to have rain and pasture grass in Nebraska and Louisiana, were looking for some hardship bargains.

First, the invocation in Dine, the native language of the Navajo: “Please give us rain. Please give us moisture. Let it be like it used to be grass green and high and rain every day.”

As the auction rolled on under a sizzling sun, stunted calves and skinny cows were paraded in and sold.

Some were to be fattened up in greener pastures; others were bound directly for the slaughterhouse. Prices were moderate and, considering that the cost of hay to continue feeding the cows hovers between $6 and $11 a bale on the reservation the auction satisfied both the buyers and the sellers.

The Becenti family from Naschitti had brought 30 calves and cows to the auction.

Three weeks ago they sold another group of 30 cattle and sheep at an auction in Aztec. Ilene Becenti is reducing her herds by about 50 percent as money from the sales and hoping to buy more animals once rains come.

“Like the rest of the animals on sale at Naschitti, Becent’s animals are healthy: they are just much lighter than they should be at this time, and it is costing more to feed them as hay prices rise.”

“There’s no grass. It’s completely dry,” said Patricia Arviso, Becenti’s niece and one of the many family members who look after the animals.

“When I was growing up,” Arviso said, “it never looked like this.”

Becenti is not in the ranching business to make money, he said, but rather to consider only economics when she made the decision to sell.

“There’s no rain, no grass. We don’t want these animals in the winter,” she said. She will not, under the advice of some of the tribe’s range management specialists, sell all of her animals and wait out the duration of this drought with no livestock.

“It makes you feel good if you have livestock around your house. It’s how we were raised,” Becenti said. “If you look outside your house and you don’t see cows and sheep and goats and horses, it doesn’t feel right. It’s life to us.”

Too many animals.

About 700 cattle and horses were sold at Naschitti, less than one-fifth of what the tribe’s range management specialists and tribal president had been hoping for.

“We want people to sell,” said Blueeyes, of the tribe’s agriculture department.

Rather than use hay to feed cows that are old, sick or not reproducing, the agriculture department wants owners to thin their herds dramatically, keeping only young and healthy animals.

The drought has brought into sharper focus an issue that has troubled natural resource managers for a century: The Navajo reservation, with so much land and so little vegetation, is being eaten away by too many animals.

The reservation is immense some 25,000 square miles spread over southwestern New Mexico, northeastern Arizona and southeastern Utah. Range surveys have found large portions where overgrazing and drought have combined to kill grass. Without grass anchoring the soil, it blows away.

As early as 1930, a federal survey described the Navajo range as “deteriorating rather steadily and more rapidly each year.” In 1933, tribal lawmakers approved a livestock reduction plan that, carried out over one traumatic decade, reduced the livestock on Navajo lands from 800,000 head to about 460,000.

Estimates of the number of sheep, cattle, goats and horses on the reservation today vary between 100,000 and 200,000.

They have symbolism that goes beyond their ability to provide meat and transportation. Sheep and goats are an integral part of family and ceremonial life; cattle are vital to the Indian cowboy tradition; and Navajo elders believe horses bring rain.

Last week Navajo President Kelsey Bagaye issued a statement to Navajos, imploring them to sell some of their animals.

“We need to help our Mother Earth recover so that it may yield and sustain green pasture again in the days to come,” he said.

“Owning livestock,” he said, “is more a privilege and gift than a right.”

Grazing reforms have been suggested for years and never enacted. Blueeyes expects Navajos will haul water and buy hay for their animals and wait for rain to make things better, but will not be open to discussions of limiting their herds so the land can heal.

“It is the Navajo sacred cow,” said Blueeyes. “Nobody wants to talk about it.”

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred September 19, 2000 in Cambridge, MA. A Muslim student, who was wearing a prayer cap, was returning to his dorm from Islamic prayer when two white men with shaved heads attacked him. The men grabbed the student from behind and punched and kicked him. One of the perpetrators used a racial epithet during the beating. The victim required medical attention and received stitches for a wound to his head.

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 Act of 2001 is now a symbol that can be understood in the context of passage of this legislation and changing current law, we can change hearts and minds as well.
CONGRESSIONAL RECORD — SENATE
S6645

HONORING THE COMPANY OF FIFERS AND DRUMMERS

Mr. DODD. Madam President, I rise today to pay tribute to the Lieuten-
ant Colonel, LTC, Timothy A. "Tim" Jones as he assumes command of
the 9th Battalion, 101st Aviation Regi-
ment, 101st Airborne Division, at Fort Campbell, KY. This well
deserved honor is the latest achieve-
ment in a long and distinguished Army career that started with Tim's grada-
tuation from the U.S. Military Academy at West Point, NY, after
being commissioned as a Second Lieu-
tenant, 2LT, in the brand new branch of Aviation, Tim returned to his home
state of Alabama to complete rotary
wing flight training at Fort Rucker. He
then served in numerous positions in-
cluding Company Commander with the
7th Infantry Division, Light, at Fort
Ord, CA. His service at Fort. Ord was
highlighted by his heroic actions in
Panama during Operation Just Cause.
He then served with the elite 160th Spe-
cial Operations Aviation Regiment,
also based at Ft. Campbell, KY. Only
the "best of the best" in Army Avia-
tion are invited to serve with the 160th,
the "Nightstalkers." Most recently,
Tim completed an overseas assignment
in Korea, and now returns to the
United States to provide the leadership
and experience desperately needed by
combat units such as the 9th Battalion.
Please join me in congratulating the
Army's newest battalion commander,
LTC Tim Jones, as well as his family,
including wife Theresa, daughter
Megan, and sons John and Daniel on
this latest achievement in a long and
distinguished career in Army Avia-
tion.

TRIBUTE TO DR. ALBERT SOLNIT

Mr. LEIBSHIRE. Madam President, it is with sadness that I come to the
today to note the untimely pass-
ing of a great man whose life and work
in Connecticut have made my State,
and our country, a better place, par-
icularly for our children.

Dr. Albert Solnit, Chair of the Yale Child Study Center from 1966 to 1983
and Commissioner of Mental Health
and Addiction Services for the State of
Connecticut from 1991 to 2000, died
tragically and suddenly on June 21, as
a result of injuries sustained in a car
accident earlier that day. This loss has
compounded the mourning of the men
and women of the Yale Child Study Center, who lost another former direc-
tor in Donald Cohen last October.

Dr. Solnit spent an entire lifetime
surfing his vast range of knowledge and figuring out
how best to apply it to touch the lives
of others. He was always mentoring his
colleagues. He was always nurturing
children. It is with sorrow that I mourn
Dr. Al Solnit's passing. It is with far
greater pride, respect, and love that I
pay tribute today to the life of inspira-
tion that Dr. Al Solnit gave us all.
I extend my deepest condolences to
his colleagues at the Child Study Cen-
ter, to his wife Martha, and to his chil-
dren David, Ruth, Ben, and Aaron—and
t heir families.

And I ask that the following obit-
uary, written by Dean David Kessler of
the Yale School of Medicine, be printed in
the Record. Dr. Solnit's life, a model to which we might all as-
spire, is remembered forever.

The obituary follows:

DEAR FACULTY, It is with great sadness that I write to inform you of yet another
depth and tragic loss of a member of the fac-
ulty and senior leadership of the Yale Child
Study Center and Yale School of Medicine.
Dr. Albert J. Solnit died on Friday evening,
June 21, as a result of injuries he sustained in
an automobile accident earlier that day.
His wife, Martha, was also involved in
the accident and is in stable condition in the
intensive care unit of Wave Hill Hospital.

Dr. Solnit was chair of the Child Study Center from 1966 to 1983 and Commissioner of

CONGRATULATIONS TO LIEUTENANT COLONEL TIM JONES, BATT-
ALION COMMANDER, U.S. ARMY

Mr. MCCONNELL. Madam President, I rise before his colleagues. He would work late
into the evening. He didn't have to;
after all, he was the boss. But he did,
because he had a tireless work ethic
and a clear vision of how his effort
could better the world.

Even if I had an hour or two here
out of the RECORD, so that this man
could better the world.

This man was always taking his vast
range of knowledge and figuring out
how best to apply it to touch the lives
of others. He was always mentoring his
colleagues. He was always nurturing
children. It is with sorrow that I mourn
Dr. Al Solnit's passing. It is with far
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the accident and is in stable condition in the
intensive care unit of Wave Hill Hospital.
Mental Health and Addiction Services for the State of Connecticut from 1991 to 2000. He was also the Sterling Professor Emeritus of Pediatrics and Psychiatry in the Child Study Center of Yale University. In 1970, he was the middle of three Sterling professors who led the Center. The most recent was Donald J. Cohen who succeeded Dr. Solnit as chairman of the Center in 1983, and who died last October.

Al arrived at Yale in 1948 as a psychiatric resident and became the first training in child psychiatry in the Child Study Center. He was born in 1919 and grew up in Los Angeles, California, attended the University of California and San Francisco, and received his medical degree in 1948. After pediatric training in Long Island College Hospital, he entered the U.S. Army and served during his two-year commitment. He joined the faculty of the Child Study Center in 1952 and became a full professor in 1964. Like his predecessor, Al came to his leadership position at the Child Study Center with a broad background that also included a masters degree in anatomy and a year as a resident in communicable diseases and a year begun psychoanalytic training in the New York Psychoanalytic Institute from which he graduated in 1955.

Al’s name at the Center was unfused with his distinctive energy and broad vision, he was a man of remarkable stamina, arriving at Center long before his colleagues and often well into the evening, a characteristic that was enduring from his very first years at Yale through the day before this death. Long concerned for the needs for poor and underprivileged children, he had been working as consultant to various school districts and many child-serving such social agencies in the New Haven community. In the late 60s he worked with the state government of Connecticut to develop new department of juvenile delinquency, the Department of Children and Youth Services, and to build a separate state psychiatric hospital for children.

In his effort to bring the Center into the community, Al built bridges throughout the university and the city of New Haven. Among those initiatives was his collaborative work with the law school. Trained as a child and adult psychoanalyst he cared deeply, and was deeply involved in the world of the foster care system, or complicated custody situations. With his close colleagues, Anna Freud and Joseph Goldstein, he set the standard for teaching, collaborative interface between the legal system and child development experts on behalf of children.

His books, In the Best Interests of the Child and Beyond the Best Interests of the Child, are recognized classics in the field of child mental health. Throughout his career—even up to his death—he was regularly consulting with colleagues and trainees about how to think about complex questions of adoption, custody, and child placement. His perceptive and thought-provoking texts have been a continuous source for learning and inspiration for generations of child psychiatrists.

Through an eminence professor, Al Solnit was by no means retired. He was mentoring, guiding, and caring every hour of the day. He was one of the leaders of the Child Study Center’s leadership and carried the wisdom afforded by living the history of a place. His untimely, unexpected death cuts short a continuing vigorous life with mentors and mentees. He never ceased to be their physician, always available and sensitive to their needs.

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MESSAGE FROM THE HOUSE

At 12:50 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3130. An act to provide for increasing the technically trained workforce in the United States; to the Committee on Education, Labor, and the Humanities.

H.R. 481. An act to amend title 49, United States Code, relating to airport project streamlining, and for other purposes.

H.R. 479. An act to provide for estimates and reports of improper payments by Federal agencies.

H.R. 5083. An act to amend the Temporary Emergency Wildfire Suppression Act to facilitate the ability of the Secretary of the Interior and the Secretary of Agriculture to enter into reciprocal agreements with foreign countries for the sharing of personnel to fight wildfires.

H.R. 5063. An act to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence.

MESSAGES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3130. An act to provide for increasing the technically trained workforce in the United States; to the Committee on Education, Labor, and the Humanities.

H.R. 481. An act to amend title 49, United States Code, relating to airport project streamlining, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 4787. To provide for estimates and reports of improper payments by Federal agencies; to the Committee on Governmental Affairs.

H.R. 5083. An act to amend the Temporary Emergency Wildfire Suppression Act to facilitate the ability of the Secretary of the Interior and the Secretary of Agriculture to enter into reciprocal agreements with foreign countries for the sharing of personnel to fight wildfires.

H.R. 5063. An act to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence.

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 treaties and sundry nominations which were referred to the appropriate committees.

(Messages received today are printed at the end of the Senate proceedings.)
H.R. 5017. An act to amend the Temporary Emergency Wildfire Suppression Act to facilitate the ability of the Secretary of the Interior and the Secretary of Agriculture to enter into reciprocal agreements with foreign countries for the sharing of personnel to fight wildfires.

ENROLLED BILL PRESENTED
The Secretary of the Senate reported that on today, July 11, 2002, she had presented to the President of the United States the following enrolled bill:

S. 3594. 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.

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-7802. A communication from the Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a violation of the Antideficiency Act; to the Committee on Appropriations.

EC-7803. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of a nomination confirmed for the position of Chair, Foreign Claims Settlement Commission, Department of Justice, received on June 26, 2002; to the Committee on the Judiciary.

EC-7804. A communication from the Director of Operations and Finance, American Battle Monument Commission, transmitting, pursuant to law, the Commission’s report of its administration of the Freedom of Information Act for Fiscal Year 2001; to the Committee on the Judiciary.

EC-7805. A communication from the Secretary, Forestry, Department of Agriculture, transmitting, pursuant to law, the Annual Report entitled “Outer Continental Shelf Lease Sales: Evaluation of Bidding Results” for Fiscal Year 2001; to the Committee on Energy and Natural Resources.

EC-7806. A communication from the Acting Director, Office of Regulatory Law, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled “Information Collection Needed in VA’s Flight-Training Program” (RIN 0900–J25) received on June 26, 2002; to the Committee on Veterans’ Affairs.

EC-7807. A communication from the Manager, Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled “National Flood Insurance Program (NFIP); Increased Rates for Flood Coverage” (RIN3608–AB15) received on June 26, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-7808. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled “National Flood Insurance Program (NFIP); Increased Rates for Flood Coverage” (RIN3608–AD27) received on June 26, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-7809. A communication from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Requirement that Brokers or Dealers in Securities Report Suspicious Transactions” (RIN1506–AA21) received on July 2, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-7810. A communication from the Deputy Secretary of Defense, transmitting, the report of a remand; to the Committee on Armed Services.

EC-7811. A communication from the Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled “Research and Development Streamlined Contracting Procedures” (RIN1502–AC41) received on June 26, 2002; to the Committee on Armed Services.

EC-7812. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled “Amendment to the List of Proscribed Destinations” (22 CFR Part 126) received on June 26, 2002; to the Committee on Foreign Relations.

EC-7813. A communication from the Assistant Secretary for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC-7814. A communication from the Assistant Secretary for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC-7815. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Nectarines Grown in California; Decreased Assessment Rate” (Doc. No. FV02–916–F2FR) received on June 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7816. A communication from the Administrator, Fruit and Vegetable Programs, Research and Promotion Branch, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Raisins Produced from Grapes Grown in California; Additional Opportunity for Participation in 2002 Raisin Diversion Program” (Doc. No. FV02–989–S5FR) received on June 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7817. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Raisins Produced from Grapes Grown in California; Additional Opportunity for Participation in 2002 Raisin Diversion Program” (Doc. No. FV02–989–S5FR) received on June 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7818. A communication from the Executive Vice President, Commodity Credit Corporation, Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Dairy Recourse Loan Program” (RIN8599–AF41) received on June 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7819. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Vidalia Onions Grown in Georgia; Revision of the Export Certification Program” (Doc. No. FV02–955–1 F1FR) received on June 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7820. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant General Counsel (Treasury) Chief Counsel, IRS, received on June 26, 2002; to the Committee on Finance.

EC-7821. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a discretion or a nomination for the position of Chief Financial Officer, received on June 26, 2002; to the Committee on Finance.

EC-7822. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a nomination confirmed for the position of Chief Financial Officer, received on June 26, 2002; to the Committee on Finance.

EC-7823. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of the discretion or a nomination confirmed for the position of Assistant Secretary (Management), received on June 26, 2002; to the Committee on Finance.

EC-7824. A communication from the Chief of the Regulations Division, Bureau of Alcohol, Tobacco and Firearms, Treasury Department, transmitting, pursuant to law, the report of a rule entitled “Elimination of Application to Remove Tobacco Products from Medicaid Patients’ Prior Approval Lists” (RIN15152–AC32) received on June 26, 2002; to the Committee on Finance.

EC-7825. A communication from the Chair, Medicare Payment Advisory Commission, transmitting, pursuant to law, a report regarding Medicare Beneficiaries’ Access to Hospice; to the Committee on Finance.

EC-7826. 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 “Health Reimbursement Arrangements” (Rev. Rul. 2002–41) received on June 26, 2002; to the Committee on Finance.

EC-7827. 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 “Reimbursement of Defined Contribution Plans” (Rev. Rul. 2002–45) received on June 26, 2002; to the Committee on Finance.

EC-7828. 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 “Health Reimbursement Arrangements” (Notice 2002–45) received on June 26, 2002; to the Committee on Finance.

EC-7829. 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 “Prohibited Transactions Excise Tax Computation” (Rev. Rul. 2002–43) received on June 26, 2002; to the Committee on Finance.

EC-7830. 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 “New York Liberty Zone Questions and Answers” (Notice 2002–42) received on June 26, 2002; to the Committee on Finance.

EC-7831. 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 “Application of IRC §6647(a) to Transfers Made After July 2001” (Rev. Rul. 2002–40) received on June 26, 2002; to the Committee on Finance.

EC-7832. A communication from the Chair of the Regulations Division, Bureau of Alcohol, Tobacco and Firearms, Treasury Department, transmitting, pursuant to law, the report of a rule entitled “Applicability of IRC §6647(a) to Transfers Made After July 2001” (Rev. Rul. 2002–40) received on June 26, 2002; to the Committee on Finance.
entitled ‘Application of Employment Taxes to Statutory Stock Options’ (Notice 2002-47) received on June 26, 2002; to the Committee on Finance.

EC–7834. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of rule entitled ‘Update of Rev. Proc. 2001–17—Employee Plans Compliance Resolution System’ (Rev. Proc. 2002–47) received on June 26, 2002; to the Committee on Finance.

EC–7834. A communication from the Regulations Coordinator, Center for Medicare Management, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of rule entitled ‘Medicare Program; Criteria for Submitting Supplements for Underground Coal Mines High-Voltage Longwall Equipment Stand-Driven Mine Equipment and Accessories and

EC–7845. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the monthly report on the licensing activities and regulatory duties of the Commission; to the Committee on Environment and Public Works.

EC–7846. A communication from the District of Columbia Auditor, transmitting, a report entitled ‘City Charges DCPS Nearly $1 Million Analysis Ut Uterus Aviation Aid Should Have Been Charged To Other Entities’; to the Committee on Governmental Affairs.


EC–7848. 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 Model AE3008C1 and AE3008C2 Series Turbofan Engines’ ((RIN2120–AA64)(2002–0274)) received on June 18, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7849. 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 Model AE3008C1 and AE3008C2 Series Turbofan Engines’ ((RIN2120–AA64)(2002–0274)) received on June 18, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7850. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ‘Airworthiness Directives: Israel Aircraft Industries, Ltd. Model Galaxy Airplanes and Model Gulfstream 200 Series Airplanes’ ((RIN2120–AA64)(2002–0275)) received on June 18, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7851. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ‘Airworthiness Directives: Fokker Model F.28 Series Airplanes’ ((RIN2120–AA64)(2002–0271)) received on June 18, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7852. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the report of a rule entitled ‘Fisheries Off West Coast States and in the Western Pacific: Western Pelagic Pelagic Fisheries; Hawaii-Based Longline Long Range and Seasonal Areas’ Closure, and Sea Turtle and Sea Turtles’ ((RIN2060–AP24) received on June 26, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7853. A communication from the Chairman of the National Transportation Safety Board, transmitting, a draft of proposed legislation entitled ‘National Transportation Safety Board Amendments Act of 2002’; to the Committee on Commerce, Science, and Transportation.

EC–7854. 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 ‘Final Rule to Implement Amendment 3 to the Fishery Management Plan for the Golden Crab Fishery of the South Atlantic’ ((RIN0648–A023) received on June 26, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7855. 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 ‘Notice of Agency Action; Withdrawal of Proposed Rule’ received on June 26, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7856. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ‘Fisheries of the Exclusive Economic Zone Off Alaska—Closes A Season Inshore Component Pacific Cod in the Western Regulatory Area, Gulf of Alaskan Gyre’ received on June 26, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7857. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ‘Fisheries of the Northeastern United States; Atlantic Her- rings; Closure of the Fishery for Atlantic Herring for Management Area 1A’ ((DDI21492A) received on June 26, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7858. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ‘Fisheries of the Northeastern United States; Atlantic Her- rings; Closure of the Fishery for Atlantic Herring for Management Area 1A’ ((DDI21492A) received on June 26, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7859. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ‘Fisheries Off West Coast States and in the Western Pacific: Western Pelagic Pelagic Fisheries; Hawaii-Based Longline Long Range and Seasonal Areas’ Closure, and Sea Turtle and Sea Turtles’ ((RIN2060–AP24) received on June 26, 2002; to the Committee on Commerce, Science, and Transportation.
REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DURBIN, from the Committee on Appropriations, without amendment:
S. 2726: An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107-209).

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment:
S. 812: A bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY for the Committee on the Judiciary:
John M. Rogers, of Kentucky, to be United States Circuit Judge for the Sixth Circuit.
Marcos D. Jimenez, of Florida, to be United States Attorney for the Southern District of Florida for the term of four years.
Miriam F. Miquelon, of Illinois, to be United States Attorney for the Southern District of Illinois.
James Robert Dougan, of Michigan, to be United States Marshal for the Western District of Michigan for the term of four years.
George Brefni Walsh, of Virginia, to be United States Marshal for the District of Columbia for the term of four years.

By Mr. KENNEDY for the Committee on Health, Education, Labor, and Pensions:
*Peter J. Hurtgen, of Maryland, to be United States Attorney for the Southern District of Georgia.*
*Naomi Shihab Nye, of Texas, to be a Member of the National Council on the Arts.*
*Johanna Drexler, of New York, to be the Chair of the National Council on Disability.*

*Nomination was reported with recommendation that it be confirmed subject to the nominee’s commitment to respond to requests to appear and testify before any duly constituted committee of the Senate. (Nominations without an asterisk were reported with the recommendation that they be confirmed.)*

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself, Mr. REED, Mr. SCHUMER, Mr. CARPER, Ms. STABENOW, Mr. CORZINE, and Mr. AKAKA):
S. 2721: A bill to improve the voucher rental assistance area under the United States Housing Act of 1937, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROCKEFELLER:
S. 2722. A bill to amend the Internal Revenue Code of 1986 to ensure the proper tax treatment of compensation, and for other purposes; to the Committee on Finance.

By Mr. LEAHY:
S. 2723. A bill to provide transitional housing assistance for victims of domestic violence; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. FEINSTEIN (for herself, Mr. FITZGERALD, Mr. HARKIN, Mr. LUGAR, Ms. CANTWELL, Mr. WYDEN, Mr. CORZINE, Mr. LEAHY, Mrs. BOXER, Mr. DURBIN, and Mr. NELSON of Nebraska):
S. 2724. A bill to provide regulatory oversight over energy trading markets and metal trading markets, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CORZINE (for himself and Mr. TORRECELLI):
S. 2725. A bill to amend the Marine Protection, Research, and Sanitaries Act of 1972 to restrict ocean dumping at the site off the coast of New Jersey, known as the “Historic Area Remediation Site”, to dumping of dredged material that does not exceed polychlorinated biphenyl levels of 113 parts per billion; to the Committee on Environment and Public Works.

ADDITIONAL COSPONSORS

S. 847
At the request of Mr. DAYTON, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 847, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 995
At the request of Mr. AKAKA, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 995, a bill to amend the Tax Reform Act of 1986 to permit a primary extended duty in determining the amount of property protected from prohibited personnel practice to be attributable to the property’s use while away from home on qualified official duty.

S. 999
At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1298, a bill to amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes.

S. 1678
At the request of Mr. ENsign, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 1391, a bill to amend title XVIII of the Social Security Act to repeal the Medicare outpatient rehabilitation therapy caps.

S. 1769
At the request of Mr. MCCAIN, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 1678, a bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services or the Foreign Service shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 1804
At the request of Mr. CLELAND, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1785, a bill to urge the President to establish the White House Commission on National Security and the Families Month, and for other purposes.

S. 1924
At the request of Mr. LIEBERMAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1924, a bill to promote charitable giving, and for other purposes.

S. 2047
At the request of Mr. KOHL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2047, a bill to combat terrorism and defend the Nation against terrorist attacks, and for other purposes.

S. 2097
At the request of Mr. BREAUX, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2097, a bill to amend the Internal Revenue Code of 1986 to allow distilled spirits wholesalers a credit against income tax for their cost of converting Federal excise taxes prior to the sale of the product bearing the tax.

S. 2097
At the request of Ms. CANTWELL, the name of the Senator from Missouri (Mrs. CARNARAN) was added as a cosponsor of S. 2097, a bill to make grants to train sexual assault nurse examiners, law enforcement personnel, and first responders in the handling of sexual assault cases, to establish minimum standards for forensic evidence collection kits, to carry out DNA analysis of crime scene samples, and for other purposes.

S. 2103
At the request of Ms. MIKULSKI, the name of the Senator from Louisiana
At the request of Mr. GRASSLEY, the name of the Senator from Missouri (Mrs. CARNahan) was added as a cosponsor of S. 2191, a bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of inverted corporate entities and of transactions with such entities, and for other purposes.

At the request of Mr. BAUCUS, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2135, a bill to amend title XVIII of the Social Security Act to provide for a 5-year extension of the authorization for appropriations for certain medicare rural grants.

At the request of Mr. BIDEN, the names of the Senator from Vermont (Mr. LEAHY), the Senator from California (Mrs. FINESTEIN), the Senator from Ohio (Mr. DEREIN) and the Senator from Michigan (Mr. BROWNBACK) was added as cosponsors of S. 2395, a bill to prevent and punish counterfeiting and copyright piracy, and for other purposes.

At the request of Mr. BAYH, the name of the Senator from New Jersey (Mr. TORICELLI) was added as a cosponsor of S. 2425, a bill to prohibit United States assistance and commercial arms exports to countries and entities supporting international terrorism.

At the request of Mr. KERRY, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 2466, a bill to modify the contract consolidation requirements in the Small Business Act, and for other purposes.

At the request of Mr. LEAHY, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 2480, a bill to amend title 18, United States Code, to exempt qualified 911 and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.

At the request of Mrs. CLINTON, the names of the Senator from Virginia (Mr. WARNER), the Senator from Maine (Ms. COLLINS), and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 2489, a bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes.

At the request of Mr. BAUCUS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2498, a bill to amend the Internal Revenue Code of 1986 to require adequate disclosure of transactions which have a potential for tax avoidance or evasion, and for other purposes.

At the request of Mr. KERRY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2525, a bill to amend the Foreign Assistance Act of 1961 to increase assistance for foreign countries seriously affected by HIV/AIDS, tuberculosis, and malaria, and for other purposes.

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Oklahoma (Mr. INHOFFE) 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.

At the request of Mr. HOLLINGS, the name of the Senator from Connecticut (Mr. LIEBERMAN) 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.

At the request of Mr. KERRY, his name was added as a cosponsor of S. 2686, a bill to strengthen national security by providing whistleblower protections to certain employees at airports, and for other purposes.

At the request of Mr. REID, the name of the Senator from Idaho (Mr. CHAFER) was added as a cosponsor of S. 2697, a bill to require the Secretary of the Interior to implement the final rule to phase out snowmobile use in Yellowstone National Park, John D. Rockefeller Jr. Memorial Parkway, and Grand Teton National Park, and snowmobile use in Grand Teton National Park.

At the request of Mr. KENNEDY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 397, a resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men.

At the request of Mr. ROBERTS, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. Res. 266, a resolution designating October 10, 2002, as “Put the Brakes on Fatalities Day.”

At the request of Ms. SOWE, the name of the Senator from California (Mrs. FINESTEIN) was added as a cosponsor of S. Con. Res. 122, a concurrent resolution expressing the sense of Congress that security, reconciliation, and prosperity for all Cypriots can be best achieved within the context of membership in the European Union which will provide significant rights and obligations for all Cypriots, and for other purposes.

At the request of Mr. GRAHAM, the name of the Senator from Tennessee (Mr. Frist) was added as a cosponsor of amendment No. 4140 proposed to S. 2514, an original bill to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

At the request of Mr. Frist, his name was added as a cosponsor of amendment No. 4141 proposed to S. 2514, an original bill to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI.

S. 2719. A bill to authorize the Secretary of the Army to carry out critical restoration projects along the Middle Rio Grande; to the Committee on Environment and Public Works.

Mr. DOMENICI. Madam President, great endeavors begin with a vision. Last fall, I joined the Middle Rio Grande Conservancy District and the Army Corps of Engineers in unveiling a vision that would rehabilitate and restore the Rio Grande Bosque in Albuquerque, NM.

Today, I rise to introduce a bill that will make that vision a reality. Since last fall, the Army Corps of Engineers has undertaken the task of conducting a feasibility study so that we might gain a better understanding of how best to rehabilitate and restore this beautiful Albuquerque green belt.

I remain grateful to each of the parties who have been involved with this idea since its inception. Each one contributes a very critical component. The Middle Rio Grande Conservancy District owns this vital part of the Bosque which runs from the National Hispanic Cultural Center north to the Paseo Del Norte bridge. The MRGCD has proven to be a valuable local partner in identifying areas for non-native species and other environmental restoration work. Additionally, MRGCD continues to work on the development and implementation of an educational campaign for local public schools on the importance of the Bosque. Finally, MRGCD has continually worked with all parties to provide options on how the Bosque can be preserved, protected and enjoyed by everyone.
Last year I committed to requesting the Army Corps of Engineers to develop a preliminary restoration plan for the Bosque along the Albuquerque corridor. I have done that and the plan is well underway. This bill that I introduce today is the next step in following through on that commitment.

Specifically, this bill authorizes $75 million dollars to complete projects, activities, substantial ecosystem restoration, preservation, protection, and recreation along the Middle Rio Grande.

Having grown up in Albuquerque, the Bosque is something I treasure. I have been very involved in Bosque restoration efforts for years, and I commend the Bosque Coalition for the work they have done, and will continue to do, all along the river.

This new vision, specific to the Albuquerque Corridor, builds on that idea and is a logical complement to these previous efforts as well as towards Bosque revitalization, restoration and recovery along the entire Rio Grande river.

This area was designated as a State park many years ago. As many of you know, this area has been overrun by non-native vegetation, peppered with graffiti, cluttered with trash and as we saw this past year, has become more susceptible to fire.

I want to assure that the Albuquerque corridor, which is a unique and irreplaceable part of the desert Southwest’s ecosystem, is preserved for generations to come. A healthy ecosystem is key to such things as the protection of threatened species and overall river flow.

We know that the river in this area is vital habitat for many species, including the endangered Rio Grande silvery minnow. Efforts reducing non-native species, protecting all from the possibility of devastating wildfire, will also improve the flow of the river and habitat for its many species.

At the same time, the Bosque is a natural green belt through Albuquerque and should be made beautiful and more accessible to the public for enjoyment.

I am grateful that all parties have come together and that I can be a part of making this vision a reality. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2719

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

SECTION 1. FINDINGS.

Consistent with—

(1) the Middle Rio Grande bosque is—

(A) a unique riparian forest located in Albuquerque, New Mexico;

(B) the largest continuous cottonwood forest in the Southwest;

(C) 1 of the oldest continuously inhabited areas in the United States;

(D) home to 26 pueblos; and

(E) a critical flyway and wintering ground for migratory birds;

(2) the portion of the Middle Rio Grande adjacent to the Middle Rio Grande bosque provides water to many people in the State of New Mexico;

(3) the Middle Rio Grande bosque should be maintained in a manner that protects endangered species and the flow of the Middle Rio Grande while making the Middle Rio Grande bosque more usable by the public;

(4) environmental restoration is an important part of the mission of the Corps of Engineers; and

(5) the Corps of Engineers should reestablish, where feasible, the hydrologic connection between the Middle Rio Grande and the Bosque to ensure the permanent healthy growth of vegetation native to the Middle Rio Grande bosque.

SEC. 2. DEFINITIONS.

In this Act—

(1) CRITICAL RESTORATION PROJECT.—The term ‘‘critical restoration project’’ means a project carried out under this Act that will produce, consistent with Federal programs, projects, and activities, immediate and substantial ecosystem restoration, preservation, recreation, and protection benefits.

(2) MIDDLE RIO GRANDE—‘‘Middle Rio Grande’’ means the portion of the Rio Grande from Cochiti Dam to the headwaters of Elephant Butte Dam, in the State of New Mexico.

(3) SECRETARY.—The term ‘‘Secretary’’ means the Secretary of the Army.

SEC. 3. MIDDLE RIO GRANDE RESTORATION.

(a) CRITICAL PROJECTS.—The Secretary shall carry out critical restoration projects along the Middle Rio Grande.

(b) PROJECT SELECTION.—

(1) IN GENERAL.—The Secretary may select critical restoration projects in the Middle Rio Grande based on feasibility studies.

(2) USE OF EXPERTS AND PLANS.—In carrying out subsection (a), the Secretary shall use, to the maximum extent practicable, studies and plans in existence on the date of enactment of this Act to identify the needs and priorities for critical restoration projects.

(c) LOCAL PARTICIPATION.—In carrying out this Act, the Secretary shall consult with, and consider the priorities of, public and private entities that are active in ecosystem restoration in the Rio Grande watershed, including entities that carry out activities under—

(I) the Middle Rio Grande Endangered Species Act Collaborative Program; and

(II) the Bosque Improvement Group of the Middle Rio Grande Bosque Initiative.

(d) COST SHARING.—

(1) COST-SHARING AGREEMENT.—Before carrying out any critical restoration project under this Act, the Secretary shall enter into an agreement with the non-Federal interests that shall require the non-Federal interests—

(A) to pay 25 percent of the total costs of the critical restoration project;

(B) to provide agreements, rights-of-way, relocations, and dredged material disposal areas necessary to carry out the critical restoration project; and

(C) to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs associated with the critical restoration project that are incurred after the date of enactment of this Act.

(2) IN GENERAL.—Any recreational features included as part of a critical restoration project shall comprise not more than 30 percent of the total project cost.

(b) NON-FEDERAL FUNDING.—The full cost of any recreational features included as part of critical restoration projects in excess of the amount described in subparagraph (A) shall be paid by the non-Federal interests.

(c) CREDIT.—The non-Federal interests shall reserve a credit for any construction activities carried out by the non-Federal interests before the date of execution of a cost-sharing agreement for a critical restoration project if the Secretary determines in the feasibility study for the critical restoration project that the activities are part of the critical restoration project.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act—

(1) $10,000,000 for fiscal year 2003; and

(2) such sums as are necessary for each of fiscal years 2004 through 2012.

By Mr. SARBANES (for himself, Mr. REED, Mr. SCHUMER, Mr. CARPER, Ms. STABENOW, Mr. CORZINE, and Mr. AKAKA):

S. 2721. A bill to authorize a teacher rental assistance program under the United States Housing Act of 1937, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs:

By Senator SARBANES. Madam President, I come to the floor today to introduce the Housing Voucher Improvement Act of 2002. I am pleased that this legislation is being co-sponsored by a number of my colleagues on the Committee on Banking, Housing, and Urban Affairs:

Senators REED, SCHUMER, CARPER, STABENOW, CORZINE, and AKAKA. This legislation will make important changes to the housing voucher program, a program that serves over 1.5 million low-income American families. These 1.5 million families are part of a growing number of people in this country who are unable to afford rents, property taxes, and other necessities to make ends meet.

In order to ensure that families have decent, safe and affordable housing, the government provides assistance in a variety of ways including public housing, section 8 vouchers, FHA mortgage insurance, and homeless assistance programs. While we have provided funding for these programs over the years, more must be done. It is estimated that over 14 million working families in this country pay more than they can afford for housing. In addition, 1.7 million families live in substandard housing—housing that is unsafe or overcrowded. Homelessness continues to be a major problem with approximately 2 million people experiencing homelessness at some point this year. These statistics show that millions of Americans are unable to afford the most basic of needs.

The solution to the affordable housing crisis is not found in any one program or in any one policy. We must
work on a variety of fronts to combat this crisis. We must preserve the affordable housing that already exists; we must build new affordable housing; and, we must ensure that the housing programs we have in place work effectively to house families in need. The Housing Voucher Improvement Act is not intended to address all of these needs, but it is an important step forward in making sure that the voucher program works to provide the greatest range of housing opportunities to the lowest income Americans.

The bill I am introducing today is intended to work towards three objectives: ensuring that the voucher program works effectively and that all families receiving vouchers are able to find adequate housing; providing families with vouchers the widest range of possibilities as to where to live; and assisting families receiving housing assistance in attaining self-sufficiency.

The voucher program has provided millions of Americans with the opportunity to live in safe and decent homes. However, as housing markets tighten, families are finding it more difficult to use housing vouchers. This difficulty may result from a lack of rental housing, a lack of housing managers who accept voucher holders, or too few landlords who accept tenants with housing vouchers. The Housing Voucher Improvement Act will give local public housing authorities a number of new tools to assist voucher holders in finding housing and will streamline the housing voucher process for the voucher program attractive to private market landlords.

To help people find decent and safe housing, this bill will give public housing agencies the flexibility to use a limited amount of their funds to provide search assistance to voucher holders. For many people who receive vouchers, additional assistance, such as housing counseling, transportation services, or security deposit funds may make a critical difference in finding a place to live. This bill will also increase housing opportunities for voucher holders by allowing public housing agencies to increase the amount that the voucher is worth where a significant number of families given vouchers are unable to find adequate housing. Provisions are also included in the bill to make it easier to use vouchers in housing developed with HOME funds or Low Income Housing Tax Credits. Ensuring that voucher holders in these developments will greatly expand housing opportunities for extremely low-income families.

In order to operate a successful program, enough apartments must be available for people with vouchers. Therefore, vouchers must be an attractive option for landlords. Towards that end, the Housing Voucher Improvement Act allows public housing agencies to use their funds to reach out to local property owners to increase landlord participation in the vouchers program. It also scales penalties for inspection violations to the magnitude of the violation and helps guarantee timely payments to apartment owners by creating an incentive for housing authorities to use automatic payment systems for interested owners. This bill will also allow public housing authorities to streamline inspections while still ensuring that housing is safe and sanitary. All of these provisions will make vouchers easier to use for private-market apartment owners.

This bill also creates a new use for vouchers, allowing housing authorities to convert a limited portion of vouchers with housing being constructed with HOME dollars, tax credits, or other funds. These “thirty voucher” will cost less than regular vouchers, allowing more families to be served.

While most of this bill will help to expand housing opportunities for people searching for housing, one critical component of housing policy is self-sufficiency. Housing assistance is key in moving people from welfare to work. A job stabilizes the family and provides hope that it will strengthen one of the major rental assistance programs, the Housing Voucher Improvement Act of 2002. The Section 8 housing voucher program provides many low-income families with the means to find affordable housing. However, in many cities, suburbs, and rural housing markets, there is just not a lot of rental housing available, or there are too few landlords who accept tenants with Section 8 vouchers. This legislation is narrowly tailored to make vouchers more effective by giving PHAs various tools to assist voucher holders in finding housing and making vouchers easier for private property owners to use.

To make vouchers easier to use for private-market apartment owners, the Housing Voucher Improvement Act changes the unit inspection requirement to make it more time-efficient; scales penalties for inspection violations to the magnitude of the violation; and, to guarantee timely payments by the PHA, creates an incentive for PHAs to use automatic payment systems for interested owners.

To help PHAs deal with high-cost rental markets, the bill increases flexibility in setting maximum rents. The bill grants PHAs limited authority to increase their Fair Market Rents to a maximum of 120% of the area’s fair market rent. Current law allows PHAs to use this maximum only if the vacancy rate is greater than 7%. The bill also adds provisions to facilitate the use of vouchers in units in lower-poverty neighborhoods that are developed with HOME funds or Low Income Housing Tax Credits.

To help voucher-holders find housing, the bill authorizes PHAs to use existing funding to provide landlord outreach and education and apartment-search assistance to voucher holders as well as assistance with security deposits, application fees and credit checks. The bill gives local public housing authorities the option of turning a limited portion of its available vouchers into lower cost “thirty voucher,” which can be attached to a new housing development or to a rehabilitation this rehabilitated or preserved. Because the vouchers cost less than regular vouchers, a larger number of families can be served by the same level of funding. The bill also makes it easier to administer the project-based component on the vouchers program and to attach vouchers to buildings in a range of neighborhoods.

Appropriately in this year of welfare reauthorization, the bill contains several provisions to promote employment of HUD’s major rental assistance programs, including a 5-year authorization of Welfare-to-Work vouchers.

We thank you for your leadership on this issue and for your continued support of affordable housing programs.
Chairman, Committee on Banking, Housing and Urban Affairs, Washington, DC.

Dear Chairman SARBANES, The National Affordable Housing Management Association (NAHMA) is pleased to support provisions in the Housing Voucher Improvement Act which make the Section 8 voucher program more user-friendly for both tenants and landlords, improve administration, and address many problems which inhibit voucher utilization.

In recent years, the difficulty of satisfying the Section 8 regulatory burdens has created a strong disincentive for private landlords to accept vouchers. The Housing Voucher Improvement Act makes several constructive reforms to the voucher program which address this reality. First, it makes the unit inspection more time efficient. Likewise, it makes penalties for inspection violations commensurate with the severity of the violation. Furthermore, it will improve the timeliness of payments to landlords by creating an incentive for public housing authorities (PHAs) to use automatic payment systems.

This bill also addresses voucher utilization problems in high-cost areas by offering PHAs flexibility to establish maximum rents in high cost areas. By allowing PHAs to set the voucher payment standard at 120 percent of fair market rent (FMR), housing authorities will be able to automatically increase their payment standard to address market changes.

In short, NAHMA is pleased that you have offered legislation to improve Section 8 voucher program to increase housing opportunities for extremely low income families.

Sincerely,

GEORGE CARUSO,
Executive Director.

COUNCIL OF LARGE PUBLIC HOUSING AUTHORITIES,

1250 EYEWALL STREET NW, SUITE 501 A,
Washington, DC, June 27, 2002.

Dear Chairman SARBANES: We write in support of Section 8 voucher holders succeeding in utilizing their subsidy. We support several provisions in the bill that would help address this problem, particularly the proposal to enable PHAs to increase payments to 120% of the payment standard without prior HUD approval. In addition, the bill would authorize a $50 million Voucher Improvement Fund and provide some flexibility for PHAs to use voucher resources for purposes such as housing counseling. The Housing Voucher Improvement Act would help voucher holders become more competitive in the market place. The proposed revisions to the current project-based Section 8 program will also assist PHAs that currently have low income families living in concentration of poverty. Ultimately, we believe that local authorities need more flexibility to make the most efficient use of Federal funding for housing in an ever-changing market place. Your bill is a step in that direction.

Again, we very much appreciate your staunch support of affordable housing programs and your foresight in Federal investment in this area. We look forward to our continued work with you and your dedicated staff to continue to make the Section 8 program work better for needy families.

Sincerely,

SUISHI ZAFFERMAN,
Executive Director.

SUMMARY OF THE HOUSING VOUCHER IMPROVEMENT ACT OF 2002

Section 1. Short Title.

Section 2. Procedures to ensure that the Section 8 program works effectively and all families receiving vouchers are able to find adequate housing; (2) to provide families with vouchers the widest range of possibilities as to where to live; and (3) to assist families receiving housing assistance in attaining self sufficiency through encouraging partnerships between housing authorities and welfare agencies.

Section 3. Authorize “Thrift Vouchers” designed to make additional housing affordable to extremely low income families. Thrifty Vouchers (TVs) are intended to encourage the production or preservation of housing affordable to extremely low-income families. PHAs would be authorized to issue TVs out of their existing allocation of vouchers. In addition, Congress could appropriate additional incremental assistance for use as TVs. TVs would cost less than regular vouchers because there would be no debt service included in the rent calculation for a TV unit. Rent support would be based on the 80% of the FMR of the PMR (unique regular vouchers which are set between 90 and 110% of the FMR). Data indicate that 75% of FMR should be adequate in most places to cover the costs of operation of multifamily housing. The bill provides an exception to the 75% cap for PHAs that can demonstrate that this cap could not support a reasonable operating cost of rental housing and a need for the production or preservation of affordable housing in the area. Linking TVs to a project would reduce the voucher cost less than regular vouchers, PHAs could serve more families with the same amount of funding.

At the beginning of the development of a project, developers receiving tax credits, HOME funds, or other capital subsidies could link TVs to not more than 25% of the units in a development. The 25% cap is intended to prevent concentration of poverty. While tax credits and HOME are producing new rental units, Section 8 subsidies are targeted to extremely low income families without additional operating subsidies. A recent study done by HUD found that extremely low-income families living in tenant-based programs who do not also receive vouchers, pay 69% of their income for rent. In some cases, residents use tenant-based vouchers to afford such units. However, linking TVs to a project would ensure that some of the units in a given project would be affordable to those most in need of housing.

The Section 8 voucher program is a paragraph of the project-based voucher statute. This is in response to a concern expressed by HUD that they do not want to administer two separate programs. The bill is designed to make the voucher program and project-based programs more efficient. The bill would limit 20% of the maximum amount of funding.

Several changes were made to the project-based voucher statute to make it easier for both tenants and private owners to accept the vouchers. The Housing Voucher Improvement Act is a step in that direction.

PHAs that have low utilization rates (they do not use all of their Section 8 funds to house families) will have access to Section 8 funds that could be made available to assist families in finding housing. This legislative change would allow PHAs to use 2% of the funds they receive under the Section 8 program to provide additional services to families searching for housing if they have a low voucher success rate and/or problems with concentration of extremely low-income communities and the prevention of displacement of extremely low-income families, and changes to the waiting list provisions to allow for separate project-based program to permit PHAs to better serve low-income families. Thus, PHAs could use funds for counseling, securing deposits, application and credit check fees, and search assistance such as transportation services.

Chapter 3. Providing assistance to tenant-based programs

1. Allow PHAs with unutilized Section 8 funds to use these funds designed to assist families in finding housing.

2. Allow PHAs that use all of their Section 8 funds to use up to one week of reserves on activities designed to assist families in finding housing. For PHAs that use all of their funds and whose families still face difficulties in finding adequate housing (a success rate less than 80%), the bill allows PHAs to use up one week of reserves to provide additional service to families searching for housing.

Create a Voucher Success Fund of $50 million for PHAs that do not have unused funds, but still need additional resources to assist families in finding housing. These PHAs use almost all of their Section 8 funds, but families that receive vouchers still face difficulties in finding adequate housing. PHAs that use almost all of their Section 8 funds but have very low utilization rates would also be eligible for the fund. In these instances, PHAs find housing through counseling, security deposits, application and credit check fees, and search assistance such as transportation services.

Section 5. Expanding housing opportunities for voucher holders

At the beginning of the development of a project, developers receiving tax credits, HOME funds, or other capital subsidies could link TVs to not more than 25% of the units in a development. The 25% cap is intended to prevent concentration of poverty. While tax credits and HOME are producing new rental units, Section 8 subsidies are targeted to extremely low income families without additional operating subsidies. A recent study done by HUD found that extremely low-income families living in tenant-based programs who do not also receive vouchers, pay 69% of their income for rent. In some cases, residents use tenant-based vouchers to afford such units. However, linking TVs to a project would ensure that some of the units in a given project would be affordable to those most in need of housing.
for the previous 6 months AND continue to have problems with utilization, success rates, or concentration of Section 8 units. Currently, PHAs may set their payment standard on a geographical basis. The change will allow housing authorities to automatically increase their payment standard to address market changes. Raising the payment standard will help PHAs and voucher holders to rent more use low cost housing.

2. Allow PHAs to pay 120% of FMR as the payment standard for units used in low-income rental housing developments. The LIHTC program provides substantial funding for low-income housing development. When the LIHTC building was not in a high poverty area, the properties are usually not affordable to extremely low-income families (with incomes below 30% of the Area Median Income). One way to serve the poorest in tax credit developments is to house families with vouchers. The recent increase in tax credits presents an opportunity to draw housing choice voucher holders. These properties are not usually affordable to extremely low-income families (with incomes below 30% of the Area Median Income). One way to serve the poorest in tax credit developments is to house families with vouchers. The recent increase in tax credits presents an opportunity to draw housing choice voucher holders.

3. Addressing Housing in the Consolidated Plan. Cities, counties, and states that receive Community Development Block Grant (CDBG) funds (known as “participating jurisdictions”) are required to complete Consolidated Plans detailing the housing and community development programs in their jurisdictions. This provision of the bill makes the following changes to the Consolidated Plan regulations.

a. Include a requirement that the jurisdiction identify barriers to voucher utilization and potential solutions. This would ensure that residents who receive the PHA (such as cities and counties) are aware of issues with voucher recipients and their ability to find housing. While no direct action would be required from the city or participating jurisdiction, they would be acknowledging the difficulties in using vouchers, and identifying the causes. This would hopefully lead to the development of solutions to alleviate the barriers where possible.

b. Include a requirement that the jurisdiction consider employment opportunities in determining the location of housing. Housing opportunities close to employment opportunities and/or transportation are important to ensuring the success of low-income people in finding and retaining employment. This provision would ensure that jurisdictions are looking at locations where housing resources should be allocated.

c. Include a requirement that a participating jurisdiction must consult with social services agencies in the planning for plan- ning for housing opportunities. When determin- ing how to address affordable housing problems, housing planners and welfare ad- ministerators should work together to help plan for people moving from welfare to work, and to help link people receiving housing assistance with welfare agencies and resources (and vice versa).

Section 6. Access to HOME and LIHTC de- velopments

Requires that HUD ensure that PHAs have a list of LIHTC and HOME developments to give to voucher holders. While LIHTC develop- ments could provide housing opportunities to very poor families, and while LIHTC de- velopments may not discriminate against voucher holders, there is almost no commu- nication or coordination between PHAs and LIHTC developers. HOME developers have no statutory obligation to serve PHAs. This provision will require HUD to compile information on where tax credit and HOME developments are located and how to contact developers, and will require that PHAs be notified of LIHTC developments. This provision will make it easier for PHAs to contact developers, and will help ensure that more vouchers could be used forclosures on high-poverty areas.

4. Authorize Welfare to Work Vouchers. In FY 1999, Congress authorized 50,000 Welfare to Work vouchers in an appropriations bill. This program has reallocated funds, and new vouchers have not been allocated beyond the initial 50,000. However, given that wel- fare will be reauthorized this year, the tim- ing is perfect to introduce the program, giving housing authorities additional incre- mental to collaborate with welfare agencies. In authorizing this program, we strengthen the requirements that PHAs work with welfare agencies in administering these vouchers. Recent studies show that housing assistance is critical in allowing people to retain em- ployment, and these vouchers will help in this effort.

Section 7. Reallocation of vouchers. Cur- rently, HUD allows PHAs to return unused vouchers to HUD. HUD published a notice (which has not yet been fully implemented) that requires that unused budget authority be recaptured from PHAs with low utiliza- tion of vouchers. This notice requires PHAs to meet HUD’s notice how they will reallo- cate these vouchers, the reallocation is not structured in a way that ensures that com- munities do not lose needed vouchers. This provision will require that vouchers to be re- allocated be distributed to one or more ad- ministrators in the region. HUD would, through a competition, designate such an ad- ministrator with Section 8 experience, which could be a PHA, a state or local agency, a non-profit, or a private entity. The adminis- trator would be designated to be available for reallocation in the region and would be able to operate the voucher in a regional basis, allowing and encouraging families to live in a range of environments while still serving people on the original PHA’s waiting list. The new administrator would have to reach certain levels of performance— in both success rates and utilization in order to retain the vouchers.

Section 8. Promoting Self-Sufficiency

1. Allow project-based Section 8 housing to be eligible for Family Self-Sufficiency activities. The Family Self Sufficiency (FSS) program provides services to encourage families who receive vouchers in attaining educa- tional and employment goals. This provi- sion would also make residents of project- based Section 8 housing eligible for the FSS program. Under this provision, owners of project-based Section 8 housing would be able to choose to operate their own FSS program, and if they opted not to provide such serv-ices, the PHA, at its discretion, could choose to serve such families in its FSS program. While this change will have some cost, it will allow PHAs to serve a larger percentage of families currently participate in FSS pro- grams.

2. Allow Resident Opportunities and Self- Sufficiency (ROSS) grants to serve Section 8 families. ROSS grants are given to PHAs and resident organizations to fund self-sufficiency activities. Currently, PHAs can only serve public housing residents with these funds, though the predecessor to ROSS allowed PHAs to serve Section 8 residents as well. This provision would allow PHAs to serve Section 8 tenants with ROSS funds, though it would leave the decision to each PHA to determine where funds are best used.

Section 9. Inspection of Units under Sec- tion 8

Currently, when a voucher holder wants to rent a unit, the voucher holder moving in, and payments being made to an owner, the PHA must inspect that individual unit and any deficiencies must be re- paired. Owners and PHAs agree that this is disincentive to owners participating in the program because of the amount of time it takes to complete the inspection. This provision would authorize PHAs to begin payments to an owner prior to inspec- tion of the particular unit. This would allow the following steps to take place: (1) a building inspection has been conducted by the PHA in the last 30 days of the 30-day inspection period; and (2) the PHA and the owner have an agreement that any repairs on the unit must be made within 30 days of the 30-day inspection period. This provision will also allow PHAs to annually ins- spect units within 3 months of the anniver- sary date of that unit entering the Section 8 program if they are conducting inspections on a geographical basis.

Current regulation allows PHAs to with- hold their entire portion of a rent payment to cover inspection violations. This creates extra delays and the magnitude of the violation. This provision would scale penalties for inspection viola- tions to the severity of the violation—if a garbage disposal needs to be fixed the PHA payment will only be withheld to the extent that the garbage disposal would merit.

These changes will help to bring owners into the program while still ensuring that units meet HUD standards for being safe and decent.

Section 10. Automatic Payment Systems. Congress has authorized the use of electronic fund transfers to pay Section 8 dwell- ing unit owners. This section would allow PHAs to use electronic fund transfers to pay Section 8 tenants and PHAs to use these transfers for payments to private fund transfer systems for rental payments. Land- lord participation is optional. Automatic
payment systems would assist PHAs in making timely rent payments and thereby encourage owner participation in the Section 8 program.

Section 11. Enhanced Workers. To protect tenants from displacement, in 1999 Congress passed legislation creating “enhanced vouchers” for all tenants facing conversion of a project from project-based Section 8 to market-rate housing. In several respects, the law as passed and interpreted by HUD fails to clearly protect tenants as Congress intended. Some PHAs require existing tenants to go through an application process for enhanced vouchers, which occasionally results in a tenant being denied voucher benefits. To protect tenants, this section amends the existing statute to clarify that tenants cannot be required to go through the application process again to receive an enhanced voucher.

“Empty nesters,” elderly tenants whose household members have either moved or died, sometimes reside in units that are too large. Millions of people have size family under normal program and occupancy requirements. Likewise, growing families may reside in units that are too small under normal program and occupancy requirements. In both situations, these tenants could be displaced due to family/unit size mismatches. This section clarifies the current enhanced voucher statute to allow tenants with family/unit size mismatches to remain in the unit until an appropriately sized unit becomes available in the property.

By Mr. ROCKEFELLER:

S. 2722. A bill to amend the Internal Revenue Code of 1986 to ensure the proper tax treatment of executives’ compensation, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Madam President, the corporate accounting scandals that have unfolded over the previous few months have caused incalculable damage to the American economy. Millions of people have been harmed, among them some of our most vulnerable citizens, including retirees on fixed incomes and families who have saved for years to educate their children or finally buy a home. Loss of confidence in our economy diminishes hope for the millions who have lost their jobs in the last 18 months. And the cost of equity is rising, making it more difficult for the vast majority of honest and energetic entrepreneurs to turn their ideas into economic growth.

This is not a bubble bursting; it is, in great measure, the result of a considerable diminution of regulation at the behest of powerful lobbies, over the objections of people.

Today, the Senate is debating the most effective way to restore balance between entrepreneurship and oversight, to ensure that corporate excesses do not again steal the savings of millions of people. The underlying Senate bill is based on accounting reforms and tougher enforcement. The Finance Committee is about to mark up its own bill dealing with diversification requirements, executive compensation, and notification and disclosure regarding 401(k) plans.

I fully support Senator SARBANES’ bill and will support the Finance Committee proposal as well. And today I propose legislation that will complement my colleagues’ efforts and help us move toward our goal of restoring confidence in American business and American businesspeople. Where legislation already under consideration focuses largely on oversight and punishment of the parties to the triangle—my bill attacks the incentives to cut corners or commit crimes in the arena of executive compensation.

This legislation will protect workers and shareholders as Congress carefully sorts through the appropriate measures.

Currently, Federal regulations permit a number of frankly sleazy accounting practices which allow corporations and their executives to take millions of dollars away from shareholders, creditors, and the Treasury, without any penalty at all. Some of the most obvious abuses aren’t even crimes. My proposal will help to stop white-collar crime before it is committed. It is a common sense step of putting the lid on the cookie jar.

This bill will do four things: 1. Right now, corporations may transfer funds from an executive compensation account, giving that executive certain access to the money but potentially also removing it from the reach of shareholders and creditors. But since it is termed “deferred,” the executive pays no taxes. Currently, Section 132 of the Internal Revenue Code prevents regulators from cracking down on this practice. My legislation gives Treasury the authority to examine the constructive receipt doctrine and close loopholes that allow inappropriate deferral of taxation. It also gives Treasury the authority to act on situations where executive assets are supposedly subject to the claims of an employer’s creditors, but in reality, are protected from legitimate claims. Either the individual must pay income tax, or the funds must be corporate assets subject to claims. They can’t have it both ways.

2. Currently, corporations can give their senior executives massive loans, with no real expectation of repayment. These loans are effectively theft from the employees and shareholders, since they represent revenue given in compensation which will never be repaid, reinvested, or distributed as dividends. And they add to the Treasury as well; since they are accounted as loans, the recipient doesn’t pay taxes on them. It’s a tax-free performance bonus, often given—as we saw in the Adelphi and WorldCom cases—when the executive desires money to be fired than to be paid. My legislation will make sure a loan is a loan: if a loan doesn’t require security or have any enforceable repayment schedule, it’s income and it will be taxed, just like the salaries of rank-and-file workers are taxed.

3. Right now, company employees may be unable to sell their stock while executives are dumping theirs and creating—as analysts take note and supply overwhelms demand—the kind of stock-price death spiral that took the life savings of thousands of Enron employees.

Back in the early 1980’s, Congress responded to the trend of corporations providing their executives with “gold parachutes” with a 20 percent excise tax on those payments. I believe that the excise tax on golden parachutes should also be applied to the sales of corporate stock by corporate executives during periods when regular employees of the company are not able to freely sell their stock in their company retirement plans. This would be a temporary, six-month provision, to deter corporate executives from taking advantage of the existing uncertainty as Congress considers other possible reforms to encourage more equitable treatment of rank-and-file employees and corporate executives. And it will be a bridge from the current structure to one in which employees have the same ability to sell their stock as insiders have.

4. Additionally, my bill will prevent corporate executives from getting a free ride when their corporation moves offshore for tax avoidance purposes. Under current law, if an American corporation dissolves and is then reincorporated in a foreign country, shareholders of the corporation are required to pay capital gains on the “exchange” of their stock in the “old corporation” for stock in the “new corporation,” even though they never actually sell their stock. Meanwhile, corporate executives, who have engineered the move offshore, are under no such obligation regarding stock options they receive as compensation. My bill would require executives to pay capital gains taxes on the “exchange” of their stock options when they move offshore to avoid taxation. My legislation will provide a much-needed disincentive to corporate executives seeking to avoid the reach of the IRS through corporate expatriation.

I agree with all those who would increase oversight and penalties, but I say, let’s also look at first causes—the executive compensation systems. That’s where some of the greatest opportunities for inappropriate, unfair, and unethical practices are—practices that disadvantage average workers and investors and are undermining confidence in America’s capital markets. And it’s time for that to change.

Finally, I am appalled at the problem of executives benefitting from what can only be considered excessive compensation arrangements in the waning days before bankruptcy of a falling corporation. I am looking for a way to prevent such arrangements in the final months before a corporation closes, and I hope to have a proposal ready for introduction soon.

By Mr. LEAHY:
S. 3723. A bill to provide transitional housing assistance for victims of domestic violence; to the Committee on Banking, Housing, and Urban Affairs.

Mr. LEAHY. Madam President, I am pleased to introduce the Transitional Housing Assistance for Victims of Domestic Violence Act of 2002 to provide grants for transitional housing and related services to people fleeing domestic violence situations.

I witnessed the devastating effects of domestic violence early in my career as the Vermont State’s Attorney for Chittenden County. Today, a growing number of homeless individuals are women and children fleeing domestic violence. More than half the cities surveyed by the U.S. Conference of Mayors in 2000 cited domestic violence as a primary cause of homelessness. Shelters offer short-term assistance, but are overcrowded and unable to provide the support of a wide range of expertise in allowing women to bridge the gap between leaving a domestic violence situation and becoming fully self-sufficient.

A transitional housing grant program is often last authorized for only one year as part of the reauthorization of the Violence Against Women Act in 2000. This program would have been administered through the Department of Health and Human Services and provided $25 million in FY2001. Unfortunately, funds were never appropriated for the program, and the authorization has now expired.

The grant program established in the bill would be in addition to efforts of the three departments, and has enormous potential to improve people’s lives.

This new grant program will make a big impact, in many areas of the country. Affordable housing is at an all-time low. There are many dedicated people working to provide victims of domestic violence with resources, such as Rose Pulliam of the Vermont Network Against Domestic Violence and Sexual Assault, but they can not work alone. We should all be concerned with providing victims of domestic violence a safe place to gain the skills and stability needed to make the transition to independence. This is an important component of reducing and preventing crimes that take place in domestic situations, ranging from assault and child abuse to homicide, and helping the victims of these crimes. I urge the Senate to take prompt action on this legislation.

By Mrs. FEINSTEIN (for herself, Mr. FITZGERALD, Mr. HARKEN, Mr. LUGAR, Ms. CANTWELL, Mr. WYDEN, Mr. CORZINE, Mr. LEAHY, Mrs. BOXER, Mr. DURBIN, and Mr. NELSON of Nebraska):

S. 3724. A bill to provide regulatory oversight over energy trading markets and metals trading markets, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mrs. FEINSTEIN. Madam President, I am pleased to introduce this bill today along the Senator HARKEN and Senator LUGAR, chairman and ranking member of the Senate Agriculture Committee. Our bill is already co-sponsored by Senators FITZGERALD, CANTWELL, WYDEN, CORZINE, LEAHY, DURBIN, and BOXER.

The Senate Agriculture Committee held a hearing on this bill yesterday and I understand it is the intentions of the chairman and ranking member to try and have a bill that can be marked up before the recess.

The bill closes the loophole that was created when Congress passed the Commodity Futures Modernization Act in 2000 which exempted on-line energy and metals trading from regulatory oversight.


This bill could not be more timely in light of what we have learned about the energy sector in the past couple of months. Operations of these energy companies: 1. CMS Energy admitted that 80 percent of its trades were wash trades or round trip trades in 1999 and 2000. Unfortunately, funds were never appropriated for the program, and the authorization has now expired.

The bill program established in the bill would be in addition to efforts of the three departments, and has enormous potential to increase people’s lives.

This new bill program will make a big impact, in many areas of the country. Affordable housing is at an all-time low. There are many dedicated people working to provide victims of domestic violence with resources, such as Rose Pulliam of the Vermont Network Against Domestic Violence and Sexual Assault, but they cannot work alone. We should all be concerned with providing victims of domestic violence a safe place to gain the skills and stability needed to make the transition to independence. This is an important component of reducing and preventing crimes that take place in domestic situations, ranging from assault and child abuse to homicide, and helping the victims of these crimes. I urge the Senate to take prompt action on this legislation.

Let me recap what happened with the Energy Company of the Year. In November, California encountered a natural gas crisis. Natural gas is the main cost component of electricity. At one point gas was selling for $12 per decatherm in San Juan New Mexico and $59 in Southern California when the cost to transport it was less than one dollar.

Just about the time Congress passed the Commodity Futures Modernization Act exempting electronic energy trading exchanges from oversight, the crisis began spreading to the other western states. For more than six months Oregon, Washington, and the other western states experienced the same price spikes as California.

The entire crisis lasted for more than a year while energy companies like Reliant, Enron, Duke, Williams, and AES enjoyed record revenues and profits. Obviously we are all a bit wiser today about energy markets and about wash trades in particular.

Wash trades or round trip trades involve two or more companies plotting together to execute offsetting trades. These trades would be illegal if they were done on NYMEX, the Chicago Merc, or the Pacific Exchange and those exchanges would have the responsibility to report them.

There is no such reporting or enforcement requirement on electronic exchanges because as I said before, the CFMA created a big loophole. This legislation would ensure that wash trades are subject to full CFTC oversight no matter where they are done.

And of course there is Enron which controlled a large share of the energy market while they engaged in activities that were downright illegal. Many of these activities could have been prevented or at least stopped if regulators simply had the proper authority and the will.

Let me recap what happened with the Commodity Futures Modernization Act. In November, 1999, the SEC, the Federal Reserve, the CFTC and the Department of Energy produced a study titled Over the Counter Derivative Markets and the Commodity Exchange Act: Report of the President’s Working Group on Financial Markets. It was signed by Federal Reserve Chairman Alan Greenspan, Secretary of Treasury Larry Summers, SEC Chairman Arthur Levitt and CFTC Chairman Bill Rainer.

The report said that the case had not been made that energy or other tangible commodities should be exempted.
form CFTC oversight. The report found that because of the immaturity of the energy market, the lack of liquidity in the market and finite supplies, in energy markets, energy markets were more susceptible to manipulation than the deep and liquid financial markets. Recent history was certainly born that to be correct; these commodities are more subject to manipulation!

On June 21, 2000 shortly after the President’s Working Group issued its report, the Banking Committee and Agriculture Committee held a hearing on the Report and the Commodity Futures Modernization Act.

Let me read from that committee report:

The Commission has reservations about the bill’s exclusions of Over the Counter (OTC) derivatives from the Commodities Exchange Act. On this point he bill diverges from the recommendations of the President’s Working Group, which limited the proposed exclusions to financial derivatives. The Commission believes the distinction drawn by the Working Group between financial (non-tangible) and non-financial transactions was a sound one and respectfully urges the Committee to give weight to that distinction.

And the Senate Agriculture Committee marked up the Commodity Futures Modernization Act consistent with what was in the President’s Working Group Report.

That version of the bill however, was not reflected in the final provision that passed Congress as part of a much bigger bill at the end of the 106th Congress.

I urge my colleagues in Congress to pass this legislation and fix this problem as soon as possible.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4209. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2673, supra; to improve the quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company 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 4210. 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 4211. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4212. Mr. GRAHAM (for Mr. VOINOVICH (for himself and Mr. AKAKA)) submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4213. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4214. Mr. DORGAN (for himself and 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 4215. Mr. DORGAN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4216. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4217. Mr. DORGAN (for himself and 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 4218. 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 4219. 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 4220. 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 4221. 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 4222. 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 4223. Mrs. CARNANAH (for herself, Mr. KERRY, and Mr. DURBIN) submitted an amendment intended to be proposed by her to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4224. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4225. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4226. Mr. GRAMM (for himself, Mr. SANTORUM, and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4227. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4228. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4229. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4230. Mr. SCHUMER (for himself and Mr. SANTORUM) submitted an amendment, intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4231. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4232. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4233. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4234. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4235. Mr. ENZI (for Mr. LIEBERMAN (for himself, Mr. SEN. BOXER (for herself, Mr. ALLEN, Mr. CANTWELL, Mr. KENNEDY (for himself, Mr. REED, and Mr. LEAHY)) submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4236. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4237. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4238. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4239. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4240. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4241. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4242. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4243. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4244. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4245. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4246. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4247. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4248. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4249. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4250. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4251. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4252. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.
SA 4255. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4256. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4257. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4258. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4259. 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 4260. Mr. RINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4261. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4262. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4263. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4264. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4265. Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4266. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4267. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4268. Mr. SMITH, of Oregon submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4269. Mr. DASCHLE (for Mr. LEVIN (for himself, Mr. NELSON, of Florida, Mr. HARKIN, Mr. CORZINE, and Mr. BIDEN)) proposed an amendment to the bill S. 2673, supra.

SA 4270. Mr. MCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra.

SA 4271. Mr. REID (for Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE)) proposed an amendment to the bill S. 2673, supra.

SA 4272. Mr. REID (for Mr. LEVIN (for himself, Mr. NELSON, of Florida, Mr. HARKIN, Mr. CORZINE, and Mr. BIDEN)) proposed an amendment to amendment SA 4271 proposed by Mr. REID and Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) supra.

**TEXT OF AMENDMENTS**

SA 4209. 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:

**SA 4210.** 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 16, beginning on line 8, strike “Two members” and all that follows through line 12, and insert “the 12 member, and only 1 member, of the Board shall be or shall have been a certified public accountant pursuant to the laws of 1 or more States, and he or she may not have been”.

**SA 4211.** Mr. GRAHAM 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 20 insert “, under oath,” after “certify.”

**SA 4213.** Mr. GRAMM (for Mr. VOINOVICH (for himself and Mr. AKAKA)) submitted an amendment intended to be proposed by Mr. GRAMM 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 114, insert between lines 2 and 3 the following:

**SEC. 4D. CHIEF HUMAN CAPITAL OFFICER.**

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 4C (as added by this Act) the following:

**SEC. 4D. CHIEF HUMAN CAPITAL OFFICER.**

(a) In General.—The Commission shall appoint or designate a Chief Human Capital Officer, who shall—

(1) advise and assist the Commission and other Commission officials in carrying out the Commission’s responsibilities for selecting, developing, and ensuring a high-quality, productive workforce in accordance with merit system principles; and

(2) implement the rules and regulations of the President and the Office of Personnel Management and the laws governing the civil service within the Commission.

(b) FUNCTIONS AND AUTHORITY.—

(1)chiofofthe

(A) setting the workforce development strategy of the Commission;

(B) assessing workforce characteristics and future needs based on the Commission’s mission and strategic plan;
and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 82, line 14 insert after "issue" the following: "whether domiciled, incorporated, or reincorporated under the laws of any State, or under the laws of a foreign country or political subdivision thereof."

SA 4216. Mr. DORGAN 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. 4. REQUIREMENT THAT PLAN ADMINISTRATOR NOTIFY PARTICIPANTS OF INVOLUNTARY PLAN TERMINATION.

(a) In General.—Section 401(k) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101 et seq.) is amended by adding at the end the following:

"(4)(A) Not later than 30 days (or such longer period as the corporation finds necessary) after the corporation selects a plan administrator of a plan of the corporation's determination under subsection (a) to institute proceedings under this section with respect to such plan, the plan administrator shall provide to each affected party (other than the corporation) a written notice of the corporation's determination that the plan should be terminated and the corporation's proposed termination date. The written notice shall be made in such form and manner as understood by the average plan participant.

"(B) A plan administrator's failure to comply with the requirement under subpara-

graph (A) shall not affect the validity of any determination or action by the corporation or the termination date established under section 4040.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to termin-

ation proceedings under this section after the date of the enactment of this Act.

SA 4219. 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 84, strike lines 13 through 25 and insert the following: "shall forfeit to the Department of Labor—"

"(ii) any bonus or other incentive-based or equity-based compensation received by that person from the issuer during the 12-month period following the first public issuance or filing (with the Commission) (corporate bankruptcy first occurs) of the financial document embodying such financial reporting requirement; and"
“(2) any profits realized from the sale of securities of the issuer during that 12-month period.

(b) Commission Exemption Authority.—The Commission may exempt any person from the application of subsection (a), as it deems necessary and appropriate.

(c) Distribution of Funds.—

(1) Former Employees.—Except as provided in paragraph (4), and in accordance with paragraphs (2) and (3), the Commission shall distribute the funds forfeited under subsection (a) to former employees of the issuer whose employment was terminated by the issuer.

(2) Eligibility for Funds.—Before distributing funds to an applicant under this subsection, the Commission shall certify that the job loss of the applicant resulted from a business decision made by the issuer as a consequence of a restatement of earnings, as described in subsection (a).

(3) Exception.—A former employee of the issuer is laid off by the issuer within 12 months of a restatement of earnings as a consequence of such restatement, the Commission shall distribute the funds forfeited under subsection (a) to the issuer."

SA 4221. Mr. WELLSSTONE 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 end of title III, insert the following:

SEC. 307. PROVISIONS RELATING TO WHISTLEBLOWER ACTIONS INVOLVING PEN- SION PLANS.

(a) Authority to Bring Actions.—Section 502(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)) is amended by striking ‘‘or’’ at the end of paragraph (8), by striking the period at the end of subparagraph (A) and inserting ‘‘; and’’, and by adding at the end the following new paragraph:

(10) by the Secretary, or other person referred to in section 510—

(10) to enjoin any act or practice which violates section 510 in connection with a pension plan, or

(11) to obtain appropriate equitable or legal relief to redress such violation or to enforce section 510 in connection with a pension plan.”

(b) Additional Actions Which May Be Brought.—Section 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1105) is amended by striking ‘‘person because he’’ and inserting ‘‘other person because such other person has engaged in any practice in connection with a pension plan that is made unlawful by this title’’.

SA 4222. Mr. WELLSSTONE 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 94, line 16, beginning with ‘‘shall file’’ strike all through ‘‘feasible’’ on line 24 and insert ‘‘shall file electronically with the Commission (and any exchange reg-istered on a national securities exchange, shall also file with the exchange), a state-ment before the end of the second business day following the day on which the Subject transaction has been executed, or at such other times as the Commission shall estab-lish, by rule, in any case in which the Com-mission determines that such 2 day period is not feasible, and the Commission shall pro-vide that statement on a publicly accessible Internet site not later than the end of the business day following that filing, and the issuer (if the issuer maintains a corporate website) shall provide that statement on that corporate website not later than the end of the business day following that filing (the requirements of this paragraph shall take effect 1 year after the date of enact-ment of this paragraph).’’

SA 4224. Mr. GRAMM 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 objectively 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 70, line 12, insert the following after paragraph 5(a): 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 necessary or appropriate in the public interest and consistent with the protection of investors and consistent with the purposes of this Act”.

SA 4225. Mr. GRAMM 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 and 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 51, after line 2, insert the following new paragraph:

(3) OFFICIALPANEL OF DISCIPLINARY ACTION.—Instead of filing an application for Commission review under paragraph (1), a public accounting firm or person associated with the public accounting firm may request a formal disciplinary hearing before an official panel of the Federal district court for review of such disciplinary sanction shall operate as a stay of such disciplinary action.

SA 4226. Mr. GRAMM (for himself, Mr. SANTORUM, and Mr. BOND) 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 and 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 91, strike line 19 and all that follows through page 91, line 22 and insert the following:

SEC. 402. ENHANCED CONFLICT OF INTEREST PROVISIONS.

(a) PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by this Act, is amended by adding at the end the following:

"(k) PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.—"(1) IN GENERAL.—It shall be unlawful for any issuer, directly or indirectly, to extend or maintain credit, or arrange for the extension of credit, in the form of a personal loan to, or for the benefit of, any director or executive officer (or equivalent thereof) of that issuer.

(2) LIMITATION.—Paragraph (1) does not preclude any extension of credit under an open end credit plan (as defined in 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 necessary or appropriate in the public interest and consistent with the protection of investors and consistent with the purposes of this Act.”

SA 4227. Mr. SCHUMER 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 and 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 99, between lines 15 and 16, insert the following:

SEC. 408. AVAILABILITY OF CORPORATE TAX RETURNS.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

"(1) AVAILABILITY OF TAX RETURNS.—"(1) FILING REQUIREMENT.—Each issuer that is required to file a return under section 6037 of the Internal Revenue Code of 1986, shall annually provide a complete copy of the return to the Commission.

(2) PUBLIC AVAILABILITY.—Each return provided to the Commission under paragraph (1) shall be made available to the public for inspection.”
SA 4330. Mr. SCHUMER (for himself and Mr. SHELEY) 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 91, between lines 18 and 19, insert the following:

(c) STUDY AND REPORT ON SPECIAL PURPOSE ENTITIES.—

(1) STUDY REQUIRED.—The Commission shall, not later than 1 year after the effective date of adoption of off-balance sheet disclosure rules required by section 13(j) of the Securities Exchange Act of 1934, as added by this section, complete a study of filings by issuers and their disclosures, to determine:

(A) the extent of off-balance sheet transactions, including assets, liabilities, leases, losses, and the use of special purpose entities; and

(B) whether generally accepted accounting rules result in financial statements of issuers reflecting the economics of such off-balance sheet transactions to investors in a transparent fashion;

(2) REPORT.—Not later than 6 months after the date of completion of the study required by paragraph (1), the Commission shall submit a report to the President, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, setting forth—

(A) the amount or an estimate of the amount of off-balance sheet transactions, including assets, liabilities, leases, and losses of, and the use of special purpose entities by, issuers filing periodic reports pursuant to section 13 or 15 of the Securities Exchange Act of 1934;

(B) the extent to which special purpose entities are used to facilitate off-balance sheet transactions;

(C) whether generally accepted accounting principles or the rules of the Commission result in financial statements of issuers reflecting the economics of such transactions to investors in a transparent fashion;

(D) whether generally accepted accounting principles specifically result in the consolidation of special purpose entities sponsored by an issuer in a manner in which the issuer has the majority of the risks and rewards of the special purpose entity; and

(E) the recommendations of the Commission for improving the transparency and quality of reporting off-balance sheet transactions in the financial statements and disclosures required to be filed by an issuer with the Commission.

SA 4332. Mr. GRASSLEY 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 15, strike line 11 and inserting the following:

(6) DISGORGEMENT OF BENEFITS.—In any action or proceeding brought or instituted by the Commission under the securities laws against any person for engaging in, causing, or aiding and abetting any violation of the securities laws or the rules and regulations promulgated thereunder, such person, in addition to being subject to any other appropriate order, may be required to disgorge any or all benefits received from any source in connection with the violation, causing, or aiding and abetting the violation, including salary, commissions, fees, bonuses,
options, profits from securities transactions, and losses avoided through securities transactions.”

SA 4234. Mr. Hollings 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. 4. ANNUAL LIMIT ON AMOUNT REALIZED FROM EXERCISE OF STOCK OPTIONS.

(a) In General.—It is unlawful for any officer or director of a corporation to exercise stock options with respect to securities registered pursuant to section 12 of the Securities Exchange Act of 1934 granted by a corporation for its stock, or the stock of any subsidiary or affiliated corporation, to the extent that the net proceeds (determined pursuant to section 12 of the Securities Exchange Act of 1934 granted by a subsidiary or affiliated corporation, to the extent that the net proceeds (determined

(b) Exception.—Subsection (a) does not apply if—

(1) at least 80 percent of the net proceeds are attributable to the exercise of options held by the officer, employee, or director for 5 years or more; or

(2) the exercise of the stock options has been approved in advance by majority vote of the publicly-held shares voted during the 12-month period within which the options are exercised.

(c) Remedy.—The provisions of section 306(c) of this Act apply to any violation of subsection (a) in the same manner as if the violation were a violation of section 306(c).

(d) Effective Date.—Subsection (a) applies to stock options granted after the date of enactment of this Act.

SA 4235. Mr. Enzi (for Mr. Lieberman (for himself, Mr. Enzi, Mrs. Boxer, Mr. Allen, Ms. Cantwell, Mr. Lott, Mr. Bennett, Mr. Wyden, Mrs. Murray, and Mr. Burns)) submitted an amendment intended to be proposed by Mr. Enzi 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:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 4. DISCLOSURE OF INVESTMENTS, HOLDINGS, OR TRANSACTIONS IN CERTAIN FOREIGN COUNTIES.

(a) Securities Exchange Act of 1934.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following new paragraph:

“(1) Disclosure of Investments, Holdings, or Transactions in or with Certain Foreign Entities.—

(1) In General.—Each designated issuer shall, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors—

“(A) disclose in each report or other document required to be filed under this section, including any annual filings, and in each registration statement filed under this section, the nature and scope of the operations of the designated issuer in any designated country, and the Commission shall consider material, any investments, holdings, or transactions by a designated issuer in any designated country, the aggregate, exceed $100,000 at any time during the period, to which the filing relates: and

“(B) display all disclosures required by subparagraph (A) prominently for investors.

“(2) Definitions.—For purposes of this subsection—

“(A) the term ‘designated entity’ means any company or other entity that is organized under the laws of a foreign country, a government-owned corporation of a foreign country, or the government of any foreign country—
“(i) that is subject to sanctions by the Office of Foreign Assets Control; or
“(ii) the government of which has been determined by the Secretary of State under section 6(j)(1)(A) of the Export Administration Act of 1979, section 40(d) of the Arms Export Control Act, or section 620A of the Foreign Assistance Act of 1961, to have knowledge of firms that audit 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 69, strike line 8 and all that follows through page 70, line 19, and insert: ‘‘any non-audit service.’’

On page 62, line 9, strike the quotation marks and the final period and insert the following:

‘‘(d) 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, directly 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 the 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;

(iii) otherwise make any other business relationship with the issuer or the management thereof.

On page 62, line 24, insert before the period that follows ‘‘the growing,’’ and shall include in the brief narrative of the basis for the decision to so certify, including a discussion of any questionable accounting treatment.

On page 86, line 8, strike ‘‘during’’ and all that follows through page 89, line 20 and insert the following: ‘‘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, the issuer, or the officer, for that issuer.’’

(2) REQUIREMENTS FOR SUBMISSIONS.—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 section 16(b) by the issuer, irrespective of any intention on the part of such director or executive officer in entering into the transaction.

‘‘(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 4239. 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 69, strike line 8 and all that follows through page 70, line 19, and insert: ‘‘any non-audit service.’’

On page 62, line 9, strike the quotation marks and the final period and insert the following:

‘‘(d) 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, directly 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 the 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;

(iii) otherwise make any other business relationship with the issuer or the management thereof.

On page 62, line 24, insert before the period that follows ‘‘the growing,’’ and shall include in the brief narrative of the basis for the decision to so certify, including a discussion of any questionable accounting treatment.

On page 86, line 8, strike ‘‘during’’ and all that follows through page 89, line 20 and insert the following: ‘‘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, the issuer, or the officer, for that issuer.’’

(2) REQUIREMENTS FOR SUBMISSIONS.—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 section 16(b) by the issuer, irrespective of any intention on the part of such director or executive officer in entering into the transaction.

‘‘(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.’’
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 service.

(a) EXCEPTION.—Nothing in subsection (a) shall be construed to prohibit the purchase, sale, acquisition, or other transfer of equity securities 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.

(b) Exception.—Nothing in subsection (a) shall be construed to prohibit the purchase, sale, acquisition, or other transfer of equity securities 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), or any other acquisition or transfer in violation of this section shall 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 any other person who is or was a stockholder of the issuer in the name and behalf of the issuer who is or was a stockholder of the issuer in the name and behalf of the issuer if the issuer fails or refuses to bring such action within 60 days after the date of the failure or refusal to prosecute the action thereafter.

(d) Rulemaking Authorized.—The Commission shall, to the extent necessary to carry out the purposes of this section, by order, prescribe such rules and regulations, not inconsistent with the provisions of this section, as the Commission considers appropriate, to prevent the operation of this section by persons other than issuers.

SEC. 409A. LIABILITY FOR BREACH OF FIDUCIARY DUTY

(a) LIABILITY FOR PARTICIPATING IN OR CONCEALING FIDUCIARY BREACH.—(1) Application to participants and beneficiaries of 401(k) plans.—(A) In general.—Part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) is amended by adding after section 409 the following new section:

"SEC. 409A. LIABILITY FOR BREACH OF FIDUCIARY DUTY IN 401(k) PLANS."

"(a) Any person who is a fiduciary with respect to an individual account plan that includes a qualified cash or deferred arrangement under section 401(k) of the Internal Revenue Code of 1986 who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this title shall be personally liable to make good to each participant’s or beneficiary’s individual account any losses of the participant’s or beneficiary’s individual account in the plan resulting from each such breach, and to restore to the participant’s or beneficiary’s individual account in the plan (or directly to such participant or beneficiary in the absence of an individual account) any profits of such fiduciary which have been made through use of assets of the plan by the fiduciary, and shall be subject to such other equitable or remedial relief as the court may deem appropriate, including removal of such fiduciary. A fiduciary may also be removed for violation of section 411 of this Act.

(B) If an insider (as defined in section 409(b)(1)(B)) with respect to the plan sponsor..."
of an employer individual account plan that holds employer securities that are readily tradeable on an established securities market—

(‘‘i) knowingly participates in a breach of fiduciary responsibility to which subparagraph (A) applies, or

(‘‘ii) knowingly undertakes to conceal such a breach,

such insider shall be personally liable under this subparagraph to each participant’s and beneficiary’s fiduciary account in the plan (or directly to such participant or beneficiary in the absence of an individual account) for such breach in the same manner as the plan’s fiduciary is liable for such breach.

(‘‘ii) CONFORMING AMENDMENT.—The table of contents for part 4 of subtitle B title I of such Code is amended by inserting the following new item after the item relating to section 409:

‘‘Sec. 409A. Liability for breach of fiduciary duty in 401(k) plans.’’.

(2) INSIDER LIABILITY.—

(A) IN GENERAL.—Section 409 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1109) is amended by redesignating subsection (b) as subsection (c) and by inserting after such subsection (a) the following new subsection:

‘‘(b)1(A) If an insider with respect to the plan sponsor or plan account of an employer individual account plan that holds employer securities that are readily tradeable on an established securities market—

(i) knowingly participates in a breach of fiduciary responsibility to which subsection (a) applies, or

(ii) knowingly undertakes to conceal such a breach,

such insider shall be personally liable under this subsection to the plan or to any participant or beneficiary of the plan for such breach in the same manner as the fiduciary who commits such breach.

(B) For purposes of subparagraph (A), the term ‘‘with respect to any plan sponsor of a plan’’ means—

(i) any officer or director with respect to the plan sponsor of such plan;

(ii) any independent qualified public accountant of the plan or of the plan sponsor.

(2) Any relief provided under this subsection—

(A) to a participant or beneficiary in an account plan shall inure to the individual accounts of the affected participants or beneficiaries, and

(B) to a participant or beneficiary shall be payable to the participant’s or beneficiary’s individual account in the plan (or directly to such participant or beneficiary in the absence of an individual account).

(B) CONFORMING AMENDMENT.—Section 409(c) of such Act (29 U.S.C. 1109(c)), as redesignated by subparagraph (A), is amended by inserting before the period the following: ‘‘, unless such liability arises under subsection (b)’’.

(b) EFFECTIVE DATE; PLAN AMENDMENTS.—

(1) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall apply with respect to plan years beginning on or after January 1, 2003.

(2) 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, such amendment shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for ‘‘January 1, 2003’’ the date of the commencement of the first plan year beginning on or after the earlier of—

(A) the later of—

(i) January 1, 2004, or

(ii) 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

(B) January 1, 2005.

(3) PLAN AMENDMENTS.—If any amendment made by this section requires an amendment to any provision of this title, no amendment made by this section requires an amendment made by this section to apply with respect to plan years beginning on or after January 1, 2003.

SA 4243. Mr. BUNNING 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 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, after line 25, insert the following:

(c) FRAUDULENT TRANSFERS AND OBLIGATIONS.—Section 58a(t) of title 11, United States Code, is amended by adding at the end the following:

‘‘(3) The trustee may avoid any transfer of an interest in the debtor in or on behalf of the debtor, including any transfer of any bond issued or sold by the Tennessee Valley Authority pursuant to section 15d of the Tennessee Valley Authority Act (16 U.S.C. 831n-3(d));’’.

SA 4244. Mr. GRASSLEY 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 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, after line 25, insert the following:

(c) FRAUDULENT TRANSFERS AND OBLIGATIONS.—Section 58a(t) of title 11, United States Code, is amended by adding at the end the following:

‘‘(3) The trustee may avoid any transfer of an interest in the debtor in or on behalf of the debtor, including any transfer of any bond issued or sold by the Tennessee Valley Authority pursuant to section 15d of the Tennessee Valley Authority Act (16 U.S.C. 831n-3(d));’’.
SA 4245. Mr. SESSIONS 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. 2. COMPLIANCE COMMITTEE.
(a) Establishment.—The Commission shall, by rule, require each of the largest 1,000 publicly traded companies (as determined by the Commission) to establish a committee comprised solely of directors not employed directly or indirectly by the company, or the chief executive officer of the company, or any agent thereof to the chief legal counsel of the company to receive and investigate complaints or other practices of the company.

(b) Composition.—Each committee shall be comprised solely of directors not employed directly or indirectly by the company, or the chief executive officer of the company, or any agent thereof to the chief legal counsel of the company.

(c) Procedures for Review.—Each member of the committee shall—
(1) review each complaint and investigation; and
(2) sign and certify that they have read the complaint and investigation and that records thereof are true and accurate in all material respects.

(d) Reports to Board.—The compliance committee shall report to the board of directors its findings with respect to each investigation for appropriate action.

SA 4246. Mr. SESSIONS 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 establish 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. 2. REPORTING COMPLAINTS.
The Commission, by rule, on easily available option (toll free number, website, e-mail, or other means) for employees of the largest 1,000 publicly traded companies (as determined by the Commission) to report to the Enforcement Division of the Commission confidentially any complaints or other practices of the company.

SA 4247. Mr. EDWARDS 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:

(1) 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 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. If the counsel or officer does not appropriately respond to the evidence, the audit committee shall forward the evidence to the Commission confidentially any complaints or other practices of the company.

SEC. 3. RECORDKEEPING.
Records of any investigation conducted by the Commission shall be deemed confidential, and the Commission shall not release any such records to the public.

SEC. 4. AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICER AND DIRECTOR.
(a) Securities Exchange Act of 1934.—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3) is amended by adding at the end the following new subsection:

"(f) Authority of the Commission To Prohibit Persons From Serving As Officer and Director.—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), 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 or that is required to file reports pursuant to section 15(d), if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.

(b) Securities Act of 1933.—Section 6A of the Securities Act of 1933 (15 U.S.C. 77q-1) is amended by adding at the end the following new subsection:

"(f) Authority of the Commission To Prohibit Persons From Serving As Officer and Director.—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), or the rules or regulations thereunder, from serving as an officer or director of any such issuer."
(a) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end a new subsection as follows:

“(g) AUTHORITY OF THE COMMISSION TO ADOPT AN ADMINISTRATIVE ORDER.—

(1) IN GENERAL.—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that a person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.

(2) MAXIMUM AMOUNT OF PENALTY.—

(A) FIRST TIER.—The maximum amount of a penalty for each act or omission described in paragraph (1) shall be $1,000,000 for a natural person or $2,000,000 for any other person.

(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of a penalty for such act or omission described in paragraph (1) shall be $500,000 for a natural person or $1,000,000 for any other person, if the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement.

(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each act or omission described in paragraph (1) shall be $250,000 for any other person, if—

(i) the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement; and

(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(a)) is amended—

(1) in subparagraph (A)(i), by—

(A) striking “$5,000” and inserting “$100,000”; and

(B) striking “$50,000” and inserting “$250,000”; and

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and moving the margins 2 ems to the right;

(3) by inserting “that such penalty is in the public interest and” after “hearing;”; and

(4) by striking “In any proceeding” and inserting the following:

“(A) IN GENERAL.—In any proceeding;” and

(5) by adding at the end the following:

“(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (a) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.”.

SEC. 607. INCREASED MAXIMUM CIVIL MONETARY PENALTIES

(a) SECURITIES ACT OF 1933.—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is amended—

(1) in subparagraph (A)(i), by—

(A) striking “$5,000” and inserting “$100,000”; and

(B) striking “$50,000” and inserting “$250,000”; and

(2) in subparagraph (B)(i), by—

(A) striking “$5,000” and inserting “$100,000”; and

(B) striking “$50,000” and inserting “$250,000”; and

(3) in subparagraph (C)(i), by—

(A) striking “$100,000” and inserting “$1,000,000”; and

(B) striking “$500,000” and inserting “$2,000,000”; and

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 32 of the Securities Exchange Act of 1934 (15 U.S.C. 78t) is amended—

(1) PENALTIES.—Section 32 of the Securities Exchange Act of 1934 (15 U.S.C. 78t) is amended—

(A) in subsection (b), by striking “$100” and inserting “$10,000”; and

(B) in subsection (c)—

(i) in paragraph (1)(B), by striking “$10,000” and inserting “$500”; and

(ii) in paragraph (2)(B), by striking “$2,000” and inserting “$500,000”.

(2) INSIDER TRADING.—Section 21A(a)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–a(a)(3)) is amended by striking “$1,000,000” and inserting “$2,000,000”. and

(b) SECURITIES EXCHANGE ACT OF 1934 (15 U.S.C. 78u–2(b)) is amended—

(A) in paragraph (1), by—

(i) striking “$5,000” and inserting “$100,000”; and

(ii) striking “$50,000” and inserting “$250,000”; and

(B) in paragraph (2), by—

(i) striking “$50,000” and inserting “$1,000,000”; and

(ii) striking “$500,000” and inserting “$2,000,000”. and

(c) INVESTMENT COMPANY ACT OF 1940.—

(1) INELIGIBILITY.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(2)) is amended—

(A) in paragraph (1), by—

(i) striking “$5,000” and inserting “$100,000”; and

(ii) striking “$50,000” and inserting “$250,000”; and

(B) in paragraph (2), by—

(i) striking “$50,000” and inserting “$1,000,000”; and

(ii) striking “$500,000” and inserting “$2,000,000”. and

(d) INVESTMENT ADVISERS ACT OF 1940.—

(1) ENFORCEMENT OF INVESTMENT COMPANY ACT.—Section 42(e)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–42(e)(2)) is amended—

(A) in paragraph (1), by—

(i) striking “$5,000” and inserting “$100,000”; and

(ii) striking “$50,000” and inserting “$250,000”; and

(B) in paragraph (2), by—

(i) striking “$50,000” and inserting “$1,000,000”; and

(ii) striking “$500,000” and inserting “$2,000,000”. and

(2) ENFORCEMENT OF INVESTMENT COMPANY ACT.—Section 42(e)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–42(e)(2)) is amended—

(A) in paragraph (1), by—

(i) striking “$5,000” and inserting “$100,000”; and

(ii) striking “$50,000” and inserting “$250,000”; and

(B) in paragraph (2), by—

(i) striking “$50,000” and inserting “$1,000,000”; and

(ii) striking “$500,000” and inserting “$2,000,000”. and


(A) in paragraph (1), by—

(i) striking “$5,000” and inserting “$100,000”; and

(ii) striking “$50,000” and inserting “$250,000”; and

(B) in paragraph (2), by—

(i) striking “$50,000” and inserting “$1,000,000”; and

(ii) striking “$500,000” and inserting “$2,000,000”. and
SA 4251. Mr. LEVIN submitted an amendment intended to be proposed by
him to the bill S. 2673, to improve quality
and transparency in financial re-
porting and independent audits and accoun-
ting services for public companies, to
create a Public Company Account-
ning Oversight Board, to enhance the
standard setting process for accounting
practices, and to create an independ-
ent Government 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 ob-
jectivity and independence of securi-
ties analysts, to improve Securities
and Exchange Commission resources
and oversight, and for other purposes;
which was ordered to lie on the table;
and inserting the following:

Amend Section 108 by creating a new (d) and relettering the rest of the section ac-
cordingly:

'(d) REVIEW OF STOCK OPTION ACCOUNTING
TREATMENT.—A standard setting body
described in paragraph (1) and funded pursuant
to Section 109 shall review the accounting
practice of employee stock options and
shall, within one year of the date of enact-
ment of this Act, adopt a corporate gener-
ally accepted accounting principle for the
treatment of employee stock options.'.

SEC. 606. AUTHORITY TO ASSESS CIVIL MONEY PENALTIES.

Section 21(h) of the Securities Exchange
Act of 1934 (15 U.S.C. 78u-11(h)) is amended—

(1) by striking paragraphs (2) through (8); and
(2) by redesignating paragraphs (9) through (12); and

SEC. 608. AUTHORITY TO OBTAIN FINANCIAL RECORDS.

Section 21(b) of the Securities Exchange
Act of 1934 (15 U.S.C. 78u-11(b)) is amended—

(1) by striking paragraphs (9) through (12); and
(2) by redesignating paragraphs (1) through (8); and

SEC. 609. ADMINISTRATIVE PROCEEDINGS RE- GARDING BANS ON SERVICE.

(a) SECURITIES EXCHANGE ACT OF 1934.—
Section 21C of the Securities Exchange Act
of 1934 (15 U.S.C. 78u-11(c)) is amended by
adding at the end the following new subsection:

'(j) AUTHORITY OF THE COMMISSION TO PRO-
HIBIT PERSONS FROM SERVING AS OFFICER
AND DIRECTORS.—In any cease-and-desist pro-
ceeding under subsection (a), the Commis-
sion may issue an order to prohibit, condi-
tional or unconditionally, and permanently
or for such period of time as it shall deter-
mine, any person who has violated section
17(a)(1) from acting as an officer or director of
any issuer that has a class of securities regis-
tered pursuant to section 12 of the Secu-
that such issuer is an SEC registrant, if the
Commission finds reason to believe that such issuer
has violated, or has been or will be the cause of the violation
of, any provision of this Act or any rule or regulation
thereunder, and that such person is not otherwise
eligible to serve as an officer or director of such issuer.

SEC. 606. AUTHORITY TO ASSESS CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 6A of
the Securities Act of 1933 (15 U.S.C. 77aa-1) is amended by adding at the end the following new subsection:

'(c) AUTHORITY OF THE COMMISSION TO AS- SES CIVIL MONEY PENALTY.—

'(1) IN GENERAL.—In any cease-and-desist
proceeding under subsection (a), the Com-
mision may assess a civil monetary pen-
alty if it finds, on the record after notice
and opportunity for hearing, that a person is vio-
ating, has violated, is about to violate, or has been or will be the cause of the violation
of, any provision of this Act or any rule or regulation
thereunder, and that such penalty is in the public interest.

'(2) MAXIMUM AMOUNT OF PENALTY.—

'(A) FIRST Tier.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $100,000 for a natural person or $250,000 for any other person.

'(B) SECOND Tier.—Notwithstanding
paragraph (A), the maximum amount of pen-
alty for such act or omission described in paragraph (1) shall be $1,000,000 for a natural person or $2,500,000 for any other person, if
the act or omission involved fraud, deceit,
manipulation, or deliberate or reckless dis-
regard of a statutory or regulatory require-
ment.

'(C) THIRD Tier.—Notwithstanding
paragraphs (A) and (B), the maximum
amount of penalty for each act or omission described in paragraph (1) shall be $1,000,000 for a natural person or $2,000,000 for any other person, if:

(i) the act or omission involved fraud, deceit,
manipulation, or deliberate or reckless dis-
regard of a statutory or regulatory require-
ment;

(ii) such act or omission directly or indi-
rectly resulted in substantial losses or cre-
ated a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

(b) SECURITIES EXCHANGE ACT OF 1934.—
Section 21B(a) of the Securities Exchange
Act of 1934 (15 U.S.C. 78u-11(a)) is amended—

(1) in paragraph (4), by striking "super-
vision;" and all that follows through the end
of the subsection and inserting "super-
vision;"

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respec-
tively, and moving the margins 2 ems to the right;

(3) by inserting "that such penalty is in
the public interest and" after "hearing;"

(4) by striking "In any proceeding" and in-
serting the following:

'(i) IN GENERAL.—In any proceeding; and

(5) by adding at the end the following:

'(2) OTHER CIVIL MONETARY PENALTIES.—In any pro-
cceeding under section 21C against any per-
son, the Commission may impose a civil
monetary penalty if it finds, on the record
notice and opportunity for hearing, that
such person is about to violate, has violated, is about to violate, or has been or will be the cause of the violation of, any provision
of
this title or any rule or regulation thereunder, and that such penalty is in the public interest.

(c) INVESTMENT COMPANY ACT OF 1940.—Section 9(d) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(1)) is amended—

(1) in subparagraph (C), by striking “therein;” and all that follows through the end of the paragraph and inserting “supervision;”

(2) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and moving the margins 2 ems to the right;

(3) by inserting “that such penalty is in the public interest and” after “hearing,”;

(4) by striking “In any proceeding and inserting the following:

“(A) IN GENERAL.—In any proceeding;” and

(5) by adding at the end the following:

“(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (f) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.”.

(d) INVESTMENT ADVISERS ACT OF 1940.—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(i)(1)) is amended—

(1) in subparagraph (D), by striking “supervision;” and all that follows through the end of the paragraph and inserting “supervision;”

(2) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and moving the margins 2 ems to the right;

(3) by inserting “that such penalty is in the public interest and” after “hearing,”;

(4) by striking “In any proceeding and inserting the following:

“(A) IN GENERAL.—In any proceeding;” and

(5) by adding at the end the following:

“(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (k) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.”.

SEC. 607. INCREASED MAXIMUM CIVIL MONEY PENALTIES.


(1) in subparagraph (A)(ii), by—

(A) striking “$5,000” and inserting “$100,000”; and

(B) striking “$50,000” and inserting “$250,000”;

(2) in subparagraph (B)(i), by—

(A) striking “$5,000” and inserting “$50,000”; and

(B) striking “$50,000” and inserting “$250,000”; and

(b) SECURITIES EXCHANGE ACT OF 1934.—


(A) in subsection (b), by striking “$100” and inserting “$10,000”;

(B) by redesignating paragraphs (1) through (3) as paragraphs (1), (2), and (3) respectively, and moving the margins 2 ems to the right;

(ii) in paragraph (1)(B), by striking “$10,000” and inserting “$500,000”; and

(ii) in paragraph (2)(B), by striking “$10,000” and inserting “$500,000”; and

(ii) in paragraph (3)(B), by striking “$50,000” and inserting “$250,000”;

(ii) in paragraph (2)(B), by—

(1) striking “$50,000” and inserting “$250,000”;

(2) in clause (i), by—

(A) striking “$5,000” and inserting “$100,000”; and

(B) striking “$50,000” and inserting “$1,000,000”;

(ii) striking “$50,000” and inserting “$250,000”;

(iii) striking “$1,000,000”; and

(C) in paragraph (3), by—

(i) striking “$50,000” and inserting “$500,000”; and

(ii) striking “$500,000” and inserting “$2,000,000”;

SEC. 608. AUTHORITY TO OBTAIN FINANCIAL RECORDS.

(a) IN GENERAL.—Notwithstanding section 1105 or 1107 of the Right to Financial Privacy Act of 1978, the Commission may obtain access to and copies of, or the information contained in, financial records of any person held by a financial institution, including the financial records of a customer, without notice to that person, when it acts pursuant to a subpoena authorized by a formal order of investigation of the Commission and issued under the securities laws pursuant to an administrative or judicial subpoena issued in a proceeding or action to enforce the securities laws.

(b) NONDISCLOSURE OF REQUESTS.—If the Commission so directs in its subpoena, no financial institution, or officer, director, partner, employee, shareholder, representative or agent of such financial institution, shall—

(i) result in the transfer of assets or records outside the territorial limits of the United States;

(ii) result in improper conversion of investor assets;

(iii) impede the ability of the Commission to identify, trace, or freeze funds involved in any securities transaction;

(iv) endanger the life or physical safety of an individual;

(v) result in flight from prosecution;

(vi) result in destruction of or tampering with evidence;

(vii) result in intimidation of potential witnesses; or

(viii) otherwise seriously jeopardize an investigation or unduly delay a trial;—

(2) ENFORCEMENT OF INVESTMENT ADVISORS ACT.—Section 208(e)(2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-8(e)(2)) is amended—

(1) in subparagraph (A), by—

(ii) striking “$50,000” and inserting “$250,000”; and

(ii) striking “$50,000” and inserting “$250,000”;

(ii) striking “$1,000,000”; and

(ii) striking “$500,000” and inserting “$2,000,000”;

(ii) imposing a civil proceeding under subsection (k) against any person, the Commission may impose a civil money penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.”.
SEC. 605. AUTHORITY TO ASSESS CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h-1) is amended by adding at the end the following new subsection:

’’(4) by redesigning subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and moving the margins 2 ems to the right;’’.

(b) by striking ‘‘in any proceeding and inserting the following:

’’(A) IN GENERAL.—In any proceeding;’’ and

(5) by adding by the end the following:

’’(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (k) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.’’

(d) INVESTMENT ADVISERS ACT OF 1940.—Section 203(f)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(f)(1)) is amended—

(1) in subparagraph (D), by striking ‘‘supervision;’’ and all that follows through the end of the paragraph and inserting ‘‘supervision;’’,

(2) by redesigning subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and moving the margins 2 ems to the right;

(3) by inserting ‘‘that such penalty is in the public interest and’’ after ‘‘hearing’’;

(4) by striking ‘‘in any proceeding and inserting the following:

’’(A) IN GENERAL.—In any proceeding;’’ and

(5) by adding by the end the following:

’’(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (k) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.’’

SEC. 607. INCREASED MAXIMUM CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77q(d)(2)) is amended—

(1) in subparagraph (A)(i), by—

(A) striking ‘‘$5,000’’ and inserting ‘‘$100,000’’; and

(B) striking ‘‘$50,000’’ and inserting ‘‘$250,000’’;

(2) in subparagraph (B)(i), by—

(A) striking ‘‘$50,000’’ and inserting ‘‘$500,000’’; and

(B) striking ‘‘$250,000’’ and inserting ‘‘$1,000,000’’;

(3) in subparagraph (C)(i), by—

(A) striking ‘‘$100,000’’ and inserting ‘‘$1,000,000’’; and

(B) striking ‘‘$500,000’’ and inserting ‘‘$2,000,000’’;

(b) SECURITIES EXCHANGE ACT OF 1934.—


(1) in subsection (b), by striking ‘‘$100’’ and inserting ‘‘$10,000’’; and

(2) in subsection (c) —
Mr. LEVIN 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 74, line 7, strike “and” and all that follows through “other” on line 8, and insert the following:

“(3) the quality, acceptability, clarity, and aggressiveness of the financial statements, financial reports, accounting principles, and related decision-making of the issuer; and

“(4) other.”

SA 4256. Mr. LEVIN 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, line 8, strike “If an issuer” and all that follows through line 20 and insert the following: “If, as a result of misconduct under the securities laws, an issuer is required by the board of directors, auditor, regulatory agency, bankruptcy official, civil or criminal settlement, court, or other legal proceeding to prepare an accounting restatement due to the material noncompliance of the issuer with any financial reporting requirement that is a condition for registration, or filing with the Commission (whichever first occurs) of the document containing the financial information subject to correction in such restatement; and

SA 4257. Mr. LEVIN 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 73, beginning on line 17, strike “amended by” and insert the following: “amended—

“(1) in subsection (a)—

“(A) in paragraph (2), by striking ‘and’ at the end of

“(B) by redesigning paragraph (3) as paragraph (4); and

SA 4254. Mr. LEVIN 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 50, line 1, strike “public (once” and all that follows through page 51, line 2 and insert the following: “public.

(2) CONTENTS.—The information reported under paragraph (1) shall include—

(A) the name of the sanctioned person;

(B) a description of the sanction and the basis for its imposition; and

(C) such other information as the Board deems appropriate.”

SA 4255. Mr. LEVIN 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 73, beginning on line 17, strike “amended by” and insert the following: “amended—

“(1) in subsection (a)—

“(A) in paragraph (2), by striking ‘and’ at the end of

“...
“(C) by inserting after paragraph (2) the following:
“(3) In general.—It shall be unlawful for any issuer, directly or indirectly, to extend or maintain credit, or arrange for the extension of credit, to or for any director or executive officer (or equivalent thereof) of that issuer, except as provided in paragraph (2).
“(4) Limitation.—Paragraph (1) does not prohibit any extension of credit under an open end credit plan (as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)) that is—
“(A) made in the ordinary course of the consumer credit business of an issuer;
“(B) of a type that is generally made available by the issuer to the public; and
“(C) made on market terms, or terms that are no more favorable than those offered by the issuer to the general public for such loans.”.

SEC. 4258. Mrs. CLINTON 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 professionals, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 408. ACCOUNTABILITY TO SHAREHOLDERS FOR ISSUANCE OF STOCK OPTIONS.

(a) RULES REQUIRED.—Not later than 180 days after the date of enactment of this Act, the Commission shall prescribe final rules to ensure that—

(1) all issuers require shareholder approval of any stock option plan, stock purchase plan, or other arrangement by which employees may acquire an equity interest in the issuer in exchange for consideration that is less than the fair market value of the equity interest at the time of the exchange;

(2) the shareholder approval requirement under paragraph (1) is waived whenever such approval is impracticable; and

(3) shareholder approval of a plan or arrangement under paragraph (1) is disclosed to the public immediately after such approval, through the Internet or similar means, in a readily accessible format.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Commission shall report to Congress on the issuance of the rules pursuant to subsection (a).

SEC. 4259. 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:

SEC. 4260. Mr. BINGAMAN 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:

SEC. 203. AUDIT FIRM ROTATION.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1), as amended by this Act, is amended by adding at the end the following: 
“(a) AUDIT FIRM ROTATION.—It shall be unlawful for a registered public accounting firm to provide audit services to an issuer if that public accounting firm has performed audit services for that issuer in each of the 5 previous fiscal years of that issuer.”.

SEC. 4261. Mr. SHELBY 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:

SEC. 402. PROHIBITION ON LOANS TO OFFICERS AND DIRECTORS.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:
“(c) PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.—
“(1) IN GENERAL.—It shall be unlawful for any officer, directly or indirectly, to extend or maintain credit, or arrange for the extension of credit, to or for any director or executive officer (or equivalent thereof) of that issuer, except as provided in paragraph (2).
“(2) LIMITATION.—Paragraph (1) does not prohibit any extension of credit under an open end credit plan (as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)) that is—
“(A) made in the ordinary course of the consumer credit business of an issuer;
“(B) of a type that is generally made available by the issuer to the public; and
“(C) made on market terms, or terms that are no more favorable than those offered by the issuer to the general public for such loans.”.

SEC. 4262. Mr. SHELBY 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:

SEC. 202. STUDY AND REPORT ON AIDING AND ABETTING SECURITIES FRAUDS.

(1) The Commission shall, not later than 1 year after the adoption of the new rules on appearance and practice before the Commission as required under this section of the bill, complete a study to determine—

(A) the number of securities professionals, including accountants, lawyers and other securities professionals, who have been found to have aided and abetted a violation of the securities laws or the rules and regulations issued thereunder; and

(B) the extent to which such violations indicate the existence of a pattern or practice; and

(2) the amount of shareholder value that was lost in the instances where securities professionals are found to have aided and abetted a violation of the securities laws; and

(3) the amount of remuneration shareholders have received in civil suits from securities professionals who have been found to have committed primary violations of the securities laws; and

(4) the number of securities professionals who have been found to have aided and abetted securities violations who have been censured or denied the privilege of practicing before the Commission for their aiding and abetting activities.
(D) the amount of disgorgement, restitution or any other fines or payments the Commission has obtained from securities professionals who have aided and abetted violations of the securities laws for such conduct; and

(E) the amount of remuneration shareholders have received in civil suits from securities professionals who have been found to have committed primary violations of the securities laws; and

(F) the number of securities professionals who have been found to have aided and abetted securities violations who have been censured or denied the privilege of practicing before the Commission for their aiding and abetting activities.

SA 4263. Mr. ENZI 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 and 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 74, strike lines 1 through 4 and insert the following:

"(2) all material alternative treatments of financial information within generally accepted accounting principles that have been discussed with management officials of the issuer, qualifications of the use of such material".

SA 4264. Mr. ENZI 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 professionals who have been found to have aided and abetted securities violations who have been censured or denied the privilege of practicing before the Commission for their aiding and abetting activities, 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:

"(g) PROHIBITED ACTIVITIES.—A registered public accounting firm (and any associated person of that firm, to the extent determined appropriate by the Commission) shall not be deemed independent if such firm or person performs for any issuer any audit required by this title or the rules of the Commission under this title or, beginning 180 days after the date of commencement of the operations of the Public Company Accounting Oversight Board established under section 101 of the Public Company Accounting Reform and Investor Protection Act of 2002 (in this section referred to as the 'Board'), the rules of the Board, to provide to that issuer, contemporaneously with the audit, the following non-audit services:

On page 78, strike lines 3 and all that follows through page 79, line 9, and insert the following:

(b) EXEMPTION AUTHORITY.—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.

SEC. 202. PREAPPROVAL REQUIREMENTS.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78s–1), as amended by this Act, is amended by adding at the end the following:

"(b) PREAPPROVAL REQUIRED FOR NON-AUDIT SERVICES.

(1) IN GENERAL.

(A) TERMS OF PROVISION OF SERVICES.—A registered public accounting firm may engage in any non-audit service, including tax services, that is not described in any of paragraphs (1) through (9) of subsection (g) for an audit client, only if such services are properly disclosed or approved in accordance with policies and procedures established by the audit committee of the issuer requiring the committee to approve in advance the provision of non-audit services.

(2) DE MINIMUS EXCEPTION.—The preapproval requirement under subparagraph (A) is waived with respect to the provision of non-audit services if—

(i) the aggregate amount of all such non-audit services provided to the issuer constitutes not more than 5 percent of the total amount of revenues paid by the issuer to its auditor;

(ii) such services were not recognized by the issuer at the time of the engagement to be non-audit services; and

(iii) such services were promptly brought to the attention of the audit committee of the issuer and approved by the audit committee prior to the completion of the audit, by 1 or more members of the audit committee who are members of the board of directors to whom authority to grant such approvals has been delegated by the audit committee.

(2) DISCLOSURE TO INVESTORS.—Policies and procedures for approval by an audit committee of any non-audit service to be performed by the auditor of the issuer shall be disclosed to investors in periodic reports required by section 13(k).

(3) DELEGATION AUTHORITY.—The audit committee of an issuer may delegate to 1 or more designated members of the audit committee who are independent directors of the board of directors, the authority to grant preapprovals required by this subsection.

SA 4265. Mr. EDWARDS 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 108, line 15, insert before the end quotation marks the following:

"(c) RULES OF PROFESSIONAL RESPONSIBILITY FOR ACCOUNTANTS.—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 connection with public company services, 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 (including, as necessary, appropriate remedial measures or sanctions with respect to the violation), requiring the attorney to report the same to the Board 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 4266. Mr. SCHUMER 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. 3. MANDATORY RESTITUTION FOR FEDERAL CRIMES OF FRAUD.

Section 1348 of title 18, United States Code (as added by this bill), is amended—
(1) by striking “all victims of any offense” and all that follows through the period and inserting the following: “all victims of any offense.”

(2) for which an enhanced penalty is provided under section 2326;

(2) relating to a Federal crime of fraud in section 371, 1341, 1343, 1348, 1350, or 1520.

SA 4267. Mr. DORGAN 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:

 Insert at the appropriate place:

(c) FOREIGN REINCORPORATIONS.—This subsection shall not be interpreted or applied in any way to allow any issue to lessen the legal force of the statement required under subsection (b), 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:

SEC. 605. ADMINISTRATIVE PROCEEDINGS REGARDING BANS ON SERVICE.

(a) Securities Exchange Act of 1934.—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3) is amended by adding at the end the following new subsection:

(1) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICER AND DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit any person who has violated section 10(b), or the rules or regulations thereunder, from serving as an officer or director of any issuer that has a class or securities registered pursuant to section 12, or that is required to file reports pursuant to section 15(d), if the Commission determines that such person demonstrates unfitness to serve as an officer or director of any such issuer.

(b) Securities Act of 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77j-1) is amended by adding at the end the following new subsection:

(1) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICER AND DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit any person who has violated section 17(a), the rules and regulations thereunder, from serving as an officer or director of any issuer that has a class or securities registered pursuant to section 12, or that is required to file reports pursuant to section 15(d), if the Commission determines that such person demonstrates unfitness to serve as an officer or director of any such issuer.

SEC. 606. AUTHORITY TO ASSESS CIVIL MONEY PENALTIES.

(a) Securities Act of 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77j-1) is amended by adding at the end the following new subsection:

(1) in subparagraph (D), by striking “$500,000” and inserting “$5,000,000”;


(1) in subparagraph (A), by striking “$5,000,000” and inserting “$10,000,000”;

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and moving the margins 2 ems to the right;

(3) by inserting “such penalty is in the public interest and” after “hearing,”;

(4) by striking “in any proceeding” and inserting the following:

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and moving the margins 2 ems to the right;

(3) by inserting “such penalty is in the public interest and” after “hearing,”;

(4) by striking “in any proceeding” and inserting the following:

(A) IN GENERAL.—In any proceeding; and

(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (a) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.

(c) Investment Advisers Act of 1940.—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(i)(1)) is amended—

(1) in subparagraph (D), by striking “$500,000” and inserting “$5,000,000”;

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and moving the margins 2 ems to the right;

(3) by inserting “such penalty is in the public interest and” after “hearing,”;

(4) by striking “in any proceeding” and inserting the following:

(A) IN GENERAL.—In any proceeding; and

(B) OTHER MONEY PENALTIES.—In any proceeding against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.
(2) by redesigning subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and moving the margins 2 ems to the right; and

(b) by inserting "that such penalty is in the public interest and after hearing;";

(c) by striking "In any proceeding" and inserting the following:

"(A) IN GENERAL.—In any proceeding; and

(d) by adding at the end the following:

"(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (k) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person has been in violation of, or has violated, a provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.

SEC. 607. INCREASED MAXIMUM CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77d(d)(2)) is amended—

(1) in subparagraph (A)(i), by—

(A) striking "$5,000" and inserting "$10,000"; and

(B) striking "$50,000" and inserting "$250,000";

(2) in subparagraph (B)(i), by—

(A) striking "$50,000" and inserting "$500,000"; and

(B) striking "$250,000" and inserting "$1,000,000";

and

(3) in subparagraph (C)(i), by—

(A) striking "$100,000" and inserting "$1,000,000";

(B) striking "$500,000" and inserting "$2,000,000";

(b) SECURITIES EXCHANGE ACT OF 1934.—


(A) in subsection (b), by striking—

(i) striking "$5,000" and inserting "$10,000"; and

(ii) striking "$50,000" and inserting "$250,000";

(B) in subparagraph (B), by—

(i) striking "$50,000" and inserting "$500,000"; and

(ii) striking "$250,000" and inserting "$1,000,000";

and

(C) in subparagraph (C), by—

(i) striking "$100,000" and inserting "$1,000,000";

(ii) striking "$500,000" and inserting "$2,000,000";

(2) ENFORCEMENT OF INVESTMENT COMPANY ACT.—Section 42(e)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-42(e)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking "$5,000" and inserting "$10,000"; and

(ii) striking "$50,000" and inserting "$250,000";

(B) in subparagraph (B), by—

(i) striking "$50,000" and inserting "$500,000";

(ii) striking "$250,000" and inserting "$1,000,000";

and

(C) in subparagraph (C), by—

(i) striking "$100,000" and inserting "$1,000,000";

(ii) striking "$500,000" and inserting "$2,000,000";

(3) INELIGIBILITY.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(2)) is amended—

(1) INELIGIBILITY.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking "$5,000" and inserting "$10,000";

(ii) striking "$50,000" and inserting "$250,000";

(B) in subparagraph (B), by—

(i) striking "$50,000" and inserting "$500,000";

(ii) striking "$250,000" and inserting "$1,000,000";

and

(C) in subparagraph (C), by—

(i) striking "$100,000" and inserting "$1,000,000";

(ii) striking "$500,000" and inserting "$2,000,000";

(4) INVESTMENT COMPANIES.—Section 3(i)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(i)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking "$50,000" and inserting "$100,000"; and

(ii) striking "$500,000" and inserting "$2,000,000";

(B) in subparagraph (B), by—

(i) striking "$50,000" and inserting "$500,000"; and

(ii) striking "$250,000" and inserting "$1,000,000";

and

(C) in subparagraph (C), by—

(i) striking "$100,000" and inserting "$1,000,000";

(ii) striking "$500,000" and inserting "$2,000,000";

(5) FINANCIAL REPORTING.—Section 41(e)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(e)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking "$5,000" and inserting "$10,000";

(ii) striking "$50,000" and inserting "$250,000";

(B) in subparagraph (B), by—

(i) striking "$50,000" and inserting "$500,000";

(ii) striking "$250,000" and inserting "$1,000,000";

and

(C) in subparagraph (C), by—

(i) striking "$100,000" and inserting "$1,000,000";

(ii) striking "$500,000" and inserting "$2,000,000";

SEC. 608. AUTHORITY TO OBTAIN FINANCIAL RECORDS.


(A) in subparagraph (A), by—

(i) striking "$5,000" and inserting "$10,000";

(ii) striking "$50,000" and inserting "$250,000";

(B) in subparagraph (B), by—

(i) striking "$50,000" and inserting "$500,000";

(ii) striking "$250,000" and inserting "$1,000,000";

and

(C) in subparagraph (C), by—

(i) striking "$100,000" and inserting "$1,000,000";

(ii) striking "$500,000" and inserting "$2,000,000";

SA 4270. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes:

SEC. 1. 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 4271. Mr. REID (for Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE)) 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 improve the Commission’s oversight, 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 of the instructions add the following:

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(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, while 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 (admitting, 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.
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SEC. 605. ADMINISTRATIVE PROCEEDINGS REGARDING BANS ON SERVICE.

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3) is amended by adding at the end the following new subsection:

```
(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICER AND DIRECTOR.—In any cease-and-desist proceeding under section 12(a) (or the equivalent thereof) and, if the conduct of that person demonstrates unfitness to serve as an officer or director of any issuer, the Commission may order the person to cease and desist from serving as an officer or director of any issuer.
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(b) SECURITIES ACT OF 1933.—Section 9(d) of the Securities Act of 1933 (15 U.S.C. 77d) is amended by adding at the end the following new subsection:

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(i) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICER AND DIRECTOR.—In any cease-and-desist proceeding under subsection (a), if the conduct of that person demonstrates unfitness to serve as an officer or director of any issuer, the Commission may order the person to cease and desist from serving as an officer or director of any issuer.
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SEC. 606. AUTHORITY TO ASSESS CIVIL MONEY PENALTIES.

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 21D of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3) is amended by adding at the end the following new subsection:

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(b) OTHER MONEY PENALTIES.—(4) by striking "$5,000," and inserting "$50,000," and (5) by adding the following after the period at the end of subsection (b):
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(b) INVESTMENT ADVISERS ACT OF 1940.—Section 20(d)(2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-6) is amended—

(1) in subparagraph (B), by striking "$5,000," and inserting "$50,000," and (2) by adding the following as a new paragraph:

```
(c) RATES OF PENALTY.—In any proceeding under section 20(d) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder and that such penalty is in the public interest.
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(d) INVESTMENT ADVISERS ACT OF 1940.—Section 203(f)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-6) is amended—

(1) by striking "$5,000," and inserting "$50,000," and (2) by adding the following after the period at the end of subsection (f):

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(e) PENALTIES.—(1) A FIRST-TIER PENALTY is in the public interest and after "$5,000," and inserting "$250,000," and (2) by adding the following as a new paragraph:

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(f) INCREASED MAXIMUM CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 20(d) of the Securities Act of 1933 (15 U.S.C. 77d) is amended—

(1) by inserting "$5,000," and inserting "$50,000," and (2) by adding the following after the period at the end of subsection (d):

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(g) INCREASED MAXIMUM PENALTIES.—In any proceeding under subsection (a) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder and that such penalty is in the public interest.
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SEC. 607. INCREASED MAXIMUM CIVIL MONEY PENALTIES.
(A) striking "$100,000" and inserting "$1,000,000"; and
(B) striking "$500,000" and inserting "$2,000,000".

(2) SECURITIES EXCHANGE ACT OF 1934.—
   (i) PENALTIES.—Section 32 of the Securities
   Exchange Act of 1934 (15 U.S.C. 78ff) is
   amended—
   (A) in subsection (b), by striking "$100,000" and
   inserting "$1,000,000"; and
   (B) in subsection (c)—
   (i) in paragraph (1)(B), by striking "$10,000" and
   inserting "$500,000"; and
   (ii) in paragraph (2)(B), by striking "$2,000,000;
   (2) INVESTMENT ADVISORS ACT OF 1940.
   (i) INCLUSION.—Section 21A(a)(3) of the Securities
   by striking "$1,000,000" and inserting "$2,000,000".

(3) ADMINISTRATIVE PROCEEDINGS.—Section
   21(b) of the Securities Exchange Act of 1934
   (15 U.S.C. 78b-2(b)) is amended—
   (A) in paragraph (1), by—
   (i) striking "$5,000" and inserting "$100,000"; and
   (ii) striking "$250,000" and inserting "$500,000";
   (B) in paragraph (2), by—
   (i) striking "$5,000" and inserting "$500,000";
   (ii) striking "$250,000" and inserting "$1,000,000"; and
   (C) in paragraph (3), by—
   (i) striking "$100,000" and inserting "$1,000,000"; and
   (ii) striking "$500,000" and inserting "$2,000,000".

(4) CIVIL ACTION.—Section 21(d)(3)(B) of the
   (A) in clause (i), by—
   (i) striking "$5,000" and inserting "$100,000"; and
   (ii) striking "$250,000" and inserting "$500,000"; and
   (C) in clause (iii), by—
   (i) striking "$100,000" and inserting "$1,000,000"; and
   (ii) striking "$500,000" and inserting "$2,000,000".

SEC. 608. AUTHORITY TO OBTAIN FINANCIAL
   RECORDS.

Section 21(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(h)) is amended—
   (1) by striking paragraphs (2) through (8); and
   (2) in paragraph (9), by striking "(9)A)" and all that follows through "B) The" and inserting "(9) The";
   (3) by inserting after paragraph (1), the following:
   "(2) ACCESS TO FINANCIAL RECORDS.—
   (A) IN GENERAL.—Notwithstanding section
   1105 or 1107 of the Right to Financial Privacy
   Act of 1978, the Commission may obtain ac-
   cess to any copies of, or the information con-
   tained in, financial records of any person held
   by a financial institution, including the
   financial records of a customer, without no-
   tice to the person, when it acts pursuant to
   a subpoena authorized by a formal order of
   investigation of the Commission and issued
   under the securities laws or pursuant to an
   admittance of a judicial subpoena issued
   in a proceeding or action to enforce the securi-
   ties laws.
   (B) NONDISCLOSURE OF REQUESTS.—If the
   Commission so directs in its subpoena, no fi-
   nancial institution, or officer, director, part-
   ner, employee, shareholder, representative
   or agent of such financial institution, shall,
   directly or indirectly, disclose that records
   have been requested or provided in accord-
   ance with subparagraph (A), if the Commissi-
   on finds reason to believe that such disclo-
   sure may—
   (i) result in the transfer of assets or
   records outside the territorial limits of
   the United States;
   (ii) result in improper conversion of
   investor assets;
   (iii) impede the ability of the Commissi-
   on to identify, trace, or freeze funds involved
   in any securities
   (iv) endanger the life or physical safety of
   an individual;
   (v) result in flight from prosecution;
   (vi) result in destruction of or tampering
   with evidence;
   (vii) result in intimidation of potential
   witnesses; or
   (viii) otherwise seriously jeopardize an in-
   vestigation or unduly delay a trial.
   (3) INVESTMENT ADVISORS ACT OF 1940.
   (1) REGISTRATION.—Section 203(c)(2) of the
   Investment Advisers Act of 1940 (15 U.S.C. 80b-3(c)(2)) is amended—
   (A) in subparagraph (A), by—
   (i) striking "$5,000" and inserting "$100,000"; and
   (ii) striking "$500,000" and inserting "$1,000,000";
   (B) in subparagraph (B), by—
   (i) striking "$12,000,000" and inserting "$250,000";
   (ii) striking "$12,000,000" and inserting "$250,000";
   (iii) striking "$100,000" and inserting "$500,000";
   (iv) striking "$100,000" and inserting "$500,000";
   (v) striking "$1,000,000" and inserting "$100,000"; and
   (vi) striking "$2,000,000" and inserting "$2,000,000".

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a hearing on Thursday, July 11, 2002, at 10 a.m. in SD-366.

The purpose of the hearing is to explore the Department of Energy’s progress in implementing its accelerated cleanup initiative and the changes DOE has proposed to the Environmental Management science and technology program.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Thursday, July 11, 2002, at 9:30 a.m. to conduct a hearing to assess the progress of national recycling efforts. The Committee will evaluate two areas of recycling. First, the Committee is interested in assessing what the federal government is doing to ensure the federal procurement of recycled-content products, and what can be done to improve these efforts. Second, the Committee is interested in evaluating the concept of producer responsibility specifically related to the beverage industry.

The hearing will be held in SD-406.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in Open Executive Session during the session of the Senate on Thursday, July 11, 2002 at 10 a.m.

Agenda:
S. 724, Mothers and Newborns Health Insurance.
The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, July 11, 2002 at 2:30 p.m., to hear testimony on pending the Social Security Number.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session on the Senate on Thursday, July 11, 2002 at 10:00 a.m., to hold a hearing on implementing U.S. Policy in Sudan.

Agenda

Witnesses


Panel 2: Mr. John Prendergast, Co-Director, Africa Program, International Crisis Group, Washington, DC.

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 Thursday, July 11, 2002, at 10:00 a.m. in SD–430 during the session of the Senate.

Agenda

S. 2328, Safe Motherhood Act for Research and Treatment
S. 612, Greater Access to Affordable Pharmaceuticals Act of 2001
S. 2489, Lifespan Respire Care Act of 2002

Nominations: 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; and Peter J. Hurtgen, of Maryland, to be Federal Mediation Conciliation Director.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, July 11, 2002 at 10:00 a.m., in SD226.

AGENDA

NOMINATIONS

John M. Rogers to be a United States Circuit Court Judge for the Sixth Circuit.


To be a United States Marshal: James Robert Dougan for the Western District of Michigan, and George Brefini Walsh for the District of Columbia.

BILLs

H.R. 3375, Embassy Employee Compensation Act [Blunt].
S. 486, Innocence Protection Act [Leahy/Smith].
S. 862, State Criminal Alien Assistance Program Reauthorization Act of 2001 [Feinstein/Kyl/Durban/Cantwell].
S. 2395, Anticounterfeiting Amendment of 2002 [Biden/Hatch/Leahy/Feinstein/DeWine].
S. 2313, DNA Sexual Assault Justice Act of 2002 [Biden/Cantwell/Specter/Clinton/Carper].

RESOLUTIONS

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. [Biden].

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EMPLOYMENT, SAFETY, AND TRAINING

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Employment, Safety, and Training be authorized to meet for a hearing on Workplace Safety and Health: Oversight of MSHA and OSHA regulation and enforcement during the session of the Senate on Thursday, July 11, 2002 at 10:00 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. SARBANES. Madam President, I ask unanimous consent that Glenn Humphries, a fellow in the office of Senator BILL NELSON of Florida, be granted the privilege of the floor during deliberations of S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Is there objection?

Mr. ENZI. Madam President, this has not been cleared on our side, so I have to object.

The PRESIDING OFFICER. Objection is heard.


Mr. REID. Madam President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty: Agreement, and protocol transmitted to the Senate on July 11, 2002, by the President of the United States.


I further ask that the treaty, agreement, and protocol be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed, and that the President’s messages be printed in the RECORD.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Agreement between the Government of the United States of America and the Government of Ireland on Mutual Legal Assistance in Criminal Matters, signed at Washington on January 18, 2001. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of crimes, including terrorism, drug trafficking, fraud, and other white-collar offenses. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: taking the testimony or statements of persons; providing documents, records, and articles of evidence; locating or identifying persons; serving documents; transferring persons in custody for testimony or other purposes; executing requests for searches and seizures; identifying, tracing, freezing, seizing, and forfeiting the proceeds and instrumentalities of crime and assistance in related proceedings; and such other assistance as may be agreed.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

GEORGE W. BUSH.


To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Agreement between the Government of the United States of America and the Government of the Russian Federation on the Conservation and Management of the Alaska-Chukotka Polar Bear Population, signed at Washington on December 13, 1973 (the “1973 Agreement”), which was a significant, early step in the international conservation of polar bears. The 1973 Agreement is a multilateral treaty to which the United States is a party along with the Russian Federation. The other parties are Norway, Canada, and Denmark. The 1973 Agreement provides for the maintenance of a subsistence harvest of polar bears and provides for habitat conservation.

The proposed U.S.-Russia Agreement, which would operate as a free-standing treaty separate from the 1973 Agreement, is the culmination of an 8-year effort. The U.S.-Russia Agreement builds on the 1973 Agreement to establish a common legal, scientific, and administrative framework for the conservation and management of the Alaskan-Chukotka polar bear population, which is shared by the United States and the Russian Federation. For example, the U.S.-Russia Agreement provides a definition of “sustainable harvest” that will help the United States and Russia to implement polar bear conservation measures while safeguarding the interests of native people. In addition, the U.S.-Russia Agreement establishes the U.S.-Russia Polar Bear Commission, which would function as the bilateral managing authority to make scientific determinations, establish taking limits, and carry out other responsibilities under the terms of the U.S.-Russia Agreement. The proposed U.S.-Russia Agreement would strengthen the conservation of our shared polar bear population through a coordinated sustainable harvest management program.

Early ratification of the U.S.-Russia Agreement by the United States will reinforce our leadership role in international conservation of marine mammals and wildlife conservation action by other countries. I recommend that the Senate give early and favorable consideration to this Agreement and give its advice and consent to ratification.

GEORGE W. BUSH.


To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Second Protocol Amending the Treaty on Extradition Between the Government of the United States of America and Canada, as amended, signed at Ottawa on January 12, 2001. In addition, I transmit, for the information of the Senate, the report of the Department of State with respect to the Second Protocol. As the report explains, the Second Protocol will not require implementing legislation.


The Second Protocol, upon entry into force, will enhance cooperation between the law enforcement communities of both nations. The Second Protocol incorporates into the U.S.-Canada Extradition Treaty a provision on temporary surrender of persons that is a standard provision in more recent U.S. bilateral extradition treaties. It also provides for new authentication requirements for documentary evidence, which should streamline the processing of extradition requests.

I recommend that the Senate give early and favorable consideration to the Second Protocol and give its advice and consent to ratification.

GEORGE W. BUSH.


MEASURE READ THE FIRST TIME—H.R. 4635

Mr. REID. Madam President, it is my understanding that H.R. 4635 is at the desk, and I now ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The legislative clerk read as follows: A bill (H.R. 4635) to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

Mr. REID. Madam President, I now ask for its second reading, but I object to my own request.

The PRESIDING OFFICER. The bill will receive its second reading on the next legislative day.

MEASURE READ THE FIRST TIME—H.R. 5017

Mr. REID. Madam President, I understand H.R. 5017 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The legislative clerk read as follows: A bill (H.R. 5017) to amend the Temporary Emergency Wildfire Suppression Act to facilitate the ability of the Secretary of the Interior and the Secretary of Agriculture to enter into reciprocal agreements with foreign countries for the sharing of personnel to fight wildfires.

Mr. REID. Madam President, I now ask for its second reading, but I object to my own request.

The PRESIDING OFFICER. The bill will receive its second reading on the next legislative day.

ORDER FOR RECESS

Mr. REID. Madam President, I ask unanimous consent that following the remarks of Senator SHELBY, the Senate stand in recess under the order previously entered by the Chair.
The PRESIDING OFFICER. Is there objection?
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 legislative clerk proceeded to call the roll.
Mr. SHELBY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECURITIES FRAUD
Mr. SHELBY. Madam President, over the course of the last 6 months, the longstanding, systemic fraudulent activities of numerous corporations have been exposed in America and around the world. This fraud has cost American investors massive amounts, perhaps hundreds of billions of dollars, perhaps more. Beyond the tangible losses, investor confidence in the integrity of our capital markets has also taken a tremendous hit, as the Presiding Officer knows.

As we move forward to address the shortcomings in the oversight of our financial markets, we must carefully consider the true impact of what has occurred. Thousands of people have lost billions of dollars. Thousands of people have lost jobs. Millions of people have lost faith and confidence in our capital markets every day.

The fact is, none of this is made any easier because of the manner in which this has happened. Americans don’t feel better because the mugging took place in the boardroom rather than the back alley. In many ways, what has happened is even worse. Because of the sheer size and number of participants in our markets, the corporate scams have been much more efficient and much more effective than the average boiler room fraud.

The bottom line is this: Real people are facing tremendous losses, and confidence in our system is eroding.

I believe we must address this situation with concrete measures. Fraud, even if committed by white-collar individuals—indeed, especially if committed by white-collar individuals—needs to be severely punished with criminal sanctions.

I believe we must support efforts to create new, tough penalties for people who commit fraud through our securities markets. I supported that, as most of the people in the Senate did.

Additionally, I believe there is more that we can do to stop or slow down the kinds of conduct that lead to situations where investing Americans are swindled out of hundreds of billions of dollars. The fact is, in one key area, the appropriate disincentives for participating in securities fraud are just not in place.

Since 1994, after the Supreme Court ruling in the Central Bank case, there has been no liability for secondary actors who aid and abet securities fraud in America. Think about that. Since 1994, there has been no liability for secondary actors who aid and abet securities fraud. In effect, the decision in the Central Bank case led to legions of accountants, lawyers, and other security specialists who were still yet behind-the-scenes role in securities transactions, off the hook for down-the-line fraud in the sale of securities.

Think of it like this: The guys who procure the getaway car before the robbery, tune up the getaway car, put air in the tires, and sometimes even drive it away, face no financial liability for their involvement.

Does that make any sense? Not to me. I believe not to the majority of the Senate, if we could get a vote on the Shelby-Durbin amendment. And we will someday because this is not an issue that is going to go away.

When attorneys, accounting firms, and other securities professionals know that assisting a fraud is nothing to worry about, as it is today, there is no wonder there has been a proliferation of audit failures, restatements, Enrons, Global Crossings, WorldComs, and many more to come. Civil and criminal penalties are important and necessary, but they are not sufficient. They serve a separate but important purpose of punishing fraudulent behavior. But they do nothing to ensure that investors, the victims, have an opportunity to recover their losses, which I believe the Senate did.

Civil liability supplements criminal and civil penalties and acts as a further disincentive to engage in or assist fraudulent activities.

Here are a couple of basic questions we all need to answer. Why shouldn’t investors—that is, so many million in America—be able to recover losses from aiders and abettors of securities fraud? What public interest do we serve by inoculating aiders and abettors of securities fraud from civil liability? Why should this type of tort, this fraud, not give rise to a civil claim, particularly when the loss to the investor and impact on the markets is so great, as it is today?

Investors are intentionally being defrauded. Yet they have no remedy at the moment to seek monetary redress from those who aid and abet these crimes. Why? The answer is, aiders and abettors play a vital role in allowing primary actors to commit fraud. They should, accordingly, be held unanimously liable for their participation in these fraudulent schemes.

I believe for our capital markets to function properly, it is not sufficient that financial information is accurate. The public must also have full faith and confidence that it is honest, that we have integrity there.

Accountants, lawyers, and other securities professionals perform, by design, a gatekeeping function within our securities markets. It is unacceptable, I believe, that those upon whom so many rely—all of us—those whose activities can literally move markets, are not held to the highest standards. Something is wrong.

Forty years ago, at a time when securities transactions were considerably less sophisticated than they are today, Judge Henry Friendly, a distinguished jurist remarked:

‘‘In our complex society, the accountant’s certificate and the lawyer’s opinion can be instruments for pecuniary lost more potent than the chisel or the crowbar.”

Today’s staggering shareholder losses demonstrate that over time legal and accounting gimmicks have only grown more potent.

I believe we must create greater disincentives for those who would assist securities fraud. Restoring liability for aiders and abettors of securities fraud should make securities professionals think twice, even three times before they put their seal of approval on information sent to the marketplace. Such carelessness will serve investors and our markets well in the future.

Our economy has provided the best material standard of living in the world because our capital markets have traditionally favored clarity over complexity, disclosure over disseminating, and fairness over favoritism. For the sake of future economic growth and prosperity, I believe we must put those principles back into practice.

Senator DURBEN and I are going to continue to pursue our amendment. As I said earlier, this is not going to go away because there are going to be more scheduled. I wish we could have done it on this bill. I yield the floor.

RECESS UNTIL 9:15 A.M.
TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9:15 a.m.

Thereupon the Senate, at 6:41 p.m., recessed until Friday, July 12, 2002, at 9:15 a.m.

NOMINATIONS
Executive nominations received by the Senate July 11, 2002:

FEDERAL RESERVE SYSTEM
BEN S. BERNANKE OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 1996, VICE EDWARD W. KELLY, JR., RESIGNED.
DONALD L. KORN OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 2002, VICE LAURENCE H. MAYER, RESIGNED.

FEDERAL DEPOSIT INSURANCE CORPORATION
JOHN M. REICH, OF VIRGINIA, TO BE VICE CHAIRPERSON OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM EXPIRING DECEMBER 31, 2006, VICE GEORGE W. BLACK, JR., TERM EXPIRED.

NATIONAL TRANSPORTATION SAFETY BOARD
RICHARD P. HEALING OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2007, VICE GEORGE W. BLACK, JR., TERM EXPIRED.

THE JUDICIARY
ALLA M. LUDLUM OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS, VICE HARRY LEE HUDSPETH, RETIRED.
PAYING TRIBUTE TO TANO VALLE
HON. SCOTT McINNIS
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 11, 2002

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Tano Valle, an outstanding member of the Pueblo, Colorado community. Tano has provided the community with quality entertainment and dining for almost sixty years through his restaurant, El Valle. The establishment has become an icon of the Pueblo restaurant community and I am honored to congratulate Tano for his success before this body of Congress, and this nation.

Tano began running the family business in 1937 and provides Pueblo with a terrific dining and entertainment experience. In fact, he now serves the children and grandchildren of his original customers. His menu ranges from Valencian hot dogs to chocolate-stuffed conchas and has hosted some of the biggest acts in the music business, notably Little Richard, Fats Domino, and Gracie Slick. Tano takes immense pride in this family business and I am grateful for his dedication and commitment to excellence in the community.

Mr. Speaker, Tano’s dedication to his customers and quality service serves as an example of business excellence in Colorado. He is a well-appreciated and respected member of the Pueblo business community and I am honored to represent him and his family before you today. Thanks for all your hard work, Tano, and I wish you all the best in your future endeavors.

CONCERNING RISE IN ANTI—SEMITISM IN EUROPE
SPEECH OF
HON. GIL GUTKNECHT
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 9, 2002

Mr. GUTKNECHT. Mr. Speaker, while I support the general spirit of H. Res. 393, which condemns the rise of anti-Semitism in Europe, I am concerned that the initial findings might lead to misconceptions regarding our German friends. The citations of anti-Semitic incidents in Germany misrepresent the actual frequency of anti-Semitic activity. Germany has very assertively attacked anti-Semitic trends within its borders. For instance, on June 28, 2002, the German Parliament passed, by unanimous vote, a resolution condemning all aspects of anti-Semitism. Additionally, recent statistics gathered by the German Interior Ministry cited an average of 130 anti-Semitic incidents per month in 2001. Incidents have decreased dramatically thus far in 2002. The Interior Ministry reports 127 anti-Semitic acts in the first three months of 2002, an average of 42 incidents per month; a decrease of 68 percent. I encourage and commend our German colleagues in their continued attention and efforts against anti-Semitism.

ARMED FORCES TAX FAIRNESS ACT (H.R. 5063)
SPEECH OF
HON. EARL POMEROY
OF NORTH DAKOTA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 9, 2002

Mr. POMEROY. Mr. Speaker, I rise in strong support of the Armed Forces Tax Fairness Act. This bill makes it easier for military families to sell their homes without tax penalty and ensures that death benefits received by families of deceased military personnel are exempt from taxation.

At this time, we should do everything in our power to better the quality of life for our service men and women who are fighting on our behalf. These tax cuts benefit our military families who have committed so much to protecting our freedoms.

This bill makes it easier for military families, like those at Grant Forks and Minot Air Force bases, to sell their homes without incurring capital gains taxes. Currently, a taxpayer can exclude up to $250,000 of an estate sale from the sale of a home. To qualify for the exemption, the taxpayer must have owned and lived in the home for at least two of the five years prior to the sale. For military personnel who are often deployed for long periods of time, this time requirement poses a real hardship.

This bill suspends the five-year requirement for the capital gains exemption for the time that the service member is serving on extended military duty away from their home. This provision could save service members and their families a capital gains tax hit as much as 20% of the value of their homes.

The legislation also exempts from taxes the full $6,000 death benefit received by families of deceased military personnel and allows for tax-free treatment of future increases in the death gratuity. This change to the tax law furthers our commitment to taking care of military families who lose a service member in the line of fire.

I strongly support this bill and encourage my colleagues to adopt the legislation. We should act together to honor and show our support for the men and women in uniform.

IN HONOR OF JACK CALEGARI DISTINGUISHED LEGIONNAIRE OF THE MISSOURI AMERICAN LEGION
HON. KAREN MCCARTHY
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 11, 2002

Ms. McCARTHY of Missouri. Mr. Speaker, I rise today to pay tribute to Mr. Jack Calegari, an outstanding individual, Veteran, and public servant from the State of Missouri. Mr. Calegari is known for his gentle manner, warm smile, and his tireless efforts for the betterment of our community and region. His dedication and consistent support to various veterans’ programs and issues have proven to be a valued resource. It is with great pride that we acknowledge the honor bestowed on him as the Distinguished Legionnaire in the Western Region of Missouri from the R.C. Connie Burns American Legion Post 71.

In the tradition of the American Legion, Jack Calegari has demonstrated the patriotic and philanthropic values throughout his military and civilian careers. On January 28, 1952, Mr. Calegari began his service in the United States Army and performed duties as a valuable cryptographer. He was later stationed in Stuttgart, Germany and quickly made the rank of Corporal. Shortly after his return from overseas, he married Tessa and their family soon expanded to include their son, Jack. Mr. Calegari worked as a television repairman and eventually began employment at Bendix Corporation, which would later evolve into Allied Signal and is currently Honeywell’s Kansas City Plant integral to the Department of Energy’s manufacturing system.

Mr. Jack Calegari has held every office in Post 71, serving as Post Commander for forty years and as Fifth District Commander in 1997–1999. This noble gentleman and his charming wife, Tessa, have donated much of their time at the Kansas City VA Hospital lifting spirits, helping the Women’s Auxiliary wrapping Christmas gifts, and taking pictures around the holidays. As a member of the American Legion’s Forty/Eight Club, Honor Society of the American Legion, he volunteered to work on their fund raising bingo project. The proceeds from bingo have furnished four rooms on the 11th floor of the Kansas City VA Medical Center so family members have a place to stay with their critically ill veterans. In addition, the Forty-Eight recently donated a new van with a wheelchair lift to the hospital. At Christmas time you can find Jack volunteering as a Christmas Kettle bell ringer for the Post 71 Salvation Army Bell Ringers.

Jack Calegari is active in many local causes and civic endeavors. He has been a mentor for our youth through his work in programs such as Boys State Program Committee that ensures leadership in future generations. He promotes arts and has worked with the District Oratorical Program to provide high school students with the opportunity to develop oratory skills while learning and understanding our Constitution. Another important youth project he participates is the J.R.O.T.C. program at Paseo High School of Performing Arts where he is a beloved figure.

For the past ten years he has served as Chairman of the Cadet Patrol Committee for Missouri. The American Legion sponsors Missouri high school students to attend the Missouri State Highway Patrol Academy. Yearly preparations require six months of Jack’s
It would require that Federal health programs through Federal health care programs and victims of alopecia who receive medical care under the Patient Protection and Affordable Care Act of 2002, would extend this fairness to medical necessity. These programs include Medicare, Medicaid, TRICARE, the State Children's Health Insurance Program (SCHIP), the Federal Employees Health Benefits Program (FEHBP), veterans health care programs, and the Indian Health Service (IHS).

We already recognize the difficulties associated with alopecia and provide prosthetic hairpieces to patients who lose their hair due to cancer treatment. Let's do the same for victims of alopecia. I urge my colleagues to join me as cosponsors of this bill.

Today, I am happy to introduce this companion bill to the Alopecia Areata Fairness Expansion Act of 2002 from Missouri's Fifth District.

Last year I introduced the Alopecia Areata Fairness Act, a bill requiring private insurance plans to cover hairpieces for victims of alopecia, a disease causing partial or total hair loss. Today, I am happy to introduce this companion bill requiring that Federal health programs provide insurance coverage of hairpieces for alopecia victims.

Over 4 million Americans suffer from alopecia, some losing small amounts of hair and some all of it. The onset most often begins in childhood, and it can be psychologically devastating. Children with the disease are often teased in school, and adults frequently have trouble in the workplace. Many people with alopecia must purchase hairpieces to keep their jobs or to avoid ostracism. Yet private and public insurance plans often discriminate between people who suffer from alopecia and those losing hair because of cancer or other diseases, refusing to cover alopecia victims.

My first bill, the Alopecia Areata Fairness Act (H.R. 547), would take a critical step toward changing this by requiring insurance companies to cover hairpieces as a prosthetic device, provided a doctor prescribes it as a medically necessary. My new bill, the Alopecia Fairness Expansion Act of 2002, would extend this fairness to victims of alopecia who receive medical care through Federal health care programs and who would not be helped by H.R. 547 alone.

It would require that Federal health programs cover hairpieces for people suffering from alopecia when prescribed by a doctor as a medically necessary. These programs include Medicare, Medicaid, TRICARE, the State Children's Health Insurance Program (SCHIP), the Federal Employees Health Benefits Program (FEHBP), veterans health care programs, and the Indian Health Service (IHS).

We already recognize the difficulties associated with alopecia and provide prosthetic hairpieces to patients who lose their hair due to cancer treatment. Let's do the same for victims of alopecia. I urge my colleagues to join me as cosponsors of this bill.

MOB OWNS FBI IN YOUNGSTOWN

HON. JAMES A. TRAFICANT, JR. OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. TRAFICANT. Mr. Speaker, the following facts and sources speak for themselves, making FBI recordings in Boston, Massachusetts look like a Rotary meeting.

TRAFICANT INVESTIGATION

JOSEPH NAPELS—JAMES PRATO

1. Fact: Joseph Naples issued a contract to kill one Paul Calautti; Source: FBI Affidavit; Result: Paul Calautti murdered October 11, 1968; Finding: Joseph Naples never brought to trial.

2. Fact: Joseph Naples issued a contract to kill one Joseph DeRose; Source: FBI Affidavit; Result: Joseph DeRose shot and killed two bullet wounds May 13/14 1980; Finding: Joseph Naples never brought to trial.

3. Fact: Joseph Naples issued a contract to kill one Robert Furey; Source: FBI Affidavit; Result: Robert Furey murdered April 12, 1979; Finding: Joseph Naples never brought to trial.

4. Fact: Joseph Naples and James Prato issued a contract to kill Charles Carabba; Source: La Cosa Nostra underboss Angelo Lonardo's testimony under oath during a U.S. Senate hearing on organized crime (1988); Finding: Charles Carabba convicted and murdered; Finding: Joseph Naples and James Prato never brought to trial.

5. Fact: Isabella Callard witnessed her husband Joe Ezzo giving money to FBI Agent James Prato in a bodega in Boston, Massachusetts look like a Rotary meeting.

6. Fact: Jerome Strollo and James Prato distributed State legislation; Finding: James Prato never brought to trial.

7. Fact: Joseph Naples ordered numerous other arsons and bombings occurred; Finding: Joseph Naples never brought to trial.


9. Fact: James Prato gave an attempted campaign contribution to Sheriff candidate Terrence Shields; Source: Michael Terlecky Affidavit. Affidavit of Congressional Lead Staff Investigator Frederick V. Hudach; Result: Terrence Shields advertised aggressively during his campaign for Sheriff; Finding: James Prato never brought to trial due to no grand jury being assembled.

10. Fact: James Prato gave an $80,000 campaign contribution to Sheriff candidate Terrence Shields; Finding: James Prato never brought to trial.

STANLEY PETERSON AS FBI AGENT

1. Fact: Isabella Callard witnessed her husband Joe Ezzo giving money to FBI Agent Stanley Peterson so that he would permit gambling and other illegal activity to continue; Source: Isabella Callard Affidavit; Result: Illegal activity continued; Finding: Stanley Peterson retired from the FBI and subsequently became the Chief of Police of Youngstown, Ohio.

STANLEY PETERSON/FRIEND OF THE MOB/CHIEF OF POLICE

1. Fact: The FBI was informed that a candidate for Mayor of Youngstown, Emanuel Catsoules stated that he was an organized crime wanted Stanley Peterson to be his Chief of Police.

2. Fact: The FBI was informed that a candidate for Mayor of Youngstown, Thomas A. Shipka, was contacted by a friend of the mob who would support his campaign based on
certain conditions, one of which that he would appoint Stanley Peterson as his Chief of Police.

3. Fact: Thomas A. Shipta turned over his information and actual evidence to 13-14 police officers who had first-hand knowledge of gambling joints, prostitution, and other activities that they alleged Mr. Peterson was connected with.

4. Fact: Allegation of Mr. Peterson being involved in an illegal wiretap of a rival mob group was strike forces.

5. Fact: The FBI was informed that in 1969, Jack Hunter, a candidate for Mayor of Youngstown, was contacted by an intermediary for organized criminal figures who were well known. They wanted veto powers over Chief of Police in exchange for campaign funds. A high ranking official in the Sheriff's Department was to act as the bagman.

6. Fact: The FBI was informed that in 1971 an intermediary for organized crime contacted Mayor of Youngstown, Jack Hunter, expressing a desire for him to name Stanley Peterson as Chief of Police.

7. Fact: On two separate occasions during the period that Stanley Peterson was Chief of Police of Youngstown, concerned citizens took substantial evidence to the local FBI office implicating Peterson in promoting or protecting criminal activity inside the City of Youngstown. The Youngstown Police Department took evidence to the FBI identifying over 30 specific sites where organized criminal activity was being permitted to operate within the city.

8. Fact: Evidence was presented to the FBI that Chief of Police, Stanley Peterson was disciplining certain members of the Youngstown Police Department to discourage them from taking action against operations being conducted within the city.

Source: Affidavits and testimony submitted during U.S. Senate hearings on Organized Crime (1984); Result: The FBI said they were aware of the information about Stanley Peterson and that they investigated same, however, the nature of the information lacked specificity; Finding: The evidence against Stanley Peterson was never brought before a Grand Jury.

9. Fact: Joseph Naples and James Prato who were aligned with the Sebastian John group were well known. They wanted veto power over Kroner like Naples did. The reason for this was to see if Lenny Strollo could control over what he did. The reason for this was to see if Lenny Strollo could have control over Kroner like Naples did.

Source: Robert A. Frank Affidavits; Result: FBI/IRS/U.S. Attorneys will not prosecute their criminal friends for political reasons.

PAYING TRIBUTE TO FRANCISCO GARCIA

HON. SCOTT McINNIS
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. McNiiss. Mr. Speaker, it gives me great honor to stand before you today and praise
the accomplishments of Mr. Francisco Garcia. Mr. Garcia is the Founder and CEO of Integrated Information Technology Corporation, and through his company he has provided employment opportunities to 360 Coloradans in his eight offices. Francisco Garcia lives his business life by the motto: “Treat others with the same level of respect, professionalism and fairness that you wish to be treated”, and I am proud to bring forth his accomplishments before this body of Congress.

Francisco has two degrees, a Bachelor of Science in chemistry from the University of Texas-San Antonio, and a Bachelor of Science in Electrical Engineering from Ohio University in Athens. He also served our country in the United States Air Force as a Communications Officer where he achieved the rank of captain. Later in life, Mr. Garcia established his own company to provide important satellite, communications, network and installation services to the state of Colorado. His good fortune and quality business ethics have earned him many awards, including the SBA Region VII Subcontractor of the Year in 2002, the Diverse-Owned Business of the Year in 2001, the Family Business Award in 2001, and also the SBA’s National Minority Small Business Person of the Year in 1996.

Mr. Speaker, I am honored to recognize the accomplishments of this pillar of the Denver Business Community. Francisco Garcia has been a great asset to the State of Colorado and to the world of communications. Francisco, I wish you all the best in your future endeavors.

JULY 4TH ADDRESS BY MAYOR ROBERT BLOMQQUIST OF OLMSTED FALLS, OH

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 11, 2002

Mr. KUCINICH. Mr. Speaker, I am grateful for the opportunity to share a 4th of July speech given by Robert Blomquist, Mayor of Olmsted Falls. Mayor Blomquist eloquently spoke of the values and principles on which our country was founded that we must remember and cherish on Independence Day.

Welcome to the City of Olmsted Falls 4th of July festivities. Five weeks ago we gathered here to honor and remember the members of our country’s armed forces whom paid with their lives for the ideas behind the event and document that we celebrate today, the anniversary of the signing, and adoption, by the continental congress, or the declaration of independence.

Today is just not about the birth of a nation. Today is a day in which we pay respect and tribute to the men that pulled together in one of the most comprehensive and complete ordered thoughts about the nature of man, the nature of government, and how human beings can exist to pursue life, liberty, and the pursuit of happiness. The careful thinking that is the fabric of our great nation. A statement of how we can be free as individuals, but still coexist in a structured society.

When I think about the history of our country, I am so grateful that I am a citizen of the United States, that my children and I are beneficiaries of the ideas of the best human nature.

Think with me for a moment.

This land is the product of a unique confluence of the evolution of technology, economics, politics, and the nature of man. In the 17th century it became technically and economically possible to claim and settle lands beyond their boundaries. Politically Spain, France and Great Britain competed to exploit their claims in the new world and expand their influence.

The original 13 colonies were settled between 1607 and 1732, by Great Britain. It took 125 years and began 170 years before the birth of our nation. People first came as agents of the king to exploit the natural resources, and later came to escape the king and a situation where citizens were not recognized as being created equal, but where it was believed that men were given rights by station of birth.

At the time this land was being settled, the idea of what is the true natural state of man. What is freedom and liberty? What is the role of government? What are the divine rights of the king as a sovereign? Should a king truly govern without the consent of his subject people? These ideas were being explored by such as Thomas Hobbes, John Locke, and Jean Jacques Rousseau. At the time the colonies were flourishing.

These ideas flourished with the American colonies. They took root and grew in the minds of both the intellectual and the layman as natural state of the human desire to be free and independent itself.

We know that this led to the events of our American Revolution. As we openly rebelled against an unjust king we still tried to organize ourselves and our government to better reflect man’s desires.

The declaration of independence when you read it was not an indictment and redress of grievances in the literal sense. It was an announcement to the world of the reasoning behind the rebellion. When Congress adopted the declaration of July 4, 1776, England virtually ignored it. It received a 6 line mention in the London Morning Post, just below a theater notice. But on these shores it galvanized a people, to expend treasure and lives to fight for the ideals of life, liberty, and the pursuit of happiness that we still enjoy today.

The Declaration of Independence was the product of the best thinking on social and political philosophy of the time. It became the blueprint of our constitution. And continues to this day to inspire men to lead their lives, their fortunes, and their sacred honor.

In the year that has just passed, between today and last year’s celebration we again find it necessary to defend the foundation of our freedoms enjoyed as Americans.

At the time Jefferson wrote it and 56 men signed it and were declared treasonous, and sentenced to death, no one knew what would happen as a result of the Declaration of Independence. We have the advantage of 226 years of history to evaluate and appreciate this event.

Shortly before his death in 1826, Thomas Jefferson also had the advantage of the passage of time to reflect. The following is a passage of a letter written by Jefferson, as he had to decline an invitation to Washington City to celebrate Independence Day because of ill health. Expressing his regrets that he could not join with the small group of worthy gentlemen who created and signed the declaration, “I should have indeed delighted to gather with an exchanged congratulations with those who joined with us to have elected to not submit to the sword of the king, and in our fellow citizens after a half century of prosperity to continue of the choice we made. To assume the blessings of self government that restores the right of the exercise of reason and freedom of opinion. All eyes are open to the rights of man. For ourselves, let us exercise the annual renewal of this day for our collection of these rights and our devotion to them.”

A TRIBUTE TO REBEKAH REVELS MISS NORTH CAROLINA 2002

HON. MIKE McINTYRE OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 11, 2002

Mr. McINTYRE. Mr. Speaker, I rise today to pay tribute to Rebekah Revels, who was recently crowned Miss North Carolina 2002. A native of St. Paul’s in my home county of Robeson and a teacher at my alma mater, Lumberton Senior High School, Rebekah’s recent accomplishment is a source of immense pride throughout our county and all of southeastern North Carolina.

The American historian, James Truslow Adams, once said, “Seek out that particular mental attribute which makes you feel most deeply and vitally alive, along with which comes the inner voice which says, ‘This is the real me,’ and when you have found that attitude, follow it.” With dedication and determination, Rebekah has followed her heart and mind and become Miss North Carolina 2002. Rebekah is a woman of dedication who does not rest on her laurels. Having held the past titles of Junior Miss Lumbbee, Miss Lumbbee, Miss University of North Carolina at Pembroke, Miss St. Paul’s and Pembroke, Rebekah has kept the fire and energy alive to reach her dream of Miss North Carolina. She is a woman of dedication who provides a positive example for all to follow.

Rebekah is a very determined young woman. She set the goal of becoming Miss North Carolina and worked tirelessly to achieve this high distinction. She now will use this same drive and determination to inform people all across North Carolina of the devastating effects of Alzheimer’s disease.

Rebekah, thank you for your dedication and your determination. We wish you continued success, and may God’s strength, peace and joy be with you as you begin your reign as Miss North Carolina 2002 and as you compete for the title of Miss America.

TRIBUTE TO THE REGISTERS OF WILLS AND CLERKS OF ORPHANS’ COURT

HON. BILL SHUSTER
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 11, 2002

Mr. SHUSTER. Mr. Speaker, I rise today to congratulate the Registers of Wills & Clerks of Orphans’ Court (ROW/OC), comprising Pennsylvania’s 67 counties, for their 75th Anniversary as a state association. This organization is a collective group of elected professionals who have come together to learn from one another and to work as a team, being that they have succeeded in creating one set of standards, procedures, rules, and statutes that are used statewide.
First organized in 1927, the ROW/OC Association of Pennsylvania, has strived to promote more effective government by concentrating on the priorities of information dissemination, education, and legislation. To best do this, they conduct an annual statewide conference for their members, which is an effective forum for education, information exchange, and sharing of information.

The result of this hard work, is the creation of a critical link between Pennsylvania's various departments, agencies, and the public who depend on these offices for a wide variety of purposes.

I would like to once again congratulate the Register of Wills & Clerks of Orphans’ Court Association of Pennsylvania on their 75th Anniversary as a state association and thank them for their hard work and dedication.

COMMENDING JASON HIBNER

HON. TONY P. HALL
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. HALL of Ohio. Mr. Speaker, each year the Veterans of Foreign Wars and its Ladies Auxiliary and the National Audio Essay Contest entitled the Voice of Democracy, 85,000 secondary school students participated this year on the theme, Reaching Out to America’s Future. Jason Hibner, a young man from my congressional district, took second place with his essay, and were the Zeroes awarded the $15,000 Charles Kuralt Memorial Scholarship. Jason has just completed his junior year at Vandalia-Butler High School. I am pleased to insert his remarks into the CONGRESSIONAL RECORD.

2001-2002 VFW Voice of Democracy Scholarship Contest

“REACHING OUT TO AMERICA’S FUTURE”

The train ride must have been nearly unbearable. The biting cold, so unlike the warmth of the Hawaiian harbor, likely did nothing to dull the pain of his recent losses as the iron machine chugged along the parallel tracks as the telegram giving word of his father’s death had come only a week prior, it would be difficult to comfort his sister and mother with the tragedy of his brother’s death also fresh in their minds. The date was December 7, 1941. The title, “a date that shall live in infamy” would come later as would the declaration of war. But for my great uncle Arthur the day would mark the grimiest day of his life. He should have been there, at Pearl Harbor, as all his friends and fellow crewmen were when the Zeros began dropping their deadly cargo. Such cruel irony, only his personal tragedies had prevented the loss of his own life. The thoughts of tragedy of West and his family grieving to the East must have made the long ride nearly unbearable.

In December of ’41, the world changed for every American young and old. The threat to our liberty could not be questioned; it could only be answered with such extra ordinary force and purpose. However, the war was won, not by the adults who earlier questioned the next generation’s patriotism, but by the young men and women who were pulled from their homes and thrown into battle. Ted was one of them.

Ted was born in the small Northwestern Colorado town of Maybell and became a teacher and principal at Rio Blanco High School in Meeker in 1955. Ted went on to become an administrator for the University of Colorado extension division in Grand Junction and served as an assistant superintendent of School District 51. In 1969, he returned to receive higher education at Denver Community College and then returned to Mesa in 1970.

Ted’s leadership guided Mesa College on a course geared toward providing young adults with a quality and affordable education aimed to meet as many needs as possible in western Colorado. Ted was almost perfectly suited to the role of reshaping Mesa because he was first and foremost an educator in the highest sense of the word.

Ted is survived by his wife, Maxine, who served as a Mesa County Commissioner for 15 years and his two children, T.L. and Rhonda. Throughout his life, Ted remained a strong supporter of the Mesa State College and its role in the community.

Mr. Speaker, it is with profound sadness that we remember Ted Albers. He was a remarkable man whose innovative teaching techniques have educated thousands of people and whose good deeds deserve the recognition of this body of Congress and this nation. The impact of Ted’s life on those with whom he has come in contact is a testament to this great man. I would like to express my condolences to the family of Ted Albers.

IN RECOGNITION OF FATHER BYRON COLLINS OF THE GOLDEN ANNIVERSARY OF HIS ORDINATION INTO THE PRIESTHOOD

HON. JOHN P. MURTHA
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. MURTHA. Mr. Speaker, on Friday, June 21, 2002, a gentleman who has been a friend to many of us in this chamber over the last quarter century, Father T. Byron Collins, S.J., celebrated the golden anniversary of his ordination into the priesthood. He entered the Jesuit Order in September, 1940.

Through fifty years of ordained priesthood, Father Collins has left a lasting impression on the lives of many devout Catholics. Virtually every weekend, Father Collins travels over 150 miles round trip to say Mass at Our Mother of Sorrows Catholic Church in Centerville on Maryland’s Eastern Shore. During the week, he is an active presence on the campus of Georgetown University where he not only has played a major role in shaping the physical presence of that institution, but has also enhanced the understanding of the Catholic faith among the students. Now in his eight decade of life, Father Collins is still seen rowing on the Chesapeake Bay and bicycling in the vicinity of the Georgetown campus. This is a man who is living life to the fullest and continuing in many ways to serve his faith.

I know that Father Collins is immensely proud—in his very humble way—of having been able to play a significant role in the life of Georgetown University, the Nation’s oldest Catholic university. Likewise, I know that many of us in this House have come to admire and respect this man of the cloth. He has been a friend who has been with us times of joy and of tribulation. He is to be commended for the fifty years of service he has provided since his ordination.
Mr. RANGEL. Mr. Speaker, today America faces a crisis that affects more than 40 million people. This is the number of Americans who are currently without health insurance. Additionally, if we account for the number of people who have insurance but are underinsured, then we arrive at a far more disturbing number. Let’s face it. The health care system as we know it is falling far short of its goals.

During a time in which the economy is lagging and health care prices are rising, companies are having to make cutbacks and consumers are having to choose between health care benefits and meeting their daily needs. For example, when faced with the choice of paying for a vehicle needed to get to work each day or for expensive health care coverage, millions opt to forgo their health in favor of a much needed paycheck.

On the other hand, business profits have been decreasing substantially, employers can no longer afford to offer employees lower prices for health insurance. This means that businesses feel pressure to pass the health care bill on to employees. Since 74% of the U.S. population is covered by private health care insurers, mostly provided by the workplace, this means that consumers will feel the squeeze of skyrocketing health care prices.

Why is it so important that we insure all Americans? Lack of health care drastically affects access to proper medical treatment. Since the uninsured are less likely to have regular health care treatment, their level of health is lower on average compared to the insured. People without health insurance tend to allow medical problems to go untreated because they cannot afford doctor visits or recommended medications. More than a third of uninsured adults say they have not filled a prescription in the past year due to cost. More than a third did not get a medical test or treatment that had been recommended.

The uninsured do not normally have access to preventative care, which may mean the difference between catching cancer in its early, treatable stages as opposed to a stage in which the cancer is incurable. For example, uninsured women diagnosed with breast cancer are more likely to die from it because they have a much greater chance of being diagnosed with late-stage cancer.

We must address the problem of the uninsured because the health care crisis also affects the decisions of health care providers. Under the current system of competitive managed care, physicians are often forced to choose between giving proper treatment to the uninsured (risking uncompensated care) and not providing adequate treatment (risking the life of the patient). To alleviate this problem, the uninsured are often required to pay for services “up front.” This requirement causes uninsured individuals to either wait until they can afford treatment or charge their medical bills to credit cards, potentially building debt that may take years to pay.

Another problem evident in the current health care system is that minorities disproportionately represent the uninsured. Roughly a third of Hispanic and Native Americans are uninsured. About 20% of African Americans and Asians are uninsured compared to 11% of whites.

The poor and near-poor are also much more likely to be without health insurance. If it were not for Medicaid, many more of the poor would be uninsured and would have reduced access to medical care. Yet Medicaid does not cover a significant number of the near-poor. Since nearly 60% of the uninsured at or below the poverty level have at least one worker in the family, many near-poor individuals earn too much to qualify. It is much more evident that we must work to narrow the gaps of health care coverage disparities among racial and socioeconomic lines.

We can no longer sit back and hope that the problems within the current health care system correct themselves. It is imperative that we rise together in a bipartisan effort to address the health care crisis of the uninsured. We must find a solution before this crisis grows to affect additional millions of Americans.

INDIA AND IRAQ: “STRATEGIC PARTNERS” STRENGTHEN TRADE TIES WITH OIL DEAL

HON. DAN BURTON
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 11, 2002

Mr. BURTON of Indiana. Mr. Speaker, India calls itself “the world’s largest democracy” and it claims it is a partner in the fight against terrorism, yet it just signed an agreement to strengthen its trade ties with one of the nation’s major sponsors of terrorism, Iraq. According to the British Broadcasting Company (BBC), Amir Muhammad Rashheed, the Iraqi Oil Minister, called India a “strategic partner.” Under the agreement, India will provide medicine, wheat, rice, railway equipment, and turbines for electrical generators to Iraq.

Mr. Rasheed described India as a “strategic partner.” “We have entered new projects in railways, oil and gas, health and industry in addition to technical co-operation and this will give a boost to the economic relations of the two countries, which in consequence will be reflected on the volume of trade exchange,” Mr. Rasheed said.

Under the agreement, India is to supply Iraq with medicine, wheat, rice, railway equipment and turbines for electricity generation.

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EXPANDING OIL INTERESTS

Iraq, India and Algeria are “in the final state” of a deal to start exploring and drilling the Tuba oil field between Zubair and Rumaila in the south of the country.

It is a consortium between Indian companies and the Algerian Sonatrach Company, and we hope to realize it by the end of summer,” Mr. Rasheed was quoted as saying in the ruling Baath party’s Al-Thawra newspaper.

The field was being developed by Iraq until the 1991 Gulf War, when storage facilities were destroyed.

ONGC is awaiting approval from its board to invest approximately $80m in Iraq.

India, which imports more than two-thirds of its crude oil requirements, has been seeking foreign sources as domestic output matures.

Last month it took over a concession in Sudan from Canadian oil company Talisman.

INTRODUCTION OF THE CHILDREN’S ACCESS TO ORAL HEALTH ACT

HON. JOHN D. DINGELL
OF MichIGAN
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 11, 2002

Mr. DINGELL. Mr. Speaker, tooth decay is the most prevalent chronic childhood disease; support of the hard-working, freedom-loving people of the United States.

Mr. Speaker, I would like to place the BBC report on the India-Iraq deal into the Record at this time for the information of my colleagues and the American people.

IRAQ AND INDIA TIES WARMED BY OIL DEALS

Iraq and India have signed an agreement to boost trade ties, especially in the oil sector. Indian Oil Minister Ram Naik told a press conference that the Indian oil firm Oil Natural Gas Corporation Limited (ONGC) would soon open offices in Baghdad.

Mr. Naik added, after meeting his Iraqi counterpart Amir Muhammad Rashheed, that “work was progressing on an ONGC oil concession in southern Iraq.”

Iraq has awarded Indian companies a number of contracts under the United Nations “oil-for-food” programme, in return for India’s diplomatic support.

The programme allows Iraq to bypass sanctions imposed for its 1990 invasion of Kuwait and use oil revenues to buy food and humanitarian goods.

The U.S. has classified Iraq as a member of the “axis of evil” while it has strengthened relations with India to prosecute the war in Afghanistan.

STRATEGIC PARTNER

After meeting with Iraqi President Saddam Hussein on Saturday, Mr. Naik said that India opposed the sanctions on Iraq, and called for them to be ended immediately.

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it is five times more common than asthma, and seven times more common than hay fever. Without proper treatment, dental caries (tooth decay) can result in serious infection, pain, and swelling, interfering with the ability to eat or drink, and, in severe cases, sleep or school attendance.

Unfortunately, low-income children suffer disproportionately from oral disease. While dental care is covered for children in Medicaid, and most states opt to cover it for children in Children’s Health Insurance Programs (SCHIP), mostly covering services that does not guarantee children will have access to the care they need. Low participation by providers, program barriers, and parent’s lack of knowledge about the importance of early dental care and prevention have greatly contributed to the disproportionate number of low-income children who suffer from tooth decay.

Such problems can be overcome. Recent demonstration projects have shown that increased attention to the issue coupled with expanded federal support can go a long way toward ensuring low-income children have access to quality oral health care. My home state of Michigan is an example of where change has begun to take hold.

Michigan tried a new approach to dental coverage when they implemented a dental benefit for their SCHIP program. Not surprisingly, by paying dentists market rates, simplifying billing procedures, and requiring that plans prohibit participating dentists from discriminating against SCHIP patients, access and utilization soared to levels never seen under Medicaid. Between 70-90% of dentists participating in Michigan’s network and nearly three-quarters of children received a dental visit in a year. In comparison, in the Medicaid program where similar changes were not undertaken, only 27% of dentists participated and barely a quarter of Medicaid children had a dental visit. The State of Michigan has had the common sense to expand this effort to Medicaid through a demonstration project and the results have been similar.

Firmly believing in the Children’s Access to Oral Health Act, Mr. Speaker, each year the Veterans of Foreign Wars (VFW) of the United States and its Ladies Auxiliary conduct the Voice of Democracy audio-essay scholarship competition designed to give high school students the opportunity to voice their opinion on their civic responsibility to their country. The program is now in its 55th year and requires high school student entrants to write and record a three-to-five minute essay on an announced patriotic theme. This year over 85,000 secondary school students participated and we are pleased to announce, as we have for the past several years, that we are expanding the Children’s Access to Oral Health Act to cover children who have coverage through Medicaid. States that have not focused as much attention on this problem can be encouraged to do so. This bill will provide incentives, resources, and new flexibility for states to tackle this problem. I look forward to working with my colleague Mr. Upton as we work together to expand the SCHIP program to children in Michigan.

I believe the Children’s Access to Oral Health Act will go a long way in terms of improving services for children in reducing the dental caries among low-income children. Michigan, like a number of other states, has made significant progress in this area, but much more can be done. The gains made in the Michigan SCHIP program should be expanded to children who have coverage through Medicaid. States that have not focused as much attention on this problem can be encouraged to do so. This bill will provide incentives, resources, and new flexibility for states to tackle this problem. I look forward to working with my colleague Mr. Upton as we work together to expand the SCHIP program to children in Michigan.

The Children’s Access to Oral Health Act establishes improved dental care for low-income children as a priority within the Department of Health and Human Services by establishing a dental health initiative led by a newly created Chief Dental Officer for Medicaid and SCHIP. The legislation provides grant funding for states to undertake outreach and improve coordination in the dental care provided through these programs, as well as to improve provider reimbursement rates to secure adequate access to services for these children. The legislation also provides grants to improve the delivery of pediatric dental services through community health centers, public health departments, and the Indian Health Service to address problems in areas facing a shortage of dental professionals.

Finally, the legislation ensures that dental care is a part of the core benefits package of the SCHIP program and gives states the flexibility to provide dental coverage (or supplemental additional benefits or cost sharing) for children in families who meet SCHIP income requirements but who have private insurance which is inadequate in these areas. For every child who lacks health insurance coverage, there are 2.6 children who do not have dental coverage. This problem is concentrated among states, but currently, states’ hands are tied and they cannot supplement inadequate private insurance with SCHIP coverage. I believe the Children’s Access to Oral Health Act will go a long way in terms of improving services for children in reducing the dental caries among low-income children.

In conclusion, the only way that we can distinguish between the different voices and various languages that have entered this debate is that they are the voices of concern and joy are universal. And as you slowly make your way home in this city, which is alive with energy and movement, you realize that the things we have heard about all the events, some memorable, some already forgotten, that have transpired today in this great nation.

Although this episode may seem ordinary and insignificant; in actuality, it is a phenomenon, made only more significant because it is common and widespread in this country. This is America’s future, where prosperity, freedom and diversity flourish.

Today, the United States is a country of unparalleled prosperity and security. Our nation celebrates pluralism in culture, language, religion and custom. It is the land of freedom of expression, freedom of belief, freedom of information, and freedom of opportunity.

Each day, however, we are faced with a difficult question. How can we, both as individuals and as a society, reach out to this vision of the future, and how can we guarantee that the hopes and dreams of our posterity know is ever greater than the one we have experienced?

The answer to this question, the only one that can be given, is through the present. The future can only ever be built on the events of the past and the present. So the question becomes, not how can we reach out to America’s future, but how are we already reaching out to America’s future?

The ways in which we are reaching out to America’s future are:

1. By exercising the rights we are guaranteed in the Constitution, educating our children and instilling in them the values that we cherish.
2. By defending our country and our way of life against outside attacks.
3. By embracing our freedoms and our diversity.

First, we as individuals, are exercising the rights that are guaranteed us in the Constitution. For example, on November 6th, millions of U.S. citizens went to the polls to take part directly in our government and its processes. By voting, and by electing our representatives at both the state and federal levels, we are helping to influence the future of our legislative body.

Secondly, we as a society realize that our children are our future. Everyday we strive to provide them not only with an economically sound, but also a morally sound, future. In order to achieve this goal, we guarantee our children a public education, we help provide health care, and we instill our values of freedom, patriotism and equality in them.

Third, currently our country is fighting a war for our future. We are fighting for our freedom, and defending our country against the inferior attack that our nation experienced on September 11th. We are fighting in the emotional, economic, and physical sense of the future. In this battle, our children and grandchildren will know the peace and the prosperity that we have enjoyed for so long.

Lastly, we are currently embracing the diversity in our own culture. We live in a world where the voices of this diversity. We worship in the churches, temples, and mosques; we speak and hear the different languages, and we observe the customs, beliefs and practices of other cultures. By acknowledging our differences, and by protecting our civil liberties and values, we are ensuring that our grandchildren will know and accept such diversity and will experience and enjoy such freedom.

In conclusion, I believe that we can truly reach out to America’s future is to affirm our principles of freedom and equality
CONGRESSIONAL RECORD — Extensions of Remarks

Thursday, July 11, 2002

PAYING TRIBUTE TO WAYNE THOMPSON

HON. SCOTT McINNIS
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES

Mr. McINNIS. Mr. Speaker, I would like to take a moment and pay tribute to the life, legacy, and memory of Wayne Douglas Thompson. Wayne departed us on June 2, 2002 in his Monte Vista home, and as we mourn his loss, I would like to take the opportunity to honor Wayne—a man of great character and conduct.

Wayne was a native of Colorado, born and raised by Douglas and Agnes Thompson in Monte Vista. He graduated from Monte Vista High School in 1952, and entered Adams State College, graduating with honors in 1956. He enlisted in the United States Marine Corps and served our country courageously through three tours in South Vietnam and also in the Middle East, defending the freedoms and liberties we all hold dear. Wayne served with integrity, and today we honor him as a soldier and a patriot.

After 21 years of military service, Wayne retired from the Marine Corps and returned home to accept a position as the Executive Director of the Colorado Potato Administration Committee. His leadership and guidance have inspired his peers and co-workers—Wayne leads by example and has always taken time to pass along his wisdom to the youth of his community.

Mr. Speaker, I proudly honor Wayne before this body of Congress and this nation. He is survived by his two daughters Dawn and Kali, his three grandchildren Nicholas, Melanie, and Devin, and his beloved wife Maryann. Thank you, Wayne, for your many years of service and countless contributions to our society. Although we all mourn the loss of Wayne Thompson, we recognize that he has left a piece of himself with each of those who were lucky enough to have known him.

INTERNATIONAL TAX SIMPLIFICATION, FAIRNESS, AND COMPETITIVENESS ACT OF 2002

HON. SANDER M. LEVIN
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Mr. LEVIN. Mr. Speaker, today I am introducing a bill, the “International Tax Simplification, Fairness, and Competitiveness Act of 2002.” I have worked for many years with my dear colleague, AMO HOUGHTON, to help bring sensible and low-cost simplifications and reforms to the U.S. international tax rules. I look forward to working with him this year and in future years on these important issues.

The bill contains a menu of proposals unified by a common theme: The way we tax the income of U.S. companies doing business abroad should reflect the economic realities of doing business abroad and should facilitate the efficient allocation of resources. Guided by that principle, the bill provides a list of possible amendments to the U.S. international tax regime that will simplify the reporting burden, update the rules to reflect the realities of globalization, enhance the competitiveness of U.S. businesses and their workers, and promote exports. While I do not anticipate that all of these provisions would be enacted at once, and certainly the fiscal impact of any provision must be considered as it progresses through the legislative process including by considering appropriate offsets, I look forward to working to get provisions of the bill enacted into law.

In the context of trade policy I have spoken for some time about the need to address head-on the changing nature of trade which has followed from the phenomenon of economic globalization. That need exists in the international tax sphere, as well. The nature of business and commerce has changed dramatically in the past fifty years and, in many ways, continues to change rapidly. Today, companies regularly take advantage of the gains in efficiency that may come from locating strategically in multiple points around the globe. Not only can strategic location around the globe make U.S. companies more competitive, it also can increase demand for U.S. exports, since U.S. companies operating overseas are very likely to purchase U.S. goods and services. In the trade context, I have worked to establish basic rules of international competition, including a floor of core labor standards, to ensure that there is a level playing field for U.S. companies and workers. Just as we need relentless innovation in our trade policy, we must ensure that our tax policy is keeping up with the realities of domestic and international business.

Additional international business transactions have increased dramatically, it is increasingly necessary to be sure that the rules meet two challenges: they must be updated to prevent new types of abusive transactions with little or no purpose other than the avoidance of U.S. taxes, and at the same time they should not have the effect of deterring or severely burdening transactions undertaken for legitimate and, from the point of view of American competitiveness, desirable, economic reasons.

Toward that end, and as someone who has spent a lot of time working to simplify and improve the U.S. international tax regime, I want to put forth a proposition—although there is a need to discuss the competitive implications of the U.S. international tax rules and there is a need for simplification, the issue of corporate inversions does not require an appropriate vehicle for that discussion.

Corporate inversions are not truly about the complexities of the U.S. international tax rules; they are driven by tax avoidance, plain and simple. Whether a corporation is headquartered in one OECD country or in another, it will not change its behavior simply because it has moved its headquarters abroad. An inversion results in a tax regime more favorable than either of these systems. Any attempt to turn the inversion phenomenon into an indictment of the U.S. system is therefore misguided. Inversions are about tax havens versus developed taxing jurisdictions like those in OECD countries. The only “business reason” driving an inversion—reflected in disclosure filings accompanying each inversion reassuring shareholders that the transaction will not impact business operations—is tax avoidance.

I will therefore resist any effort to draw a false link between the inversion phenomenon and the need for reform of the U.S. international tax rules. I believe that consideration of legislation to close off inversions is important and should be considered on its own merits, similarly, legislation to reform and simplify the U.S. international tax rules to improve the competitiveness of U.S. companies is important and should be considered on its own merits. Attempts to link the two issues together will only add unnecessary difficulty and will jeopardize the types of needed changes included in the bill introduced today.

CELEBRATING THE 100TH ANNIVERSARY OF THE VOORHEESVILLE VOLUNTEER FIRE DEPARTMENT

HON. MICHAEL R. McNULTY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Mr. McNULTY. Mr. Speaker, I am so proud to recognize with gratitude the 100th Anniversary of the Voorheesville Volunteer Fire Department, which is located in my congressional district in Albany County, New York.

For more than a century, members of the Voorheesville Volunteer Fire Department have put their lives on the line—day in and day out—to ensure the safety and well being of the citizens of the Village of Voorheesville and its surrounding communities. Founded April 1, 1902, the Voorheesville Fire Department enjoys a rich tradition of heroism and service. Never have these most admirable qualities been so honorably displayed than by the heroic rescue efforts of firefighters from across New York State following the terrorist attacks of September 11, 2001.

Through their actions, Mr. Speaker, we understand true patriotism. The heroic efforts of our ‘First Responders’ are finally being given the recognition they have always deserved.

I proudly extend my highest regard to the Department’s President, Richard Berger, to its Fire Chief, Michael Wiesmaier, and to all of...
the volunteer firefighters and their families. They have my best wishes for continued safe and successful service.

FBI’s MILLIE PARSONS RETIRES—
AT AGE 88 AFTER NEARLY 63 YEARS OF SERVICE

HON. FRANK R. WOLF
OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 11, 2002

Mr. WOLF. Mr. Speaker, I want to call to the attention of our colleagues the remarkable career of a dedicated federal employee who just retired from the Federal Bureau of Investigation after nearly 63 years of service to her country.

When Mrs. Mildred C. Parsons—known as “Millie”—ended her career on June 28 at age 88, she was the longest continuously serving employee in the FBI. What’s even more extraordinary, Millie Parsons never took a day of sick leave in her 62 years and nine months of work at the FBI.

She was 25 years old in September 1939—Franklin D. Roosevelt was president of the United States and World War II was beginning—when she began her career at the FBI as a junior clerk-typist in the chief clerk’s office at FBI headquarters.

The next year she transferred to the Washington Field Office, where, over the course of her career, Mrs. Parsons served as the secretary to 30 agents in charge of that office, the second largest division in the FBI. She proudly displayed all of her boss’s bosses lining a corridor leading to her office.

Van A. Harp, assistant director in charge of the FBI’s Washington Field Office, recently commented that “Millie, who embodies all the positive attributes of Fidelity, Bravery and Integrity, has certainly contributed to the fine reputation of the FBI. Her career and dedication has been a hallmark for those who follow in her path. Millie will be missed by all of her associates.”

A native of Frederick, Maryland, and a widow since 1967, Mrs. Parsons has lived in the Maryland suburbs of the nation’s capital during her career with the FBI. She says she plans to relax and travel—now that she has some leisure time.

Mr. Speaker, Millie Parsons stands as an outstanding role model for all in public service to emulate. We wish her the best in her retirement.

INTRODUCTION OF LIVER DISEASE RESEARCH ENHANCEMENT ACT

HON. DAN MILLER
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. DAN MILLER of Florida. Mr. Speaker, I rise today with my colleagues from Massachusetts, Mr. LYNCH, to introduce legislation to improve treatment options for millions of Americans living with liver disease. The “Liver Research Enhancement Act” organizes and streamlines the efforts by the National Institutes of Health (NIH) to combat liver disease by creating a comprehensive vision of how to fight this epidemic in our country. This bill establishes a National Center on Liver Research, which will work with a Liver Disease Advisory Board under the National Institutes of Health to construct a Liver Disease Research Action Plan. The national plan will help coordinate research currently administered by 14 different institutes and centers at the NIH. By prioritizing research goals, the NIH will be able to maximize its liver research.

The need for liver research and an effective funding projection is critical to our Nation’s health. At present, it is estimated that twenty-five million people in the United States suffer from a liver or liver-related disease. Every year as many as fifteen thousand children are hospitalized by their illness. The medical care required to diagnose, treat, and cure each patient costs over 5.5 billion dollars annually. Over four million Americans are afflicted with Hepatitis C alone, a disease claiming ten thousand lives each year and with no vaccine available. Without the proper public health measures, that number is expected to rise to thirty thousand a year. At this rate, the majority of cases of Hepatitis C have no known treatments. In addition, a newly discovered liver disease related to obesity, nonalcoholic fatty liver disease (NAFLD) could touch one in every four adults in the United States. At the same time, the waiting list for liver transplants stretches over 17,500 patients, of which only 5,100 receive livers and 1,300 die hoping for a transplant. The time has come to greatly improve liver research and preserve the public health for future generations.

The Center on Liver Research, to be based in the National Institute of Diabetes and Digestive and Kidney Diseases, will provide the much-needed watershed to ensure that the liver research opportunities are increased and that promising medical leads do not go unexplored. The Liver Disease Advisory Board will suggest future funding priorities and recognize underperformance as well as achievement in the field. The Center’s first mission will be to construct an action plan to deal with research to prevent, cure and treat liver disease in America. By establishing this unifying bond for the 14 different institutes involved in liver research, this bill will make liver research more effective and responsive to the needs of the liver community.

I have enclosed letters from the American Liver Foundation and the Hepatitis Foundation International endorsing this bill.

I urge my colleagues to support this important legislation.

AMERICAN LIVER FOUNDATION,
June 18, 2002.

HON. DAN MILLER,
Cannon House Office Bldg.,
Washington, DC.

DEAR CONGRESSMAN MILLER: The purpose of this letter is to express, on behalf of the American Liver Foundation (ALF), our strong support and enthusiasm for your leadership to pursue enactment of the Liver Research Enhancement Act.

As you know, approximately 10% of the population, or over 25,000,000 Americans, are afflicted with liver, bile duct or gallbladder disease and over 4 million Americans have been infected with hepatitis C. The CDC has projected that deaths due to Hepatitis C will rise more than triple by the year 2010 to more than 30,000 deaths per year unless there are appropriate research and public health interventions. Furthermore, due to limited research, current treatments for hepatitis C are effective in fewer than 50 percent of the cases. As such, hepatitis C is a leading cause for liver transplants in the United States, but the availability of liver transplants, as you know, falls far short of the need. These are numerous liver diseases other than hepatitis C such as primary biliary cirrhosis affecting 15 out of every 100,000 Americans with 95% of the infected population being women. Finally, there is an emerging obesity-related chronic liver disease, nonalcoholic fatty liver disease (NAFLD), that may affect as many as 1 in every 4 adults over the age of 18.

Mr. Miller, your legislation to create a National Center on Liver Disease Research at the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) will provide the dedicated scientific leadership necessary to create an action plan for liver disease research, and new authorities necessary to help assure that the scientific opportunities identified by the Liver Disease Research Action Plan are adequately funded. The coordination and focus this Center will provide for liver disease research will help increase our ability to find better treatments and cures for the millions of Americans afflicted with liver diseases.

We thank you for your tireless leadership on this issue and for all of your persistence in working to better the health of the nation. We stand ready to support the passage of this legislation.

Sincerely,

Paul D. Brik, MD,
Chairman of the Board of Directors,
Alan P. Brownstein, MPH,
President and CEO,

HEPATITIS FOUNDATION INTERNATIONAL,

Hon. Dan Miller,
Cannon House Office Bldg., Washington, DC.

DEAR CONGRESSMAN MILLER: Hepatitis Foundation International (HFI) would like to express our support for the Liver Research Enhancement Act.

As you know, approximately 10% of the nation’s population suffers from liver, bile duct, or gallbladder disease. And over 4 million Americans have been infected with Hepatitis C. The Centers for Disease Control and Prevention (CDC) has projected that deaths due to Hepatitis C will more than triple by the year 2010 to more than 30,000 deaths per year unless there are appropriate research and public health interventions.

Mr. Miller, your legislation to create a National Center on Liver Disease Research at the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) will provide the leadership necessary to create an action plan for liver disease research. The coordination and focus of this Center will help increase our ability to find better treatments and cures for the millions of Americans suffering with liver diseases.

Thank you for your leadership on this issue and for your persistence in working to better the health of all Americans. We offer our support for the passage of this important legislation.

Sincerely,

Thelma King Thiel,
Chairwoman and CEO.
Ms. WATERS. Mr. Speaker, I rise to express my opposition to H.R. 4481, the Airport Streamlining Approval Process Act, which encourages the construction of airport capacity expansion projects at congested airports like Los Angeles International Airport (LAX).

LAX is the third largest airport in the United States, serving approximately 65 million air passengers per year. Nevertheless, the operator of LAX had proposed a massive expansion plan that could have increased the airport's capacity to as many as 120 million air passengers per year. A diverse coalition of over 80 cities and several grassroots organizations, known as the Coalition for a Truly Regional Airport Plan, organized to oppose LAX expansion and support a regional approach to Southern California's air transportation needs.

The proposed expansion of LAX would have had a severe impact upon the surrounding communities. According to the Draft Environmental Impact Statement and Report released by LAX expansion proponents, increased traffic in and out of LAX would have added 1,592 tons of pollutants per year to Los Angeles' air; an additional 7,150 persons would have been exposed to noise levels above 65 decibels; and inadequate noise mitigation efforts would have forced residents to remain indoors or move. Because of these negative impacts, many residents of the surrounding communities expressed strong opposition to LAX expansion.

Furthermore, the proposed expansion of LAX would have interfered with the development of a regional solution to Southern California's air transportation needs. While the communities surrounding LAX have been forced to endure a disproportionate share of the region's air traffic, other communities are eager for the economic benefits of development at their local airports. The expansion of LAX would have made it extremely difficult for these communities to attract service to their local airports. Residents and businesses in these communities would have had no alternative other than to commute to an expanded LAX for their air transportation needs, resulting in an increase in traffic congestion on the streets surrounding LAX. Clearly, the proposed expansion of LAX would not have ended air transportation-related gridlock in the Southern California region.

On April 18, 2002, I sent a letter to Chairman Mica and Congressman Lipinski, the Chairman and Ranking Member of the Aviation Subcommittee of the House Transportation and Infrastructure Committee, regarding the effect of airport streamlining legislation on the Southern California region. This letter, which was signed by three other Southern California Representatives, explained that we would oppose any legislation that would prevent the State of California and its regional and local governments from enacting a regional solution to our future aviation needs, including limiting or prohibiting the proposed expansion of LAX.

Airport expansion should not be carried out over the objections of local communities. It would be both unfair and unwise for the Federal government to disregard local concerns or override the authority of state and local officials to plan local airport development. I strongly oppose H.R. 4481, the Airport Streamlining Approval Process Act. Airport expansion is a local issue. It should not be encouraged by the Federal government.

H.R. 5094, GOOD GOVERNMENT ACCOUNTING ACT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. KIRK. Mr. Speaker, my confidence in the financial information reported by U.S. corporations was shaken by the disclosures of accounting irregularities discovered on the books of some of the largest companies on the New York Stock Exchange. Congress is taking important steps to improve the financial reporting requirements for every public corporation. The public should have similar confidence in the financial information it hears about our own Federal Government. This is not an obscure subject—literally trillions of dollars are at stake.

Two laws—The Chief Financial Officers Act passed in 1990, and the Government Management Reform Act passed in 1994—require Federal executive branch agencies to prepare audited financial statements, in accordance with generally accepted accounting standards. Who would set these standards and make sure they were fairly applied to all government agencies? In October 1990, the Secretary of the Treasury, Director of OMB and Comptroller General of the Government Accounting Office jointly agreed to create and sponsor the Federal Accounting Standards Advisory Board, better known as "FASAB," to play a major role in establishing the rules that assess the government's efficiency and effectiveness. FASAB is entirely different from the Financial Accounting Standards Board, or "FASB," that governs private sector standards.

In carrying out its mission, the government's FASAB has published 18 Federal Government accounting standards and four accounting interpretations, covering topics as diverse as direct student lending, social insurance, and deferred maintenance of federal property. In addition, FASAB writes technical bulletins and releases, and makes a public reading room available to any citizen who wants more information on Federal Government accounting standards.

On January 11, Treasury, OMB, and GAO published a Memorandum of Understanding, or MOU, that announced a restructuring of FASAB. This MOU is designed to enhance the independence of FASAB and increase public involvement in the setting standards process. It became effective June 30, 2002. I am introducing legislation that simply takes the President's MOU and puts it into law. This bill, called the "Good Government Accounting Act," has already gained bipartisan support. It establishes FASAB as an independent entity, operating under the terms of the structure that has just been created.

Like the private sector, the Federal Government can benefit from using unbiased, equitable accounting standards with disclosures that increase public understanding of how our government works. FASAB should exist by law—not just by agreement between Treasury, OMB, and GAO.

This bill, H.R. 5094, makes a major step forward to ensure that public accounting standards that govern trillions of dollars in taxpayer funds are well spent and reported accurately to the American people.
July 11, 2002

CONGRESSIONAL RECORD — Extensions of Remarks

E1245

Mr. Speaker, I rise today to pay tribute to the 19th Annual Fremont Festival of the Arts sponsored by the Fremont Chamber of Commerce.

The Festival, to be held on July 27 and 28, 2002, is expected to attract over 450,000 attendees and has become a model of success for the modern festival. This single event provides some $400,000 in contributions to non-profits for the betterment of communities in Fremont, California.

Over 800 artists, 40 culinary selections and 20 musical groups will be featured at the Festival. Three thousand volunteers give willingly of their time to contribute to the Festival’s success.

It takes generous and concerned individuals, such as the volunteers, to reach out and make a difference, ensuring promise and opportunity for this and future generations. It also takes the support of business sponsors and patrons to ensure the success of the Festival.

The Festival typifies the spirit of community service, which is alive and thriving in Fremont.

I am proud to salute the efforts of this year’s Festival Chairman, David M. O’Hara and Fremont Chamber of Commerce CEO Cindy Bonilor, the organizers, the volunteers, the sponsors and the patrons of the Fremont Festival of the Arts for their generous and inspiring efforts to ensure continued success.

UNDERGRADUATE SCIENCE, MATHEMATICS, ENGINEERING, AND TECHNOLOGY EDUCATION IMPROVEMENT ACT

SPEECH OF

HON. ANNA G. ESHTOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Ms. ESHTOO. Mr. Speaker, I rise as a co-sponsor and in support of this important bill.

Despite predictions for an increase in jobs requiring technical skills over the next decade, the number of students graduating with degrees in the sciences has decreased during the last decade.

This pattern has had serious ramifications for our nation’s economic growth.

The H1-B visa increase we passed two years ago was a reflection of the failure of our educational system to produce students with strong proficiency in math, science and engineering. . . . This bill addresses this failure.

The Tech Talent Bill is innovative legislation that will help reverse current trends by rewarding colleges and universities for taking steps to increase the numbers of science and engineering majors.

A relatively small investment made through the grants authorized in this bill will seed U.S. companies with the employees they need to remain competitive in a global marketplace.

By providing these financial incentives, we will not only be strengthening our own workforce but also lessening our dependence on foreign experts who may be here on H1-B visas.

I urge my colleagues to support this bill and look forward to its swift passage.
Thursday, July 11, 2002

Daily Digest

HIGHLIGHTS

House Committee ordered reported the following appropriations for fiscal year 2003: Legislative; and the Agriculture, Rural Development, Food and Drug Administration and Related Agencies.

Senate

Chamber Action

Routine Proceedings, pages S6597–S6681

Measures Introduced: Eight bills were introduced, as follows: S. 2718–2725. Page S6649

Measures Reported:


S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals, with an amendment. Page S6649

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 S6603–16, S6617–33, S6636–43

Rejected:

Gramm (for McConnell) Amendment No. 4200 (to Amendment No. 4187), to modify attorney practices relating to clients. (By 62 yeas to 35 nays (Vote No. 172), Senate tabled the amendment.) Page S6603, S6610–16, S6617–20

Pending:

Edwards Modified Amendment No. 4187, to address rules of professional responsibility for attorneys. Page S6603

Daschle (for Levin) Amendment No. 4269 (to Amendment No. 4187), to address procedures for banning certain individuals from serving as officers or directors of publicly traded companies, civil money penalties, obtaining financial records, broadened enforcement authority, and forfeiture of bonuses and profits. Pages S6620–25, S6636–43

McCain Motion to Recommit the bill to the Committee on Banking, Housing, and Urban Affairs with instructions to report back forthwith with Amendment No. 4270, to require publicly traded companies to record and treat stock options as expenses when granted for purposes of their income statements.

Reid (for Edwards) Amendment No. 4271 (to the instructions of the motion to recommit the bill to the Committee on Banking, Housing, and Urban Affairs), to address rules of professional responsibility for attorneys. Page S6625

Reid (for Levin) Amendment No. 4272 (to Amendment No. 4271), to address procedures for banning certain individuals from serving as officers or directors of publicly traded companies, civil money penalties, obtaining financial records, broadened enforcement authority, and forfeiture of bonuses and profits.

A unanimous-consent-time agreement was reached providing for further consideration of the bill at 9:15 a.m., on Friday, July 12, 2002, with a vote on the motion to close further debate on the bill to occur at approximately 9:30 a.m. Further, that Senators have until 9:25 a.m., to file second-degree amendments. Page S6679

Removal of Injunction of Secrecy: The injunction of secrecy was removed from the following treaties:

Treaty with Ireland on Mutual Legal Assistance in Criminal Matters (Treaty Doc. No. 107–9);
Agreement with Russian Federation concerning Polar Bear Population (Treaty Doc. No. 107–10);
and
The treaties were transmitted to the Senate today, considered as having been read for the first time, and referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed.

Nominations Received: Senate received the following nominations:

Ben S. Bernanke, of New Jersey, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 1990.

Donald L. Kohn, of Virginia, to be a Member of the Board of Governors of the Federal Reserve System for a term of fourteen years from February 1, 2002.

John M. Reich, of Virginia, to be Vice Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation.

Richard F. Healing, of Virginia, to be a Member of the National Transportation Safety Board for a term expired December 31, 2006.

Alia M. Ludlum, of Texas, to be United States District Judge for the Western District of Texas.

Messages From the House:

Measures Referred:

Measures Read First Time:

Enrolled Bills Presented:

Executive Communications:

Executive Reports of Committees:

Additional Cosponsors:

Statements on Introduced Bills/Resolutions:

Additional Statements:

Amendments Submitted:

Authority for Committees to Meet:

Privilege of the Floor:

Record Votes: One record vote was taken today. (Total—172)

Recess: Senate met at 9:30 a.m., and recessed at 6:41 p.m., until 9:15 a.m., on Friday, July 12, 2002. (For Senate’s program, see the remarks of the Acting Majority Leader in today’s Record on page S6679).
Associate Director, Biological and Environmental Research, Office of Science, both of the Department of Energy; Washington State Attorney General Christine O. Gregoire, Olympia; Kathleen E. Trever, Idaho Department of Environmental Quality, Boise; and Peter Maggiore, New Mexico Environment Department, Santa Fe.

NATIONAL RECYCLING EFFORTS
Committee on Environment and Public Works: Committee concluded 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, after receiving testimony from Debra Yap, Director, Environmental Strategies and Safety Division, Office of Business Operations, Public Buildings Service, General Services Administration; Dobbins Callahan, C and A Floorcoverings, Inc., Dalton, Georgia, on behalf of the Buy Recycled Business Alliance; Clifford P. Case, Carter, Ledyard and Milburn, New York, New York, on behalf of the National Recycling Coalition; Fred von Zuben, Newark Group, Cranford, New Jersey, on behalf of the American Forest and Paper Association; Darryl Young, California Department of Conservation, Sacramento; Edward Boisson, Boisson and Associates, Carrboro, North Carolina; and Kevin S. Dietly, Northbridge Environmental Management Consultants, Westford, Massachusetts, on behalf of the Coalition for Comprehensive Recycling.

BUSINESS MEETING
Committee on Finance: Committee ordered favorably reported the following bills:
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, with an amendment in the nature of a substitute;
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, with an amendment in the nature of a substitute; 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, with an amendment in the nature of a substitute.

SOCIAL SECURITY NUMBER PROTECTION
Committee on Finance: Subcommittee on Social Security and Family Policy held hearings on S. 848, to amend title 18, United States Code, to limit the misuse of social security numbers, and to establish criminal penalties for such misuse, receiving testimony Senators Feinstein and Gregg; James B. Lockhart III, Deputy Commissioner, and James G. Huse, Jr., Inspector General, both of the Social Security Administration; John D. Arterberry, Deputy Chief, Fraud Section, Criminal Division, Department of Justice; Norman A. Willoxx, Jr., LexisNexis, Washington, D.C.; and Rob Evans, NCR Corporation, Dayton, Ohio.

Hearings recessed subject to call.

U.S./SUDAN POLICY
Committee on Foreign Relations: Subcommittee on African Affairs concluded hearings to examine implementing United States policy in Sudan, in an attempt to bring about a peace settlement to end the civil war, after receiving testimony from Walter H. Kansteiner, Assistant Secretary of State for African Affairs; Roger Winter, Assistant Administrator for Democracy, Conflict, and Humanitarian Assistance, U.S. Agency for International Development; John Prendergast, International Crisis Group, Jemera Rone, Human Rights Watch, and J. Stephen Morrison, Center for Strategic and International Studies, all of Washington, D.C.; and Paul Townsend, Catholic Relief Services, Nairobi, Kenya.

BUSINESS MEETING
Committee on Health, Education, Labor, and Pensions: Committee ordered favorably reported the following business items:
S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals, with an amendment;
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, with an amendment in the nature of a substitute; and
The nominations of 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.

WORKPLACE SAFETY AND HEALTH
Committee on Health, Education, Labor, and Pensions: Subcommittee on Employment, Safety and Training concluded hearings to examine workplace safety and health oversight of the Mine Safety Health Administration and Occupational Safety and Health Administration regulation and enforcement, after receiving
testimony from John L. Henshaw, Assistant Secretary for Occupational Safety and Health, and David D. Lauriski, Assistant Secretary for Mine Safety and Health, both of the Department of Labor.

**TRIBAL LAW ENFORCEMENT**

Committee on Indian Affairs: Committee concluded oversight hearings to examine contemporary tribal governments and challenges in tribal law enforcement related to the rulings of the U.S. Supreme Court, focusing on barriers and challenges that tribal law enforcement agencies and tribal courts are facing as they attempt to protect Indians and non-Indians in Indian country and adjudicate cases affecting tribal lands, tribal governments, and tribal members, after receiving testimony from Tracy Toulou, Director, Office of Tribal Justice, and Thomas B. Heffelfinger, United States Attorney for the District of Minnesota, on behalf of the Attorney General Advisory Committee’s Native American Issues Subcommittee, both of the Department of Justice; Darrell Hillaire, Theresa Pouley, and Gary James, all of the Lummi Nation, Bellingham, Washington, all on behalf of Lummi Indian Business Council; and Monty J. Bengochia, Bishop Paiute Tribal Council, Bishop, California.

**BUSINESS MEETING**

Committee on the Judiciary: Committee ordered favorably reported 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.

Also, committee began markup of 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, and S. 486, to reduce the risk that innocent persons may be executed, but did not complete action thereon, and recessed subject to call.

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**House of Representatives**

**Chamber Action**

**Measures Introduced:** 18 public bills, H.R. 5091–5092, 5094–5109; and 4 resolutions, H.J. Res. 105; H. Con. Res. 438–439, and H. Res. 481, were introduced.

**Reports Filed:** Reports were filed today as follows:

- H.R. 3258, to amend the Federal Lands Policy and Management Act of 1976 to clarify the method by which the Secretary of the Interior and the Secretary of Agriculture determine the fair market value of rights-of-way granted, issued, or renewed under such Act to prevent unreasonable increases in certain costs in connection with the deployment of communications and other critical infrastructure, amended (H. Rept. 107–563);
- H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003 (H. Rept. 107–564);
- H. Con. Res. 408, honoring the American Zoo and Aquarium Association and its accredited member institutions for their continued service to animal welfare, conservation education, conservation research, and wildlife conservation programs (H. Rept. 107–565 Pt. 1);
- Revised report on the suballocation of budget allocations for fiscal year 2002 (H. Rept. 107–566); and

**Inland Flood Forecasting and Warning System Act:** The House passed H.R. 2486, to authorize the National Weather Service to conduct research and development, training, and outreach activities relating to tropical cyclone inland forecasting improvement by a yea-and-nay vote of 413 yeas to 3 nays, Roll No. 294. Agreed to amend the title so as to read: “A bill to authorize the National Oceanic and Atmospheric Administration, through the United States Weather Research Program, to conduct research and development, training, and outreach activities relating to inland flood forecasting improvement, and for other purposes.”
Pursuant to the rule the Committee on Science amendment in the nature of a substitute now printed in the bill (H. Rept. 107–495) was considered as an original bill for the purpose of amendment.

Agreed To:
Jackson-Lee amendment that directed the National Oceanic and Atmospheric Administration to access the long-term trends in frequency and severity of inland funding and to determine how shifts in climate and other factors might make certain regions vulnerable to escalating flood damage in the future.

Agreed to H. Res. 473, the rule that provided for consideration of the bill by voice vote.

Enterprise Integration Act: The House passed H.R. 2733, to authorize the National Institute of Standards and Technology to work with major manufacturing industries on an initiative of standards development and implementation for electronic enterprise integration by a yea-and-nay vote of 397 yeas to 22 nays, Roll No. 293.

Pursuant to the rule the Committee on Science amendment in the nature of a substitute now printed in the bill (H. Rept. 107–520) was considered as an original bill for the purpose of amendment.

Agreed To:
Jackson-Lee amendment No. 1 printed in the Congressional Record of July 8 that directs the Director of the National Institute of Standards and Technology to include businesses that are majority owned by women or minorities in activities to raise awareness of enterprise integration.

Withdrawn:
Jackson-Lee amendment No. 2 printed in the Congressional Record of July 8 was offered but subsequently withdrawn that sought to direct a study which describes the participation in enterprise integration development activities by businesses that are majority owned by women or minorities.

Agreed to H. Res. 474, the rule that provided for consideration of the bill by voice vote.

Recess: The House recessed at 2:04 p.m. and reconvened at 4:43 p.m.

Senate Messages: Message received from the Senate today appears on page H4499.

Referral: S. 997 was referred to the Committee on Agriculture.

Quorum Calls—Votes: Two yea-and-nay votes developed during the proceedings of the House today and appear on pages H4520–21 and H4521. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 8:08 p.m.

Committee Meetings

HOMELAND SECURITY ACT


LEGISLATIVE AND AGRICULTURE, RURAL DEVELOPMENT, FDA AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Ordered reported the following appropriations for fiscal year 2003: Legislative; and the Agriculture, Rural Development, Food and Drug Administration and Related Agencies.

IMPROVE ANTI- AND COUNTERTERRORISM OPERATIONS—ARMY AND AIR FORCE INITIATIVES

Committee on Armed Services: Special Oversight Panel on Terrorism held a hearing on Army and Air Force initiatives to improve anti- and counterterrorism operations. Testimony was heard from the following officials of the Department of Defense: Lt. Gen. David D. McKiernan, USA, Director, Army Operations, Department of the Army; and Maj. Gen. Randall Schmidt, USAF, Assistant Deputy Chief of Staff, Air and Space Operations, Department of the Air Force.

RESOLUTION—OVARIAN CANCER RESEARCH; HOMELAND SECURITY ACT

Committee on Energy and Commerce: Ordered reported 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.


PROTECTING RIGHTS OF CONSCIENCE OF HEALTH CARE PROVIDERS AND A PARENT’S RIGHT TO KNOW

Committee on Energy and Commerce: Subcommittee on Health held a hearing on “Protecting the Rights of Conscience of Health Care Providers and a Parent’s Right to Know.” Testimony was heard from public witnesses.
HOMELAND SECURITY ACT

MIDDLE EAST PEACE COMMITMENTS ACT; ARAFAT ACCOUNTABILITY ACT
Committee on International Relations: Subcommittee on the Middle East and South Asia held a hearing on the following bills: H.R. 1795, Middle East Peace Commitments Act of 2001; and H.R. 4693, Arafat Accountability Act. Testimony was heard from Representative Blunt; and David Satterfield, Deputy Assistant Secretary, Bureau of Near Eastern Affairs, Department of State.

PARTIAL-BIRTH ABORTION BAN ACT

OVERSIGHT—CRISIS FACING WILDLIFE SPECIES—BUSHMEAT CONSUMPTION
Committee on Resources: Subcommittee on Fisheries Conservation, Wildlife and Oceans held an oversight hearing on the Developing Crisis Facing Wildlife Species due to Bushmeat Consumption. Testimony was heard from the following officials of the Department of State: Jeffry M. Burnam, Deputy Assistant Secretary, Environment, Bureau of Oceans and International Environmental and Scientific Affairs; and James A. Graham, Project Manager, Central African Regional Program, Environment, Bureau for Africa, AID; Kenneth Stansell, Assistant Director, International Affairs, U.S. Fish and Wildlife Service, Department of the Interior; and public witnesses.

OVERSIGHT—WILDFIRES—NATIONAL FORESTS
Committee on Resources: Subcommittee on Forests and Forest Health held an oversight hearing on Wildfires on the National Forests: An Update on the 2002 Wildland Fire Season. Testimony was heard from Sally Collins, Associate Deputy Chief, National Forest System, Forest Service, USDA; Tim Hartzell, Director, Office of Wildlife Fire Coordination, Department of the Interior; and public witnesses.

SMALL BUSINESS HEALTH MARKET
Committee on Small Business: Subcommittee on Regulatory Reform and Oversight held a hearing on the Small Business Health Market: Bad Reforms Higher Prices and Fewer Choices. Testimony was heard from public witnesses.

HOMELAND SECURITY ACT

SOCIAL SECURITY DISABILITY PROGRAMS’ CHALLENGERS AND OPPORTUNITIES
Committee on Ways and Means: Subcommittee on Social Security continued hearings on Social Security Disability Programs’ Challengers and Opportunities. Testimony was heard from Martin Gerry, Deputy Commissioner, Disability and Income Security Programs, SSA; Robert Robertson, Director, Education, Workforce and Income Security Issues, GAO; and public witnesses.

TRANSFORMING FEDERAL GOVERNMENT TO PROTECT AMERICA FROM TERRORISM
Select Committee on Homeland Security: Held a hearing entitled “Transforming the Federal Government to Protect America from Terrorism.” Testimony was heard from Colin L. Powell, Secretary of State; Paul O’Neill, Secretary of the Treasury; Paul D. Wolfowitz, Deputy Secretary, Department of Defense; and John Ashcroft, The Attorney General.

COMMITTEE MEETINGS FOR FRIDAY, JULY 12, 2002
(Committee meetings are open unless otherwise indicated)

Senate
No meetings/hearings scheduled.

House
Committee on Veterans’ Affairs: Subcommittee on Health, to mark up H.R. 3645, Veterans Health-Care Items Procurement Reform and Improvement Act of 2002, 10:30 a.m., 334 Cannon.

Joint Meetings
Conference: meeting of conferees on H.R. 4775, making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, 10 a.m., HC–5, Capitol.
Program for Friday: 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), with a vote on the motion to close further debate on the bill to occur at approximately 9:30 a.m.

Also, Senate will vote on the motion to close debate on the nomination of Lavenski R. Smith, to be United States Circuit Judge for the Eighth Circuit, The Judiciary.

Program for Friday: Consideration of H.R. 4687, National Construction Safety Team Act (open rule, one hour of general debate).

Extensions of Remarks, as inserted in this issue

Kirk, Mark Steven, Ill., E1244
Kucinich, Dennis J., Ohio, E1238
Lee, Barbara, Calif., E1246
Levin, Sander M., Mich., E1242
McCarthy, Karen, Mo., E1235
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McIntyre, Mike, N.C., E1238
McNulty, Michael R., N.Y., E1242
Miller, Dan, Fla., E1243
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Pomeroy, Earl, N.D., E1235
Rangel, Charles B., N.Y., E1236
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Shuster, Bill, Pa., E1238
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