United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, SECOND SESSION

Vol. 148 WASHINGTON, WEDNESDAY, JULY 17, 2002 No. 97

House of Representatives

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

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
July 17, 2002.

I hereby appoint the Honorable CLIFF STEARNS to act as Speaker pro tempore on this day.

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

PRAYER

The Reverend T. Brannon Bowman, Pastor, Monroeville Presbyterian Church, Monroeville, Alabama, offered the following prayer:

Our almighty and gracious God, great is Your faithfulness. Your mercies never cease and Your compassions never fail.

We ask, O Lord, that Your blessings be upon the Members of this 107th Congress, that Your strength would make them equal to their tasks, that Your wisdom would guide them in their service to this great Nation, and that Your Providence would ensure that they are found faithful to those who rise to serve You tomorrow.

Bless, O Lord, the citizens of the United States. May their symphony of prayer and praise ring loudly throughout this land with never-ending crescendo.

Bless, O Lord, our President. Grant him strength and wisdom in proportion to that which is required of him this day.

Bless, O Lord, our military as they bravely serve the cause of peace and justice. And we ask most earnestly, O God, that You bring them home safely and soon.

Bless us all, we pray, that we would do justly, love mercy, and walk humbly with our God.

This we pray, as one Nation, under God, through Jesus Christ our Lord. Amen.

THE JOURNAL

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

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

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

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

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

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

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

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

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

Mr. SHIMKUS 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.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain ten 1-minutes from each side, following that of the gentleman from Alabama (Mr. CALLAHAN).

WELCOMING REVEREND BRANNON BOWMAN FROM MONROEVILLE, ALABAMA

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

Mr. CALLAHAN. Mr. Speaker, I am honored and pleased to have had with us this morning, and still in the audience or in the body this morning, a guest chaplain from my district, the Reverend Brannon Bowman. We are privileged to have him here visiting from Monroeville, Alabama, where he serves as pastor of the Monroeville Presbyterian Church.

After nearly 14 years as a Presbyterian pastor, Reverend Bowman has played a vital role in establishing churches in communities across Alabama. His service extends beyond his own church. The reverend offers his time as the chaplain of the Monroeville County Hospital, the area coordinator for the National Day of Prayer, as well as a professor at the Birmingham Theological Seminary.

Born in Montgomery, Alabama, he earned a Bachelor of Science from the Birmingham Southern College, a master's in music from Auburn University, and a Master of Divinity from Birmingham's Theological Seminary. Reverend Bowman has been married to Carol New Bowman since 1990, and they are proud parents of a son, Thomas.

Mr. Speaker, I know the House joins me in welcoming Reverend Bowman. At this time, when our Nation is in most need of strong faith, we are fortunate to have someone of his character among us. I thank him for his uplifting prayer this morning.

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CONGRESS SHOULD CONTINUE ITS COMMITMENT TO FINDING A CURE TO CANCER BY SUPPORTING NIH AND CDC

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

Mr. GIBBONS. Mr. Speaker, today I rise to celebrate American Cancer Society's Celebration on the Hill Bus, which will be in Reno, Nevada. Celebration on the Hill is a grassroots event celebrating cancer survivorship.

Mr. Speaker, our Nation's cancer statistics are startling. Over 1 million American people get cancer each year. Approximately one out of two American men and one out of every three American women will have some type of cancer at some point during their lifetime; yet, luckily, more and more people are surviving cancer every day, thanks to medical breakthroughs and lifesaving drugs and procedures.

Today, I rise to congratulate the cancer survivors in my State of Nevada and across the entire country.

It is my hope that we will continue our commitment in Congress to finding a cure by supporting the NIH and CDC in their research efforts against this deadly disease. Our commitment could lead to finding a cure sooner rather than later.

CONGRESS AND COMMUNITIES CAN JOIN TOGETHER TO EMPOWER CHILDREN AND FAMILIES TO REDUCE CHILD VICTIMIZATION

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

Mr. LAMPSON. Mr. Speaker, I rise today in light of the reported abduction and murder of young Dannarriah Finley of southeast Texas, coming on the heels of the nationally publicized abductions of Danielle Van Damme and Elizabeth Smart.

It is time for our communities to come together to educate our children and save other families from the heartbreaking tragedy of child abduction, exploitation and murder.

There are ways that we can work together to make sure that children are safe in our communities.

First, I encourage my colleagues to go to schools in their districts to do a ''know the rules'' workshop with students and parents. Education is the key to giving children the tools and power to stay safe.

Second, I encourage Members to start a student Safety Ambassadors program. The program seeks to empower children through safety, and has students leading and teaching their peers on the issue.

Third, Members should work with our schools to make sure they know about the ''Guidelines for Programs to Reduce Child Victimization: A Resource for Communities When Choosing a Program to Teach Personal Safety to Children.'' These research-based guidelines were developed by the National Center for Missing and Exploited Children's Education Standards Task Force to assist schools as they select curricula aimed at reducing crimes against children.

It takes each one of us, including schools, to keep our kids safe, happy, and healthy.

U.S. FORCES BOMB IRAQ, AGAIN

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

Mr. SHIMKUS. Mr. Speaker, since the Gulf War, pilots have been patrolling Iraqi skies keeping Saddam Hussein from killing his own people. This past weekend, Iraqi forces fired antiaircraft missiles at several of our aircraft. We responded in kind by shooting back and defending ourselves against this aggression.

I would like to remind my colleagues that Saddam Hussein is more than an enemy that regularly tries to kill or capture American pilots. Saddam Hussein plays a critical role in our country by providing us with oil. In the first quarter of this year, we bought $1.4 billion of Iraqi oil.

Where do we think that money goes? What does it pay for in Iraq? Propping up Saddam's regime. We know he rewards the family of each Palestinian suicide bomber with a check of $25,000. We import nearly 1 million barrels a day from this madman. More than 10 percent of our oil comes from Saddam Hussein, yet he still would like nothing more than a downed American pilot to parade before the world.

It is time our energy policy got in line with our foreign policy. I urge the Senate and House conferees to pass a bill that can be sent to the President for signing. If it is worth fighting for over there, it is worth exploring for over here at home.

THE REPUBLICAN PARTY STAYS TRUE TO ITS CORPORATE SPONSORS

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

Mr. DEFAZIO. Mr. Speaker, what a difference a week makes. Last week, the gentleman from Florida (Mr. FOLEY) and others berated the Senate here on the floor of the House, and they touted the sham fake-accounting reforms passed by the House in March.

But today, the most dangerous place in Washington, D.C. is in front of a crowd of rank-and-file Republicans in their rush to embrace the Senate's Sarbanes bill and to take up real reform of the accounting industry and take care of the disasters on Wall Street. But thank God for the GOP leaders.

''Hill GOP Leaders Fight Audit Plan. One day after the Senate unanimously passed broad overhauls of corporate securities laws, top House Republicans said they will try to delay and likely dilute some of the proposed changes.''

At least someone in the Republican Party is true to their corporate sponsors, benefactors, and contributors.

INVITING MEMBERS TO VIEWING OF AWARD-WINNING FILM, ''BEYOND DIVISION: REUNIFYING THE REPUBLIC OF CYPRUS''

(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, this Saturday marks the 28th anniversary of the invasion of Cyprus that still keeps the island divided. To mark this tragic event, today at 5 p.m. at 2255 Rayburn, I am hosting a viewing of the award-winning film ''Beyond Division: Reunifying the Republic of Cyprus.'' It captures the Cypriot people's suffering resulting from the brutal invasion of their country and the hope for a brighter future when their island is no longer divided.

It is shameful that a fellow NATO member continues to occupy one-third of Cyprus. A settlement to the Cyprus issue must be reached by the end of the year, when the island is expected to join the rest of the European territory.

Mr. Speaker, I invite all of my colleagues to watch this award-winning film and learn about the ongoing tragedy of the occupation of Cyprus, and also about the prospects of reunification and the EU accession. I hope to see Members today at 5 p.m. at 2255 Rayburn.

CORPORATE ACCOUNTABILITY

(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 speak about corporate accountability, and the simple idea that for every action, there is a consequence.

Recent scandals are part of a bigger problem. Some CEOs and other corporate leaders are acting irresponsibly, hurting investors, jeopardizing my communities and all of America's pensions and retirement security.

These business people need to be held accountable. This administration sent the wrong message, signing into law an irresponsible tax package that gave millions of dollars to the largest corporations.

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

We need to put our priorities in order: education, Social Security, the environment, prescription drugs. These things should come before corporate giveaways.

CORPORATE CRIMINALS

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

Mr. PITTS. Mr. Speaker, when one is an executive of a large corporation, one has a job that carries tremendous responsibility. Ford Motors, Chevron, Texaco, and IBM have more employees than many countries have citizens. Wal-Mart, EXXON, and General Motors have annual budgets larger than the gross domestic products of many nations.

When the executives of Enron, which was America's fifth largest company, cooked the books, the victims of their crime are not just a few people from Houston. Americans everywhere suffer, some severely. When the executives of WorldCom, which was America's 42nd largest employer, used tricky accounting to fool investors, everybody suffers, too.

When a mugger in a back alley sticks us up at gunpoint and takes our wallets, that is bad. But is it not worse when a man in a thousand dollar suit steals millions of dollars from people who are counting on his honesty to help them keep their jobs or to retire?

Yesterday, the House voted for a new law to severely punish corporate crooks for their crimes. We should conference with the other body immediately so we can send a bill to the President as soon as possible.

PRESCRIPTION DRUG COVERAGE FOR AMERICA'S SENIORS

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

Mr. RODRIGUEZ. Mr. Speaker, let me start and indicate how important it is for us to not forget our seniors when it comes to prescription drug coverage.

Our seniors right now represent 34 percent of the prescriptions that are dished out every single year.

□ 1015

Out of every dollar, 42 cents represents the amount of money that they dish out. Forty-two percent. Despite that, it is expected that sales and benefits of pharmaceutical companies will be over 18 percent. So at the expense of our seniors, the pharmaceutical companies continue to make these huge profits.

It is up to us to make sure we do what we can to make sure that we allow that opportunity for our seniors to have accessibility and be able to have affordable coverage when it comes to prescription drug coverage.

We know that those same pharmaceutical companies sell those prescriptions elsewhere, throughout the world and throughout Europe, at lower prices. These are the same products that are sold to our seniors here at higher prices. So it is up to us to push forward a prescription drug coverage and allow Medicare to cover the prescriptions.

HONORING A GREAT AMERICAN

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

Mr. SAM JOHNSON of Texas. Mr. Speaker, it is an honor for me today to be able to honor an American war hero, First Lieutenant James Flowers, Jr. He enlisted as a private in the Texas National Guard in 1930, and from there worked his way up the military ladder and on July 10, 1944, Flowers was a platoon leader when he volunteered his four tanks to help an infantry battalion encircled by Germans.

His unit encountered enemy fire, and from there Flowers endured what can only be described as hell on earth. While 1 minute cannot do his sacrifices justice, please know this man embodies duty, honor, and country.

First, his right foot was blown away by enemy fire. While waiting for relief, he lost his left leg below the knee. After two nights of desperately needing medical attention and lying severely injured, Americans finally came to the rescue.

Nominated for the Medal of Honor, he was awarded four medals for his bravery and valor.

While some would be hardened and angry after this unspeakable kind of tragedy, Flowers persevered. After being discharged, he attended SMU and began working in the prosthetics department of the VA. He moved to the Dallas VA where he established the first prosthetics treatment center in the Nation.

Flowers has given so much to this country in his area of expertise. He exemplifies our greatest generation. God bless him and God bless our servicemen and women around the world.

AMERICANS SHOULD CONTRIBUTE TO THE BETTERMENT OF THE COUNTRY

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

Ms. KAPTUR. Mr. Speaker, last night this House was kept in session to a ridiculously late hour because there was a divide on the Republican side of the aisle over our Interior bill, where we are supposed to be finding the money to keep our parks open with enough bathrooms and visitor centers and parking spaces to accommodate a growing American public.

They were mad because they said there was not enough money. Well, let me contend where they should look for the money. They should not look for the money in the Committee on Appropriations. They should go back to the tax committee and figure out who they gave the money to.

Richey Rich is going to make $20 million this year in our country. And if we look at the buy-out packages that they permitted to the chief executive officers in this country and the tax breaks alone in the Bush tax bill, the tax bill to Richey Rich will amount to $712,800 this year because his marginal rate was reduced to 3.6 percent. We might say, gosh, he is only going to make $19.8 million this year, at the same time as we struggle for pennies and are forced to increase fees at our national parks across this country.

The answer is not inside the Subcommittee on Interior, the answer is to go back to the tax committee and make every single American contribute to the betterment of this Republic.

CONDEMNING TERRORIST ATTACK ON KASHMIRI CIVILIANS

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

Mr. WILSON of South Carolina. Mr. Speaker, I condemn Saturday's terrorist attack in Kashmir that killed 28 people. This attack was just another reminder to the Kashmiri Pandit community that Hindus are still being targeted by Islamic militants in order to drive them from the Indian state of Kashmir. This was cold-blooded murder of civilian men, women, and children, who were innocently listening to a radio sports event at a tea stall.

More than 400,000 Hindus in Kashmir have been forced from their homes due to targeted attacks of Islamic militants. For many years, Pakistan's military worked together with its intelligence agency, the ISI, to coordinate attacks against civilians in Kashmir. These very same forces helped in creating the Taliban and al Qaeda.

Pakistan must stop the movement of al Qaeda members from the northwestern part of Pakistan into the Pakistan-occupied Kashmir. Pakistan must also shut down its terrorist camps, remove the influence of extremist religious clerics from government affairs, and make generous peace offerings to India. Only then can a dialogue between India and Pakistan take place.

CONGRESS MUST PLAY A ROLE IN ANY POSSIBLE ATTACK ON IRAQ

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

Mr. KUCINICH. Mr. Speaker, it is worth considering the headlines regarding Iraq in the last week. From United Press International: ''U.S. Plans Massive Invasion of Iraq.'' From Associated Press: ''U.S. Says Iraq Would Target Troops.'' From United Press: ''According to officials who spoke to UPI, three dates are being discussed as possible times to launch the attack. The first would be before the

November elections.'' And from Associated Press: ''U.S. worries Iraq's chemical, biological weapons would target invading American troops in Israel.''

There has been discussion of a quarter of a million of our men and women being sent to Iraq. The discussion is in the media, it is not on the floor of this House. The New York Times editorial says as follows: ''Congressional leaders, including top Democrats, have rushed to voice approval for the popular notion of getting rid of Mr. Hussein. They have not, however, lived up to their responsibility for demanding a full public disclosure about how to pursue this attractive goal with maximum chances of success and minimum risk to American forces' interest and alliances. Discussion of these issues is possible without giving away legitimate military secrets.''

War with Iraq, if it comes, is still many months away. What is urgently needed now is informed and serious debate, and attention to article I, section 8 of the Constitution, which requires Congress has a role.

HOUSE MAJORITY ATTEMPTING TO MOVE LEGISLATION TO HELP AMERICA

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

Mr. CUNNINGHAM. Mr. Speaker, most of us Republicans and Democrats come to the House to pass legislation and to help the American people. I heard a minute ago from one of the Members that the accounting bill that we passed on this floor was a sham. Well, I want to inform my colleagues that 118 Democrats voted for that. Only 40 Democrats, from the leadership, primarily, voted against it.

Instead of helping the American people in a time of crisis, when the markets are bad and people are losing confidence, the Democrat leadership, once again, is playing partisan election year politics.

They also say that tax relief is only for the rich. Well, listen to the facts, as stated by Alan Greenspan yesterday. Tax relief stopped the recession. It also put this economy back on a positive note. Yet my friends on the other side, the Democratic leadership, would rather say that the tax break was for the rich. This is partisan election year rhetoric.

Mr. Speaker, we are here to pass legislation, not to jam it up, like the other body, which is holding 54 of our bills.

CORPORATE RESPONSIBILITY

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

Mr. CARDIN. Mr. Speaker, the time is right for this body to act on corporate accountability. The other body got it right when it passed the Sarbanes bill by a unanimous vote.

Corporate greed is affecting every one of our constituents, whether it is in their 401(k) plans or the performance of our economy, with job opportunity, and the list goes on and on.

Mr. Speaker, let us act now. Let us act as the other body did, in a bipartisan way. Let us take up today and pass the Sarbanes bill, and let us send it to the President. He has indicated he will sign it. That will help restore confidence among our constituents and our economy.

PRESCRIPTION DRUGS

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

Mr. SULLIVAN. Mr. Speaker, a few weeks ago, the House of Representatives passed a prescription drug benefit under Medicare. Since this has happened, I have received hundreds of calls from seniors thanking me for voting for this very important measure.

A significant number of seniors in the First District of Oklahoma are forced to live on a fixed budget. In order to live within their means, some skip a meal, some turn off their air conditioners, and some only take half the prescriptions that have been prescribed to them, to save.

It is a simple fact that seniors need permanent prescription drug benefit from this Congress. But simple is not always synonymous with easy, especially when politics are involved. The House has passed a good bill, and I encourage my colleagues in the Senate to follow the House's lead.

Our bill was based on simple, common sense principles. They are: To lower the cost of prescription drugs now and in the future; guarantee all seniors prescription drug coverage under Medicare; improve Medicare with more choices and more savings; and strengthen Medicare for the future.

Our seniors need a prescription drug benefit this year. I hope my colleagues in the Senate will follow suit.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. STEARNS). The Chair would remind all Members giving 1-minute speeches that they cannot urge the other body to take action.

ENERGY INDEPENDENCE

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

Mr. BARTLETT of Maryland. Mr. Speaker, increasing our energy independence is absolutely vital to ensuring America's national security.

Americans are 5 percent of the world's population. We use 25 percent of the world's oil production, and yet we produce 30 percent of the world's output of goods and services. We are the most energy-efficient and productive Nation on earth, but America has only 2 percent of the world's known oil reserves. In pumping that 2 percent, we meet only 44 percent of America's needs.

America must import nearly 60 percent of our oil, up from 32 percent in 1992 and 34 percent during the last Arab oil embargo. Americans must pay billions of dollars to unstable or hostile regimes, such as Saddam Hussein's Iraq, for the oil we need to run our economy and our military. Every year since 1970, with only a tiny blip from Alaska's Prudhoe Bay, oil production in the United States has gone down, and experts agree it will continue to go down.

That is why conservation, efficiency, and alternative and renewable forms of energy are critically important parts of a balanced, comprehensive national energy strategy.

JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the pending business is the question of the Chair's approval of the Journal of the last day's proceedings.

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 361, nays 50, answered ''present'' 1, not voting 22, as follows:

[Roll No. 309]

YEAS—361

Abercrombie	Boehner	Coble
Ackerman	Bonilla	Collins
Akin	Bono	Combest
Allen	Boozman	Condit
Andrews	Boswell	Conyers
Armey	Boucher	Cooksey
Baca	Boyd	Cox
Bachus	Brady (TX)	Coyne
Baker	Brown (FL)	Cramer
Baldacci	Brown (OH)	Crenshaw
Baldwin	Brown (SC)	Crowley
Ballenger	Bryant	Cubin
Barcia	Burr	Cummings
Barr	Burton	Davis (CA)
Barrett	Buyer	Davis (FL)
Bartlett	Callahan	Davis (IL)
Barton	Calvert	Davis, Jo Ann
Bass	Camp	Davis, Tom
Becerra	Cannon	Deal
Bentsen	Cantor	DeGette
Bereuter	Capito	Delahunt
Berkley	Capps	DeLauro
Berman	Cardin	DeLay
Berry	Carson (IN)	DeMint
Biggert	Carson (OK)	Deutsch
Bilirakis	Castle	Diaz-Balart
Bishop	Chabot	Dicks
Blumenauer	Chambliss	Dingell
Blunt	Clement	Doggett
Boehlert	Clyburn	Dooley

Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Gekas
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutierrez
Hall (OH)
Hall (TX)
Hansen
Harman
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntyre
McKeon
McKinney
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Sullivan
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Towns
Turner
Udall (NM)
Upton
Velazquez
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—50

Aderholt
Baird
Borski
Brady (PA)
Costello
Crane
DeFazio
English
Fletcher
Ganske
Gillmor
Green (TX)
Gutknecht
Hart
Hefley
Hilliard
Hulshof
Kennedy (MN)
Kucinich
LaFalce
Larsen (WA)
LoBiondo
McDermott
McGovern
McNulty
Miller, George
Moore
Neal
Oberstar
Obey
Olver
Pallone
Peterson (MN)
Ramstad
Roemer
Sabo
Schaffer
Schakowsky
Strickland
Stupak
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Visclosky
Waters
Weller
Wicker
Wu

ANSWERED ''PRESENT''—1

Tancredo

NOT VOTING—22

Blagojevich
Bonior
Capuano
Clay
Clayton
Culberson
Cunningham
Filner
Hastings (FL)
Hilleary
Hyde
Jefferson
Manzullo
Mascara
Meek (FL)
Nadler
Platts
Rangel
Solis
Stark
Stump
Traficant

□ 1050

Mr. WELLER changed his vote from ''yea'' to ''nay.''

So the Journal was approved.

The result of the vote was announced as above recorded.

Stated against:

Mr. FILNER. Mr. Speaker, on rollcall No. 309, I missed this vote due to a medical appointment. Had I been present, I would have voted, "Nay."

GENERAL LEAVE

Mr. SKEEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5093, and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mr. STEARNS). Is there objection to the request of the gentleman from New Mexico?

There was no objection.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

The SPEAKER pro tempore. Pursuant to House Resolution 483 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5093.

□ 1052

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of 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, with Mr. SIMPSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, July 16, 2002, the amendment by the gentleman from Utah (Mr. HANSEN) had been disposed of and the bill was open from page 4, line 1 through page 74, line 23.

Mr. SKEEN. Mr. Chairman, I include for the RECORD a table detailing the various accounts in this bill be inserted in the RECORD at this point.

The tabular material is as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE I - DEPARTMENT OF THE INTERIOR					
Bureau of Land Management					
Management of lands and resources	746,632	772,962	782,904	+36,272	+9,942
Conservation	29,000	40,028	44,028	+15,028	+4,000
Subtotal	775,632	812,990	826,932	+51,300	+13,942
Wildland fire management:					
Preparedness	280,807	277,213	278,639	-2,168	+1,426
Fire suppression operations	127,424	160,351	160,351	+32,927	---
Other operations	216,190	216,190	216,342	+152	+152
Suppression (contingent emergency appropriations)	34,000	---	---	-34,000	---
Fiscal year 2002 supplemental	---	---	200,000	+200,000	+200,000
Other operations (contingent emergency appropriations)	20,000	---	---	-20,000	---
Subtotal	678,421	653,754	855,332	+176,911	+201,578
Central hazardous materials fund	9,978	9,978	9,978	---	---
Construction	13,076	10,976	10,976	-2,100	---
Payments in lieu of taxes	160,000	150,000	160,000	---	+10,000
Conservation	50,000	15,000	70,000	+20,000	+55,000
Subtotal	210,000	165,000	230,000	+20,000	+65,000
Land acquisition (conservation)	49,920	44,686	49,286	-634	+4,600
Oregon and California grant lands	105,165	105,633	105,633	+468	---
Range improvements (indefinite)	10,000	10,000	10,000	---	---
Service charges, deposits, & forfeitures (indefinite)	8,000	7,900	7,900	-100	---
Offsetting fee collections	---	-7,900	-7,900	-7,900	---
Miscellaneous trust funds (indefinite)	12,405	12,405	12,405	---	---
Total, Bureau of Land Management	1,872,597	1,825,422	2,110,542	+237,945	+285,120
Appropriations	(1,689,677)	(1,725,708)	(1,747,228)	(+57,551)	(+21,520)
Conservation	(128,920)	(99,714)	(163,314)	(+34,394)	(+63,600)
Contingent emergency appropriations	(54,000)	---	(200,000)	(+146,000)	(+200,000)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
United States Fish and Wildlife Service					
Resource management	819,597	825,598	847,353	+27,756	+21,755
Conservation	31,000	78,006	71,006	+40,006	-7,000
Subtotal	850,597	903,604	918,359	+67,762	+14,755
Construction	55,543	35,402	51,308	-4,235	+15,906
Land acquisition (conservation)	99,135	70,384	82,250	-16,885	+11,866
Landowner incentive program (conservation)	40,000	50,000	40,000	---	-10,000
Private stewardship grants program (conservation)	10,000	10,000	10,000	---	---
Cooperative endangered species conservation fund (conservation)	96,235	91,000	121,400	+25,165	+30,400
National wildlife refuge fund	14,414	14,414	14,414	---	---
Conservation	---	---	5,000	+5,000	+5,000
Subtotal	14,414	14,414	19,414	+5,000	+5,000
North American wetlands conservation fund (conservation)	43,500	43,560	43,560	+60	---
Neotropical migratory birds conservation fund (conservation)	3,000	---	5,000	+2,000	+5,000
Multinational species conservation fund	4,000	5,000	---	-4,000	-5,000
Conservation	---	---	4,800	+4,800	+4,800
State wildlife grants (conservation)	85,000	60,000	100,000	+15,000	+40,000
Rescission	-25,000	---	---	+25,000	---
Subtotal	60,000	60,000	100,000	+40,000	+40,000
Total, United States Fish and Wildlife Service	1,276,424	1,283,364	1,396,091	+119,667	+112,727
Appropriations	(893,554)	(880,414)	(913,075)	(+19,521)	(+32,661)
Conservation	(407,870)	(402,950)	(483,016)	(+75,146)	(+80,066)
Rescission	(-25,000)	---	---	(+25,000)	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
National Park Service					
Operation of the national park system	1,474,977	1,560,565	1,596,593	+121,616	+36,028
Conservation	2,000	24,000	9,000	+7,000	-15,000
Emergency appropriations (P.L. 107-117)	10,098	---	---	-10,098	---
Subtotal	1,487,075	1,584,565	1,605,593	+118,518	+21,028
United States Park Police	65,260	78,431	78,431	+13,171	---
Emergency appropriations (P.L. 107-117)	25,295	---	---	-25,295	---
Subtotal	90,555	78,431	78,431	-12,124	---
National recreation and preservation	66,159	46,824	56,330	-9,829	+9,506
Urban park and recreation fund (conservation)	30,000	300	30,000	---	+29,700
Historic preservation fund (conservation)	74,500	67,000	76,500	+2,000	+9,500
Construction	299,193	240,182	271,450	-27,743	+31,268
Conservation	66,851	82,202	53,736	-13,115	-28,466
Emergency appropriations (P.L. 107-117)	21,624	---	---	-21,624	---
Total, Construction	387,668	322,384	325,186	-62,482	+2,802
Land and water conservation fund (rescission of contract authority)	-30,000	-30,000	-30,000	---	---
Land acquisition and state assistance (conservation)	274,117	286,057	253,099	-21,018	-32,958
Total, National Park Service (net)	2,380,074	2,355,561	2,395,139	+15,065	+39,578
Appropriations	(1,905,589)	(1,926,002)	(2,002,804)	(+97,215)	(+76,802)
Conservation	(447,468)	(459,559)	(422,335)	(-25,133)	(-37,224)
Emergency appropriations	(57,017)	---	---	(-57,017)	---
Rescission	(-30,000)	(-30,000)	(-30,000)	---	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
United States Geological Survey					
Surveys, investigations, and research	889,002	853,760	903,405	+14,403	+49,645
Conservation	25,000	13,578	25,000	---	+11,422
Total, United States Geological Survey	914,002	867,338	928,405	+14,403	+61,067
Minerals Management Service					
Royalty and offshore minerals management	253,397	264,452	264,951	+11,554	+499
Use of receipts	-102,730	-100,230	-100,230	+2,500	---
Oil spill research	6,105	6,105	6,105	---	---
Total, Minerals Management Service	156,772	170,327	170,826	+14,054	+499
Office of Surface Mining Reclamation and Enforcement					
Regulation and technology	102,800	105,092	105,092	+2,292	---
Receipts from performance bond forfeitures (indefinite)	275	275	275	---	---
Subtotal	103,075	105,367	105,367	+2,292	---
Abandoned mine reclamation fund (definite, trust fund)	203,455	174,035	184,745	-18,710	+10,710
Total, Office of Surface Mining Reclamation and Enforcement	306,530	279,402	290,112	-16,418	+10,710
Bureau of Indian Affairs					
Operation of Indian programs	1,799,809	1,837,110	1,859,064	+59,255	+21,954
Construction	357,132	345,252	345,252	-11,880	---
Indian land and water claim settlements and miscellaneous payments to Indians	60,949	57,949	60,949	---	+3,000
Indian guaranteed loan program account	4,986	5,493	5,493	+507	---
(Limitation on guaranteed loans)	(75,000)	(72,424)	(72,424)	(-2,576)	---
Total, Bureau of Indian Affairs	2,222,876	2,245,804	2,270,758	+47,882	+24,954

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
Departmental Offices					
Insular Affairs:					
Assistance to Territories	51,230	42,497	45,497	-5,733	+3,000
Northern Marianas	27,720	27,720	27,720	---	---
Subtotal	78,950	70,217	73,217	-5,733	+3,000
Compact of Free Association	8,745	8,745	9,045	+300	+300
Mandatory payments	14,500	12,000	12,000	-2,500	---
Subtotal	23,245	20,745	21,045	-2,200	+300
Total, Insular Affairs	102,195	90,962	94,262	-7,933	+3,300
Departmental management	67,741	78,596	72,533	+4,792	-6,063
Emergency appropriations (P.L. 107-117)	2,205	---	---	-2,205	---
Subtotal	69,946	78,596	72,533	+2,587	-6,063
Office of the Solicitor	45,000	47,773	47,473	+2,473	-300
Office of Inspector General	34,302	36,659	36,239	+1,937	-420
National Indian Gaming Commission	---	2,000	2,000	+2,000	---
Office of Special Trustee for American Indians					
Federal trust programs	99,224	151,027	141,277	+42,053	-9,750
Indian land consolidation	10,980	7,980	7,980	-3,000	---
Total, Office of Special Trustee for American Indians	110,204	159,007	149,257	+39,053	-9,750

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
Natural resource damage assessment fund.....	5,497	5,538	5,538	+41	---
Federal priority land acquisitions and exchanges.....	---	3,000	---	---	-3,000
Total, Departmental Offices.....	367,144	423,535	407,302	+40,158	-16,233
Total, title I, Department of the Interior:					
New budget (obligational) authority (net)...	9,496,419	9,450,753	9,969,175	+472,756	+518,422
Appropriations.....	(8,428,939)	(8,501,952)	(8,705,510)	(+276,571)	(+203,558)
Conservation.....	(1,009,258)	(978,801)	(1,093,665)	(+84,407)	(+114,864)
Emergency appropriations.....	(59,222)	---	---	(-59,222)	---
Contingent emergency appropriations.....	(54,000)	---	(200,000)	(+146,000)	(+200,000)
Rescissions.....	(-55,000)	(-30,000)	(-30,000)	(+25,000)	---
(Limitation on guaranteed loans).....	(75,000)	(72,424)	(72,424)	(-2,576)	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE II - RELATED AGENCIES					
DEPARTMENT OF AGRICULTURE					
Forest Service					
Forest and rangeland research	241,304	242,798	252,000	+10,696	+9,202
State and private forestry	190,221	121,805	146,695	-43,526	+24,890
Conservation	101,000	155,558	133,133	+32,133	-22,425
Subtotal	291,221	277,363	279,828	-11,393	+2,465
National forest system	1,331,439	1,366,475	1,370,567	+39,128	+4,092
Wildland fire management:					
Preparedness	622,618	600,703	640,000	+17,382	+39,297
Fire suppression operations	255,321	420,699	420,699	+165,378	---
Other operations	336,410	347,736	452,750	+116,340	+105,014
Suppression (contingent emergency appropriations)	266,000	---	---	-266,000	---
Fiscal year 2002 supplemental	---	---	500,000	+500,000	+500,000
Other operations (contingent emergency appropriations)	80,000	---	---	-80,000	---
Subtotal	1,560,349	1,369,138	2,013,449	+453,100	+644,311
Capital improvement and maintenance	485,188	501,222	507,865	+22,677	+6,643
Conservation	61,000	50,866	64,866	+3,866	+14,000
Subtotal	546,188	552,088	572,731	+26,543	+20,643
Land acquisition (conservation)	149,742	130,510	146,336	-3,406	+15,826
Acquisition of lands for national forests, special acts	1,069	1,069	1,069	---	---
Acquisition of lands to complete land exchanges (indefinite)	234	234	234	---	---
Range betterment fund (indefinite)	3,290	3,402	3,402	+112	---
Gifts, donations and bequests for forest and rangeland research	92	92	92	---	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
Management of national forest lands for subsistence uses	5,488	5,542	5,542	+54	---
Reduction for non-conservation funding	-2,000	-2,000	-2,000	---	---
Conservation (Youth Conservation Corps)	2,000	2,000	2,000	---	---
Total, Forest Service	4,130,416	3,948,711	4,645,250	+514,834	+696,539
Appropriations	(3,470,674)	(3,609,777)	(3,798,915)	(+328,241)	(+189,138)
Conservation	(313,742)	(338,934)	(346,335)	(+32,593)	(+7,401)
Contingent emergency appropriations	(346,000)	---	(500,000)	(+154,000)	(+500,000)
DEPARTMENT OF ENERGY					
Clean coal technology:					
Deferral	-40,000	---	-50,000	-10,000	-50,000
(Transfer out)	(-33,700)	(-40,000)	---	(+33,700)	(+40,000)
Fossil energy research and development	582,790	489,305	664,205	+81,415	+174,900
Clean coal technology (by transfer)	(33,700)	(40,000)	---	(-33,700)	(-40,000)
Alternative fuels production (rescission)	-2,000	---	---	+2,000	---
Naval petroleum and oil shale reserves	17,371	20,831	20,831	+3,460	---
Elk Hills School lands fund	---	36,000	---	---	-36,000
Advance appropriations, FY 2003	36,000	---	---	-36,000	---
Energy conservation	912,805	901,651	984,653	+71,848	+83,002
Economic regulation	1,996	1,487	1,487	-509	---
Strategic petroleum reserve	179,009	168,856	175,856	-3,153	+7,000
SPR petroleum account	---	11,000	7,000	+7,000	-4,000
Northeast home heating oil reserve	---	8,000	8,000	+8,000	---
Energy Information Administration	78,499	80,111	80,611	+2,112	+500
Total, Department of Energy:					
New budget (obligational) authority (net)	1,766,470	1,717,241	1,892,643	+126,173	+175,402
Appropriations	(1,772,470)	(1,717,241)	(1,942,643)	(+170,173)	(+225,402)
Advance appropriations	(36,000)	---	---	(-36,000)	---
Rescissions	(-2,000)	---	---	(+2,000)	---
Deferral	(-40,000)	---	(-50,000)	(-10,000)	(-50,000)
(Transfer out)	(-33,700)	(-40,000)	---	(+33,700)	(+40,000)
(By transfer)	(33,700)	(40,000)	---	(-33,700)	(-40,000)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
DEPARTMENT OF HEALTH AND HUMAN SERVICES					
Indian Health Service					
Indian health services	2,389,614	2,453,835	2,508,756	+119,142	+54,921
Indian health facilities	369,487	362,571	391,865	+22,378	+29,294
Total, Indian Health Service	2,759,101	2,816,406	2,900,621	+141,520	+84,215
OTHER RELATED AGENCIES					
Office of Navajo and Hopi Indian Relocation					
Salaries and expenses	15,148	14,491	14,491	-657	---
Institute of American Indian and Alaska Native Culture and Arts Development					
Payment to the Institute	4,490	5,130	5,130	+640	---
Smithsonian Institution					
Salaries and expenses	399,253	448,760	450,760	+51,507	+2,000
Rescission	---	-14,100	-14,100	-14,100	---
Emergency appropriations (P.L. 107-117)	21,707	---	---	-21,707	---
Subtotal	420,960	434,660	436,660	+15,700	+2,000
Repair, restoration and alteration of facilities	67,900	81,300	81,300	+13,400	---
Construction	30,000	12,000	10,000	-20,000	-2,000
Total, Smithsonian Institution	518,860	527,960	527,960	+9,100	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
National Gallery of Art					
Salaries and expenses	68,967	78,219	78,219	+9,252	---
Emergency appropriations (P.L. 107-117)	2,148	---	---	-2,148	---
Subtotal	71,115	78,219	78,219	+7,104	---
Repair, restoration and renovation of buildings	14,220	16,230	16,230	+2,010	---
Total, National Gallery of Art	85,335	94,449	94,449	+9,114	---
John F. Kennedy Center for the Performing Arts					
Operations and maintenance	15,000	16,310	16,310	+1,310	---
Emergency appropriations (P.L. 107-117)	4,310	---	---	-4,310	---
Subtotal	19,310	16,310	16,310	-3,000	---
Construction	19,000	17,600	17,600	-1,400	---
Total, John F. Kennedy Center for the Performing Arts	38,310	33,910	33,910	-4,400	---
Woodrow Wilson International Center for Scholars					
Salaries and expenses	7,796	8,488	8,488	+692	---
National Foundation on the Arts and the Humanities					
National Endowment for the Arts					
Grants and administration	98,234	99,489	99,489	+1,255	---
National Endowment for the Humanities					
Grants and administration	108,382	109,632	109,932	+1,550	+300
Matching grants	16,122	16,122	16,122	---	---
Total, National Endowment for the Humanities	124,504	125,754	126,054	+1,550	+300

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
Institute of Museum and Library Services/ Office of Museum Services					
Grants and administration 1/	26,899	---	---	-26,899	---
Challenge America Arts Fund					
Challenge America grants	17,000	17,000	17,000	---	---
Total, National Foundation on the Arts and the Humanities	266,637	242,243	242,543	-24,094	+300
Commission of Fine Arts					
Salaries and expenses	1,224	1,224	1,255	+31	+31
National Capital Arts and Cultural Affairs					
Grants	7,000	7,000	7,000	---	---
Advisory Council on Historic Preservation					
Salaries and expenses	3,400	3,667	3,667	+267	---
National Capital Planning Commission					
Salaries and expenses	7,253	7,253	7,553	+300	+300
Emergency appropriations (P.L. 107-117)	758	---	---	-758	---
Total, National Capital Planning Commission	8,011	7,253	7,553	-458	+300
United States Holocaust Memorial Museum					
Holocaust Memorial Museum	36,028	38,663	38,663	+2,635	---

1/ Funded in the Labor HHS bill for FY 2003.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
Presidio Trust					
Presidio trust fund	23,125	21,327	21,327	-1,798	---
Total, title II, related agencies:					
New budget (obligational) authority (net)	9,671,351	9,488,163	10,444,950	+773,599	+956,787
Appropriations	(8,988,686)	(9,163,329)	(9,662,715)	(+674,029)	(+499,386)
Conservation	(313,742)	(338,934)	(346,335)	(+32,593)	(+7,401)
Advance appropriations	(36,000)	---	---	(-36,000)	---
Emergency appropriations	(28,923)	---	---	(-28,923)	---
Contingent emergency appropriations	(346,000)	---	(500,000)	(+154,000)	(+500,000)
Rescissions	(-2,000)	(-14,100)	(-14,100)	(-12,100)	---
Deferral	(-40,000)	---	(-50,000)	(-10,000)	(-50,000)
(Transfer out)	(-33,700)	(-40,000)	---	(+33,700)	(+40,000)
(By transfer)	(33,700)	(40,000)	---	(-33,700)	(-40,000)
Grand total:					
New budget (obligational) authority (net)	19,167,770	18,938,916	20,414,125	+1,246,355	+1,475,209
Fiscal year 2002 (contingent emergency)	---	---	(700,000)	(+700,000)	(+700,000)
Fiscal year 2003 (net)	(19,167,770)	(18,938,916)	(19,714,125)	(+546,355)	(+775,209)
Appropriations	(17,417,625)	(17,665,281)	(18,368,225)	(+950,600)	(+702,944)
Conservation	(1,323,000)	(1,317,735)	(1,440,000)	(+117,000)	(+122,265)
Advance appropriations	(36,000)	---	---	(-36,000)	---
Emergency appropriations	(88,145)	---	---	(-88,145)	---
Contingent emergency appropriations	(400,000)	---	---	(-400,000)	---
Rescissions	(-57,000)	(-44,100)	(-44,100)	(+12,900)	---
Deferral	(-40,000)	---	(-50,000)	(-10,000)	(-50,000)
(Transfer out)	(-33,700)	(-40,000)	---	(+33,700)	(+40,000)
(By transfer)	(33,700)	(40,000)	---	(-33,700)	(-40,000)
(Limitation on guaranteed loans)	(75,000)	(72,424)	(72,424)	(-2,576)	---

AMENDMENT OFFERED BY MR. RAHALL

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

The Clerk read as follows:

Amendment offered by Mr. RAHALL:

Page 50, beginning on line 19, strike ''expended'' and all that follows through ''Congress: *Provided further,*'' on line 6, page 51, and insert ''expended: *Provided,*''.

Mr. RAHALL. Mr. Chairman, I begin by commending the gentleman from New Mexico (Mr. SKEEN), the chairman of the Subcommittee on the Interior. He has brought a very sound bill to the floor. I commend the gentleman for his leadership and salute him upon his retirement from this body. I salute, as well, the ranking minority member, the gentleman from Washington (Mr. DICKS), who I understand may oppose this amendment, but has been very courteous to me in allowing this amendment to proceed.

I offer this amendment with the gentleman from Michigan (Mr. KILDEE). It is my understanding the gentleman from Arizona (Mr. HAYWORTH) on the majority side has a keen interest in this matter and may want to speak as well.

Mr. Chairman, I did vote against the rule governing debate on this measure because it waived all points of order against the bill on matters which constitute an authorization on an appropriation measure with the exception of an issue relating to the Everglades.

In this regard, I am particularly concerned with one authorizing provision in particular that is so unfair, so callous in my view that since it was protected from a point of order under the rule, it has prompted me to offer this amendment.

This provision is nothing more and nothing less than a gag order on thousands of American Indians who are seeking a proper accounting from the Federal Government of royalties that are owed to them. It is a most repressive provision.

Simply stated, this provision in the bill prohibits the government from accounting for amounts owed to more than 300,000 Indians prior to 1985. It is unfortunate, but true, that through both Democrat and Republican administrations, the Department of the Interior has acted like the Enron of Federal agencies when it comes to managing Indian trust assets.

Over the years, countless investigative reports by the Congress, the GAO, the Inspector General, and others have been issued on the failure of the Department of the Interior to properly account for and manage Indian trust funds. This matter is in litigation and the contention is that the Department of the Interior has squandered more than $10 billion in royalties owed to these individuals. Compared to this scandal, the Teapot Dome scandal was chump change.

But rather than allowing the litigation to go forward, rather than allowing for a full and proper accounting of these trust fund accounts, H.R. 5093 places an arbitrary cutoff date of 1985. That would be like telling Americans who have placed money in a savings account all of their adult lives and have proper records that we will have the bank tell the investor what is in their account regardless of what the investor's records show. If the investor's records show an investment of $100,000 in the bank, but the bank says they have only $50,000, then the bank figure would stand, and there is no recourse.

That is what this provision in H.R. 5093 says to these American citizens. They are our first Americans. They have died in our wars. They have invested and contributed to our society. And today they are being treated with the most callous disregard, no better than the heads of Enron and WorldCom treated their investors.

Mr. Chairman, I ask for adoption of this amendment. I ask that my colleagues in support be recognized as well.

REQUEST TO LIMIT DEBATE

Mr. SKEEN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be limited to 40 minutes to be equally divided and controlled.

Mr. RAHALL. Mr. Chairman, reserving the right to object, we have a number of requests on this side of the aisle for time.

Mr. SKEEN. Would the gentleman agree to an hour?

Mr. RAHALL. Mr. Chairman, continuing under my reservation, at this time I would like to reserve the option to see how many more speakers may come to the floor.

Mr. TOOMEY. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

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

Mr. Chairman, I oppose the gentleman's amendment. Since fiscal year 1996, the Subcommittee on the Interior has taken the steps necessary to have the Department of the Interior and the Indian community clean up decades of trust fund mismanagement. After appropriating hundreds of millions of dollars for this purpose, it has become clear that a number of ''good government'' legislative changes were necessary to ensure that trust fund reform can go forward. If trust reform is to succeed, these provisions must be enacted into law.

□ 1100

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

Mr. Chairman, I rise in opposition to this amendment. Let us begin by acknowledging that this is not a partisan issue. We have had Interior secretaries under Democrat administrations and under Republican administrations that have struggled with this that have been subject to court orders and contempt of court and employees in both administrations. This has been an extraordinarily difficult issue.

Let us put a little perspective on this. Let us understand what is involved with this. It was 1996 when five plaintiffs filed a class action suit against the Department of Treasury and Interior on behalf of themselves and 300,000 individual Indian money accountholders. It is called the Cobell v. Norton lawsuit for breach of trust in handling Indian funds.

Now, it is not as though the subcommittee and the House of Representatives and the Congress have not recognized the problem. Over the years, we have appropriated $45 million for the trust fund accounting system, $43 million for the trust asset accounting management system, $22 million for data cleanup, and $20 million for a transaction-by-transaction historical accounting of the named plaintiffs and their predecessors to serve as a benchmark to determine future funding requirements for this type of activity. This amount, about $130 million, is in addition to all of the other things that we are doing on a day-to-day basis in the operations of the trust account.

Meanwhile, we have had the courts making and the plaintiffs making life very difficult for employees. They have had contempt of court motions filed against them. They are being advised to purchase their own personal liability insurance. As a result, many of them have recused themselves and they were not able to get employees to work on this accounting system. It is becoming an almost impossible situation for everybody within the department. We need to get this thing resolved.

Now, the reason we have this limitation, this historical accounting limitation, is because it would do all accounts that were opened as of December 31, 2000, going back as far as January 1985. That is virtually the vast majority of them. We are talking about going back to infinity in time to the very beginning of time, and we are talking about something that is almost impossible to do, and it is estimated that it would cost about $2.4 billion, $2.4 billion to do the accounting. It is extraordinarily expensive, but it is not going to yield the desired results because of the missing data that we have. So what we are talking about is trying to narrow this down to something that is reasonable that we can actually accomplish.

If we were required to undertake an extensive historical accounting, we would have to divert funds from other high priority Indian programs and it is going to have a disastrous effect on Native Americans.

We are likely to spend, even with this limited amount, we are likely to spend $200 million over the next several years.

Mr. Chairman, in my view, what we are trying to do is the responsible thing, to act in a responsible way to make sure that we can get this historical accounting done for the vast majority of the Native Americans who deserve to have this done. One of the things we need to make sure that we do is to release the Ernst & Young report

that has been held up by the Court; the Court has denied its being released. It has been denied by the Court. We need to do that so we could see what we would have in the way of historical accounting for the numbers of people that would be affected. We need to give some compensation to employees for their litigation expenses. We need to have new members of the Special Trustee Advisory Board and, I think, ultimately, we need to limit this historical accounting to the 300,000 individual accounts.

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

Mr. KOBLE. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, I appreciate the gentleman for yielding and, certainly, as I said in my opening comments, this is something that has gone on through a Republican and Democrat administration. I would agree with the gentleman that it is very hard to get an historical accounting, a true accounting of these monies that are owed, and the Interior Department said that in our Committee on Resources during our hearings on this issue. They said that on numerous occasions.

But I think what we must recognize is that this issue is in litigation at the current time, as the gentleman has noted, and as we are all very much aware. That litigation should be allowed to proceed. I would fear, by the language in the pending bill, that we are prejudging the outcome of that litigation, and that is my concern.

Mr. KOLBE. Mr. Chairman, reclaiming my time, since I think my time is limited at this point, I would just say that it is in litigation, but it is not exactly the first time that the Congress of the United States has stepped in when there has been litigation to try to resolve something. This is litigation that has absolutely no end in sight; none. There is no prospect of this litigation ever coming to a resolution; there is no prospect of ever resolving this issue. We are trying to put some parameters around it so that we can get an historical accounting for the people who really need it. I urge this amendment be defeated.

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

Mr. Chairman, as cochair of the Congressional Native American Caucus, I strongly urge the House to support the amendment to strike the provision in the Interior appropriations that would limit government accountability to Indians by restricting an historical accounting of Indian trust funds.

This provision would limit the legal claims against the Federal Government for mismanaging Indian trust funds by limiting the accounting from 1985 forward.

Further, the provisions would presume the balances as of 1985 are correct, even though the government admits the money has been mismanaged for decades.

It would also overturn a central provision of the American Indian Trust Management Reform Act, legislation enacted in 1994 after many hearings and deliberations on this issue. That act requires that the Secretary of the Interior provide a full accounting for ''all funds held in trust by the United States for the benefit of the Indian tribes or individual Indians.''

The Federal courts have also mandated that the government provide Indians with an historical accounting based on trust principles that apply to all Americans. The D.C. Federal District Court and a unanimous D.C. Circuit have already ruled that the government owes Indians an historical accounting of all funds from the date the funds were deposited into Federal accounts for Indians.

To overturn the earlier mandate of the Congress and the Federal courts for this important act of government accountability fails the poorest Americans: Indians, who rely on money from their lands to whom the Federal Government owes a trust responsibility.

This provision also raises new claims that this proposed congressional action constitutes an unconstitutional taking of Indians' property: their money.

Mr. Chairman, this is the Indians' money, not the government's. It is not from a Federal program or entitlement, but from the leases of Indian lands. Money comes directly into the Interior Department in trust from Indians from payments for use of Indian lands for grazing, timber, and mineral royalties. The United States has admitted that it mismanaged and lost the money.

This amendment would absolve the government for accounting for that mismanagement while opening up the government to new legal claims based upon unconstitutional taking of property.

In effect, this provision we seek to strike legalizes years of malfeasance, misfeasance, and nonfeasance. In some instances, it legalizes actual theft of Indian property.

Right now, a Tribal Task Force on Trust Reform is currently working with the Department of Interior on a trust fund proposal that, upon completion, will be submitted to the committees of jurisdiction for review. Let us let them finish their work, and we are working with them. I have been in contact with them, this Indian task force and the Department of the Interior. They are seeking a solution to this themselves.

I urge my colleagues to support this amendment to strike these provisions from the Interior funding bill.

Mr. Chairman, we spend $16 billion a year on foreign aid. Should we not at least be willing to render justice to our Native Americans at a much less cost when it is their own money?

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

Mr. Chairman, I have been listening with great interest to the debate, and I want to congratulate the chairman, the gentleman from Arizona (Mr. KOLBE), for bringing this to the floor to discuss. I also happen to agree with the gentleman from Michigan (Mr. KILDEE) and the gentleman from West Virginia (Mr. RAHALL). This issue has been with us since 1906, and if anybody has a responsibility, it is this body, the Congress. Because it is our estimate, and when I say ours, the different accounting firms and not Andersen, but different accounting firms, there is about $12 billion unaccounted for that belonged to the American Indians. In my State alone since 1971, we cannot account for the BIA $800,000, and that is a short period of time.

But I will say that what the committee is trying to do here, and I hope that as we go through this process, what I am worried about, and the gentleman from Michigan (Mr. KILDEE) mentioned, this is the Indians' money, and he is absolutely right, but what is happening is it is going to be the lawyers' money. It is going to be the lawyers' money. What the committee has tried to do, and whether they are right or wrong, and why they picked 1985 I do not know, is try to, in fact, pick the date that has the modern communications system for accounting, the computer system that is in place so that they can account for that period of time.

I do not believe, and if I could ask, although I do not see the gentleman from Arizona (Mr. KOLBE) here, but somebody, perhaps the gentleman from New Mexico (Mr. SKEEN) or the gentleman from Tennessee (Mr. WAMP), is there somebody who can tell me, this does not preclude or close off other investigations prior to 1985. Can anybody address that? Does anybody know? Is anybody listening?

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

Mr. YOUNG of Alaska. I yield to the gentleman from Georgia.

Mr. KINGSTON. Mr. Chairman, I have been listening to the gentleman from Alaska, and I believe that the gentleman is actually giving a very good description of the situation we are in, and I am going to double-check that, if the gentleman will give me 1 minute.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, I will get back to the gentleman.

What I am suggesting here is I do not want to see this happen, this to go on and on and on, and never be settled. If we can get the money from 1985 and not preclude the money beyond that and the earlier years, then I think we have achieved a goal. But right now, we know who is making the money out of this, and that is the lawyers who are presenting the cases and it is the lawyers for the government who are defending against government inaction, a malfeasance. So I am just saying, let us try to bring a conclusion to this, and let us really work on making sure from now on that the system works.

Now, I will say when Ms. NORTON became Secretary, the first thing I did was call her up and said get rid of the BIA and that accounting firm for the trust fund because it is not working. Mr. Babbitt was cited for contempt. But that is not the only person, the person before him, all the way to 1906, the government has not acted as I think they should, and I agree with the gentleman from West Virginia (Mr. RAHALL), that is absolutely wrong. But right now we have to try to get this thing started so from now on we do not have the misuse of these funds and, in fact, the loss of these funds.

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

Mr. YOUNG of Alaska. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, I appreciate the gentleman yielding. Even if we were to adopt this arbitrary cutoff date of 1985, from 1985 on, we cannot even get a proper accounting. Mr. Tommy Thompson, one of the special trustees before our committee, testified as such when he said that we cannot get a grasp of the short-term leases that have been recorded post-1985. So we still have an accounting nightmare out there in which we cannot track everything.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, that means that we have to address that issue. We have to address that issue, maybe not in this legislation; I will be honest with the gentleman on that, I am not sure this will do it. But I am saying somewhere along the line we have to solve this problem. Create a grand master, make an accounting firm that will handle that and get out of the BIA, because as long as the BIA is where it is, we will never have a good system of accounting.

The CHAIRMAN. The time of the gentleman from Alaska (Mr. YOUNG) has expired.

(On request of Mr. DICKS, and by unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 2 additional minutes.)

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

Mr. YOUNG of Alaska. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, first of all, it is going to cost about $900 million just to do the accounting back to 1985. The department does not have all of these records, or they would have done it. We have to have a settlement. At some point this Congress is going to have to impose a settlement on this issue. I have done one before, the Puyallup Indian land claim settlement, a very comprehensive settlement which Congress supported. We are going to have to craft a settlement.

Now, if these gentlemen who have come here to the floor today to help us, if their committees would get busy and develop a compromise and do a settlement on this issue, it could be coming from the Congress. Somehow we have to resolve this, because we do not have enough money.

I think there is a lot of wishful thinking that suggests that this is all going to come out of the Justice Department. It may not come out of the Justice Department. If there is malfeasance, Mitch Daniels is going to say, Interior, you repay this $2.5 billion, 5 billion, whatever the number is. So that is a possibility.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, I agree with the gentleman. What I am suggesting to the people and those of us who support the American Indians, as I do, I think it is the responsibility of Congress. Because if we look at the trust, if we look at the trust, if we look at what is said about the American Indians, the trust belongs to the Congress.

□ 1115

We have been neglectful in not pursuing and making sure that this issue had been solved in previous years.

So I am asking us to sit down, as the gentleman mentioned before, and say, let us solve this problem, because they owe their money to themselves. We have spent that money somewhere. It is our responsibility.

Like the gentleman says, they will say, we will not appropriate, we do not have the money. But somewhere along we have to step up to the plate and say listen, we have spent that money, we owe it to them, and we ought to take it and get it to them as soon as possible and shut the doors.

Mr. DICKS. Mr. Chairman, if the gentleman will continue to yield, this is why they cannot get this done, they do not have all the records. There is no possible way to do this. Someone is going to make an estimate of what is there, and it can either be done by the court, which is not helping us, by the way, or by the Congress.

If we do not do it there, between the parties, then it has to be done by the Congress. Congress has to step in, the authorizing committee has to step in, and come up with a legislative settlement of this issue.

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

Mr. Chairman, I have a great deal of respect for my colleagues who have been speaking so far this morning.

Mr. KINGSTON. Mr. Chairman, if the gentleman will yield for one minute, this is something unrelated that I think the gentleman will support dispensing with.

Mr. DICKS. Mr. Chairman, I ask unanimous consent that the gentleman from New Jersey (Mr. PALLONE) have 1 additional minute to answer the question.

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

There was no objection.

The CHAIRMAN. The gentleman from New Jersey (Mr. PALLONE) is recognized for 1 additional minute.

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

Mr. PALLONE. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Chairman, I would like to have a colloquy with the gentleman from Pennsylvania (Mr. TOOMEY), who objected to that time limit on this amendment.

It is my understanding that the gentleman from Pennsylvania (Mr. TOOMEY) will not object to other amendments in title I as long as title I is not closed up, which would reserve the gentleman's right to offer amendments to title I at a later time.

So when we consider other amendments under title I, such as the amendment of the gentleman from Arizona (Mr. HAYWORTH), we can agree to a time limit without the gentleman's objection.

Is that the gentleman's position?

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

Mr. PALLONE. I yield to the gentleman from Pennsylvania.

Mr. TOOMEY. Mr. Chairman, I thank the gentleman from New Jersey for yielding to me.

I would say to the gentleman from Tennessee, we do have a number of additional amendments which we would certainly reserve the right to introduce. However, we recognize many Members have important amendments, and in the interest of cooperation here and in giving everybody their opportunity, we would agree to not object to any agreements on time limits on the amendments that the gentleman would like to offer in title I, provided that when the gentleman finishes with his amendment, the committee rises without closing out title I.

Mr. WAMP. I thank the gentleman from New Jersey (Mr. PALLONE) for yielding to me, Mr. Chairman.

Mr. PALLONE. Mr. Chairman, again I want to say that I have a great deal of respect for those who have spoken so far. I know that they are well intentioned, but I am very disturbed by some of the comments and the procedure that we are following this morning.

Let me say that I understand perfectly what the gentleman from Alaska said, but this is a debate that really does not belong here. I know we are dealing with money and trust reform, and one could argue that somehow it is appropriations related, but I think the very fact that there is such a debate, and so many questions about what we should be doing with the trust funds means that it should not be done on an appropriations bill.

There should be a hearing, or perhaps a series of hearings that are being held in the Committee on Resources, in the authorizing committee, not here on the floor, when we are dealing with this larger bill.

I think it is a huge mistake. The very nature of the debate shows it is a mistake, and why we should support the amendment offered by the gentleman from West Virginia (Mr. RAHALL).

Beyond that, I was very disturbed by some of the comments the gentleman

from Arizona made. He talked about how we have spent a million here or a million there in order to try to deal with this trust issue. But we are talking about a scandal, I use the term ''scandal'' because that is what it is, that affects about $10 billion in funds that may or may not be owed, depending on the amount, to American Indians.

We have had problems over the last few weeks and the last few months with the corporate scandals and the accountants that we have had in Enron and WorldCom and everything else, and everybody on a bipartisan basis has been on this floor saying that we have to take responsibility and the CEOs have to take responsibility and do the right thing to make sure that the accounting is proper.

Why is that any different for the Federal Government? Why is it any different for this Congress? This Congress has the same responsibility. I am not interested in whether the employees at the Interior Department are going to be harmed in some way, or whether or not they are going to have to go out and get a lawyer in some way because of something they may have done wrong.

We are talking about people who historically have been harmed by this Congress. We have a special burden here. There are 100 or 200 years of harm to American Indians, and they do not trust us. I understand why they do not trust us, because of the things that have happened historically with this Congress and with the Federal Government.

There is a special burden here, a special burden that goes beyond the Enrons and the WorldComs, so they do not think that everything that they do and everything that Congress does is going to harm them and be discriminatory against them.

I know it is very easy for us to say here that we have to worry about this money and we have to worry about that money, but I think for us to suggest here today that we are going to have some sort of cutoff pre-1985, or we are going to have some sort of cutoff after the year 2000, and say that we are going to limit the accounting or what the liability should be without having consultation with American Indian tribes is a huge mistake.

The gentleman from Michigan (Mr. KILDEE) mentioned that there is now a task force within the tribes in the American Indian community that is sitting down with the Interior Department, with Members of Congress, with our Committee on Resources, and talking about a process that we should go about, in consultation with them, to decide how to deal with this essentially accounting issue.

We need the time for that task force to sit down, to come back to the authorizing committee, the Committee on Resources, and discuss what should be done so that American Indians do not continue to be harmed.

It is not fair for us in this little debate today, even though my friends are well-intentioned, and I am not suggesting they are not, it is not fair for us in this half hour or hour of debate to make cutoffs and arbitrarily decide what we want to do, even if it is for monetary reasons, because there is too much money involved, there is too much of a history of discrimination involved. And given what we have seen with the corporate sector over the last few weeks and the last few months, I think we have a particular responsibility as elected officials and as representatives of the Federal Government to not do the same things in trying to protect the CEOs or, in this case, the government officials who have the responsibility to deal with this issue.

It is wrong to have that discussion here. This amendment should be passed, if for no other reason than this is not the forum and this is not the time to be taking this action.

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

Mr. Chairman, as the House is in the Committee of the Whole House to consider this, I rise in support of this bipartisan amendment, acknowledging what I believe to be good-faith efforts of the appropriators for what is a very difficult problem. Indeed, simply to call this a very difficult problem may be the understatement of this new century, and maybe the understatement, quite candidly, Mr. Chairman, of almost 3 centuries.

I was honored, upon first arriving in this House, to join my colleague, the gentleman from Michigan, in a bipartisan fashion co-chairing a task force dealing with this very problem. In 1994, this Congress required the Secretary of the Interior to provide an accounting of all funds held in trust by the United States for the benefit of an Indian tribe or individual Indians.

There is a body of law, ratified treaties, the long-standing tribal trust relationship, the sacred trust, that this government must exercise. And there are larger questions, not only from an institutional perspective, where, despite the good faith of our friends, the appropriators, they are actually stepping in to what the authorizing committee, my colleagues and I who serve on the Committee on Resources, should be working out.

We have taken steps, and I appreciate my friend, the gentleman from West Virginia, and my friend, the gentleman from Michigan. We have held some hearings. My friend, the gentleman from New Jersey, quite correctly pointed out that the tribes themselves, working with the Department of the Interior, and let me say, Mr. Chairman, that the current Secretary of the Interior takes this seriously. She has worked on this every day. The contempt citation offered by Judge Lambert is something that she takes seriously.

Good people can disagree; but it seems to me if we are involved in forensic accounting, the point has been made in a variety of news analyses that when we look at the hocus-pocus of either maladroit or unethical accounting, whatever the corporate world has done cannot eclipse, for whatever reason, what has gone on for a long time in the halls of government.

So, Mr. Chairman, let it begin here. Our first genuine efforts at accounting reform, let it begin with the first Americans, the first Americans, who have taken steps in good faith with the Secretary of the Interior, who has taken steps in good faith with an authorizing committee that wants to work together in good faith to address this problem.

It is a challenge, to say the least. But the remedy offered, however well-intentioned, by the Committee on Appropriations today is something we should thank them for, but ultimately reject. That is why I support this bipartisan amendment. We will work this in good order and move to accept this amendment. I thank my friends who have spoken on behalf of it.

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

Mr. HAYWORTH. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, is the gentleman from Arizona or the subcommittee aware of any formal requests from the administration for this provision?

Mr. HAYWORTH. Mr. Chairman, reclaiming my time, I am not aware of any formal requests for this particular provision. I think it offers another compelling reason why we thank the appropriators, given the magnitude of the task, but reassert the role of the authorizing committee, and recognize the good but challenging work that has been done thus far to try and deal with this problem.

So again, I ask my colleagues on both sides of the aisle to support this amendment.

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

Mr. Chairman, I rise today in support of this amendment. This amendment strikes a provision that would limit a historical accounting of Indian trusts. The accounting would only cover the period from 1985 to 2000. How can we limit the accounting to such a short period when the accounting practices in question date back over 300 years?

At a time when we are trying to increase accounting responsibility in the corporate world, can we really say that these standards apply only to them, and I say, only apply to them, Native American Indians? Can we really be that unfair to Native American brothers and sisters, once again, to our Native American Indians being unfair?

The President and Congress has made it clear that the proper accounting goes hand in hand with high moral standards. Should we not expect the same standards to be applied to the Federal Government accounting Indian

trust funds? Morality and ethics should be applied to all of us.

Mr. Chairman, this provision undermines a Federal law that this House passed requiring a full accounting of all trust funds. It also undermines a Federal court decision requiring an accounting of all funds, regardless of dates deposited.

Most importantly, it undermines our moral and ethical values. We cannot argue for fairness in corporate accounting and act in such a way which is unfair today, as we are to Native Americans who have made a contribution, who are the first Native Americans of this country, who have contributed so much to our society. We have a trust responsibility and a moral responsibility to provide full and fair accounting of all Indian trust funds. I urge Members to support this amendment.

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

Mr. Chairman, what I wanted to do is kind of go through some of the questions that have been brought up here. One of the questions was, Does the administration know about this? Does the administration support it?

The administration does know about this language and the administration does support this bill. Certainly, the Department of the Interior has fly-specked it as carefully as they can. As we all know, Democrats and Republicans and the administration are quick to point out what they like or dislike on anything we are doing here on the Hill.

The second issue I wanted to touch base on was one that the gentleman from Alaska (Mr. YOUNG) raised about precluding any dispute prior to 1985. It is the intention of this committee to not permanently preclude any accounting for other accounts for other periods. Why is the 1985 date the one we are starting with? We are starting with that because that was the beginning of the electronic era, when it became a little easier to track this.

Why are we in this situation to begin with? We go back, and this actually does span hundreds of years, the dates might not be exactly accurate, but say 1820-ish. At that time, there were Indian reservations. In 1833, there was an act of Congress that busted them up, and it was called the Land Allotment Act, 1833 and 1834.

□ 1130

And at that time much of this previous reservation land was returned into the hands of Native Americans. And then through a number of unscrupulous moves they lost a lot of this land. The Federal Government came back and said this is not fair. We have got to get the land back to the people who own it, and so they started a system of leasing land.

Now, let us say you were a Native American in 1840 and you owned 240 acres of land, easy, clear to understand. But fast forward down the road 100 years, and you have got a thousand people, a thousand heirs who are claiming that 240 acres, and in many cases smaller tracts of lands and more heirs are claiming it. So it is very difficult to administer this thing.

To give you an idea what we are talking about, some of these leaseholders are getting paid 3 and 4 cents, Mr. Chairman, and it costs $30 or $40 a lease to administer the payment to them.

So what the committee is trying to do in this confusion is bracket the problem off and say, tell you what, the year is 2002, let us go back to 1985 where we had hard core electronic records of the land. Let us start with that. Let us try to figure this out in this bracket. Now we are not saying we will not go back, but we are saying from this point on let us clean up the mess that we have because this portion is more manageable.

It is not, again, the intent of the committee to preclude any accounting problems prior to 1985. But one thing I want to say, if we do not put a bracket on it, we are looking at $2.4 billion in accounting. And a lot of money, this money, as the gentleman from Alaska (Mr. YOUNG) has pointed out, is going to wind up in the hands of lawyers, not in the hands of the Native American landowners. So the committee is trying to find some reasonable balance and it is bipartisan.

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

Mr. KINGSTON. I yield to the gentleman from Washington.

Mr. DICKS. I think the thing we want to emphasize here is that we are trying to get this thing resolved without spending what has been estimated. If we go the route we are going, it could cost from $500 to $700 million out of the Interior Department budget to do this historical accounting. What we have proposed is let us take the period from the year 2000 going back to 1985, let us do that first, that is going to cost approximately $900 million. That is still going to come out of the Interior Department budget. Then, if the Congress, if the authorizers who we see here today, want to, we could then have a subsequent congressional act that would, go back 100 years and try to reach some kind of an accounting, estimate, or settlement on what would be fair considering the facts that we do not have the accounts.

What we are faced with is we have got a broken main here. And money is gushing out because of this lawsuit. It could be up to a billion dollars, $500 to $700 million up to a billion. On 5 individuals they spent $20 million. And that is the finding that the judge will not release to the Congress.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. KINGSTON) has expired.

(On request of Mr. DICKS, and by unanimous consent, Mr. KINGSTON was allowed to proceed for 2 additional minutes.)

Mr. DICKS. Mr. Chairman, we are faced with a very tough problem and there are some who may not realize that this is already hurting all of the other tribes because this money comes out of the Interior budget and is not available for other programs.

Now, Babbitt tried as hard as he could. I believe that Norton is trying as hard as she can. But you have litigants who are going after the people in the agency who are trying to do the work, forcing them to be recused and threatening them with civil liabilities. This is an outrageous act of legal activity aimed at trying to destroy the Department of Interior and its ability to function. In fact, people are being held personally liable under lawsuits because of their work in this particular matter.

I just think that this is broken. We have got to fix it here. It is a possible way to move forward with a reasonable amount of money. We could spend a billion dollars and still not get the information because it is not there, the information pre-1985 is not there in any definable way. You cannot do this job. And if you just keep throwing money at it and say, do it, and they cannot do it, then we cannot get anything done.

I am a very practical guy. At some point if it is broke, let us fix it. Let us come up with a settlement. Let us get the authorizers to do something and create a settlement here and pass it through the Congress that is fair and equitable. Listen to all the witnesses. Listen to the best information you can get, the best estimates you can. Do a settlement, not this litigation which is broken.

We have a judge that is out of control who is saying the Department cannot use the Internet. To me it is one of the most outrageous things that I have witnessed in my career. We have to stop it. If the Democrats are worried about saving some money, this is a place to do it.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. KINGSTON) has expired.

(On request of Mr. DICKS, and by unanimous consent, Mr. KINGSTON was allowed to proceed for 1 additional minute.)

Mr. KINGSTON. Reclaiming my time, I want to make the point, this is not an arbitrary move by the Committee on Appropriations. There were budget hearings on this, oversight hearings and annual appropriations committees. All we are trying to do, as the gentleman from Washington (Mr. DICKS) has said, is just start with some certainty from 1985, from here on, that point on, we are going to clean it up. And that cost is going to be about $900 million. If we do not have that 1985 bracketed, we are looking at two things: A cost of about 2.4 billion according to the Department of Interior's Office of Historical Trust Accounting. And what is worse than that, we will not be able to resolve it.

Mr. DICKS. There is $143 million this year in this budget for this activity.

This is broken. We need somehow to get our hands around this and try to come up with a settlement. Congress is going to have to do it or we are going to spend billions on something that we cannot do.

Mr. KINGSTON. Reclaiming my time, this helps a lot of people in that 1985 to 2000 and on bracket. There are lots who are not going to be benefitted either way but these people will be helped tremendously.

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

Mr. Chairman, I am impressed with the sincerity, I think, that is being offered by our various points of view in different perspectives on the floor here. However, the longer I serve in Congress, this is an area where I do not just feel worse, I feel guilty as an American about the treatment of our Native American citizens. And it seems to me the efforts here to establish an arbitrary date, which is arbitrary, which is not going to stop litigation, which is not going to solve confusion, is not going to help make the process work. By all means, treat it as the crisis that it is.

I identify with the comments from my friend from New Jersey who talked about how people are pulling all sorts of rabbits out of the hat around here dealing with corporate responsibility, including putting bills on this floor that have never been to committee, that we never had a chance to analyze, that have had significant ramifications because there is a scent of scandal in the air.

Well, ladies and gentlemen, this is a scandal of monumental proportions. And I would hopefully, respectfully suggest that instead of trying to jimmie it, to cut the ground out from underneath it, to try and take a small portion of it, that we move forward, give it the treatment that it accords. Work with the authorizing committee. Work with others here who have the sincere effort to move it forward. Put serious money behind it. It is going to cost a huge amount of money, but it seems to me that it is not going to move us forward by trying to arbitrarily bracket it here in the appropriations bill.

I strongly support the amendment from the gentleman from West Virginia (Mr. RAHALL). I hope that we can use this as a way to start forward, taking the good will that has been expressed on a bipartisan basis, the acknowledgment of the financial contribution that is going to have to be made, approve the amendment, but move forward with a comprehensive approach.

I know that there are Members of this Congress who would like to do some serious legislating. This is an area where I think people would step up to the plate for Congress to finally accept its responsibility. I would not like this to be perceived by our friends in the Native American community as another chapter in this long, sad history.

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

Mr. Chairman, I will not take the full 5 minutes, but I rise in strong support of this amendment.

I think when we come to this floor and we find ourselves in a time like this, I am excited. I see a ray of light that can finally maybe work for this problem. I agree with the gentleman from Washington (Mr. DICKS). This issue is so complicated it should not be on this bill. We need to support the Rahall amendment, and we need to fix it this issue. And the positive side of this, we see Members from both sides of the aisle recognize that, A, that this problem is difficult, that it has been festering for too long and that it is wrong of what our government has done to Native Americans.

How many of us, when we walked out of Dances With Wolves, felt sad? Probably sad that in what we have done to the Native Americans. What about Wounded Knee? What about Code Talkers? I do not have a reservation in my district. There is one in San Diego.

I want to tell you what these Native Americans are trying to do. They are trying to stand on their own two feet, and every time they stand and they may just get one leg up, this government takes and whacks them and knocks them down.

This is a chance for us to come together as Members of Congress, both in the House and in the other body, and really do some good. I want to thank my colleague, and I think that it is time that we act. Members will find that I think most of us on this side of the aisle are very, very supportive.

Mr. SKEEN. Mr. Chairman, I ask unanimous consent that all debate on this amendment, and all amendments thereto, be limited to 30 minutes, to be equally divided.

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

Mr. RAHALL. Mr. Chairman, reserving the right to object, is the request that the limit be 30 minutes equally divided between the opponents of the amendment and the proponent, myself? Fifteen minutes each side, is that the request?

The CHAIRMAN. That is the gentleman's request.

Mr. KINGSTON. If the gentleman will yield, it is the intent to do 30 minutes total, but if the gentleman would want to substitute to another number, I think that would be appropriate.

Mr. RAHALL. I have no problem with 30 minutes. I just wanted to make sure I understood the division of time therein.

Mr. KINGSTON. Fifteen minutes on each side.

The CHAIRMAN. The gentleman's request is to limit debate to 30 minutes, 15 minutes divided and controlled by the gentleman on this amendment and on all amendments thereto, equally divided between the gentleman from West Virginia (Mr. RAHALL) and a Member opposed.

Mr. CUNNINGHAM. Mr. Chairman, if the gentleman will yield, I would like to address in colloquy with the chairman. Would the gentleman be opposed to making that 40 minutes, primarily the next amendment? We have many, many speakers.

The CHAIRMAN. It is just this amendment and any amendments to this amendment.

Mr. RAHALL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Without objection, the unanimous consent request is granted.

There was no objection.

The CHAIRMAN. The gentleman from West Virginia (Mr. RAHALL) controls 15 minutes.

Mr. RAHALL. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Chairman, I thank the gentleman for yielding me time.

I think it has become clear that the language in the appropriations bill has become unacceptable. I think somebody said earlier on the Republican side of the aisle, we should thank them for the language but we should reject it because I think it does not deal with this in a proper fashion.

We have all understood and many of us have been struggling for many years on a bipartisan basis on many committees to get around the mismanagement of these funds, to get an accounting and get the money to the people who deserve it. It is a massive mismanagement of the funds by the Federal government and people have been hurt and damaged by this and we must resolve it.

I think the gentleman from Washington (Mr. DICKS) has made some good points. I think the gentleman from Alaska (Mr. YOUNG) and others have made some points that we are at a point here where to some extent the Department of Interior does not want to admit that they cannot reconcile the accounts, and we keep giving them money to do a job that maybe they cannot do.

Other people are not interested in a settlement at this point, but my concern here with bracketing this to 1985 is we really have not discussed what we do with the others. I appreciate people said our intent is not to close it off, but maybe we ought to reject this language; and hopefully between now and the conference committee be discussing with the parties that this is a staged operation. What happens to the people before 1985 or the accounts in 1985. Is there a parallel negotiations that can be entered into, because everybody has pointed out those records will not be full and complete.

□ 1145

I am afraid that this alone leaves us with kind of a large unanswered question, what happens pre-1985, and I know the Members of the committee have expressed, well, this really, we can come along and authorize that later, but that puts a lot of people at a disadvantage.

So I think we ought to reject this language, but we ought to do it in the spirit of what people have said both on the Committee on Appropriations and on the authorizing committee about, I do not know that we can direct in legislative language a settlement, but we have got to direct the parties that we cannot keep funding this sort of Alice in Wonderland attempt at accounting when it will not resolve the issue in the end, and it is taking money away from vital programs.

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

Mr. GEORGE MILLER of California. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I completely concur with the gentleman. I think the gentleman laid this out correctly. That is what needs to happen in terms of having some mechanism created to deal with pre-1985 so that we get some expert estimate, and negotiate that.

Our hope was to take to the present, forward where we believe the records are sufficient, and get that done as quickly as possible. I do not know how we are going to have to that structured, but that is what we need to do. I would love to work with the gentleman on this to try to see if we cannot move something like that forward.

Mr. GEORGE MILLER of California. Mr. Chairman, I think the concern here is that some people are affected 1985 to 2000 and other people are affected 1785 to 1985. I think that we have got to make sure that we can assure both parties that their rights will be protected, but we also have to get them to understand that no matter what we do, no matter what the accounting is, even 1985 to 2000, it is going to be disputed. So we are going to end up at some point in settlement, and those settlements must go forward.

I am afraid that the Department keeps asking for money to do the accounting. Part of that is trying to insulate themselves from liability, that they are working on the issue, but they are digging a hole.

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

Mr. GEORGE MILLER of California. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, they are directed by the judge to do this.

Mr. GEORGE MILLER of California. Exactly.

Mr. DICKS. Mr. Chairman, then the litigants go after the people doing the work, saying they are not acting in good faith, and then they have to be recused, subject to litigation, personal liability, I might add, which we have tried to take care of in this bill.

This thing is broken; and somehow all the people that are here today expressing their wonderful concern, there is going to be a tomorrow, and we will see if anybody really wants to stand up with the majority side obviously having to be involved and work on this. This has to be done. We have got to get something done here.

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

Mr. GEORGE MILLER of California. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, I perfectly agree with the statements that have been said. We want to settle this. We want a settlement. Let us allow the current litigation to go forward or get a settlement.

Mr. DICKS. Mr. Chairman, if the gentleman will yield, what efforts have been made by the Committee on Resources to foster a settlement?

Mr. GEORGE MILLER of California. Mr. Chairman, I think, with all due respect, it is very clear, I am sorry to the gentleman from Alaska (Mr. YOUNG) and others, the gentleman from Arizona (Mr. HAYWORTH), when he came here with his special commission.

Part of this was about getting the administration, the past administration and others to recognize that they had real liability for these funds. Let us not forget that we were being pushed back by the Department of the Interior for many, many years to somehow this problem did not really exist. The gentleman from Alaska (Mr. YOUNG), to his credit, is the one who really broke it open.

Now they recognize that they cannot escape that liability. They had had preliminary discussions about settlement. We have got to encourage that to go forward, but we cannot make this decision about 1985 here and now without the consultation of the other parties.

The CHAIRMAN. Does the gentleman from Georgia (Mr. KINGSTON) wish to control time in opposition to the amendment?

Mr. KINGSTON. Mr. Chairman, yes, I would like to control the time; and I reserve the balance of the time.

Mr. RAHALL. Mr. Chairman, I yield 5 minutes to the gentleman from New Mexico (Mr. UDALL), a valuable member of our Committee on Resources.

Mr. UDALL of New Mexico. Mr. Chairman, I thank the gentleman for yielding me the time, and let me just first thank the gentleman from New Mexico (Mr. SKEEN) for his leadership on this bill. The chairman is from my home State of New Mexico. He has always served New Mexico very well, many years of distinguished service, and so I just want to say to him, I know this is going to be the last bill he manages on the floor, that we are all going to miss him very much, and he has been somebody I think that has always been there for New Mexico. So I thank the gentleman from New Mexico (Mr. SKEEN).

I want to rise in support of this amendment, the Kildee-Hayworth amendment. This is a bipartisan amendment; and I think the important thing, as the gentleman from Arizona (Mr. HAYWORTH) said, is that Native American issues should not be partisan issues. This Congress should address these issues in a bipartisan way, and that is what we are trying to do on the Committee on Resources.

We have two senior Members that have offered this amendment. It is a good, solid amendment, and basically what it does is take out these provisions that hurt Native Americans. What specifically it does is when we talk about a court case, we are talking about the current court case of Cobell v. Norton. That court case is a case which arose from major officials violating their trust responsibilities to Native Americans.

The court has said in the strongest of terms and condemned the actions of Federal officials and how they have dealt with these accounts. So there is absolutely no doubt that there has been a violation by the Federal Government, and the provisions in this bill cut off Native American rights. There are very specific deadlines in there, and all of those need to be taken out; and the important thing here is this bill language comes at a time when the Nation is focused on accounting responsibility.

The President and the Congress have made it clear that accounting must be marked by transparency and high moral standards. We expect the same standards to be applied to the Federal Government accounting for Indian trust funds and not to allow the Federal Government to absolve itself of accounting responsibility.

So these provisions would throw the Native Americans out of court, and I do not think that is the way we want to go.

The gentleman from Washington (Mr. DICKS) raises, I think, a very good point when he says we need to move this case toward settlement. I do not think there is any doubt that we need to move this case toward settlement. We should be working on the settlement issue, and we should let all of the attorneys know we want to move towards settlement.

The key issue here, the committee that should be working on this is the Committee on Resources. We have had hearings on this issue. We have had Secretary Norton in the Committee on Resources as recently as February 6, 2002; and unfortunately, she will not admit that she does not have the records. Very pointedly, the gentleman from West Virginia (Mr. RAHALL), the ranking member, specifically asked her, Do you have the records? Can you do this accounting? She would not admit that she could not do the accounting.

So part of the responsibility for prolonging this comes from the Department, which is not willing to admit

that they do not have the records. They should step forward, say they cannot do this, and that would lead to some kind of settlement.

The last issue I want to raise is this issue of attorneys' fees, and the issue has come up that attorneys are getting rich on this. The lead plaintiffs in this case are the Native American Rights Fund. It is a nonprofit. It is a law firm that is dedicated to protecting Native American rights. They are only allowed to get their attorneys' fees. No attorneys are getting rich in the Native American Rights Fund, and so I would just say that that attorneys' fee issue, we ought to move that to the side, and as the gentleman from Washington (Mr. DICKS) says, in terms of the committee, let us get on with settlement and move in that direction.

Mr. KINGSTON. Mr. Chairman, I yield 4 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I think we made some progress here today. I want to make sure there is clear understanding that the committee, this committee has been one of the strongest advocates for Native Americans. We have increased every year that I have been on this committee; we have had added money for Native Americans.

This is not an effort by the committee to do something to harm the tribes that are affected here. What we are trying to do is to get them money in a reasonable period of time without decimating the interior appropriations bill every single year. I want that $143 million to be used for other programs that will help Native Americans. I do not want to waste $1 billion in going out and trying to do accounting that is not going to give us the information pre-1985.

I have talked to the chairman and the staff. We are prepared to work with the authorizers on language that would deal with the pre-1985 period between now and the conference committee and maybe we can put together a package as the gentleman from California (Mr. GEORGE MILLER) has laid out previously, which I think makes some sense, so that we can move expeditiously on the period between 2000 and 1985; and then we craft an approach for a settlement of some sort pre-1985 so that we move the game forward, get this thing moving in the right direction so that the tribes will get some money.

To do just historical accounting every single year and let this litigation fester is not accomplishing anything to help the tribes. They are not going to get the money. It is going to be years and years and years before this will be resolved. It will go through litigation. It will go to the circuit court of appeals. It will go to the United States Supreme Court. We need to work out a settlement; and this amendment was offered in the spirit of trying to break this logjam, trying to move this thing forward.

I would like to see the authorizers agree with us today that we should work together collectively to try to come up with some pre-1985 language. The chairman and his people are willing to work with us on this, and I think we could make some very significant progress and move this thing forward.

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

Mr. DICKS. I yield to the gentleman from Michigan.

Mr. KILDEE. Mr. Chairman, we strike the pre-1985 accounts and then give them some vague promise that we may restore that, and I have been working in Indian matters now as a legislator for 38 years, and many promises have been made.

Mr. DICKS. Reclaiming my time, the gentleman wants to make his speech, make it on the gentleman from West Virginia's (Mr. RAHALL) time.

Mr. KILDEE. Mr. Chairman, may I make my next point then?

Mr. DICKS. Yes.

Mr. KILDEE. Mr. Chairman, I think what we do with this language that we have in the bill is just invite new litigation with more cost to the government, because as soon as this becomes law, new litigation will break out because we are taking property unconstitutionally.

Mr. DICKS. Mr. Chairman, we are not doing very well the way we are going, and again, the prospects are we are going to spend between 500 and $700 million on the historical accounting. It could go to $1 billion if we go the way we are going; and if we try this approach, we may be able to limit the amount of money spent to $100 million on the 1985 to the current accounting, then work out an approach pre-1985. It has got to be a settlement because they do not have the records. It has got to be a settlement, and we ought to work on the language.

I resent the intonation that it is some vague promise. The gentleman from Washington has never ever made a commitment that I have not kept in my years in this Congress. When I say we are willing to sit down and work on something, that is not a vague promise.

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

I say to my good friend from Washington, and fellow classmate, that I do not believe I was referring to any vague promises.

Mr. DICKS. Mr. Chairman, if the gentleman would yield, it was not you. It was the previous speaker.

Mr. RAHALL. Mr. Chairman, I certainly agree with the comments he made as far as his word and ability to work with everybody.

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Mr. Chairman, we have heard a lot about settling today, and I certainly agree with that. I think we all want to settle this very complicated and very unjust provision that does affect our Native Americans. I happen to believe, and the reason I offered this amendment, was that the provision in the pending legislation happens to hamper us in that effort and perhaps even prejudges the outcome of current litigation.

My good friend from Washington has suggested that we perhaps work on this between the floor and the conference. And with all due respect, and I know he realizes, there are perhaps some scoping problems if that were to be done. I would suggest as an alternative using the framework of the gentleman from California, using the framework of the gentleman from Washington, whoever else's framework wants to resolve this in a fair manner, that we start with a clean slate. And in order to do that, we have to delete the current provision of the pending legislation.

I would note as well that the Department of Interior, as I have already noted in this debate, will never be able to conduct a full historical accounting of these trust fund accounts, and the Department has admitted that to us during hearings before our Committee on Resources. In my opinion, the Department should be sitting down with the plaintiffs in the current Cobell litigation and settle this matter and move on.

Something that has been referred to earlier is the lawyers' fees; that this is making the lawyers rich. I would note that the lawyers are working for fees only, no percentages, and I do not believe they could be described as getting rich on this issue. But, instead, I think some in the Department, and again this is not a partisan comment, but it has been occurring over time, have engaged in sleights of hand. They have thought to shuffle the deck chairs and intended to dilute their responsibility, and that is just truly unfair.

I would suggest that we delete this provision and allow litigation to come to a proper and fair resolution. And I would note as well that any settlement of this litigation would not be paid for by this appropriation bill; rather, any settlement of this litigation would come out of the Claims and Judgment Fund at the Justice Department, which is set up when the United States loses any legal case, not just in this matter but any others. That is where the settlement would come from.

It is not the intention of this gentleman to see this matter drag on any longer than it has. However, I cannot stand idly by while the rights of thousands of citizens are trampled upon by the limitation that is contained in the pending legislation. I think it is a dangerous precedent. It is one we should not be establishing, and especially in these times of widespread accounting scandals in the corporate world.

So, in conclusion, we all agree we must settle this, but I fear that the provision in the current legislation would harm our bipartisan efforts to settle this important matter for our Native Americans in a fair manner, and I would urge adoption of the pending amendment.

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

Mr. KINGSTON. Mr. Chairman, I yield myself such time as I may consume, and I thank the gentleman for his comments. I want to make a few closing points that I think are very important.

Number one, on the question of 1985, it has been called an arbitrary date. It is not an arbitrary date. That is the date of the electronic records. If my colleagues do not like the 1985 date, what date do they want? 1980, 1975, 1979? And then with that gap, what records will you have? If you have the records for the period prior to 1985 to any other date certain, please come up with it.

Number two, this does not preclude claims that happened before 1985. It simply gets us started.

Number three, we are looking at now making real progress, getting the job done, or at least taking the first very significant step at a cost of about $900 million versus a cost of $2.4 billion. Earlier, on this bill, last night, we had lots of debate and heartaches about the money this bill was spending. It seems odd to me that now people would say, well, let us just spend $1.5 billion.

And that money, as the gentleman from Washington (Mr. DICKS) has pointed out, may never get to the people who we all want to get the money to eventually. It has been said that the lawyers are not making money. Well, lawyers do tend to do things for a profit. The court monitors in 2001, for example, were paid about $342,000. The court monitor was paid $342,000 and the special master was paid $354,000. That is compensation well over $400,000 a year. So I think what was asserted earlier, that the lawyers are making money on this thing, I think is important to say.

This committee has long stood up for Native Americans. This is the committee that funds the Native American programs. This is the committee that advocates for Native Americans, and it is in that regard that we are saying let us get this job started with the 1985 date, do a good job on those that we know are certain, and then go back.

I want to point out that this bill has $2.9 billion for Indian health services, new hospitals, critical health care services, research on diabetes and treatment. It has $1.8 billion for the Bureau of Indian Affairs' operation of Indian programs. That, Mr. Chairman, means education programs, money for new computers, money for new teachers, money for new transportation so school kids can get to schools. And, also, this bill, at the advocacy of the gentleman from Arizona (Mr. HAYWORTH) and many, many others, puts $22 million in Indian program increases, which will help build six new schools and continues critical hospital and clinic construction.

This bill does a lot of things because this committee, on a bipartisan basis, does everything it can for our Native Americans.

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

Mr. KINGSTON. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, the one thing I want to correct, and I know the gentleman from West Virginia did not intend it, but there is an assumption being made by the proponents of this amendment that any claim in this issue will be paid for out of the Justice Department funds. We have had just recently a Ramah settlement, $80 million, that came out of the claims fund, and OMB directed the Department of the Interior to take money from their accounts and put it back into the Justice Department.

So this is not a clear-cut case. And there could be an effort to make the Department of the Interior pay this.

Mr. GEORGE MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. KINGSTON. I yield to the distinguished gentleman from California.

Mr. GEORGE MILLER of California. Just on that point, Mr. Chairman, it would be a travesty of justice if the Indian programs ended up getting punished because of the mismanagement by the Federal Government of Indian trust funds.

I appreciate OMB may direct them to do that, but I cannot believe the Congress is going to go along with that directive.

Mr. DICKS. Mr. Chairman, if the gentleman will continue to yield, it would not be just the Indian programs. All the programs of the Department of the Interior would have to be taxed for the $80 million to pay back to the claims.

The point I am making is the gentleman from West Virginia stood up here and said that it is an automatic deal for the Justice Department to have to take care of this settlement. That is not an automatic deal. I want the House and the Members to understand that.

Mr. KINGSTON. Reclaiming my time, Mr. Chairman, I thank the gentleman for his comments.

Mrs. CHRISTENSEN. Mr. Chairman, I rise in support of the amendment to H.R. 5093 offered by Mr. NICK RAHALL of West Virginia that would strike provisions in the Interior Appropriations bill that rob the legal rights of Native Americans. The provision in question limits the Federal Government's accountability to Native Americans by restricting an historical accounting of Indian Trust Funds.

Mr. Chairman, these trust funds have been entrusted to the care of the Federal Government for over a century and for nearly as long the trust has experienced rampant mismanagement of funds, destruction of records, and blatant dissembling by those charged with management. And the provision of the Interior Appropriations bill would seek to limit billions of dollars in claims against the Federal Government, claims that are legal and just, by mandating accurate accounting of the trust funds only from 1985 forward. The trust has been in existence since 1887—that is the date from which accurate accounting should be given.

Mr. Chairman, this provision is not only unjust, it's downright illegal, overturning a central provision of the American Indian Trust Management Reform Act that requires the Secretary of the Interior to provide a full accounting of ''all funds held in trust by the United States for the benefit of an Indian tribe or individual Indians.'' If a Congressional act were not enough, the federal courts have also demanded a full accurate accounting from the date the funds were deposited into Federal accounts.

Mr. Chairman, these trust funds are not entitlements, they are monies that come directly from the sale or lease of Native American owned property and is held in trust by the Department of the Interior. This is Native American money. And the Federal Government has admitted the funds' mismanagement and an inexplicable ''loss'' of its money.

Mr. Chairman, the sort of mismanagement of accounts and destruction of records the Department of the Interior has performed makes the scandals of Enron seem like stealing from a piggy bank. If the House of Representatives truly wants to make a statement about fair accounting and accountability, it will start here by supporting the Rahall Amendment.

Mr. GALLEGLY. Mr. Chairman, I rise in support of the Rahall Amendment and urge its adoption by the House. Included in the Interior bill are several provisions relating to trust reform efforts and the Cobell v. Norton litigation. These legislative provisions will limit an historical accounting of trust funds from the period of 1985 to 2000, which will assume all records before 1985 are correct. There is also language included in the bill that would not provide an accounting for funds held in an account closed as of December 31, 2000.

I believe these provisions undermine existing Federal law requiring a full accounting of all trust funds and a Federal court decision requiring an accounting of all funds regardless of the date deposited.

As a former Chairman of the Native American and Insular Affairs Committee of the House Resources Committee, I have heard countless times the concerns of Native Americans who say they just want an historical accounting done by the government entrusted with managing their assets. They have waited long enough.

I would strongly encourage the House to vote for the Rahall Amendment.

Mr. THUNE. Mr. Chairman, it is no secret that the federal government has failed its responsibility in handling American Indian trust funds. But parties, Republicans and Democrats, agree that the governments has mismanaged these trust funds and there is definite need for reform.

Previously, trust reform legislation has passed Congress twice. In addition, a Task Force is currently working with Members of Congress, the Administration and the tribal communities on how to best reform how Indian Trust Funds are managed.

Unfortunately, current provisions in this bill would limit true fund reform. By accepting the provisions in the Interior bill, Congress must assume that the records and accounting are correct prior to 1985. This is hard to believe, due to the fact that the trust funds have been mismanage for decades. The Federal Government is responsible for these funds, and to simply suggest that everything is perfect prior to 1985 is a slap in the face to our Native

Americans. Through legislation, Congress has asked for historical accounting of these trust funds and a Federal Court has ordered it as well. The provisions in the bill would overturn legislation already passed and could possibly open up the government to even more lawsuits. It is imperative for historical accounting to take place, which includes the years and decades prior to 1985.

The issue of Trust Fund reform is extremely important to me and the Tribes I represent in the state of South Dakota. Their voice needs to be heard whenever decisions are being made regarding Indian Trust Funds. I have heard from them, and they are adamantly opposed to these provisions of the bill.

We must remember that the funds we are talking about are not federal programs or entitlements, but money that Native Americans have earned from the lease of their lands for mining, grazing and timber. This is their money, and the Federal Government has failed to honor its responsibilities.

Mr. Chairman, I urge support of this amendment to strike the provisions of this bill, and the continuation of true Indian Trust Fund reform.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. RAHALL).

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

Mr. DICKS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from West Virginia (Mr. RAHALL) will be postponed.

AMENDMENT NO. 11 OFFERED BY MR. HAYWORTH

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. HAYWORTH:

Strike section 141.

Mr. SKEEN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be limited to 60 minutes to be equally divided.

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

Mr. DICKS. Mr. Chairman, reserving the right to object, I would like to inquire of the chairman if this is on the Hayworth amendment?

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

Mr. DICKS. I yield to the gentleman from New Mexico.

Mr. SKEEN. Yes, this is on the Hayworth amendment.

Mr. DICKS. Reclaiming my time, is it his amendment and all amendments thereto?

Mr. SKEEN. Yes.

Mr. DICKS. And we would split it 30–30, or would it be 15?

Mr. SKEEN. Thirty-thirty.

Mr. DICKS. And then it would be split, the time in opposition?

Mr. SKEEN. Yes.

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

Mr. DICKS. I yield to the gentleman from Arizona.

Mr. HAYWORTH. A further point of clarification. Again, this would be time divided between opponents and proponents, instead of along party lines?

Mr. DICKS. As I understand it, the gentleman from Arizona would have 30 minutes and the chairman and I would split the other 30 minutes, 15 minutes each in opposition.

Mr. HAYWORTH. Mr. Chairman, I thank my friends for the clarification on a bipartisan basis. Appreciate where we are headed.

Mr. DICKS. Mr. Chairman, I withdraw my reservation of objection.

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

There was no objection.

The CHAIRMAN. The gentleman from Arizona is recognized for 30 minutes on his amendment.

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

Mr. Chairman, I offer this amendment for a simple reason: The current language in title I provides for yet another study of Native American gaming. Mr. Chairman, I am holding here in my hand a recitation of recent studies, most of them in the 1990s, a couple from the 1980s, but 73 studies in total dealing with Indian Country health, infrastructure, economic development, education and housing; and, more specifically, Mr. Chairman, to the question of the influence of organized crime on Indian gaming, no fewer than three studies already conducted by our Federal Government.

So 73 studies total, six of them directly linked to my good friend from Virginia. Let me say in defense of the work he does, I understand his intent and his sincerity, but I come to this floor to say that we must strike section 141 because it offers yet another study of something we have studied before and we have studied time and again.

The money involved here, I realize by Washington standards, does not even qualify as something to come out of Uncle Sam's change scoop. But, Mr. Chairman, a couple hundred thousand dollars would go a long way in Bylas, Arizona. A couple hundred thousand dollars would help my Native American constituents, who are dealing with fire and the aftermath of what went on in the White Mountains. This is real money. And to take this from programs of the BIA and apply it to yet another study, no matter how well intentioned, is exactly the wrong policy at the wrong time for what might be sincere reasons.

Not only is it ill-advised policy, Mr. Chairman, but once again we are getting into a situation where this House could find itself in violation of rule XXI. No matter what mores or customs of the House have been observed here, the fact is, in the final analysis, by allowing this language to stay in the bill, this is a legislative rider on appropriations legislation. This takes from the purview of the authorizing committee the public policy that the authorizing committee should continue to control.

The exact language of this proposal is already found in H.R. 2244, a bill that is pending before the Committee on Resources. So not only, in my opinion, do we have an ill-advised study, number 74 on the list, and not only is it spending money that could be better utilized, but again it is a usurpation of the prerogatives of the authorizing committee.

For those reasons, I ask my colleagues to support the amendment and join in striking section 141 of this title I.

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

The CHAIRMAN. The gentleman from Washington (Mr. DICKS) controls 15 minutes.

Mr. WOLF. Mr. Chairman, I ask unanimous consent to control the time in opposition.

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

There was no objection.

The CHAIRMAN. The gentleman from Virginia (Mr. WOLF) controls 15 minutes in opposition to the amendment.

Mr. WOLF. Mr. Chairman, I yield myself such time as I may consume, and I rise in opposition to the amendment.

Let me just say that what the gentleman said, the scope of this is totally new. Totally. There has never been a study of these issues with regard to the tribal relationship regarding the surrounding communities.

I worked at the Department of Interior for 5 years under Secretary Morton. I am sure for those who have ever gone on any reservation they have seen the utter despair that is on those reservations. This amendment, Mr. Chairman, will hurt Native Americans.

Eighty percent of the Native Americans in this country, 80 percent, have never received one penny from gambling.

□ 1215

The Hopi, the Navajos, most of the tribes do not want gambling; but in many respects this has given an opportunity and allowed the country and allowed the government and the Congress to neglect Native Americans. Indians and Native Americans have suffered more and have not been treated well by this Congress and not been treated well by this administration or previous administrations.

The poverty level that afflicts Native Americans, they are in the 36 percent category. The gentleman says there have been other studies, but they have

not worked; and we all know and anyone who has been on an Indian reservation knows that what has been tried has not worked. Why do Members oppose something that is going to study something to see if we can do something to help Native Americans?

With regard to stroke, they have one of the highest rates in the country, so that is not working; and the study over there is not working. Lung cancer, the highest; breast cancer, the highest; suicide, the highest. So the policies of the Congress and the policies of both Republican and Democrat administrations have not worked. Why do Members oppose something that will bring members all together to come up with a study to help them?

The death rate among Native Americans is higher in seven major categories. Alcoholism, the death rate is 627 percent higher than other categories. TB, 533 percent higher than other categories. Diabetes, 249 percent higher than other categories. Accidents, 204 percent higher than other categories. Homicide, it is dangerous, 63 percent higher than other categories. Housing, and those Members who have been on Indian reservations know that housing is miserable; it is absolutely miserable. We all like to live in a good house and our constituents like to live in a good house. Why can they not have the same opportunity?

Crime is twice the national average on the reservation. Education is miserable. This is a commission, and what the amendment of the gentleman from Arizona (Mr. HAYWORTH) and the gentleman from Michigan (Mr. KILDEE) does is strike this. It says we are going to put our head in the sand and say we do not know how bad alcoholism and education is. We are not going to look at it.

We have seen the movies, and the gentleman from San Diego has talked about the movie ''Wounded Knee'' and other things, we have seen the movies; but we are not going to look at it and see if we can come up with something different. Maybe an economic development administration, maybe an EDA like what has been used in Appalachia, maybe something constructive, something new that we can do to help. We must not be afraid to at least look at it.

The 13-member commission will include representatives of State Governors. That should not frighten us. Attorney generals, members of the Departments of Treasury, Interior and Commerce, and the National Indian Gaming Commission, they are going to be participating. A local or municipal government official, a small businessperson from areas near the reservation, two representatives from nongambling Indian tribes, and they should be heard from. We should not just hear from those who have gambling and also two representatives from tribes that are operating gambling casinos. And thanks to the gentleman from Wisconsin (Mr. OBEY), we will work with others who represent Indian interests.

So what will this commission do? It will take a thorough look at the living standards on Indian country, including health care, infrastructure, economic development, and education and housing. Now that is not a bad thing. That is not a bad thing to look at.

If Members lived on some of these reservations, Members would not object to us looking to see if we could come up with some constructive ideas to see if we could improve the situation. The commission will look at the effectiveness of current Federal programs designed to improve standards in these designated areas. That is not a bad thing. That is not a bad thing to look at. That will not hurt. That will not hurt.

Go on an Indian reservation and ask them whether they object to us seeing if we can improve housing and education and health care. Whether they have gambling or not, they will not object to this.

Crime control on Indian reservations, we all like to live in a safe community. Would it hurt for Congress to look at crime on Indian reservations? What would be wrong with that? What would be wrong with looking at crime on Indian reservations? We would also look at the influence of non-Native American private investors on the Indian Federal recognition process. We know there have been Inspector General reports that the process is becoming corrupt. We know it. The Wall Street Journal knows it; the Boston Globe knows it. The London Day in Connecticut knows it. Papers know there are problems here.

They know in the previous administration, one person came in the day after the administration left and signed the recognition thing. And non-Indians are exploiting those in certain cases and taking advantage of them. So what would be wrong with looking at that, the economic, the environmental, the social impact? So after an 18-month review, the commission will submit to Congress a report containing legislative recommendations as to the welfare of Native Americans, including health care and infrastructure and housing and education.

I, frankly, think we in the government have failed Native Americans. I think we have used the Indian Gaming Regulatory Act of 1988 to provide gambling as a staple of Native American policies. Since that act, our investment in Federal programs intended to improve the health and welfare of tribes has declined significantly.

Mr. Chairman, gambling has been an excuse to reduce the commitment of the Federal Government to the Nation's first citizens. A bad excuse. The overall portrait of America's most impoverished group continues to be dominated by disease, by unemployment, by infant mortality, and by school dropout rates that are among the highest in the Nation. We can do something today to make a difference in the lives of the Nation's first citizens. We can quit hiding behind gambling as a panacea for Native Americans and take action to improve their health, their lives, and their welfare. I do not believe that those Members supporting the amendment believe any differently. I think we should do this. I urge defeat of the amendment.

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

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

Mr. Chairman, from 1989 until now, there have been no fewer than one dozen studies dealing with the spectre of crime on Indian reservations.

Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. KILDEE), the co-chairman of the Native American Caucus.

Mr. KILDEE. Mr. Chairman, as co-chair of the Native American Caucus, I would like to express my strong opposition to provisions included in the fiscal year 2003 interior appropriations bill relating to establishing a commission on Native American policy. I support the bipartisan amendment of the gentleman from Arizona (Mr. HAYWORTH), whose knowledge and concern of Indian matters is of the highest order, and his credentials among Indians are held in the highest regard.

The commission proposed in this bill would address several areas including Indian gaming examined recently by the National Gambling Impact Study Commission. In 1996, Congress authorized $5 million to fund this study. In fact, since 1980, more than 70 federally funded reports have been published that address the same areas that the commission would study.

Provisions similar to the amendment are included in H.R. 2244, a bill pending in the Committee on Resources, the committee of jurisdiction. These provisions will take Federal funds from badly needed Indian programs.

The funding for the commission would come from the Bureau of Indian Affairs operation of Indian programs line item, which pays for welfare assistance payments, housing improvements, roads, education, tribal courts, law enforcement, and other programs that improve the quality of life and the economic potential of those on Indian reservations.

Congress does not need another study to tell us that these programs require more funding, not less, to assist tribes and their members. Millions of Federal dollars have already been spent studying the same areas that the proposed commission would study. Congress should not waste taxpayers' dollars by duplicating studies on the same subject matter.

Congress should not take Federal dollars from Federal programs designed to assist tribal governments that continue to suffer from high unemployment rates, inadequate educational systems, poor road conditions,

and insufficient health care systems. I urge my colleagues to support the Hayworth amendment to strike these provisions.

Mr. WOLF. Mr. Chairman, I yield 3 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in opposition to the amendment and in support of the proposal for a commission in this bill by the gentleman from Virginia (Mr. WOLF).

I fail to understand why we do not need this kind of study. In 14 years since the 1988 bill, we have seen enormous problems of poverty, school dropout, disease, infant mortality and unemployment. Since 1994, because we passed a more enlightened policy for the rest of America, we have reduced poverty among children in American 3 consecutive years. We have never done that. And the deepest reductions in poverty were among black kids. Why is it that we just ignore the fact that poverty among Indian children is terrible? Why do we not notice or study the impact on families of the level of substance abuse on the reservations. We have known it is there. Why do we keep appropriating dollars when we know they are not changing lives?

I see no reason to fear this commission, and I see every reason to look at what is Federal policy in regard to our reservations, and how does it compare to Federal policy in regard to the rest of Americans. Why is it Federal policy has reduced poverty in America but not for reservations? Why is it we are making progress on some of the child-abuse issues in the States and our Federal level, and we are not strengthening families on the reservations? Why is it that the school dropout rate is so extraordinary? What are the policy comparisons? What are the policies that we as Federal lawmakers are supporting in these different areas?

As one who is increasingly affected and frankly more aware of and knowledgeable about Federal policy toward tribes, I would have to say it is distressing to watch outsiders come in, finance big-stakes casinos, and watch the people in the surrounding towns pay for the hospitals that everybody has to use. I do not see the little guys getting the same benefit as the big guys.

It is time to look at this. I do not see that it is a danger, and I do not see that it is duplicative. Recognizing that on Indian issues I am not one of the more knowledgeable Members, but seeing Indians from my perspective in a community where they have benefited from all these resources, and we do not have the poverty, but seeing the big money going to some and not others, we need this study. It is disgraceful not to do it.

□ 1230

Mr. HAYWORTH. Mr. Chairman, I yield 5 minutes to the gentleman from Alaska (Mr. YOUNG), the chairman of the Committee on Transportation and Infrastructure and the chairman emeritus, in fact, vice chairman of the Committee on Resources.

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

Mr. YOUNG of Alaska. Mr. Chairman, I rise in strong support of this amendment.

I think most of you heard me yesterday on the floor. This provision should not be in this bill. This legislation was introduced in the Committee on Resources and it never had a hearing because we did not want one. We do not believe it is necessary. It has been repeated before. There have been many studies. The studies show, in fact, that the native groups are doing quite well in the gaming industry.

Let us not kid ourselves, this is what this is all about. But also let us answer the question. I listened to my good friend, and I do respect him a great deal, the gentleman from Virginia (Mr. WOLF) and his opposition to this amendment. He is really trying to target the gaming. Let us be knowledgeable about that and recognize that, and he has that right to do so. But he talks about the suicides and the poverty and the poor housing and the education level and the sewer problems, all those things that every Native American has faced over these years. Let us not kid ourselves. This is nothing new.

But you ask why that occurs. I will tell you why it occurs. One of the basic reasons why is they are tired of having people study them and tell them how to solve their problems, of having the people come in with their briefcases, the Governors and this person and that person and say, ''We're going to study you,'' and they have to respond to the study. It happens every day.

I live with them. I am close to them. My wife is native, my kids are Native American Indians, and I am proud of it. I think I have a little bit of knowledge about this. If you really want to help the Native Americans, let them help themselves, provide the money, but let them make the decisions, and not some commission. We know the problems. They know the problems. Let them solve those problems with their knowledge and their will and they will do it. We do not need another government study to explain this to everybody and spend that money out of needed funds. That is where these moneys are coming from. Let us give them credit. Intelligent, smart, persevering, if they have an opportunity and not the government to tell them how to do it and what they cannot do.

Let us say you can do it and we will help you. You know the old saying, a hand down will help everybody up. Let us not put our hand on their head again with another study. My God, if you go back to the history of this Congress, how many studies have we had and spent that money to take and identify the problem? In my case I will tell you. My 12 regional corporations know the problem. They are addressing the problem. They know what can be done and they want to do it themselves and the money that is being spent on this commission ought to go to solving those problems and letting them do it themselves. That is what we ought to be doing today. It should not be in this bill. I told the leadership it should not be in this bill. We should not attempt to try to do it again and again and again. It solves nothing.

There are those who will say this is about gambling. I guess maybe those that oppose this, taking it out, is about gambling. I happened to be the author of that original gambling bill with Mr. UDALL. Some of you object to gambling and I understand that. I do not gamble myself, other than being elected once in a while. That is a gamble. But I will tell you one thing. I have visited most of these gambling establishments and seen what the people say about what it has done for their tribes. And, yes, there is outside involvement. You would not expect them not to have that. They hire the best. They do the job. If there is something illegally happening, then let us address that and we do that under the gambling commission and under the Justice Department. Both of those say there is nothing happening there that is illegal.

If you want to be against gambling, and I am all for that, let us eliminate all gambling. Let us not have racetracks in Virginia. They do not have racetracks, but lotto, pull tabs. What else? Racetracks in every other State. Gambling in some States. Let us look at that. But let us not have a so-called quasi-study to take and identify the problems when we know what the problems are. I urge this Congress to think about that a moment.

Let us let them help them lift themselves up. Let us not have a commission dictating to them what is wrong with their great race of people. That is all I ask you. Vote for this amendment. The gentleman from Arizona (Mr. HAYWORTH) is right on. I believe the gentleman from Michigan (Mr. KILDEE) is right on.

For you appropriators again, it is not your fault. I say this. I do blame the Committee on Rules and the leadership for not making this issue for a point of order. It should never have been protected. We would not have had this debate if we had gone through the legislative process.

Vote for the Hayworth amendment.

Mr. HAYWORTH. Mr. Chairman, on behalf of this bipartisan amendment, I yield 3 minutes to the gentleman from West Virginia (Mr. RAHALL), the ranking member of the authorizing committee, the Committee on Resources.

Mr. RAHALL. Mr. Chairman, I thank the gentleman from Arizona for yielding time. I commend him on his effort here today and his leadership, as well as the gentleman from Michigan (Mr. KILDEE).

Mr. Chairman, I rise to support the amendment to strike the provision

which authorizes the establishment of the Commission on Native American Policy to study Indian Country. This provision sets up a fiscally irresponsible study which is underfunded, far-reaching and duplicative of numerous other Federal studies.

As the ranking Democratic member of the Committee on Resources, I do oppose the way this commission is being forced down the throats of Indian Country. Clearly, authorizing a study of this magnitude and the value of such a study is the jurisdiction of the Committee on Resources. Yet we have not had the opportunity to study or hold hearings on this matter at all.

This language has not been publicly vetted and Indian tribes have not been permitted to participate in crafting this provision. So we should not be surprised that the commission and its study is set up to fail. It is simply wrong to set this up without allowing for open consultation with Indian tribes.

Funding for this commission is set so low that it would virtually guarantee a flawed study being conducted. In addition, these moneys would be taken from Federal Indian programs where they are badly needed for housing, transportation, welfare assistance, tribal courts and law enforcement.

As we have heard, Mr. Chairman, since 1980 more than 70 federally funded reports have been released addressing the same areas that this commission would study. Most of those reports were well thought out, narrow in scope and appropriately funded to assure accurate and comprehensive findings. Sadly, that is not the case with this commission.

It is clear, and nobody is being misled here, that the Committee on Appropriations can establish this commission and with the support of the Committee on Rules and the leadership of this House, we are at a severe disadvantage in trying to delete the provision, make no mistake about it. But just because the appropriators can do it to Indian Country does not mean that the appropriators should do it to Indian Country.

If you want to spend money and set up a flawed study, do not do it out of the paltry Indian program budget. I urge my colleagues to support the Hayworth amendment to strike the Commission on Native American Policy from this bill and once again to be fair to our Native American Indians.

Mr. WOLF. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. ADERHOLT).

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

Mr. ADERHOLT. Mr. Chairman, I rise today to oppose the amendment by the gentlemen from Arizona and Michigan, both fine and excellent Members of this body, but like many Americans, I am concerned that gambling is a panacea for the real problems of poverty on Indian reservations. As gambling has become more and more a part of Native American policy, investment in Federal programs intended to improve the health and welfare of tribes has declined.

While the intent of the 1988 Indian Gaming Regulatory Act was to allow Native Americans to lift themselves out of poverty through self-reliance, today nearly 80 percent of Native Americans do not receive anything from gambling revenues. The reality is that most tribes, which are located in areas not economically viable for a casino, live in poverty.

The National Indian Gaming Commission, which is now in the bill, would be struck by this amendment. This would be unfortunate because the Indian Gaming Commission would undertake a study of a number of problems which impact the Native American community, including the welfare of Native Americans, including health, infrastructure, housing, economic development and educational opportunities; the relationship between tribal entities and nontribal communities; and regulations that govern tribal gaming to produce potential for abuse or exploitation by organized crime and the gaming industry.

This commission, I believe, provides a much-needed review of Federal policy on Native Americans. Given the current state of affairs, I urge my colleagues to preserve the National Indian Gaming Commission and to oppose the Hayworth-Kildee amendment.

Mr. HAYWORTH. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. CUNNINGHAM), a member of the Committee on Appropriations and a genuine American hero.

Mr. CUNNINGHAM. Mr. Chairman, my colleague from Virginia said that 80 percent of the Native Americans never receive funds. That is not factual. It is absolutely untrue. The study that he himself proposed cost $5 million. He said this would only cost $200,000. Well, this 13-board commission also receives full per diem, airline tickets for 18 months. This is going to cost another million bucks. And study after study after study generated by the gentleman from Virginia. He can be opposed to gaming, that is fine. But do not try and do it with study after study, because the studies that he proposed found out many of the same things he is asking in this study. The only problem is he did not get the answers that he wants, so you do another study until you get the answers that you want. It is wrong.

Mr. Chairman, the Interior appropriations bill before the House does include these provisions, and it is wrong. No hearings. In the dead of night—actually it was the daytime—all of a sudden the gentleman from Virginia inserts an amendment on an appropriations bill, not authorized, not studied but in the appropriations bill. I was told by staff that if I did not object in the committee, this would be killed. And here I find it is okayed by the rules. Why? The gentleman is a cardinal and leadership recognized that. But it does not make it right. It should be eliminated.

The chairman of this committee, the gentleman from New Mexico (Mr. SKEEN), is going to vote for this amendment because it is bad policy, terrible policy. There have been studies from the Department of Justice, memos from the Department of Justice to the anticrime, all recognizing the issues that the gentleman from Virginia is talking about. And you want to talk about Indian health care and education and those things. Absolutely. But visit some of these tribes. I do not have it in my district, but they are in San Diego and I visit them because they used to come down to my ranch to swim, the kids. I want to tell you, they did not have an education center. They do now. They did not have a health care center. They do now. As a matter of fact, that center studies alcoholism, which is a primary problem with Native Americans, and tied to that is diabetes. These people have pulled themselves up by their bootstrings. Just because you are against gambling, do not try to hamfist them and tie them down from doing the things that help them the most. It is just wrong.

We all want to do what is right and promised, but how many times have we looked at Native Americans and tied them down in every type of endeavor? Oil on their land. We took it. Their hunting rights. We stopped them. Water rights. They have to fight tooth, hook and nail even for water rights on their own land. We took it.

□ 1245

And here, for the first time, they found something that is viable. The study that the gentleman from Virginia (Mr. WOLF) commissioned found that there is no other viable, long-term, across-the-board resource that can help as much as this issue. They are doing everything that we ask. They spend millions of dollars to fund the gaming commission. They spend millions of dollars internally to fund it, and they are doing it right; and because someone is opposed to gaming, they want to stop it. That is wrong. Support the Hayworth amendment.

Mr. WOLF. Mr. Chairman, I yield myself 1 minute just to respond.

The study does show, as the Boston Globe piece demonstrates, which we are bringing over, that 80 percent of the Indians have never received anything. Fifty percent of all of the revenues have gone to 2 percent. It is actually an area of location, where you are is what you do, and Indians on the tribes and the reservations in most parts of the country have received absolutely nothing.

Secondly, it did not say what the gentleman said in that report.

Lastly, what the report that we are asking for talks about is looking at the welfare of native Americans, including health, which everyone will acknowledge, and I stipulate the goodness of

the gentleman on the other side; the health infrastructure, housing, and economic development, and educational, educational opportunities. They are all things that we all want for our families and for our constituents and others.

Mr. Chairman, I yield 5 minutes to the gentleman from Connecticut (Mr. SIMMONS).

Mr. SIMMONS. Mr. Chairman, I rise in opposition to this amendment. My State of Connecticut is home to two of the world's, the world's largest casinos. In fact, both of these casinos are about a 15-minute drive from my home; both are Indian casinos, and both were built within the last decade.

When gaming came to Connecticut in the early 1990s, it was a fortuitous event. The Cold War had ended, defense cutbacks had affected our defense industry, our economy was in decline. Unemployment was high, and there was actually a net loss of population from the region. Indian casinos created thousands of jobs. They increased the State's revenues, and spared the region from an economic recession.

The casinos purchase goods and services and pay upwards of $300 million a year to the State of Connecticut. Tribal members have been personally generous with their new wealth and support numerous community projects and charities.

But with all of these benefits come some very real problems. Indian casinos place a substantial burden on small, local municipalities who have no right to tax, to zone, or to plan for these facilities. Small State and local roads are overburdened, again, with no offsetting tax revenues. Volunteer fire and ambulance services are overwhelmed to the point that some have shut down their operations altogether. Land taken into trust is removed from the tax rolls. Gambling addiction creates problems at home, in the schools, and in the workplaces.

While Indian casino gambling in Connecticut has made two tribes very wealthy and has motivated other groups in Connecticut to seek Federal recognition, the fundamental question remains: To what extent has casino gambling improved the health and the wealth of Indian country as a whole, and what are the costs involved?

I have read that 365 of the 561 Indian tribes do not have casinos. I am told that up to 80 percent of American Indians do not receive any benefit from gambling revenues, and we know that many continue to live in terrible poverty. That is why I support the provision of the gentleman from Virginia (Mr. WOLF). A commission would examine how we can do a better job to help Indian tribes for whom gambling is not an option, either because of their geographic location or for other reasons; and it would also help examine how gambling affects the welfare of Indian tribes.

Earlier amendments have focused on substantial increases in funding within this bill overall; tens, actually hundreds of millions of dollars. But this recommendation to establish a commission costs merely $200,000. It is a small price to pay. It is an insignificant price to pay.

Recently, my hometown newspaper, The New London Day, editorialized in favor of the Wolf provision and they said, ''His amendment will ruffle some feathers, but Representative WOLF is asking questions worth answering.''

I concur with the editor, and I cannot understand why current information on an important issue is a problem. It would seem to me that current information on an important issue would be a plus, not a minus.

Mr. Chairman, I ask my colleagues to oppose the amendment.

Mr. HAYWORTH. Mr. Chairman, continuing with the bipartisan support of this amendment, I yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE), a fellow member of the Committee on Resources.

Mr. PALLONE. Mr. Chairman, I listened to what the gentleman from Connecticut said and the gentleman from Virginia said and, again, just as on the previous amendment that we discussed today, there are a lot of important issues here, but it does not belong on an appropriations bill. The Wolf amendment is before the Committee on Resources. We should have a hearing. We should have an opportunity for all sides to be heard, not bring it up today in this debate in the context of the appropriations bill.

I just want to remind those who are opposed to this amendment that the law is clear that Indian nations are sovereign. They make a decision, just like a State makes a decision, about whether they want to have gambling or what kind of gambling they want to have; and as long as States are allowed to have it, they should be allowed to make those decisions as well. A lot of sovereign Indian nations have decided they do not want gambling, but a lot of them have decided that they do want it because they know that it is a way for them to achieve economic self-sufficiency.

Now, I do not hear any proposal here to say to, for example, a State or even my own State, well, why do you not have a Federal body that is going to look into gambling and see whether it is a good thing or not? This is only being imposed on tribes. That is not fair. There is no indication, as the gentleman from Virginia said, that somehow Indian gambling is corrupt versus gambling in other aspects. In fact, we have had many, many studies that have shown, in fact, that that is not the case; that it is well regulated; that it is not in any way a victim of corruption. In fact, there may be corruption in other types of gambling, but where is the indication that it is strongly or in any way significantly influences Indian gambling? There is not any.

I know that the gentleman from Virginia (Mr. WOLF) is well intentioned. I have seen him stand up for press people, and I know that he is not influenced by any special interests. But let me tell my colleagues, not him, but a lot of the people that are making the allegations about corruption in Indian gambling is because they resent the competition from Indian gambling. These media interests that are being cited here that are criticizing Indian gaming, they are not operating with clean hands. They represent special interests. So do not impose this on Indian nations and not talk about it in terms of other States or other groups that do the gambling. If someone is opposed to gambling, then look at it in general, but do not pick on Indian tribes, once again.

Mr. HAYWORTH. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Chairman, I rise in strong support of the Hayworth and the Kildee amendment to strike the Wolf language from this appropriations bill.

Like my friend, the gentleman from Arizona (Mr. HAYWORTH), I stand in strong support of the first Americans; and I believe they need to be given every opportunity as we work to ensure that they are full Americans. Our Constitution, as I have learned over the years, gives full sovereignty to our Native American tribes; and I think we all respect their efforts to be self-determined and self-sufficient.

The question is, Why do we need one more commission? Now, a lot of times when we talk to the tribes and they wonder, because they have already had 70 of these kinds of commissions, and what good is one more group of guys in suits carrying brief cases saying, we are here from Washington and we are here to help and we are going to study you and we need you to fill out these forms. We are going to take you away from all of your other activities, so, hopefully, we can get some results that we want for whatever our agenda is.

I have great respect for the gentleman from Virginia. I have admired his perseverance. He is a leading opponent of commercial gaming in America, and I have admired his perseverance about that, and that is what this is all about. What this study is being proposed for is to eliminate Indian gaming. That is the agenda here. Whether we support Indian gaming or not, the tribes have the right, under our national laws, to be able to engage in commercial gaming activities. If it is going to be discussed whether or not to take it away, it should be fully and thoroughly discussed in the Committee on Resources, which has jurisdiction over this language. It is the authorizing committee of this language. I would note that the Committee on Resources has not held a hearing on this bill and has not moved this legislation, probably because they recognize there have already been 70 other studies.

Now, if one opposes gaming, I would note that the National Gaming Impact Study Commission and National Indian

Gaming Commission have already thoroughly discussed these issues. Please vote for the Hayworth-Kildee amendment. It is the right thing to do. Let us not harass the tribes any more.

Mr. WOLF. Mr. Chairman, I yield myself 1 minute. What the gentleman said is not accurate. My good friend from Illinois said it is to eliminate, and that is not true. There is nothing in the bill that says that, and it is not fair to go down to the well of the House and say something that is not in the bill. That is not fair. I would urge the gentleman from Illinois, my friend, to read what it says. It does not say that.

I have a Boston Globe piece right here, Mr. Chairman. It said the plight of the native Americans is the unemployment rate, which is 43 percent. We argue in this body over is it going to go to 4 to 5 to 6 percent for non-Native Americans. Forty-three percent, says the Boston Globe. Employed, but living below poverty, 33 percent. I stand corrected; I just said it was 26 percent. It is 33 percent. Suicide rate for ages 15 to 24, the flower of the youth, 37.15 percent. We have to look at that. We have to look at that.

So what the gentleman says, and he is a good friend, it is not to eliminate; it is to look at other ways in addition. We do not say that.

Lastly, with regard to diabetes, my figure was too low; it is 9 percent.

Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I rise in opposition to the Kildee-Hayworth amendment and in support of establishing a commission to examine the Federal Government's policy towards Native Americans.

Our Nation has a responsibility to Native Americans. This commission would go a long way in finding out if the Federal Government is meeting this responsibility.

It is important for us to establish conditions so that we can examine what we are doing right, what we are doing wrong and what more needs to be done for the Native American community. Studies suggest the overall portrait of the community is failing in the areas of poverty, health care, housing, crime, education, and economic development.

Finally, I fail to see any harm in establishing a commission which would make recommendations on how we can improve the performance of Federal assistance programs. I see only a positive.

A commission will examine what the true effect of the Federal Government's reliance on gaming to the societal ills on reservations and answer the longstanding question of what it means for the Native American community at large.

□ 1300

I would also suggest that whatever we are doing today for Native Americans is simply not succeeding. I have wondered for a long time why we failed to have any real, meaningful dialogue in the committee on why conditions are so bad for Native Americans.

I happen to believe that, sadly, gaming has helped in some communities simply because the Federal Government has failed to do its job. Gaming cannot be a substitute for what we need to be doing as the Federal Government to help our Native Americans.

Mr. HAYWORTH. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. BACA), continuing with the bipartisan support for this amendment.

Mr. BACA. Mr. Chairman, I rise in support of the Kildee-Hayworth amendment. This amendment strikes a provision that would create a Commission on Native American Policy to conduct more studies related to Native American communities.

This provision violates House rules that prohibit legislation on an appropriation bill.

We talked earlier about needing a study. The problem with this bill is it does not appropriate additional dollars. It does not appropriate additional dollars.

The studies have already been done. We know that. What we need to do is provide more funding. What we are doing right now is we are taking Federal funding away from Indian bureaus when we should be providing the additional funding for education, for housing, for law enforcement.

Yes, that is what we should be doing right now, but we are not doing it. All we are asking for is an additional study with no appropriation monies. We all have the information in front of us. What we should be doing is providing the funding.

Yes, I have been to Indian reservations. I have visited the schools. When schools are going on, we see a child who does not have a computer, does not have the technology; and when we look at people who do not have the clothing, we need to make sure that we provide the funding.

This study does not do anything for us. Let us make sure that we provide the assistance and support for the Kildee-Hayworth amendment right now that strikes this provision.

Mr. WOLF. Mr. Chairman, I yield myself 15 seconds.

It does not take it away from housing. It does not. It takes it away from the administration. It takes it away from the administration. We cannot come down and say things that are not accurate on the bill. It takes it away from administration; it does not take it away from housing.

Mr. Chairman, I yield 3 minutes to the gentleman from Indiana (Mr. SOUDER).

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

Mr. SOUDER. Mr. Chairman, I personally find this a very difficult issue. On one hand, I think it should be abundantly clear that gambling is corroding the fundamental moral fabric of our Nation, as hard work is being disconnected from financial success. We see more and more Americans thinking that somewhere it is in the lottery or by manipulation through the stock market or manipulating the bank statements of different companies; that there is an easy way out.

The more we see the advertising for the lotteries, the ads for the casinos, it is undermining the moral fabric. We are also seeing families deprived of the income that they need. As adult members of their family blow their savings, thinking they are going to see some pot of gold at the bottom of the rainbow, it is hitting their potential to actually care for the health care or the education needs of their children because of the gambling epidemic we have in our country.

That said, this is still a complicated issue, because I believe that some seem to argue that the only people who should not be allowed to have gaming are the tribal nations of America; that it is okay for all the politicians to run lotteries; it is okay for them to have the casinos, and not the Indian nations.

I think it is indisputable that there have been some financial gains to the Indian nations from this, and it has caused some transformation of the different nations. I have also seen in the State of Indiana where the Potowatomie Indians are being deprived their tribal status because competing gaming interests, as well as those of us who oppose gambling, do not want to see them own a casino.

The Miami Indians of Indiana have been deprived tribal status, even though they unanimously voted not to have a casino. Because of the fear that they might do a casino, they cannot get their tribal status recognized because of the opposition to gambling. Plus, those people have a vested interest in the gambling people.

That said, we still have a fundamental question that needs to be looked at. Yes, we have had studies. We have studies on child abuse all the time. We have studies on juvenile delinquency all the time. We have studies on drug abuse all the time because conditions change, variables change, and also the different studies change.

This government would not be spending hundreds of millions of dollars, billions of dollars in studies, if the criteria for a study was, oh, we researched that before. We research all the time looking for new angles and information.

There are a couple of questions that clearly need to be looked at. While, superficially, additional dollars are being brought in to the Indian nations, but net, what is being actually transformed in those communities, and is it reaching the communities?

Or, secondarily, are there damages being done that are going to be very

difficult to undermine? Are there dependency things, and are we substituting quick financial success for the real things that we need to do: how to develop an infrastructure and an independence for these communities?

Secondly, when I was just in New Mexico, we could see every pueblo had been turned into a big casino operation; and the historic structures and things that historically were the way people viewed the Pueblan people were not the way they do them currently. Most of those cars at those casinos were not, there are not enough Indians to fill those casinos.

It is also having an impact on the communities around them. We need to be looking at the broader impact, in addition to the Indian nations.

I hope we will go ahead with this study. I am not hostile in particular to whether Native Americans should have casinos and the government should be allowed to do this, but I do believe we need to look at the impact on the peoples themselves and whether we have reached the limit, whether it is a corrupting influence on the families there and outside, and what the balances are.

I believe the amendment of the gentleman from Virginia (Mr. WOLF) is important. Where we get the money should not be the fundamental question; it is that we need this information to do a wise job managing funds.

Mr. HAYWORTH. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. CAMP), a fellow member of the Committee on Ways and Means.

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

I rise in support of the Hayworth amendment in this bipartisan effort to remove the Wolf language creating a Commission on Native American Policy from the interior appropriations bill.

I have great personal respect for the gentleman from Virginia, and we agree on most things; but the Wolf provision is unnecessarily duplicative, and it violates rule XXI by legislating on an appropriations bill.

What is particularly troubling to me is that there was no process, no hearings, no authorization, no consultation. The Wolf language would direct available funds from the very tight budget of the Bureau of Indian Affairs to create a commission.

Others have said the proposed commission would duplicate existing reports to Congress. I will not go through all of that, but each of these questions has been answered a number of times, at great cost to the American taxpayer, millions of dollars.

If there has been any thread tying together centuries of failed United States Government policy toward the First Americans, it is the lack of consultation. In the name of trying to help Native Americans, there has been untold heartache and much loss of life. At a minimum, Native Americans should be part of any process and have the same respect and opportunity to be heard as any other group who is being considered to have legislation in the United States Congress.

Let us let the committee of jurisdiction deal with this issue. Let us have hearings. The United States Constitution recognizes the sovereignty of the First Americans. I would hope this House would do so, as well, and support the Hayworth amendment.

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

Mr. HAYWORTH. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from California (Mr. GEORGE MILLER), former chairman of the committee, continuing with the support for the bipartisan amendment we offer.

Mr. GEORGE MILLER of California. I thank the gentleman for yielding time to me, Mr. Chairman, and for offering this amendment.

Let us just begin that by understanding for $200,000 we are not going to get a quality study covering this range of issues. It is just simply impossible, and to assemble the expertise for the time and effort to do that. That is why we spent $5 million just on gaming in that commission.

Let us all understand that to say that 80 percent of the Native Americans do not participate in gaming does not tell us anything. Many States do not allow gaming. Many do not allow gaming at all. Many reservations cannot participate because it is not economically viable. Many have chosen voluntarily not to do that.

That does not tell us anything about the benefits of Indian gaming. What we ought to do is spend more time on reservations and see the kind of economic development, the kind of economic diversity, the kind of opportunity that is being presented now that did not exist.

I sat on the Committee on Resources and watched this Committee on Appropriations appropriate millions and millions and hundreds of millions of dollars in economic development that went nowhere, that went nowhere, just disasters across Indian country. Now we have an opportunity to have some success. They may not like that it is based in gaming, but the fact is that it is successful and it is providing that economic opportunity.

I have listened to this ruse argument about organized crime from the day we wrote the first statute to the Supreme Court, and nobody has been able to prove it; nobody has been able to show it. These people operate their casinos under more restrictions than any other operators in the country. This is just disingenuous. Disingenuous is what this is about.

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

Mr. Chairman, what the gentleman from California (Mr. GEORGE MILLER) said is not accurate with regard to more regulations than any other. In Atlantic City there are 12 casinos, and there are roughly 800 people, totally, who regulate them, 100 every day. In Indian casinos, there are roughly 200 casinos and there are a few dozen, probably about 36. So what the gentleman said, again, is really not accurate.

Again, the fact deserves a cap on how much we are regulating. But that is not what we are talking about today. We are talking about health care and those other issues.

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

Mr. HAYWORTH. Mr. Chairman, I yield 1 minute to my friend, the gentleman from Florida (Mr. DEUTSCH).

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

Mr. Chairman, I rise in support of the Hayworth-Kildee amendment.

I understand the concerns people have about gambling in America. They are very real concerns, and there is much that we can do as a Congress and much we can do as a country to deal with some of the tragedy that occurs from gambling around the country.

But this has nothing to do with that. It has nothing to do with it. This is a study on Indian gaming when studies have already occurred. It is focusing only on Indian gaming. It is a mistake.

If the issue really is, and I acknowledge and I support and I have been involved in efforts to deal with some ancillary problems, and they are very real and serious problems about gaming in America, then let us address them. Let us have the Congress do oversight investigations. Let us do hearings on those issues.

Really, there is much we can do. There is absolutely much we can do in terms of research in terms of addictive gambling and things like that. But through this process, this is just a mistake; and the amendment should be supported and the study not go on.

Mr. HAYWORTH. Mr. Chairman, I yield 1 minute to my friend, the gentleman from American Samoa (Mr. FALEOMAVAEGA).

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

Mr. FALEOMAVAEGA. Mr. Chairman, I want to associate myself in support of the Kildee-Hayworth amendment. I do have the utmost respect for my friend, the gentleman from Virginia, and his efforts, never questioning his integrity nor his sincerity about the proposed amendment.

But Mr. Chairman, I submit, the Pacific Island cultures and the First Americans have been studied to death. We have had enough studies already: 11 Federal studies on health and economic needs of Native Americans; four Federal studies on economic development; nine Federal studies on educational needs of the First Americans; nine Federal studies of housing for First Americans; four Federal studies on infrastructure development; nine Federal studies on the effectiveness of the current programs that we are giving to the First Americans; 12 Federal studies on crime control in Indian reservations; six Federal studies on influence

on non-Native American private investors dealing with Indian gaming; three Federal studies on influence of organized crime, supposedly.

I want to submit, Mr. Chairman, the Indian gaming industry is controlled by the Federal Government under the auspices of the Congress. That is not the case with State gaming operations, and that makes a distinction here. There is no organized crime involvement in this effort. I submit, Mr. Chairman, we do not need this proposed amendment.

Mr. HAYWORTH. Mr. Chairman, I yield 1 minute to my friend, the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, I rise today as vice-chairman of the Native American Caucus to express my support for the Kildee-Hayworth amendment, and encourage my colleagues to strike this measure from the bill.

Mr. Chairman, let me say that since I was first elected to Congress, I have strongly supported efforts that would seek to expose the long history and failure of this country to recognize the deep poverty within Native American country.

I applaud the gentleman from Virginia (Mr. WOLF) for continuing to expose that. But the answer is not to take away the one vehicle that so many tribes have used to even take themselves out of poverty. The answer is, we need to put more money into Indian health services, more money into education, more money into Indian law enforcement. These are the answers.

Until we have those answers, we do not pull the leg out of the stool that is the one thing that many Native American tribes are standing on. That happens to be gaming.

□ 1315

Mr. WOLF. Mr. Chairman, I thank the gentleman on the other side.

To read from the Boston Globe, here is what it said: ''Congress in the Reagan administration embraced Indian gambling as a vehicle to foster tribal self-sufficiency in 1988, after a decade of steadily cutting per capita spending on six major programs for Native Americans from 6,000 to 3,000 measured in 1997 dollars, a time when spending on social services aimed at the rest of America was on the rise.'' It goes on to say, ''The result is untold riches for a few smaller tribes. Annual revenues are 100 million or more for a couple of dozen of additional tribes near major urban centers and continued poverty for the vast majority of Indians spread across rural America.''

We are talking, Mr. Chairman, as I said, 43 percent unemployment. If we had 43 percent unemployment in our district, we would be upset. We would say let us study it. We would be saying let's storm the Bastille doors to do something. But today we are complaining about a study to see. Thirty-three percent live below poverty. Why would not we want to find out today? You have different computers in your offices than you had 5 years ago. Did you say we do not want to study new computers? We do not want to change? So a study was done 5 years ago. We do it again today. But would it not be worth it to spend $200,000 to do it?

The suicide rate is 37.5 percent. The national average is 13 percent of those ages 15 to 24.

I urge defeat of the Hayworth-Kildee amendment and urge that we can move on and study these issues so we can truly come together. And let me say there are Indian tribes who have gambling and who do not have gambling who were on this commission, good people. And I spoke to my friend, the gentleman from Arizona (Mr. HAYWORTH), saying we can come together, if I happen to be successful, come together and try to find out the very best minds that are around in the country to see if we can come up with some new ideas to really make life better for these people who have suffered so much.

I thank the gentleman on the other side for the debate.

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

Mr. HAYWORTH. Mr. Chairman, I yield 1 minute to my friend, the gentleman from Washington State (Mr. INSLEE).

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

Mr. INSLEE. Mr. Chairman, last Sunday I was driving up on the Tulalip reservation in northwest Washington. I was going to a memorial service for a good friend of mine, and I noticed a really nice white building on the Tulalip reservation in Tulalip, Washington. It was a beautiful place on the water. And when I got to the service I asked my friend what that new building was, and he said that was the Tulalip Boys and Girls Club, and that was the first Boys and Girls Club on an Indian reservation in America ever.

It has been supremely successful. And the reason it has been supremely successful, in part, is because this group of folks have developed an industry to make this possible.

Now, I know many people have very sincere concerns about gaming, but I just hope that when we vote on this, we will think of the faces of those young boys and girls of Tulalip people who are learning respect for elders, discipline, team work in that building that has been allowed because this industry has been allowed to blossom.

I hope we reject this amendment, sincere as it is, for that reason, so these people can continue those American values of the first American people.

The CHAIRMAN. The gentleman from Arizona (Mr. HAYWORTH) has 1½ minutes remaining.

Mr. HAYWORTH. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, sometimes studies of the obvious are important. But it is obvious that across the width and breadth of the country we have the first Americans, quite candidly, oftentimes dealing with Third World conditions. Economic opportunity should know no bounds. If there are those who dispute some endeavors, God bless them. They have that right. But to again study, to add now to the grand total study number 74 of what we know to be problematic, I think is wrong. Support this bipartisan amendment.

Mr. GALLEGLY. Mr. Chairman, I am proud to be one of the supporters of this amendment to strike language in the Fiscal Year 2003 Interior Appropriations bill that would create yet another commission to study the benefits of gaming to the Native American community.

The Commission on Native American Policy created by the Interior bill would report to Congress on whether Indian gaming benefits Indian communities, whether Tribal government gaming is regulated and whether Tribal government gaming is influenced by organized crime. I oppose this language because it would be legislating on an appropriations bill. This provision has not been subject to any hearings or debate in the Resources Committee, which has jurisdiction over Native American issues. I addition, because these issues have been thoroughly studied before, I believe this language wastes valuable taxpayer resources.

Mr. Chairman, I believe it is more important for Congress to continue to focus funding towards providing the educational, healthcare and economic needs of the Native American community. I urge the House to adopt this amendment.

Again, I thank you Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. HAYWORTH).

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

Mr. WOLF. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Arizona will be postponed.

AMENDMENT OFFERED BY MS. SLAUGHTER

Ms. SLAUGHTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. SLAUGHTER:

Under the heading ''DEPARTMENTAL MANAGEMENT—SALARIES AND EXPENSES'' in title I, insert after the dollar amount on page 49, line 16, the following: ''(reduced by $15,000,000)''.

Under the heading ''NATIONAL ENDOWMENT FOR THE HUMANITIES—GRANTS AND ADMINISTRATION'' in title II, insert after the dollar amount on page 114, line 18, the following: ''(increased by $5,000,000)''.

Under the heading ''CHALLENGE AMERICA ARTS FUND—CHALLENGE AMERICA GRANTS'' in title II, insert after the dollar amount on page 115, line 14, the following: ''(increased by $10,000,000)''.

The CHAIRMAN. The gentlewoman from New York (Ms. SLAUGHTER) is recognized for 5 minutes.

Ms. SLAUGHTER. Mr. Chairman, I yield to the gentleman from Washington (Mr. NETHERCUTT) for a unanimous consent request.

Mr. NETHERCUTT. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be limited to 60 minutes to be equally divided.

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

There was no objection.

The CHAIRMAN. The gentlewoman from New York (Ms. SLAUGHTER) will control 30 minutes and a Member opposed will control 30 minutes.

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

Mr. Chairman, this is our annual rite of passage on the Interior bill. I remember that one of my colleagues recently said in the last debate that it just is not right to come down here and lie.

Well, we are accustomed to that. It seems that every year something comes up that people view with great alarm by the National Endowment for the Arts. This year is a very interesting one. This one comes from Eagle Forum and they say something like 167, I believe, which is an odd number, but 167 naked go-go dancers put on a performance sponsored by the NEA. Not so, Mr. Chairman.

The group called Broadway Cares, which was in Equity, fights AIDS, was given a $10,000 grant from the National Endowment for the Arts for a single performance to be held in September of this year. It has not been held. They are master classes conducted by some of the most prestigious companies in modern dance, including the Alvin Ailey Dance Theater, the Merce Cunningham Dance Company, and the Tricia Brown Company. The festival will include performances by notable dancers including current and former dancers of the New York City Ballet, Ballet Hispanico, Sean Curr and Company, Alpha Omega, and that is the only project of Broadway Cares sponsored by the NEA. So that one bites the dust.

Today comes a new Dear Colleague saying that NEA has lined up with Planned Parenthood for a dance group, $10,000 again, they do not have many grants, for young people to stop teen pregnancy. And I say hooray for that. But I am proud of my colleagues who every year have seen through this verbiage and understand that the NEA is a very important part.

Mr. Chairman, I rise today as I do every year to offer an amendment to try to offer a very modest increase in the National Endowment for the Arts and also for the National Endowment for the Humanities.

We can and we should appropriate an additional $10 million to the NEA and an additional $5 million to the NEH because these agencies both remain well below the funding level from a decade ago.

A recent economic impact study clearly shows that investing in the arts has a profound economic impact on our States and local communities. The Arts and Economic Prosperity Study which was conducted by the Americans for the Arts just recently, and mostly in rural America and smaller cities, reveals that the nonprofit arts industry, this is so important, I do not want anybody to miss this. The nonprofit arts industry generates $134 billion annually in economic activity.

Now, over $80 billion of this stems from related spending by the arts audiences. At the parking lots where they park their cars, the restaurants where they eat before or after performances, at the gift shops where they buy souvenirs, at the hotels where they spend the night, and on and on.

I have this chart here to give you some idea of what we get. The $134 billion that comes back into the Federal Treasury, it creates 4.58 million full time equivalent jobs. The resident household income of the people who work in arts is 89.4 billion. The local government revenue is 6.6 billion. State government revenue, 7.3 billion. Federal income tax revenue, 10.5 billion. I challenge anybody to tell me of any other program which we give a very modest amount to, $116 million in this case, that comes back with this kind of return, and this is just the economic return.

There are many others. The things that it does for young children; their developing minds; as we have mentioned a while ago, cutting down on teenage pregnancy.

Let me go on with some of these figures that I think are very important. The patrons spend an average of $22.87 per person over the price of admission which is being spent in our local communities, supporting the businesses and sustaining the local jobs. As you can see, this is a very important investment that we make here and we get a great deal back for the modest amount we put in.

Now the 232 million the Federal Government invested in NEA and NEH last year, as I said, has returned $134 billion and I think that is a good investment. The study also shows that the kids who are exposed to art, their SAT scores in high school go up 57 points. It improves their critical skills in math, reading, language development and writing. That, again, is cheap at the price to get that kind of return for money for arts in schools. For example, the study shows that learning dance and drama help to develop skills that improve creative writing.

Probably what they are worried about this morning with Planned Parenthood will teach young women that they have a better hope in life other than being a teenage mother.

Skills learned in music increases a student's understanding of concepts in math. That is so important to us.

More broadly, the study concludes student attendance and retention is better for those involved in the arts. Additionally, student learning experiences in drama, music, dance and other art activities assist in conflict resolution and lead to improved self-confidence and social tolerance.

I think as I go through these things you can say these are things we devoutly wish for the children of the United States.

These results demonstrate the importance of incorporating arts into our schools. So it is time for us to give them a portion of the financial support they deserve.

This amendment goes just to support the NEA's Challenge America program which is targeted specifically for communities that have been underrepresented among the NEA direct grants.

Challenge America has successfully supported arts education and community arts development in many communities nationwide. The program facilitates State and local arts partnerships and regional touring arts programs. We need to extend this great program and the amendment will provide part of the funds to be able to do that.

State and local and regional arts associations receive vital support from the NEA, bringing arts close to home. The NEA also supports the after-school programs and activities in underserved communities that allow our youth to understand the benefits of arts learning.

The NEH. NEH is a wonderful program, bringing into our communities the humanities; subjects such as history and literature or foreign languages and philosophy and geography. For example, they support a summer teacher training program that prepares and encourages teachers to bring humanities alive in the classroom. They teach us well who we were, what we hope to be, and what we can become.

The NEH actively supports historic preservations of books, newspapers, official documents and material culture collections that are so important for us to understand our history. These efforts are vital to preserving America's historical and cultural heritage.

I commend the President for recognizing the critical role the arts play in our schools and communities. Now it is time to show us the money. The administration's budget request includes a very slight increase, actually not any increase at all, just inflation. But if we want to leave no child behind, if we really want to encourage growth in this economy, we need to increase the funding for these two agencies because they are proven, proven like no other to do exactly that: Encourage growth in the economy and leaving no child behind.

So we request $10 million more for the NEA, $5 million for the NEH by making minor correspondent reductions in the administrative budget in the Department of the Interior.

The account, which is appropriated an increase in the underlying bill, would be increased by less than half of 1 percent. This offset ought to be acceptable to all of my colleagues.

Less than 1 percent of our entire budget is committed to arts. In other

words, it costs each year less than 40 cents a year to support art. Yet, our small Federal investment in the arts reaps rewards, as we have said here, many, many times over. I urge my colleagues to vote for this amendment cosponsored by my good friend and cochairman, the gentleman from California (Mr. HORN), and by the ranking member on this committee, the gentleman from Washington (Mr. DICKS) who fights valiantly every year for this program in committee, and for whom we are very grateful, to the gentlewoman from Connecticut (Mrs. JOHNSON), and the gentlewoman from Maryland (Mrs. MORELLA).

Please support this modest increase in the NEA and NEH. It is the least we can do to invest in cultural and economic well-being of our Nation. And once again, I ask my colleagues to reject the fearmongering that comes out every year. To tell the truth, I almost wait with some anticipation to see what they will dig up year after year.

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

□ 1330

The CHAIRMAN. Who claims time in opposition?

Mr. SKEEN. Mr. Chairman, I do; and I yield 3 minutes to the gentleman from California (Mr. HORN).

Mr. HORN. Mr. Chairman, I thank the gentleman from New Mexico (Mr. SKEEN) for yielding me the time, and last night, many of us commended all the good things he has done and I want to say it again. He helped parks and he has cared about the students in rural America. I grew up on a farm, and I am talking about the National Endowment for the Arts, which includes not just urban America but also rural America. That is when I first saw a symphony and that was in the WPA. He will remember that and I will, in the 1930s, 1940s and 1950s, the WPA, and that was the wonderful job they did to have young children that never would have to do it any other way than in that.

The gentlewoman from New York (Ms. SLAUGHTER) was highlighting the enormous benefits of the arts to our economy and to our local communities. A recent economic impact study from Georgia Institute of Technology, which she used, and I want to put this again, nonprofit arts industries in America generate $134 billion for our Nation's economy. That is an outstanding return on taxpayers' investment, and that is about $10.5 billion for the Internal Revenue Service; and the children also benefit from the arts and the educational curriculum, as the gentlewoman from New York (Ms. SLAUGHTER) noted. And we obviously want arts education, and it has happened in math, reading, language development, and writing.

This is a new NEA in the sense that they have a lot of common sense now in that group, and I would hope that all of us could vote for that and see the arts that percolate through our secondary schools, our community colleges, our research centers, our State humanities council; and I urge my colleagues to join us in supporting this amendment to increase funding for the national endowment for the arts and the national endowment for the humanities.

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentleman from Maine (Mr. BALDACCI).

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

Mr. BALDACCI. Mr. Chairman, I want to congratulate the distinguished gentlewoman from New York (Ms. SLAUGHTER) for her leadership on these issues over the years. She has been tireless, and with those Members that are supporting this Member, I rise in support of this amendment.

Just to give my colleagues a little bit of a picture of what happens in a rural State like Maine and the importance of the arts and humanities, there are many areas of America, particularly rural America and rural Maine, that cannot afford some of the luxuries of major urban areas; and it is important to have organizations like the NEA and NEH provide resources to rural communities so that they can have an opportunity to participate and be exposed to the arts programs.

In my home State, the Maine Humanities Council has developed several programs that have greatly served our State. Current programs run by the council promote literacy for all ages, provide teacher enrichment. They have seminars in preserving cultural heritage. In addition, they have grant programs that provide the support to Maine libraries and museums, historical societies and schools.

One of their programs, literature and medicine, has become so successful that the national council has just received a significant grant application and awarded Maine a national endowment grant for the humanities to expand this program to eight other States.

Clearly, we must continue the support of these programs. Even on top of all of that, the economic opportunity that was highlighted earlier generated over $134 billion in economic opportunity. This gives rural States like Maine a real opportunity to focus on this creative cluster of development opportunities in our region; so that in a lot of rural areas we are manufacturing textiles and the agriculture have seen some declines, that there is an opportunity to create new economic growth in opportunities in terms of our art galleries, art exhibits and the promotion of the arts.

So we are very much in support of this effort, very much asking my colleagues to support this increase. It does a great job. It does a great job in Maine, and it does a great job in the Nation.

Mr. SKEEN. Mr. Chairman, I yield 4 minutes to the gentleman from Washington (Mr. NETHERCUTT).

Mr. NETHERCUTT. Mr. Chairman, I thank the gentleman for yielding me the time; and Mr. Chairman, I rise in support of the arts, but I rise in opposition to this amendment.

The President's budget provides a budget request of $116,489,000. Last year, fiscal year 2002, the enacted budget appropriation was $115,234,000. So we are over a $1 million increase already in the President's budget, essentially flat-funding it, but increasing it slightly.

The request today is for $116,489,000 for the National Endowment for the Arts; and the committee, in a bipartisan way, supported that. They supported it because it believed it is an adequate amount to pay for the Federal share of contribution to the arts, and I believe that, too. I think $116,489,000 is a fair amount. It is a fair number.

I point out to my colleagues that this was an increase last year of over $10 million a year ago for the National Endowment for the Arts. It was $104 million, went up to $115 million. So we have already added over $10 million a year ago and now to come back and add another $10 million this year, in addition to the $1 million that the President has already requested and the committee, in a bipartisan way, has already approved, I think is wrong.

When is enough enough? I have serious questions about the $134 billion that is generated, allegedly generated, by nonprofit arts groups; and I know they do a great job. They do it in my State, and I support them very strongly. However, that is like saying if we buy little league uniforms for the teams in America, we are going to generate all the money that goes to little league or high school or sports. It is a big universe, in other words; and I will give credit to some amount of money that is generated by the $115 million that we put in last year and that we are going to put in $116 million this year. I think that is a fair expenditure. For some it is too much; for some it is too little. But I think it is just right.

I would just urge my colleagues, when is enough enough? I will say to the sponsors of the amendment, this is money that is going to be cut out of the Interior Department operations accounts. We have held these operations accounts in the bill down. We have not even fully funded their inflationary request; and so if we are going to further cut into the Interior Department operations accounts, I think it is going to have an impact on the national parks operations. It is going to have an impact on public lands administration, on refuges that a lot of people go to see and enjoy the wildlife refuges in this country, and other programs that are part of the interior appropriations process.

The interior bill has a lot of responsibilities. We have a documented backlog in repairs for public facilities of over $12 billion. Ten million can make a big difference in that $12 billion

backlog maintenance problem. We are trying to make prudent investment in our land management agencies, in Indian health programs, in energy research. They can use $10 million, too, if we really want to look at the cumulative effect of having dollars invested and benefits to the public.

I am not going to say the arts are not valuable, they are; but $116 million is enough, and I urge my colleagues to vote against this amendment, finding that $116 million is adequate.

Ms. SLAUGHTER. Mr. Chairman, I would like to remind my colleague from Washington State that just applauding the arts is not enough, and I yield 2 minutes to the other gentleman from Washington State (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I thought that the study was very professionally done, and I think the arts generate probably more than $134 billion in economic activity. The most important number was the Federal revenues, $10.5 billion for a $116 million investment. I do not think we are going to do any better than that on return in investment.

The other thing I would point out, when the House of Representatives was under the control of the Democratic Party in 1994, we provided $162 million for the National Endowment for the Arts on a very bipartisan basis. I see many Members here on the floor supported that level of funding; and then, of course, in 1995 that was reduced to less than $100 million, we had this dramatic Draconian cut in funding.

We have come back, and last year we had a vote on the floor of the House of Representatives for an increase of $15 million: $10 million for the endowment for the arts, because it was cut more severely than the endowment for the humanities, $3 million for humanities, $2 million for museums and library services. We do not have museum services anymore in this bill, so it is $10 million for the arts, $5 million for the humanities this year.

We can go to every part of this country now and we can see the consequences, the impact of these efforts, the Challenge America program. These moneys are going all over the country. We made sure that all the arts are not in the big cities. They are now everywhere; and that is why they are creating all this economic activity, creating these jobs and giving audiences all over the country a chance to enjoy the arts and the humanities.

This is a good, positive thing to do. Let us support it. Let us get back to where we used to be back in the good old days in 1994.

Mr. SKEEN. Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. NETHERCUTT).

Mr. NETHERCUTT. Mr. Chairman, let me just talk about the good old days. The good old days, for my dear friend from Washington State, were days when there was deep criticism of the National Endowment for the Arts for putting pornographic material in grants that they offered. I mean, that is what resulted in the cut. The representatives in the House of Representatives and the Senate and the country were disgusted with the way that the National Endowment for the Arts was distributing grants. They were wasting taxpayers' money. So just as a matter of historical reference, that is why they were cut back was because they were granting sort of disgusting material for grants with taxpayer money.

So what we did not see before 1994 was a limitation on the amount of money that went to big museums and big cities and people with all the money and the resources in the world. Thanks to the gentleman from Ohio (Mr. REGULA), the gentleman from New Mexico (Mr. SKEEN), the gentleman from Washington (Mr. DICKS), and others, we put in these reforms after 1995 and 1996, which said put a cap on the amount of funds that one State can receive, that State grant programs and State set-asides increased to 40 percent of the total grants. That is what we did in the post-1994 period.

Anti-obscenity requirement for grants supported by a Supreme Court decision in 1998. Put six Members of Congress on the National Council of the Arts to monitor what went through the system. We reduced the Presidentially appointed council members to 14 instead of 26. We prohibited grants to individuals except for literature fellowships and National Heritage fellowships or American Jazz Masters fellowships. Prohibited self-granting or full seasonal support grants. Allowed the NEA and the NEH to solicit vest private funds to support the agencies.

That is a beef that I have had for quite a while is that we give grants to people. With all due respect for the good work they do, they go out and make a tremendously good commercial success, but they do not give back; and my argument has been commercially successful people ought to be able to come back and give back to the big pot to help everybody, the fledgling artists and others who are out there trying to get some help instead of reaping the commercial benefit at taxpayers' expense.

□ 1345

We have provided granting priority for projects to underserved populations. That is very important, as I come from a relatively rural area. We have provided priority for education, understanding and appreciation of the arts, and emphasis for grants to community music programs. These were all post-1994 reforms.

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

Mr. NETHERCUTT. I yield to the gentleman from Washington.

Mr. DICKS. Well, then, we have a bipartisan consensus that we made these changes. Then let us give them back the money they so desperately need to fund the program all over the country. They need this money.

Mr. NETHERCUTT. Reclaiming my time, Mr. Chairman, I ask the gentleman if $116 million is not enough.

Mr. DICKS. No. No.

Mr. NETHERCUTT. I thought the gentleman would say that. Back in the 1970s, when this program first came out, it had zero. So now we have grown it to $116 million. One hundred sixteen million is enough. Let us give it a one-year hiatus. We have a war going on, we are trying to provide for people in New York, we have a defense bill, and homeland security. Let us give it a rest. Let us economize.

Mr. Chairman, I urge defeat of the amendment.

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, I thank the gentlewoman for yielding me this time.

What we have heard on this floor for years on this subject is that we should not fund amendments like this simply because at some time in the past the arts program was not perfect. Well, I grant that. But for how we ought to view them today, I once again consult my sociological bible, my friend archie the cockroach, and here is what archie said about the arts.

''They are instinctively trying to hand the public some kind of stuff that wins the audience away from the often sordid surface of existence. They may do it badly, they may do it obviously, they may do it crudely, but they do have the hunch that what the millions want is to be shown that there is something possible to the human race besides the dull repetition of the triviality which is so often the routine of common existence. . . . And every now and then they have blundered into doing something with the touch of the universal in it.''

That, to me, is what is so great about this little program. I do not much care about what this program does for the big cities in this country. I do not represent a city over 40,000. What I care about is what these programs help to deliver by way of cultural experiences, door-opening experiences for kids and for working families who, in the rural parts of this country and the small towns of this country, would otherwise never be exposed to it. And sometimes it may not be perfect, but a lot of times it is awfully good and it has a profoundly enriching experience on young people's lives. That is why this amendment ought to be passed.

Mr. SKEEN. Mr. Chairman, I yield 3 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in strong support of the amendment, and I thank the gentleman for yielding me this time.

Let me just tell my colleagues why we are introducing this amendment that I am a coauthor of. The National Endowment for the Humanities will get 5 million more dollars because they carry enormously important national

responsibilities, like dealing with brittle books and the problem of documents that are critical to our heritage and to future generations, needing a lot of care and a lot of restoration.

They are also in libraries in very small towns, bringing experts on poetry to do readings and workshops, and provide inspiration and guidance for those who want to learn to write poetry or short stories or get acquainted with the body of literature that has developed the culture of the Western world.

In the arts, we put $10 million more into the Challenge America program. That is the grassroots. Let me tell my colleagues what grassroots sounds like and looks like in my district.

I walked into a HOT school the other day. Now, HOT schools are funded by national NEA money flowing through our Connecticut Commission on the Arts. And I asked this young girl who was touring me around, a 5th grader, I said, what is a HOT school? She said, well, it is a Higher Order of Thinking School. And as we went through the school, there was a kid who was drawing everything we did, and there were several kids who were scribing down everything we did so they could do a report.

We saw the exhibition of art, portraits done by the kindergartners in the style of Miro. How wonderful for these kids to see the abstraction of portraiture done in that very modern style, so they could begin to think about who they really were, who the next person was, and how do we conceptualize the world around us.

There is just overwhelming evidence that strong arts develop higher test scores on math and reading. Why? Because it develops the mind, not just the tables, but the abstraction of mathematics.

Then we went on to the older grades where they had studied the Lascaux caves and how those drawings in the caves represented the history and the way people lived in that era, and they thought about it. They thought about not only the substance of life, but the artistic expression and how we communicate.

Then, every month, they have an assembly in which they have a competition for the best poetry, the best drawing. This has changed the lives of these inner-city children. It changed their lives and elevated their thinking. It has made them think that education is fun and powerful. So let us not neglect to fund the arts.

My Governor, a Republican in Connecticut, put more money into the arts than had ever been invested because the arts help revitalize our cities economically. So this is about education, it is about achievement, it is about excellence, it is about communication, it is about history, it is about culture, it is about inspiration, and it is about the dollars and cents of a strong economy. Support the amendment to increase funding for the arts.

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Mrs. DAVIS).

(Mrs. DAVIS of California asked and was given permission to revise and extend her remarks.)

Mrs. DAVIS of California. Mr. Chairman, I rise in support of restoring funding for the National Endowment for the Arts and the National Endowment for the Humanities.

While the proposed increases still will not return the support we knew in 1995, it is so important to the children of our country that we make this progress.

I want to cite what many of my colleagues have talked about today. Many people think of the NEA and the NEH grants as large grants to communities, but, actually, what we have are a number of grants that go to small organizations. I think even the fact that they are out there really inspires many, many organizations to put forth initiatives that they otherwise would never have put together, would never have explored.

In San Diego, we have many, many connections and many, many links. The National Endowment for the Arts supports major organizations in my area, like the San Diego Opera Association in its symphony outreach to students and the Old Globe Theater in their Teatro Meta program.

We also have a Challenge America grant, which enabled the San Diego Youth & Community Services to artist-led activities that link students in the Teen Connection program with actors from the La Jolla Playhouse and the Diversionary Theater.

Another grant enabled a partnership with the Metropolitan Area Advisory Committee on Anti-Poverty for the Teen Producers Project, and that provides after-school media arts education to young people living in public housing.

There are many, many of these grants, and all children deserve this opportunity to explore new arts interests and develop their talent, the kind of opportunities that the NEA and the NEH grants offer to enrich their lives.

My colleagues, if looking into the eyes of children who become inspired by the arts is not sufficient, I would point out, as my colleagues have, that the multiplier effect on the economy of every dollar spent on the arts also enriches all of our communities.

Mr. SKEEN. Mr. Chairman, I yield 6 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Chairman, I thank the gentleman for yielding me this time, and as I sit here and listen to this bill, now going close to 24 hours, I am reminded of a Dr. Seuss character that I think was called a Push Me-Pull You. I do not really remember what it was all about, but it seemed to me that the character was unwilling to be pushed, unwilling to be pulled.

I think that must be the description of the Interior bill; that it is a very delicately balanced bill, and we can push it one way, but it is not going to pass; or we can pull it another way, and it is not going to pass. That is why this is kind of a thin-ice situation here. There are a lot of good arguments for this, but put one more straw on the camel's back, and then we lose on our side 24 votes. Same way on the other side; they lose 25 votes. That is why I think it is important that we leave the language and the numbers where they are in this particular bill on this amendment.

I support the arts, and I think everybody in Congress supports the arts. That is why it is very important to not confuse the NEA with the arts. We in Congress provide a $10 billion tax credit that is authorized for people who donate to art galleries and to art-related theaters and so forth. That is $10 billion. The Democrats are fond of saying how much is this costing? Well, $10 billion.

What about all the art that the Federal Government purchases, the paintings in this Capitol? We just underwent a renovation of the rotunda. That is in support of the arts. What about art education? All the programs on the State level, on the local level, on the Federal level that we as taxpayers of America support the arts on? We are very pro art in America. But to confuse the NEA with the art statement of America is truly misleading.

I believe that art is magical. I heard a songwriter say a good song takes you someplace else. And that is true, because, doggone it, I cannot drive my car without the radio going, because, Mr. Chairman, I do not always want to go to work. I like to hear the song about, I miss the planes out in Africa or the land down under in Australia. I think that is why we listen to music, because it does take us to a different place.

When we look at this picture of Lafayette over here, and think about the inspiration of a great Frenchman who comes over here and fights for America during the Revolutionary War. We get inspired when we look at the portrait of George Washington with the sword carefully painted out to show that this is not an institution that uses violence but that we use the weapons of words to clash our ideas together.

It is inspirational, as we look at the dynamics of both of these people, and to look up to the ceiling in the rotunda, and to think about a good drama that we all get invited to every now and then at JFK. It is truly inspirational. We need to all be protective of art.

And I want to say that I think the NEA has gone a long way in kind of cleaning up their act. The NEA, I think, has come a long way. The gentleman from Washington (Mr. NETHERCUTT) has cited it well. And I can say that on our side of the aisle, as the gentleman from Washington (Mr. DICKS) knows, some of the strong offended feelings, and I saw it was included in this regarding some of the

shenanigans of the NEA in the past, I have to say that, actually, it was cleaned up probably more by the Supreme Court than by Congress.

I will yield to my friend in a minute, but as the gentleman remembers, it was the famous case of a woman who was dipped in chocolate, and the question was is that a proper use of the taxpayer dollars or should it be artistic freedom. I believe in artistic freedom, but let her leap in a whole vat of chocolate. I am all for it. A new definition of Hershey's Kisses. But when I am paying for it, or I am asking a guy who is driving a truck for $6 an hour back in Georgia, maybe we should not do that. Maybe we should just stick with the picture of the cow standing by the mill stream.

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

Mr. KINGSTON. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, the point we tried to make before, and the gentleman from Washington (Mr. NETHERCUTT) did a good job, as has the gentleman from Georgia, in going back to those issues, but we reformed those things. We put provisions in the bill that emphasized quality, and those have all been adopted.

Mr. KINGSTON. Reclaiming my time, Mr. Chairman. That is exactly why I bring it up, is to acknowledge the changes that have been made. And the gentleman and I have both sat through hearings, through Democrat and Republican administrators over there, and I think they have cleaned it up, and I am glad. Some of it has been with a hammer, some of it has been more willing, but a lot has gone on.

I would also like them to continue to decentralize the NEA. I do think, and if I were the gentlewoman from New York (Ms. SLAUGHTER) I would be pushing it hard, because so much of the money is concentrated in New England, but there is a lot of art outside of New York City. When these theater groups come down and they do a little ballet for the rural folks down home, and they say, well, we kept the hicks from the sticks happy, now we can go home, I do not think it is anything that great and wonderful. I would love to see the NEA have a distribution formula where they say we have to push that stuff out and distribute it more in Idaho, Montana, and Mississippi.

□ 1400

Mr. Chairman, my point is NEA, I think, has moved forward in a good direction. Unlike years past when I have voted to cut the NEA, I will vote to support the NEA. But I know as the vice chairman of this committee, to put more money in it means that we are going to lose votes, so I must oppose this amendment.

On the NEH, I am a big NEH supporter. I would support the NEH increase, but I cannot do it on the floor of the House because that is going to run off votes. I think there are some things to talk about in the process which I look forward to engaging in as the months go by.

Right now, all of the issues that we have gotten together with the Westerners and the Easterners and the folks on Native American issues, we need to keep the precarious balance of this bill where it is because it is a Push Me-Pull You.

Ms. SLAUGHTER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Missouri (Ms. MCCARTHY).

(Ms. MCCARTHY of Missouri asked and was given permission to revise and extend her remarks.)

Ms. MCCARTHY of Missouri. Mr. Chairman, I rise in support of the Slaughter-Dicks amendment.

Mr. Chairman, I rise today in support of the Slaughter-Dicks-Horn-Johnson-Morella amendment to the Interior Appropriations bill to give the National Endowment for the Arts (NEA) additional appropriations of $10 million and the National Endowment for the Humanities (NEH) an additional $5 million. The value of the NEA lies in its ability to nurture the growth and artistic excellence of thousands of arts organizations and artists in every corner of the country, making the performing, visual, literary, media and folk arts available to millions of Americans.

Even in this time of fiscal restraint and budget deficits, the value of the NEA cannot be overstated. Additional appropriations are still required, as the NEA is a great investment in the economic growth of every community in the country. A recent study conducted by the Georgia Institute of Technology found that the nonprofit arts industry alone generates $134 billion annually in economic activity, supports 4.85 million full time jobs and returns $10.5 billion to the Federal Government in income taxes. While the economic benefit of the arts industry is integral to our Nation's economy, affording children access to the arts through education yields more significant dividends to our society. The U.S. Department of Justice found that arts education reduced delinquency in San Antonio by 13 percent, increased communication skills of Atlanta students by 57 percent, and improved cooperation skills of Portland youth by 57 percent. In addition, the College Board has shown that college bound students who are involved in the arts have higher overall SAT scores than other students.

The National Endowment for the Humanities is the largest single funder of humanities programs in the United States, enriching American intellectual and cultural life through support to museums, archives, libraries, colleges, universities, state humanities councils, public television and radio, and to individual scholars. A small investment through NEH reaps large rewards, providing seed money for high quality projects and programs that reach millions of Americans each year. This money, and NEH's reputation, leverage millions of dollars in private support for humanities projects. NEH is critical to addressing the Nation's future needs in education. More than two-thirds of our Nation's K–12 curriculum is dedicated to the humanities; 2 million new teachers will be needed in our classrooms over the next decade, and 4 out of 5 teachers feel inadequately prepared in their subject area. NEH summer seminars and institutes address these very issues, and are the catalyst for revitalized teachers for tens of thousands of students each year.

America's creative industries are our Nation's leading export with over $60 billion annually in overseas sales, including the output of artists and other creative workers in publishing, audiovisual, music and recording and entertainment businesses.

The National Endowment for the Humanities plays an important role in the American arts enterprise. NEH grants provide critical funding for work in art history, theory and criticism, including: university based and independent research projects; professional development seminars for K–12 and college teachers; film and radio programs; museum exhibitions and exhibition catalogs; and material culture preservation.

In my home state of Missouri, our Humanities Council currently is planning an array of public programs for distribution in Missouri during the bicentennial of the Lewis and Clark expedition, 2003 through 2006. The planning is supported by grants from the National Endowment for the Humanities and the Missouri Lewis and Clark Bicentennial Commission. The NEH planning grant supporting these trial programs is intended to produce program templates that can be deployed successfully with local participation by Native American spokespersons in Missouri, Kansas, Nebraska, and Iowa, serving communities within a day-trip's distance of the Missouri River. These programs will provide Missouri youth an important lesson in American history in an entertaining environment.

Mr. Chairman, I commend all arts advocates today on their continued dedication to arts in education. I strongly urge for increased resources for arts education in this year's appropriations process.

Ms. SLAUGHTER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York (Mrs. MALONEY).

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

Mrs. MALONEY of New York. Mr. Chairman, I rise in support of this increase, although it is so minimal I hesitate to call it an increase. We have still not recovered from the grave cuts of 1994, but I strongly support this amendment and wish I had time to talk about how important the arts are to New York and this country.

Mr. Chairman, I rise today to voice my enthusiastic support for the Slaughter-Dicks-Horn-Johnson amendment.

The $10 million for the National Endowment for the Arts and the $5 million for the National Endowment for the Humanities will continue the process of restoring Federal funding for the arts to appropriate levels.

It is difficult to call it an increase since the amount is so *minimal.* These organizations have not recovered from the severe cuts of 1994.

NEA funds do more than simply support individual programs, they support entire communities.

NEA funds help encourage private donors to give to a program, so every dollar we spend pays dividends.

When we invest in the arts, entire neighborhoods benefit. Studies show that children who are involved in the arts, concentrate better, learn how to listen and do better in school.

Every community has their own example of a program that has benefitted from NEA grants. I'll give a small example from my district. The New York Ballet Theater received a $15,000 grant from the NEA last year. They are a terrifically innovative program that teaches young people to dance and introduces children to the ballet.

More importantly, they recruit students from the shelter system, along with their more wealthy pupils. Their work has literally saved lives, taking at risk children and giving them a future.

One student, Steven Melendez, a 15-year-old boy from the shelter system, has literally had his life changed. He is a phenomenally talented dancer who has a future because of the New York Ballet Theater. His dancing received national recognition and he has been offered a place at the world renowned American Ballet Theatre. His story shows what a difference NEA funding can make in the lives of our young people.

I urge my colleagues to support the slaughter amendment, to enable the NEA to reach more programs.

In addition, the nonprofit arts industry generates $134 billion in economic activity yearly and over $20 billion in taxes.

Millions of Americans are employed in arts organizations, and they depend on the U.S. Government to continue to fund their industry.

We can help them, help our children, improve our economy, and create an enduring cultural legacy—all by passing this necessary amendment.

I urge my colleagues to support this amendment, to enable the NEA and NIH to reach more programs.

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. HOLT).

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

Mr. HOLT. Mr. Chairman, I rise in support of the Slaughter-Dicks amendment to benefit the National Endowment for the Arts and the National Endowment for the Humanities. The arts and the humanities enrich all of our lives; and as the gentlewoman from New York (Ms. SLAUGHTER) has pointed out, the arts enrich not just our lives figuratively, they enrich us economically. They not only challenge us to think, they deepen our understanding of the world around us and help us to understand ourselves and each other.

Not surprisingly, they help us in a number of other ways, in building spatial reasoning skills and improving performance in math and science in our children, language development and reading skills. The arts and humanities affect every American. In fact, they are central to being American. Our rights of speech and assembly have fueled works of art.

I ask Members to look around this beautiful Capitol building. This symbol of our democracy is a work of art. The NEA provides tens of millions of dollars, along with State arts agencies for more than 7,000, almost 8,000, arts education programs in thousands of communities all over America, large and small towns. The NEA offers lifetime learning opportunities through a range of public programs.

This budget-neutral amendment represents a small, but meaningful, increase for the arts and humanities. The arts give back to all of us many times over. This is not enough funding, but at least let us do this much.

Mr. SKEEN. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Chairman, I rise to question this amendment, the fact that if we were awash in money, if we were in a surplus, if we had lots of cash to spread around, I think this amendment might be appropriate. But when it really comes down to it, we have gotten by the original NEA debate in this country. A lot of positive changes have happened. A lot of the things that upset the American public have been changed. But is it really a priority in America to have almost a 10 percent increase in the arts when we have an economy that is in trouble, when we have poor people in this country who have lost their jobs, we have people underemployed, unemployed? Is this a prudent expenditure of our funds? When we are in economic trouble, is there no line item that can be level-funded? And this is not level-funded; it is increased. Does it really stand up to a test of almost a 10 percent increase? I think not.

The arts and entertainment community in America is the richest of the rich. I applaud them for what they do. But this is a time that they can step up and help expand the arts to all Americans. I find it interesting that those who are vehemently supporting this 10 percent increase oppose across-the-board tax cuts because some of them go to the more successful Americans.

We all know when we cut taxes across the board, we stimulate the economy because we give American employers more money to invest in their businesses. I think it is the wrong time to ask for a major increase. We have gotten by the debate of the past. Let us stay there. Let us not revive that issue at this time when America is struggling to balance its budget. We cannot willy-nilly hand out 9 and 10 percent increases to nice things.

Mr. Chairman, I think it is an inappropriate amendment. I think it is not well thought out. I think it revives the debate we could get by this year if we do not do it. I urge Members to say ''no'' to this amendment. It is the wrong time, the wrong place, and sends the wrong message to the poor of America.

Ms. SLAUGHTER. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, this amendment is completely offset by a very small cut in administrative expenses. Because of the offset, the money is not going to be taken from here and moved over to some worthy cause. This is a worthy cause because we have created this enormous industry in this country that have jobs, economic activity surrounding the arts.

We started this endowment back in 1964. My good friend, Livingston Biddle, was the staff person who worked with Senator Pell to get this thing created. Ever since then, we have seen the growth of the arts throughout the country because of the seed money that comes from the endowment. Even with this 10 percent increase, we are still 30 percent below where we were in 1994. If we had inflation, it would be 50 percent below. We are just trying to get back to a reasonable level of funding, and this House supported this amendment last year. I urge a vote for it this year.

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

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

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

Ms. WOOLSEY. Mr. Chairman, I thank the gentleman from New Mexico (Mr. SKEEN) for all the gentleman has done over the years. But despite how much I like the gentleman from New Mexico, what an embarrassment. Once again, the House of Representatives is considering a Department of Interior appropriations bill that does not sufficiently fund the arts and the humanities.

Funding for the National Endowment for the Arts was cut dramatically in 1995 by more than 40 percent, and it has never returned to adequacy. Shame on us.

Opponents of this amendment call for fiscal discipline, as if the richest Nation in the world needs to be culturally impoverished. Shame on us.

We all know that it is not the lack of money that keeps funding for the NEA and the NEH so low, because the funding we invest provides a huge economic return on our Federal investment, both in dollars and in jobs. According to a recent study by Americans for the Arts, the nonprofit arts industry generates $134 billion in economic activity every year, creating more than 4 million jobs. The arts industry is a money maker, not a money taker. Another study, this one by the Arts Education Partnership, provides hard evidence that children who participate in the arts improve their critical learning skills in math, reading, language development, and writing. In addition, NEA funds programs like Positive Alternatives for Youth, which lowers the rate of juvenile crime by creating artist-led after-school programs for our youth.

When we deprive the NEA or the NEH of needed funds, we deprive this entire Nation of an active cultural community. It is a battle that has been going on since the stockades were used to control creativity in Puritan times, and it is absolutely wrong-headed.

The arts teaches us to think, encourages us to feel and see and to look in

different ways. This is a good amendment, and it must be passed.

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. SOLIS).

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

Ms. SOLIS. Mr. Chairman, I also rise today in support of the Slaughter-Dicks amendment, which would increase the funding for the National Endowment for the Arts by $10 million and the National Endowment for the Humanities by $5 million.

In our country, 76.2 million adults attend performing arts events or exhibition events every year. Arts and humanities play a big role in our lives.

This year I had the honor of serving as co-chair with the gentleman from Florida (Mr. FOLEY) for the Congressional Arts Competition. Not too long ago, we had 308 students from across this country come here and exhibit their artwork. We were all very proud to see them here, for them to realize their talents and skills, and to maybe someday think that they could also receive a grant to continue their profession.

I cannot tell Members how heartfelt it was for me to see a student from my district compete in this competition and know that they have a career ahead of them. Coming from a life of poverty, living in a trailer park could somehow be able to actualize their talents and skills. I think we need to support this amendment. We need to continue to increase funding, especially for our young, disadvantaged youth that were discussed earlier. Let us not leave any child behind. Let us give them an opportunity to participate in a civic way in the arts, to give good examples and allow them to extend their talents and share that with the entire world.

NEA funds 249 grants throughout the country called the Challenge American Positive Alternative Youth Program. I am in support of this program. Just remember, Members, when we walk through the tunnel between our buildings and the Capitol, look at the artwork. Think about what young people have been helped, and let us give them a chance to be a part of the artistic discoveries in our country.

Mr. SKEEN. Mr. Chairman, I yield 3 minutes to the gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Chairman, in listening to this debate, Members would think that in fact prior to the establishment of the National Endowment for the Arts, prior to the hundreds of millions of dollars that we have taken away from our taxpayers and given to that organization, if we do not pass this amendment, there will be no art.

All of the wonderful things that art has done through our history has been recounted by the supporters of this particular amendment. Of course, who can argue that art is not a good thing? It is a great thing. It is a wonderful thing. I am all for art. And I can assure Members, if we defeat this amendment, and if we struck all funding for the National Endowment for the Arts, there would still be art.

□ 1415

It actually existed before the National Endowment for the Arts. It actually was able to thrive, to be nurtured by individuals, to somehow find its way into the public life before the National Endowment for the Arts and certainly before this amendment was even thought of.

We have heard over and over again about the effect of art on students, that they learn more. The effect of art on the general population, that we are all somehow made better individually as a result of having art out there. That is probably true. I will not even deny that there is some effect on children's learning, on just the general nature of the population if you have a lot of art available to you. I have heard these things stated so far: It changed their lives, elevated their thinking, improved their test scores. It is about inspiration.

Mr. Chairman, every single one of those things can be attributed to another aspect of our culture, and that is religion. As a matter of fact, children who come from religious households do score better on test scores. It is something that improves all of our lives, at least I believe. So why do we not appropriate $100 million a year to religion? It does all of the same things that this particular amendment does or that the National Endowment for the Arts says they do, but, of course, we do not appropriate money to religion because we would then argue about whose religion should be centered and identified and given the money. You are right. We should not do that. We should not appropriate money for religion. We should not appropriate money for the arts because it is in the eye of the beholder as to what is art. And to take money away from somebody in my district to determine what somebody in your district thinks is art is, I think, unfair.

This amendment is, of course, unfair. The National Endowment for the Arts, as far as I am concerned, should not be funded at all. Certainly it should not be given the opportunity to have another grab at the apple.

Ms. SLAUGHTER. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, think about where we stand in the world today with our concentration of wealth and power. It is comparable almost to the great Greek and Roman civilizations.

But what do we remember about those civilizations? It is their art, their striving for their greatest aspirations of the human spirit. We want to leave that to our future generations. Sure, the private sector could do it. But let me tell you about Denyce Graves, one of the greatest opera singers we have today. She grew up in Washington, D.C., a few blocks away from the Kennedy Center. But if she could, if we allowed it, she would be on the floor today telling us the Kennedy Center might as well have been a world away because she could never have gotten to the Kennedy Center if she had not gotten an NEH grant to be able to perform. It was that grant that was invested in the District of Columbia that gave her the opportunity to show what she was capable of. There are thousands, maybe millions, of people all over the country that have benefited from this ability to leverage money in arts throughout America, in our smallest communities and our largest communities. This is something we will be proud of for generations to come.

Let us better fund the arts. Vote for the Slaughter-Dicks amendment.

Ms. SLAUGHTER. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I thank the gentlewoman for yielding me this time. I have listened intently to this argument, to this debate, and to this discussion.

I represent a district that is rich in diversity, rich in pluralism, rich in people from different walks of life, different backgrounds. What this program activity does is provide for people to understand each other better, to know what is going on with other people, to know what is in their thoughts and minds and ideas. And so we are not talking about funding a program. We are talking about funding a way of life, to help keep America the diverse, understanding, pluralistic Nation that it is and that is what happens.

The Illinois Humanities Council does an outstanding job of bringing people together throughout our State. I guarantee you that my residents, the people I represent, would want us to fund this amendment. I am pleased to stand and speak in favor of it and urge its passage.

Mr. Chairman, I rise in support of the Slaughter amendment to increase funding for the National Endowment for the Arts and the National Endowment for the Humanities.

Mr. Chairman, as the country becomes more diverse and more pluralistic it is important, necessary, as a matter of fact, it is absolutely essential that we find ways to acquaint each other with cultural contributions, mores and folkways of different groups within our society and although we recognize the economic plight of our nation, we know that inordinate resources must be devoted to anti-terrorism and homeland security measures but we also know that education and the transference of understanding are necessary to maintain and grow our democracy.

Mr. Chairman, I represent an area rich in diversity and rich in understanding of the need to pay attention to not just programs; but also to a way of life, a way of life that keeps alive the American dream and a way of life that keeps music, art, culture and hope ever present in our lives.

Mr. Chairman, the Illinois Humanities Council and others like them throughout the nation do outstanding jobs of dividing and allocating these resources, they spread them around and we get the biggest bang for our bucks; therefore, Mr. Chairman, I urge my colleagues to vote in favor of this amendment, the Slaughter-Dicks amendment.

Ms. SLAUGHTER. Mr. Chairman, I yield 1½ minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Chairman, I rise in support of this amendment. All of the civilizations throughout history which we want our children to study and which we admire, every one of them subsidized the arts at the national level. We should do no less. If we have any respect for ourselves and respect for our place in history, we ought to have an understanding of the importance of art in the development of our culture and the expression of ourselves as a people around the world.

A gentleman recently on that side of the aisle said that there was art here in the United States prior to the National Endowment for the Arts. To an extent, that is true. But that art was limited. It was limited to the elites, to small groups of the wealthiest and best situated people. The National Endowment for the Arts and the National Endowment for the Humanities brings the humanities and the arts to people all across this country. The funding that is in this bill and that which would be increased by this amendment goes out to virtually every congressional district across America, thereby benefiting the people, in elementary schools, in secondary schools, and communities all across this Nation.

Finally, if this amendment is passed, the amount of money that it adds to this bill will still not bring us to the level of support that the arts and humanities enjoyed in 1993–1994. We need to pass this amendment. We need to express ourselves as a people in this positive way. We need to show Americans across this country that we appreciate arts, the arts and artists, and show people around the world that we are a human country and appreciate and expound this great expression of ourselves as a people.

Ms. SLAUGHTER. Mr. Chairman, I yield myself such time as I may consume to refute what was said by a previous speaker, that the NEA does not have a distribution formula. It is very important, I think, that we get this information out to the populace here. As we have said, the NEA serves every nook and cranny of the United States. Forty percent of the total budget is distributed to all of the 50 States through the State arts agencies and distributed at the State level. That is 40 percent of it. The remaining 60 is awarded from the NEA at the Federal level and the distribution formula says that no individual State can get more than 15 percent of the NEA's budget.

I wish that people could understand that because this again comes up year after year.

Mr. Chairman, I yield the balance of my time to the gentleman from Washington (Mr. DICKS).

The CHAIRMAN. The gentleman from Washington is recognized for 2¼ minutes.

Mr. DICKS. Mr. Chairman, I think this has been a very lively debate today. I want to commend all the speakers who have spoken on support for the arts and I want to even commend the positive attitude of the people who have reservations about this amendment but who also say that they strongly support the arts in our country. I have been on this subcommittee a long time, this is my 26th year. Before that, I worked on the staff of Senator Warren Magnuson, and have followed the National Endowment for the Arts almost from its inception.

The point that I want to make is that this investment has caused a tremendous explosion in private funds in support of the arts. Now we see with this newest study that this has become a $134 billion industry, providing 4.5 million jobs in this country, at a time when we are in a recession. I think this is a very prudent investment. We are increasing the funding here by $15 million, $10 million for the arts, $5 million for the humanities. It is completely offset by a very innocuous reduction in administrative expenses. If my friend from Washington finds that onerous, we will fix it in conference, okay? So just to make sure, nobody is being hurt here. This is a positive amendment that will do a lot for our country.

I was at the opening of the Museum of Glass in Tacoma, Washington, a facility constructed at the leadership of George Russell. I saw young children in the glass art center creating glass art. We have had kids in Tacoma who used to be juvenile delinquents now are leading a program in creating glass art. This is something that is important for every young person in this country. Education is enhanced by the arts and humanities.

This is a very modest amendment. It is a chance for us to say to the endowments that they have done a good job, have listened to the Congress, have adopted the reforms that the gentleman from Ohio (Mr. REGULA) and I and the gentleman from New Mexico (Mr. SKEEN) have proposed over the years to correct the problems. They are emphasizing quality. This is an administration that is also strongly committed to the arts. I think this is a small amendment but a good one. Let us approve it and let us move on.

Mr. SKEEN. Mr. Chairman, I yield the balance of my time to the gentleman from Washington (Mr. NETHERCUTT).

The CHAIRMAN. The gentleman from Washington is recognized for 5½ minutes.

Mr. NETHERCUTT. Mr. Chairman, I am pleased to close on this debate. It has been a good debate. I appreciate the tone from all parties who spoke very fervently about their belief in the arts and their support of the arts.

I would argue that there is not one person in the House of Representatives who does not support the arts. Period. The question is, does everyone support a $10 million increase in the National Endowment for the Arts? I think we have to make sure everybody understands that this is an issue of how much can we afford. How much can we spend on different accounts in this particular bill? I would argue, Mr. Chairman, that we have got $116 million in this bill, about a $1 million increase over last year, which last year was about an $11 million increase over the year before. I guess my thinking is, it can never be enough. If you really want to take the arguments of the proponents of this amendment to their logical extension, it will never be enough. I would argue that this is enough at this time, at this place, given the circumstances of this bill, given the circumstances of our economy and our national priorities.

Much has been made of Members saying, well, we have to treat the Federal Treasury like our family budget. I would argue to you that if you got your mortgage and you got your food and your transportation and all the other necessary accounts to run your family, that maybe you say at some point, ''Until things get a little better, I'm not going to go to the movies this weekend. In fact, I'm going to stay home and read a book.'' I think that is what we have to do with this amendment. We have to say, $116 million is enough. It is enough. And we do not need at this point to spend another $10 million just to demonstrate our commitment to the arts in this country.

Very few speakers today spoke of the direct relationship between the NEA and their love of the arts. We can love the arts, and we all do. We all appreciate the value of music and artistic expression. It is valuable. But I hasten to point out, we spend 20 percent of the $116 million on the administrative cost of the NEA. I know this amendment speaks to that, but still we are spending 20 cents, 25 cents out of every dollar spent on the NEA in administrative cost. My argument is in this amendment let us stick to the balance that has been provided by the chairman, by the ranking member, by the entire full Committee on Appropriations when we reported this bill out.

The gentleman from Washington said it is an innocuous reduction in the Department of Interior accounts. I would argue that reduction in land management for fires, for Indian Health Service, for BIA education or other accounts that this will come out of in the land management agencies for us in the West is not the right time to spend more money on arts and less money on the administration of fire suppression and other accounts that this is likely to be taken out of. So I would argue that this is not innocuous. It is not an innocuous addition. It is $10 million of addition to this account that already has $116 million.

I would just say this. We can be relatively assured, I will say almost positively assured, that the other body will want to add even more than this. I know that satisfies some Members who want more money. But if we are going to be fiscally responsible and if we are going to keep the balance in this bill and we have relatively, even most likely, the assurance that the money is going to go in in even greater amounts when we get with the other body in conference, I say hold the line.

□ 1430

On this day, at this moment, with these pressures on our economy, with these pressures on our homeland security, on our post-September 11 activity, with the recession that we are trying to come out of in this country, let us not spend money to go to the movies; let us say, let us stay home and read a book. I argue that these Department of Interior accounts that are being cut today are going to have a greater impact on reducing spending and administration of existing accounts for Members of the House of Representatives than will this particular $10 million increase affect Members in a similar manner.

So I would just say I think again, the argument has been in favor of the arts and we all favor the arts. The challenge that the proponents have to exercise is, is this NEA distribution, the money going to the Federal agency, going to have the same impact that $10 million might have in other accounts of the interior agencies that are affected by the amendment of the gentlewoman from New York and the gentleman from Washington.

I respect their commitment, let there be no mistake. I know they feel strongly about this. But I think the rest of us must feel strongly about protecting the Federal purse, protecting the integrity of the appropriations process, protecting the integrity of the challenge, the pressure that is going to be on the land management agencies as we have droughts and natural disasters and challenges to Indian health service and Indian education and all of the other accounts that are part of the interior bill.

Mr. Chairman, I would urge the defeat of the amendment.

The CHAIRMAN. All time has expired.

(By unanimous consent, Mr. NETHERCUTT was allowed to speak out of order.)

LEGISLATIVE PROGRAM

Mr. NETHERCUTT. Mr. Chairman, I would advise the Chair and the Members that after this series of votes, we will continue with amendments to title I under regular order. Then we will proceed to title II under regular order. Members are asked that if they have amendments to title I and the remainder of the bill, to come to the floor and submit their written amendments to the desk.

Mr. BLUMENAUER. Mr. Chairman, I come to the floor today to support this critical amendment to increase funding for the National Endowment for the Arts and the National Endowment for the Humanities.

A similar amendment passed on the House floor last year and I hope we are again able to demonstrate clear congressional support for arts and humanities funding today.

From the beginning of my political career, I have worked to increase funding for the arts and appreciation for the public value they add to our communities.

As a local county commissioner I crafted the first local government ''percent for art'' program and saw first-hand the multiplier effect it had on investment in the arts.

In Oregon, the arts and cultural industry has a tremendous economic value. The non-profit arts industry alone employs more than 28,000 people and generates $64 million annually.

Nationally, the nonprofit arts industry pumps $134 billion into our economy every year and provides a huge economic return on our small federal investment.

This industry provides 4.85 million jobs; $89.4 billion in household income; $10.5 billion in federal income tax revenues; $7.3 billion in state government tax revenues; and $6.6 billion in local government tax revenues.

The arts and humanities have more than an economic impact—they enrich our neighborhoods, our schools and our cities;

Each year, NEH grants are awarded in every U.S. state and territory, going to nonprofit cultural institutions such as museums, archives, libraries, colleges, universities, research centers, and state humanities councils; to film, television and radio producers; and to individual scholars.

Providing strong federal funding is also what the majority of the American public expects from Congress.

79 percent of Americans believe that ''there should be federal, state, and local councils for the arts to . . . provide financial assistance to worthy arts organizations.''

Unfortunately Since 1995, when funding for the NEA was reduced by 40 percent, the NEA has had to cut most grants to individual artists, funding for seasonal support, and has had to limit the scope of their focus dramatically.

Yet this is about far more than money and public opinion. The arts and humanities are what make a community vibrant, unique and lively.

Today's modest yet effective increase in the Interior Appropriations bill will help improve our federal commitment and is vital to promoting livable communities where our families are safe, healthy and more economically secure.

I urge my colleagues to support the Slaughter-Dicks-Horn-Johnson amendment to increase arts funding.

Mr. UDALL of New Mexico. Mr. Chairman, I rise this evening in support of the Slaughter-Dicks-Horn-Johnson-Morella amendment to the fiscal year 2003 Interior Appropriations bill. This amendment will give $10 million to the National Endowment for the Arts (NEA) and $5 million to the National Endowment for the Humanities (NEH).

Funding from the NEA and NEH leverage millions of dollars each year in private support for arts projects all across the country. We also know that arts education has been proven to increase skills in math, reading, language development and writing.

While New Mexico proudly proclaims itself as the State of many cultures—some call it a melting pot, others a mosaic—we all have at least one thing in common, and that is keeping together our strong connection to the history and traditions of our State through the arts. Funding through the NEA and NEH have showcased numerous Native American, Spanish, Mexican, and Anglo cultures by artists young and old.

Mr. Chairman, the NEA has approved thousands of dollars in federal funding for several arts organizations located in my Congressional District and throughout New Mexico. I would like to highlight a few of those organizations:

Santa Fe Opera—$50,000. Funding will support the American premiere of the opera L'amore de loin by Finnish composer Kaija Saariaho with libretto by French-Lebanese author Amin Maalouf. Approximately 6,000 persons are expected to attend three performances of the opera at the Santa Fe Opera Theater.

New Mexico CultureNet, Santa Fe—$30,000. Funding will support a project called InterLAC which links local arts councils throughout New Mexico via web-based services, workshops, and an annual conference.

Taos Talking Pictures—$7,500. Funding will be used to support the Taos Talking Picture Film Festival. The spring event showcases films by independent filmmakers working in all genres.

Pueblo of Zuni—$20,000. Zuni Fish and Wildlife Department. Funding will support an architectural design for an eagle aviary compound. In this second phase of the project an eagle breeding ground, visitor facilities, orchards, and landscape features will be added to the existing facility.

When it comes to private partnerships between private, state and federal funding of the arts by requiring that these grant recipients match federal monies dollar for dollar, the NEA set an outstanding example. According to the NEA, one federal dollar attracts $12 or more from state and regional arts agencies as well as corporations, businesses and individuals.

These are just a few of the many projects that funding through the NEA and NEH go to support. I'm sure that every member of this chamber could share similar project successes in their respective districts. I would like to remind my colleagues that a similar amendment passed the House on June 21, 2001 by a bipartisan margin of 221–193 in last year's Interior bill.

I urge my colleagues to support this important amendment.

Mr. SHAYS. Mr. Chairman, I rise in strong support of the Slaughter-Dicks-Horn-Johnson amendment to increase funding for the National Endowment for the Arts and the National Endowment for the Humanities.

I support this modest amendment and believe increased funding would have an enormous impact by bringing the arts to underserved communities, like our inner-cities and rural areas, and by encouraging more support for preserving and promoting our cultural heritage.

Federal funding helps symphonies, theaters, musical productions, ballet and educational programs.

I grew up in an arts family. My mom and dad, both performing actors, met in the theater. I know the arts make a significant contribution to our lives.

The arts improve the lives of many people, including children, the elderly and those on a

limited budget, who might not otherwise have the opportunity to see some very beautiful and enriching performances. And federal funding helps enable talented individuals to pursue careers in the arts.

Besides the cultural benefit, the economic impact of the arts is staggering.

I urge you to support the amendment and increase funding for the NEA and NEH.

Mr. SCHIFF. Mr. Chairman, I rise in support today for this modest bipartisan amendment offered by Representatives SLAUGHTER, DICKS, HORN, JOHNSON and MORELLA to increase funds for the National Endowment for the Arts and the National Endowment for the Humanities.

As a Member of the Congressional Arts Caucus, I value the tremendous role arts funding and arts education programs play in the lives of our citizens.

Several academic studies demonstrate the connection between music, dance, visual arts, and the development of the human brain. It is well known among researchers that arts education cultivates critical thinking skills so important in our information age economy.

Let me tell you about some of the programs in my community that received NEA and NEH funds this past year.

Artist-in-residence programs in elementary schools to encourage student and teacher involvement. A program in my district that incorporates traditional music and dance from diverse cultures to improve student relations, coordination and memory. An amateur chamber orchestra. A fellowship program at a library and museum for art instructors who will, in turn, teach our artists of tomorrow.

But this debate is not simply about the arts alone. Children who learn to read music or play an instrument show improved proficiency in math.

This increase of $15 million under the Interior Appropriations for the NEA and NEH will go to fund so many rich programs offered and so many opportunities for us all.

Last month, an economic study, Americans for the Arts, found that America's nonprofit arts industry generates $134 billion in annual economic activity. This number includes full time jobs, household income and local, state and federal tax revenue. This study includes more than $80 billion in event-related spending by audiences. This is additional clear evidence that opportunities funded through NEA and NEH continue to bring us to new levels in our economy, culture, language, music, art and life.

By supporting the arts and the humanities, the Federal Government has the ability to partner with state and local efforts to bolster the arts and educational opportunities in our communities.

Mr. FARR of California. Mr. Chairman, today we debate the level of our federal commitment to arts and humanities programs. We have an opportunity to ensure that the children who today dip their hands in pots of fingerprints and sit listening to storybooks will grow up to be active members of a creative nation, rich and beauty and ideas.

We all deserve arts and humanities.

All children and adults deserve the opportunity to learn to create, to express their ideas and their visions. They deserve the opportunity to learn history, languages, philosophy, painting, sculpture, music, and dance.

We all need arts and humanities.

Arts and humanities do more than just offer us entertainment and distraction from turmoil in our lives, they provide insight and perspective, they offer comfort and hope.

Arts and humanities give us ways to understand and find meaning in what is happening in our nation, and what has happened centuries ago. They give us ways to share that meaning with our children.

Last September, we witnessed some use their ability to destroy against our nation. We have endeavored to find ways to honor those who lost their lives in the destruction. I think one way to do so today is to support our nation's ability to create.

I proudly support the Slaughter-Dicks-Horn-Johnson-Morella amendment to increase funding for the National Endowment for the Arts and the National Endowment for the Humanities, and I ask my colleagues to do same.

Mr. NADLER. Mr. Chairman, I rise in strong support of the Slaughter, Dicks, Horn, Johnson amendment. Funding for the arts is one of the best investments our government makes. In purely economic terms, it generates a return that would make any Wall Street investor jealous. For just a fraction of one percent of the entire federal budget, the National Endowment for the Arts supports a thriving non-profit arts industry which generates more than $134 billion annually, nearly 5 million full-time jobs and returns $10.5 billion in federal taxes each year.

With grants that touch nearly every Congressional district in the country, the NEA supports educational programs that teach children valuable life-long skills; allows new and innovative art to find an audience; helps bring the arts to under-served communities; enables organizations to share their exhibitions and performances with the rest of the nation through national tours; and most important, provides crucial seed money for organizations to leverage private donations.

Yet the NEA continues to suffer from the shortsighted decision by Congress to slash its funding back in 1996, after attempting outright elimination. It has been forced to do more with less and despite consistent under-funding, it has been an efficient and productive agency. However, we should at least restore the NEA to its pre-1996 levels and we should be considering an increase over that level, not the paltry funding it has had since then. Only through increased public support can the arts continue to be so vibrant throughout the nation.

The NEH, too, is a crucial agency but without additional funding, the important work of interpreting and preserving our nation's heritage will go unrealized. The NEH is at the forefront of preserving endangered recordings of folk music, jazz and blues; bringing Shakespeare to inner-city youth; promoting research into immigrant life and culture; and helping disseminate this information into communities through technology with the Internet and CD–Rom.

The arts and humanities also provide the emotional and spiritual lift that we have all needed since September, helping us heal in profound ways. In the wake of the attacks on our nation, people flocked to theaters, music halls, and museums for a sense of community and emotional release. The arts and humanities are also a critical tool in promoting cultural understanding, something that is sorely needed in the world today.

In the wake of September 11th, I convened a discussion of the many arts organizations in lower Manhattan that had been devastated after the attacks. At that meeting, an artist named Brookie Maxwell gave a powerful testament to why additional arts funding is needed. She said, ''We need funding for the arts so we can process what happened. Art addresses the meaning between the words, and it addresses the mystery of life.''

Mr. Chairman, I can think of no better words to sum up why this amendment is so sorely needed and I urge my colleagues to adopt it.

Mrs. ROUKEMA. Mr. Chairman, I rise in support of this amendment which provides for a modest increase of funding for the National Endowment for the Arts (NEA) and the National Endowment for the Humanities (NEH). Mr. Speaker, this year we have spent much time and energy improving our education system with the No Child Left Behind Act. I am proud of the work we have done. Yet we cannot leave the arts behind—exposure and understanding of the arts is vital to our children's development and we must properly fund the NEA and NEH to accomplish this.

The NEA supports local communities in our states and creates many educational outreach programs which enrich the cultural world of our children. The NEH serves to advance the nation's scholarly and cultural life by providing humanities education to America's school children and college students, offers lifelong learning opportunities through a range of public programs and supports projects that encourage Americans to discover their American heritage.

The most important function of the NEA and NEH is their role in education our children. Studies continue to illustrate the positive impact that exposure to arts has on a child's development. A recent study released by the Arts Education Partnership entitled Critical Links, provides hard evidence that the arts improve critical skills in math, reading, language development, and writing. The arts nourish a child's imagination and creativity and help develop collaborative and teamwork skills.

But arts in education is not only important for student achievement. Arts have also been shown to deter delinquent behavior of at-risk youth. The U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention found that arts programs that were geared toward at-risk youth dramatically improved academic performance, reduced school truancy, and increased skills of communication, conflict resolution, completion of challenging tasks, and teamwork.

In a time when we are searching for innovative ways to combat violence in our schools, studies such as the one I just cited demonstrate the positive effects that arts education can have on behavior.

Congress affirmed the critical role of arts education when it passed the No Child Left Behind Act. This landmark education reform legislation recognizes the arts as one of the core subjects that all schools should teach. We must ensure that arts remain a part of our children's educational development. Investing in our children's future is necessary. I commend the NEA and other fine programs for their work to improve the quality of education in America.

A good deal is being said (and circulated) about what some consider the sponsorship of questionable art by the National Endowment

of the Arts. I do agree that the federal government has no business subsidizing works of ''art'' that are lewd or that depict our religious figures or symbols in an objectionable manner.

But let me remind you that Congress has taken the necessary steps to ensure that the NEA is precluded from funding such offensive projects. For example, in 1996 Congress eliminated most individual grants and prohibited the use of NEA funds for projects that depict sexual activities or denigrate religious objects. In 1990, I served as Republican leader of the subcommittee that re-wrote NEA regulations to establish a new, decency standard and outlawed NEA support for projects with controversial sexual and religious themes.

We have this debate every year. The NEA we debate about today is the reformed NEA—not the NEA of the past. The NEA of today supports good programs that use the strength of the Arts and our nation's cultural life to enhance communities in every state in the nation. However, the NEA is still being punished for its past and is still funded at levels that are significantly lower than the funding levels of a decade ago.

I urge my colleagues to support the amendment and ensure that arts remain a part of our children's educational development.

Ms. DELAURO. Mr. Chairman, I rise in strong support of the Slaughter-Dicks amendment to provide increased funding for the National Endowment for the Arts and the National Endowment for the Humanities.

These agencies are charged with bringing the history, the beauty, the wisdom of our culture into the lives of all Americans—young and old, rich and poor, urban and rural. We in Congress have said that preserving our national heritage, and bringing the arts into the lives of more Americans, is a goal worthy of our support.

For the past two years, we have made an important investment in the NEA's Challenge America program. This program focuses on arts education and enrichment, after-school arts programs for youth, access education and enrichment, after-school arts programs for youth, access to the arts for underserved communities, and community arts development initiatives. This initiative has helped strengthen America's communities and foster new relationships between communities, state and federal agencies, and national organizations. We make sure that these vital agencies have the resources they need to continue and expand the impact of the arts.

Many years ago, I spent seven years as the chair of the Greater New Haven Arts Council back in Connecticut. I know first hand that the arts not only enrich lives, but contribute to the economic growth of the community.

Federal investment in the arts is not the only means of support for this endeavor. Rather, our dollars—which represent only a small fraction of our annual budget—are used to leverage private funding and fuel what is really an arts industry. This industry creates jobs, increases travel and tourism, and generates thousands of dollars for a state's economy.

In addition, the NEA is an important partner in bringing arts education to more American students. Arts education is critical in planting seeds of art appreciation and in cultivating the talent that may have yet to be discovered in these young minds. The Endowment, in partnership with state arts agencies, provides $37 million of annual support for Kindergarten through 12th grade arts education projects in more than 2,600 communities across the country. It also funds professional development programs for art specialists, classroom teachers, and artists.

Recent studies have shown that the arts have real value in restoring civility to our society and providing our children and communities real alternatives. Participation in arts programs helps children learn to express anger appropriately and enhance communication skills with adults and peers. Students who have benefitted from arts programs have also shown better self-esteem, an improved ability to finish tasks, less delinquent behavior, and a more positive attitude toward school. We must continue to support this effort to bring the arts and humanities into the lives of our young people.

We know that the arts build our economy, enrich our culture, and feed the minds of adults and children alike. The NEA and NEH need this increase to fulfill their missions, and it's time we gave them this support. Vote for this amendment. Preserve our heritage and make it accessible to all.

Mr. CASTLE. Mr. Chairman, I rise today in support of the Slaughter-Dicks-Horn-Johnson-Morella Amendment to increase funding for the National Endowment for the Arts and the National Endowment for Humanities. The arts and humanities are important both socially and economically to our Nation as a whole.

Studies have shown students benefit from exposure to both the arts and humanities. They gain not only a better cultural appreciation but are able to translate their positive experiences into skills that are essential for their academic future and their future in the American workforce.

Arts and humanities funding are increasingly allocated to state agencies for grant programs that reach out to underprivileged and smaller suburban and rural areas that do not have the benefits of big city art programs. In correlation, seventy-nine percent of businesses believe it is important to have an active cultural community in the locale in which they operate. Businesses in Delaware work hand-in-hand with the arts and humanities communities. This partnership makes my State a stronger community than it otherwise would be.

I have witnessed in Delaware firsthand how rewarding arts and humanities programs can be to our Nation's youth. For example, the Possum Point Players in Georgetown, Delaware, is funded through the NEA's Challenge American Program. This organization provides positive alternatives for youth in Sussex County high schools through the creation of theater programs for rural and low-income students. Many of these students would not have the opportunity to participate in such programs without the Challenged American Program. These students have better chance to increase their SAT scores, develop increased self-confidence, and are more likely to create multiple solutions to problems and work collaboratively with one another.

Furthermore, the Delaware Humanities Forum, through NEH funding, has played an essential role in bringing humanities to all corners of the state with programs available or schools, businesses, and other community groups. Each year the Humanities Forum presents an annual living history event bringing education and entertainment together. Past events have centered around the Old West and the Gilded Age in American History.

It is important for us to remember, the collective benefits gained by not only our districts but also by the Nation as a whole and that is why I rise today in strong support of increased funding for the NEA and the NEH.

Mr. GILMAN. I rise in support of the Slaughter-Dicks-Horn-Johnson-Morella amendment which calls for increases of $10 million for the National Endowment for the Arts and $5 million for the National Endowment for the Humanities.

Throughout the last 30 years our Nation has been enriched by the Arts. Sophocles wrote: ''Whoever neglects the arts when he is young has lost the past and is dead to the future.'' When Congress supports and appropriates Federal funding for the NEA and the NEH, our Nation's commitment to the future and the freedom of expression if reinforced and reinvigorated.

The NEA and NEH create programming that cultivates and fosters achievement in the arts throughout our Nation. If this funding is not allocated to these important endowments, the freedom of expression enjoyed by every citizen will be jeopardized and inhibited. Progress in the Arts will be imperiled.

We all take pride in America's contributions in the Arts; however, it is important and essential that we secure the promise of future achievements. In addition to applauding our American spirits, and observing that an energetic life contributes to a strong democracy, we must take action to make the arts a priority. This is what is necessary to maintain and improve upon past standards. As integral as the Arts have been to our American heritage, the younger generations must make a sustained effort to support and aid in maintaining this essential facet of our culture and society.

If we reduce funding for the Arts, our Nation would be the first among cultured nations to remove the Arts as a priority. In my role as Chairman Emeritus of the International Relations Committee, I recognize the importance of the Arts on an international level, as they help foster a common appreciation of history and culture that are so essential to our humanity. If we do not meet the needs of the NEA, we would be erasing part of our civilization and breaking possible bonds to others.

Moreover, I understand the importance of the Arts on our Nation's children. Whether it is music or drama or dance, children are drawn to the Arts. Many after school programs provide children with an opportunity to express themselves in a positive environment, removed from the temptations of drugs and violence. Empowering children with pride and passion, they are better able to make good choices and avoid following the crowd down dark paths. However, many children are not able to enjoy the feeling of pride that comes with performing or creating because their school are cutting arts programming or not offering it altogether. We need to ensure that this does not continue to happen. Increasing children's access to the Arts only benefits our Nation and its future.

It is our responsibility to ensure that our children have access to the Arts. Accordingly, I strongly support increased funding for the NEA and NEH. I urge my colleagues to oppose any amendments which seek to decrease NEA funding, and to support the Slaughter-Dicks-Horn-Johnson-Morella amendment.

Mr. DINGELL. Mr. Chairman, I rise today in support of increased funding for the National Endowment for the Arts (NEA) and National Endowment for the Humanities (NEH). Public investment in arts and humanities benefits society in countless ways, including enhancing individual creativity, increasing skills in math, reading, language development and writing, and expanding global relationships and understanding.

President Bush has recommended FY 2003 funding for NEA and NEH at $116 million and $126 million, respectively. It is important to note that NEA's amount is $46 million below its 1995 level. However, the payoff from even this meager public investment is still enormous. In addition to the aforementioned benefits of public funding for arts and humanities, a recent study found that arts groups generate at least $134 billion in economic activity each year, 4.85 million full-time equivalent jobs, $89.4 billion in household income, and $24.4 billion in government taxes. Although NEA and NEH are the sole source off arts funding in some communities, in others, grants from NEA and NEH leverage millions of dollars each year in private support for arts projects.

Last year in Michigan's 16th District alone, NEA awarded two grants totaling $40,000. One of the grants was awarded to the Sphinx Competition in Dearborn, Michigan, an outstanding program that gives young, primarily African American and Latino students, the opportunity to improve their craft, and perform with their peers and professional musicians. I can think of few programs that are more deserving of NEA funding, or that have been as effective in expanding access to classical music opportunities for minority students. Last year, NEH funding was awarded to 13 organizations in my district, mostly to elementary schools which brought live cultural presentations to the students. These programs consisted of a wide diversity of cultural programs from school assembly musical performances to library storytellers. Without these funds, many of these students would not have had the opportunity to be exposed to these culturally enriching activities.

Currently, Americans pay about the cost of a postage stamp to fund these two important programs. Given the important and measurable benefits of exposure to arts and cultural activities, Congress must step up and increase public funding for NEA and NEH.

Ms. HARMAN. Mr. Chairman, I rise today in strong support of the Amendment to the Interior Appropriations bill to increase funding for the Endowment of the Arts and the National Endowment of the Humanities.

Increased funding for NEA and NEH is essential to the Government's role in ensuring the beauty and diversity of the arts are accessible to all our citizens. The arts help children to develop fundamental skills and provide the opportunity for students to excel in academic and social areas. More specifically, the effects of early arts exposure can help to increase a child's motivation to learn about all subjects.

In Venice, CA, which I represent, the Los Angeles Theatre Works stands as an example of what NEA funding can accomplish. The LA Theatre Works not only produces plays but also takes an active role in the Venice community to bring the arts to children in need. Their ''Arts and Children'' program provides hands-on workshops to at-risk youth, encouraging them to develop their talents and channel their energies into the arts.

It is through the funding from NEA and NEH that organizations such as the Los Angeles Theatre Works are able to reach out into communities and touch the lives of children and, in turn, the lives of the rest of us.

Mr. Speaker, I encourage my colleagues to vote for this amendment to ensure that the NEA and NEH continue to provide enrichment to citizens across the country.

Mr. LARSON of Connecticut. Mr. Chairman, I rise today to voice my strong support for this amendment to the FY03 Interior Appropriations bill (H.R. 5093), which would reaffirm our commitment to enriching the education of our children. The Slaughter-Dicks-Horn-Johnson amendment would increase funding for the National Endowment for the Humanities by $5 million and the National Endowment for the Arts by $10 million. These small increases in funding will have a tremendous impact on the quality of education for all children.

As a member of the Congressional Arts Caucus and a former teacher, I understand the importance of the arts and humanities in our education system. More than two-thirds of our Nation's K–12 curriculum is dedicated to the humanities. As the largest supporter of the humanities in the country, the Federal Government, through the NEH, provides access to high-quality educational programs and resources through grants to non-profit cultural institutions such as museums, universities, and State humanities councils. These grants strengthen teaching, facilitate research, and provide opportunities for lifelong learning. It is incumbent upon the Federal Government to maintain its commitment to the humanities if we are to maintain a high level of excellence in our public schools.

The arts create an environment of creativity, expression, and success for children. The NEA nurtures the growth and artistic excellence of thousands of arts organizations all over the country by making the performing, visual, literary, media and folk arts available to millions of Americans. Programs, such as the Arts Learning grants, support projects for children and youth, in school and outside the regular school day and year, in pre-K through grade 12 and in youth arts areas. This project, which partners public education and nonprofit arts organizations, helps to contribute to the incredible economic success of the arts industry. The nonprofit arts industry generates $36.8 billion annually in economic activity and supports 1.3 million jobs.

In my district, the Connecticut's Commission on the Arts uses NEA funding to support its Higher Order Thinking (HOT) Schools Program. The HOT Schools Program is designed to transform entire school communities. The arts, especially writing, play a central role in this change process. School culture focuses on student needs and celebrates each child's accomplishments by sharing them with the larger school community. The program began in 1994 with only six schools and has grown to include over twenty-four schools from across Connecticut involving over 5,000 students and 500 educators.

In recent years, funding for the NEA and the NEH has been slashed—leaving many arts and cultural programs scrambling for funding. For example, in my state of Connecticut, Federal grants dropped from $10 million in 1994 to an average of only $3 million. Such reductions serve as an impediment to accessing and unearthing the country's rich cultural and educational infrastructure. The modest increases proposed in this amendment would help to close the gap created by revenue shortfalls in many states.

The Slaughter-Dicks-Horn-Johnson amendment will serve to only improve the NEA and the NEH. With additional funding, we will be able to preserve programs already in place like the HOT Schools Program, and build upon their successes to create new programs, which will enhance the education of more children.

The NEA and the NEH are integral to our children's educational development. The NEA and the NEH have already suffered from cuts and reductions over the years. It is time to reinvest in these extremely successful agencies and provide America's children with a complete cultural and artistic education. Therefore, I urge my colleagues to join me in voting in favor of this amendment.

Mr. UDALL of Colorado. Mr. Chairman, I rise today in support of the Slaughter-Dicks-Horn-Johnson Amendment to the Department of Interior Appropriations bill to increase funding for the National Endowment for the Arts and National Endowment for the Humanities by fifteen million dollars.

The value of supporting the arts is widely accepted. Art provides a venue for expression and understanding of human thought and emotion. Educators have argued that there are many educational benefits to students enrolled in the arts. Some institutions looking to bridge the gap of understanding between different cultures use art as a universal means of communicating concerns and developing understanding.

The National Endowment for the Arts and National Endowment for the Humanities consistently work to give artists across the country the opportunity to participate in the arts. In fact, forty percent of the money allocated to the national endowment is transferred directly to states so that they are able to fund local programs. In Colorado, money from the National Endowment of the Arts is used to fund the Arts and Education Learning Network which teaches arts organizations how to work with schools, and the Online Poetry Project to help schools address poetry related questions on standardized CSAP exams. The bulk of funding requested in the amendment will go to the Challenge America Program that works to start arts and humanities programs in communities that have yet to receive funding from the Endowment.

Along with the immeasurable value of the contribution of the arts and the humanities as an expression of our culture and of the individual, the arts have proven to have a quantifiable value as well. A study recently conducted by an economist at the University of Georgia of ninety-one communities nationwide showed that communities that spend money on the arts, make money from the arts.

One of the communities in the study was Boulder, CO. It was calculated that just over nineteen million dollars in spending by the nonprofit arts industry in Boulder generated over thirteen million dollars in revenue and income for Boulder businesses, residents and local government, and supported five hundred and ninety-four full time jobs. The arts and humanities bring money and jobs to communities in today's difficult economic environment.

This amendment would allocate necessary funding to a grossly underfunded national arts

program. Support of the amendment is necessary so that arts can continue to bring all of the benefits that come from encouraging and supporting development of the arts.

Ms. PELOSI. Mr. Chairman, today's vote by the House to increase funding for the NEA and NEH is a victory of imagination over ideology.

In recent years, we have worried a great deal about the digital divide—a lack of access to technology that could limit opportunity for lower-income Americans. We should be equally concerned about a creativity crisis.

Studies have proven that arts education is not just a frill tacked on to the vital work of learning reading, writing and arithmetic. Art education increases skills in all of these subjects, as well as in language development and writing and spatial reasoning.

Grants from the National Endowments for the Arts and the Humanities leverage millions of dollars each year in private support for arts projects. In many communities, they are the sole source of arts funding.

This amendment would provide an additional $10 million for the NEA's ''Challenge America'' initiative, which is specifically designed to provide access to the arts for underserved communities. According to the Georgia Institute of Technology, the arts industry generations millions of jobs and $134 billion in economic activity every year.

The amendment also provides $5 million for the NEH—the nation's largest source of support for research and scholarship in the humanities.

I want to make it very clear that this amendment is not an increase in funding, but an attempt to recoup some of the cuts that NEA faced in 1995 when its budget was slashed by 40 percent. There is strong, bipartisan consensus now that those cuts were felt too deeply by some of our most vulnerable young people.

Exposure to the arts through the NEA helps children build confidence in their class work, honors their creativity, and unleashes the power of their imagination. The poet, Shelley, once wrote that the greatest force for moral good is imagination. With the challenges that we face today, we need all the imagination we can muster.

Mrs. MINK of Hawaii. Mr. Chairman, I rise to support the amendment offered by Congresswoman SLAUGHTER to increase funding for the National Endowment for the Humanities by $5 million and for the National Endowment for the Arts' Challenge America Initiative by $10 million.

The National Endowment for the Humanities (NEH) provides grants to every state and territory in the United States to support programs in our museums, libraries, colleges, research centers, and state humanities councils, and to support the work of individual scholars. I have been extremely impressed by the products of the grants awarded in my State, particularly support for Hawaii History Day and National History Day.

NEH grants help to bring the humanities to Americans throughout our nation. NEH grants are also used to improve teaching, support research and scholarship, preserve our nation's historical and cultural heritage through conservation of precious documents and artifacts, and provide access to the humanities through public programs.

The Challenge America Initiative of the National Endowment for the Arts is specifically designed to provide underserved communities with access to the arts. The Initiative supports arts education, youth-at-risk programs, cultural heritage preservation, and community arts partnerships.

Student involvement in the arts has been proven to increase skills in mathematics, reading, language development, and writing. And students who play certain musical instruments demonstrate enhanced development of spatial reasoning skills. The arts have also shown success in improving outcomes for at-risk youth.

Grants from NEH and NEA leverage millions of dollars in private support for the arts and humanities. America's nonprofit arts industry generates some $134 billion in economic activity each year, including 4.85 million full-time equivalent jobs, $89.4 billion in household income, $6.6 billion in local government tax revenues, $7.3 billion in state government tax revenues, and $10.5 billion in federal income tax revenues.

These valuable programs help to promote the arts, humanities, and education in our communities. The relatively small investments made by the federal government in these programs greatly enrich the lives of all Americans.

Mrs. LOWEY. Mr. Chairman, I rise in strong support of the Slaughter-Dicks Amendment, to make important increases to the NEA and NEH.

Before I continue, I must relay my hesitation to use the term ''increase'' when referring to the modest funding this amendment would provide. After all, the NEA and NEH have yet to fully recover from the more than 40 percent cut they suffered in 1995.

We know that the arts are crucial to the development of our culture and our economy, and beneficial to all our citizens. In fact, a recent study showed that the nonprofit arts industry generates $134 billion in economic activity and $24 billion in tax revenue in the U.S. annually. The arts are especially important to New York.

As a former member of the National Council on the Arts, I have seen first-hand the grant selection process, and I applaud the NEA for successfully increasing all Americans' access to the arts, through programs such as ''Challenge America.'' It is vital that we continue to fully support these extraordinary programs.

We must recognize, however, that last year's funding increase was not the conclusion of a struggle, but rather, a first step toward funding the arts and humanities at levels appropriate to them. A $10 million increase to the NEA budget would not only support magnificent artistic work, but would also generate federal revenue and foster local economic activity. Let's use this opportunity to get back to providing a level of resources to the NEA and the NEH of which we can all be proud.

My colleagues, I urge you to support the Slaughter-Dicks amendment.

Ms. SCHAKOWSKY. Mr. Chairman, I rise today in support of the amendment to the Interior Appropriations bill offered by my colleagues, Representatives SLAUGHTER and DICKS, to increase funding for the National Endowment for the Arts by $10 million and the National Endowment for the Humanities by $5 million. There is no question that education about the arts and humanities not only creates well-rounded human beings, but more responsible citizens who contribute to the richness of our cultural heritage.

For many years, under the wise guidance and leadership of my predecessor, Congressman Sydney Yates, Congress understood the cultural and economic importance of federal funding for arts. Yates almost single-handedly protected the arts, and was awarded for his tireless efforts by President Clinton in 1993 with the Presidential Citizens Medal.

Unfortuantely, NEA funding was cut by more than 40 percent in 1995 and, for the most part, has yet to recover, despite overwhelming evidence that the arts contribute greatly to our society and culture. A recent study released by the Arts Education Partnership provides hard evidence that exposure to the arts improves students' critical skills in math, reading, language development, and writing. Furthermore, other studies suggest that for certain populations, including students from economically disadvantaged circumstances, students needing remedial instruction, and younger children, arts education is especially helpful in boosting learning and achievement.

The humanities play an equally valuable role in the education of children and adults. In particular, state humanities councils, which receive NEH funding, have been working for nearly 30 years to educate citizens about our history and culture and stimulate dialogue about contemporary issues of concern. Collaborating with libraries, museums, religious institutions, schools, senior centers, historical societies, and community centers, state humanities councils have served as the single most reliable source of local support for programs that educate citizens for civic life, thereby strengthening the fabric of our democracy.

My district in Illinois greatly benefits from NEA and NEH funding. In 2001, the 9th Congressional District received over $180,000 from NEA through a wide variety of grants. That same year, Illinois received $4.6 million in NEH funding, making Illinois the fourth largest recipient of NEH funds in the country. My constituents reap the benefits of this.

If we are to preserve these programs, and other similar programs all over the country, it is critical that we provide adequate funding for the NEA and NEH. I strongly support increasing the NEA and NEH funding levels by a total of $15 million, and urge my colleagues to support the amendment to do so.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. SLAUGHTER).

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

RECORDED VOTE

Mr. NETHERCUTT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, this 15-minute vote on the Slaughter amendment will be followed by 5-minute votes, if ordered, on the Rahall and Hayworth amendments, in turn.

The vote was taken by electronic device, and there were—ayes 234, noes 192, not voting 8, as follows:

[Roll No. 310]

AYES—234

Abercrombie	Andrews	Baldacci
Ackerman	Baca	Baldwin
Allen	Baird	Ballenger

Barrett
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bishop
Blumenauer
Boehlert
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Ehlers
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Ford
Fossella
Frank
Frelinghuysen
Frost
Gephardt
Gilman
Gonzalez
Gordon
Graham
Green (TX)
Greenwood
Grucci
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kirk
Kleczka
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Napolitano
Neal
Northup
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (MI)
Ross
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Sweeney
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Walsh
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (PA)
Wexler
Woolsey
Wu
Wynn

NOES—192

Aderholt
Akin
Armey
Bachus
Baker
Barcia
Barr
Bartlett
Barton
Bass
Bilirakis
Blunt
Boehner
Bonilla
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Chabot
Chambliss
Clement
Coble
Collins
Combest
Condit
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Emerson
Everett
Flake
Fletcher
Foley
Forbes
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kerns
King (NY)
Kingston
Knollenberg
Latham
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McInnis
McIntyre
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Myrick
Nethercutt
Ney
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Riley
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stump
Sullivan
Sununu
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Vitter
Walden
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—8

Blagojevich
Bonior
Ehrlich
Kaptur
Mascara
McHugh
Nadler
Traficant

□ 1456

Messrs. SULLIVAN, CALVERT, COX, and PICKERING changed their vote from ''aye'' to ''no.''

Mr. ROTHMAN and Mr. PAYNE changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

PARLIAMENTARY INQUIRY

Mr. DICKS. Mr. Chairman, point of order.

The CHAIRMAN. The gentleman from Washington will state his point of order.

Mr. DICKS. Mr. Chairman, is this the Rahall amendment coming up?

The CHAIRMAN. The Chair would tell the gentleman that it is, yes.

AMENDMENT OFFERED BY MR. RAHALL

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from West Virginia (Mr. RAHALL) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 281, noes 144, not voting 9, as follows:

[Roll No. 311]

AYES—281

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baker
Baldacci
Baldwin
Barcia
Barrett
Bartlett
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Bishop
Blumenauer
Blunt
Boehlert
Bono
Boozman
Borski
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Burr
Calvert
Camp
Capito
Capps
Capuano
Carson (IN)
Carson (OK)
Chambliss
Clay
Clayton
Clement
Clyburn
Collins
Condit
Conyers
Cooksey
Costello
Coyne
Crane
Crowley
Cubin
Cummings
Cunningham
Davis (CA)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dingell
Doggett
Dooley
Doyle
Dreier
Duncan
Edwards
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Foley
Ford
Fossella
Frank
Frost
Gallegly
Gephardt
Gibbons
Gonzalez
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hayworth
Hefley
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Honda
Hooley
Houghton
Hoyer
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jackson-Lee (TX)
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Knollenberg
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Napolitano
Neal
Ney
Norwood
Nussle
Oberstar
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Petri
Phelps
Pickering
Pombo
Pomeroy
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Rehberg
Reyes
Rivers
Rodriguez
Rogers (MI)
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Scott
Serrano
Sessions
Shaw
Sherman
Shows
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stump
Stupak
Tanner

Tauscher
Tauzin
Taylor (MS)
Terry
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Walden
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weller
Wexler
Wilson (NM)
Woolsey
Wu
Wynn
Young (AK)

NOES—144

Aderholt
Akin
Armey
Bachus
Ballenger
Barr
Barton
Bass
Biggert
Bilirakis
Boehner
Bonilla
Boyd
Brady (TX)
Brown (SC)
Bryant
Burton
Buyer
Callahan
Cannon
Cantor
Cardin
Castle
Chabot
Coble
Combest
Cox
Cramer
Crenshaw
Culberson
Davis (FL)
DeLay
DeMint
Dicks
Doolittle
Dunn
Ehlers
Emerson
Everett
Flake
Fletcher
Forbes
Frelinghuysen
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Herger
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Isakson
Jackson (IL)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kerns
Kingston
Kirk
Kolbe
LaHood
Latham
Lewis (CA)
Lewis (KY)
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Northup
Obey
Ose
Pence
Peterson (PA)
Pitts
Platts
Portman
Pryce (OH)
Putnam
Radanovich
Regula
Reynolds
Riley
Roemer
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Ryun (KS)
Sabo
Schaffer
Schrock
Sensenbrenner
Shadegg
Shays
Sherwood
Shimkus
Shuster
Skeen
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sununu
Sweeney
Tancredo
Taylor (NC)
Thomas
Thornberry
Tiahrt
Tiberi
Upton
Vitter
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Whitfield
Wicker
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—9

Blagojevich
Bonior
Ehrlich
Holt
Kaptur
Mascara
McHugh
Nadler
Traficant

□ 1505

Mr. ROGERS of Michigan changed his vote from ''no'' to ''aye''.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated against:

Mr. KNOLLENBERG. Mr. Chairman, on roll-call No. 311, I inadvertently voted "aye." I meant to vote "no".

AMENDMENT NO. 11 OFFERED BY MR. HAYWORTH

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Arizona (Mr. HAYWORTH) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 273, noes 151, not voting 10, as follows:

[Roll No. 312]

AYES—273

Abercrombie
Ackerman
Allen
Baca
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Bartlett
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Bishop
Blumenauer
Boehlert
Boehner
Bono
Borski
Boswell
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Burr
Buyer
Callahan
Calvert
Camp
Capito
Capps
Capuano
Carson (IN)
Carson (OK)
Chabot
Clay
Clayton
Clyburn
Coble
Condit
Conyers
Cooksey
Costello
Coyne
Cramer
Crane
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (IL)
Deal
DeFazio
DeGette
Delahunt
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Engel
English
Etheridge
Evans
Farr
Fattah
Filner
Flake
Foley
Ford
Fossella
Frank
Frost
Gallegly
Gekas
Gephardt
Gillmor
Gilman
Gonzalez
Graves
Green (TX)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Harman
Hastings (FL)
Hastings (WA)
Hayworth
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hostettler
Houghton
Hoyer
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson, E. B.
Johnson, Sam
Kanjorski
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kirk
Knollenberg
Kolbe
Lampson
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Gary
Miller, George
Mink
Moore
Morella
Murtha
Napolitano
Neal
Nethercutt
Ney
Oberstar
Olver
Ortiz
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Pombo
Pomeroy
Price (NC)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Rogers (KY)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sessions
Sherman
Shows
Shuster
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tiahrt
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Walden
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weller
Whitfield
Wilson (NM)
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—151

Aderholt
Akin
Andrews
Armey
Barr
Barton
Bass
Biggert
Bilirakis
Blunt
Bonilla
Boozman
Boucher
Bryant
Burton
Cannon
Cantor
Cardin
Castle
Chambliss
Clement
Collins
Combest
Cox
Crenshaw
Davis (FL)
Davis, Jo Ann
Davis, Tom
DeLauro
DeLay
DeMint
Doolittle
Ehlers
Emerson
Eshoo
Everett
Ferguson
Fletcher
Forbes
Frelinghuysen
Ganske
Gibbons
Gilchrest
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green (WI)
Hall (OH)
Hansen
Hart
Hayes
Hefley
Herger
Hobson
Hoekstra
Horn
Hulshof
Hunter
Hyde
Istook
Johnson (CT)
Johnson (IL)
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kleczka
Kucinich
LaFalce
LaHood
Langevin
Latham
Leach
Lewis (KY)
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
McCrery
McInnis
Miller, Dan
Miller, Jeff
Mollohan
Moran (KS)
Moran (VA)
Myrick
Northup
Norwood
Nussle
Obey
Osborne
Ose
Pence
Petri
Phelps
Pickering
Pitts
Platts
Portman
Pryce (OH)
Putnam
Regula
Riley
Roemer
Rogers (MI)
Ros-Lehtinen
Roukema
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Shadegg
Shaw
Shays
Sherwood
Shimkus
Simmons
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Tancredo
Thomas
Thornberry
Tiberi
Toomey
Upton
Visclosky
Vitter
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Wexler
Wicker
Wilson (SC)
Wolf

NOT VOTING—10

Bachus
Blagojevich
Bonior
Ehrlich
Jones (OH)
Kaptur
Mascara
McHugh
Nadler
Traficant

□ 1514

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1515

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

Mr. Chairman, at this point, we will proceed under regular order with title I. Following that, we will turn to title II under regular order. I ask that Members who have amendments to the remainder of the bill bring them to the floor and file them at the desk if they have not done so already.

Mrs. MINK of Hawaii. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to enter into a colloquy with the Chair of the subcommittee and with the ranking member about an inequity that I believe must be addressed.

In 1985, Congress passed PL 99–239, the Compact of Free Association with the Republic of the Marshall Islands and the Federated States of Micronesia.

Under the terms of the compact, the United States gained critical strategic access and exclusive military privileges in these Freely Associated States, referred to as Micronesia. In return, the Compact Nations received financial assistance and their citizens received the right to freely migrate to the United States for purposes of education, employment, and residence.

In recognition of the likely impact of this national policy, Congress authorized appropriations to cover the costs that may be incurred by the State of Hawaii, the territories of Guam, Samoa and the Commonwealth of the Northern Marianas.

In the 16 years between 1986 and 2001, Hawaii has incurred about $100 million in expenses in education and social services for the compact migrants. Despite the intent of Congress, Hawaii has not received any appropriations until last year, when we finally received $4 million. We spend approximately $17 million on compact migrants each year.

My colleague from Hawaii is here and is certainly in support of this request, and both of us sent a letter to the committee requesting an appropriation of $10 million to be included in this bill. We know that the situation is very tight and the needs are many, and therefore, the amount of money that we requested was not included.

Our economy is suffering. It had been even before September 11, but certainly after September 11 the situation has been very tight. So the fact that we were able to reserve the request until last year should not penalize the fact that the law entitles us to come under consideration for reimbursement for the funds.

I would like to ask the chairman to consider Hawaii's case to support the appropriations that we have requested and to reimburse Hawaii at least part of the $100 million that we have spent thus far in this national defense program.

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

Mrs. MINK of Hawaii. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Chairman, I thank the gentlewoman for yielding. We thank the gentlewoman from Hawaii and recognize the many years she has worked to obtain this funding. We promise, the subcommittee, to give the gentlewoman's request full consideration during our conference with the Senate.

We also point out that the tiny territories of Guam and Northern Marianas have a very similar financial impact from the compacts, and they have far less ability to cover these expenses. In 2001, Guam had about $20 million in expenses, Hawaii about $17 million, and the Commonwealth of Northern Marianas about $9 million.

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

Mrs. MINK of Hawaii. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I know that this is a major concern in Hawaii, and I want to work with the gentlewoman on this issue and will work with our friends in the other body to seek a solution. I appreciate the gentlewoman bringing this to our attention.

Mrs. MINK of Hawaii. Mr. Chairman, I thank the ranking member.

I yield the remainder of my time to the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. Mr. Chairman, I want to thank the gentleman from Washington (Mr. DICKS) and the gentleman from Tennessee (Mr. WAMP) for their replies in this colloquy and thank the gentlewoman from Hawaii (Mrs. MINK) for pointing this out.

Mr. Chairman, I would hope that Members would note we are approaching the membership for consideration under something that should actually be taken up, in my judgment, in the Department of Defense and should be included in that budget. Nonetheless, we are here today under the present rules asking merely for the compensation that is due us under the treaty obligation of the United States.

It is not fair to ask a State of the Union to undertake expenditures that are engendered as a result of the actions of the United States of America, nor is it fair to ask any of the territories or the Commonwealth of Marianas to assume the same costs. This is particularly true when the three entities are suffering from the decline in tourism dollars and revenue that has come in. The fact that we have borne this burden for this time should not give rise to any consideration or thought that this has been something that is equitable.

So I would hope that the membership would understand, as we conclude our deliberations on the bill, that this is an amount of money that is but a minuscule portion of that which is due Guam, American Samoa, the Marianas and the State of Hawaii.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will read.

The Clerk read as follows:

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST AND RANGELAND RESEARCH

For necessary expenses of forest and rangeland research as authorized by law, $252,000,000 to remain available until expended.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with and providing technical and financial assistance to States, territories, possessions, and others, and for forest health management including treatments of pests, pathogens and invasive or noxious plants, cooperative forestry, and education and land conservation activities and conducting an international program as authorized, $279,828,000, to remain available until expended, as authorized by law, of which $60,000,000 is for the Forest Legacy Program, to be derived from the land and water conservation fund; $36,235,000 is for the Urban and Community Forestry Program, defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: *Provided*, That none of the funds provided under this heading for the acquisition of lands or interests in lands shall be available until the Forest Service notifies the House Committee on Appropriations and the Senate Committee on Appropriations, in writing, of specific acquisition of lands or interests in lands to be undertaken with such funds: *Provided further*, That each forest legacy grant shall be for a specific project: *Provided further*, That a grant shall not be released to a State unless the Secretary determines that the State has demonstrated that 25 percent of the total value of the project is comprised of a non-Federal cost share.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, $1,370,567,000, to remain available until expended, which shall include 50 percent of all moneys received during prior fiscal years as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 4601–6a(i)): *Provided*, That unobligated balances available at the start of fiscal year 2003 shall be displayed by budget line item in the fiscal year 2004 budget justification: *Provided further*, That the Secretary may authorize the expenditure or transfer of such sums as necessary to the Department of the Interior, Bureau of Land Management for removal, preparation, and adoption of excess wild horses and burros from National Forest System lands.

AMENDMENT NO. 12 OFFERED BY MR. HOEFFEL

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Mr. HOEFFEL:

Under the heading ''NATIONAL FOREST SERVICE'', insert after the dollar amount on page 76, line 13, the following: ''(reduced by $5,000,000)(increased by $5,000,000)''.

Mr. HOEFFEL. Mr. Chairman, this amendment would add $5 million to the grazing management account of the forest service from the general account of the forest service.

Mr. Chairman, the bill before us would allow the forest service to automatically renew expiring livestock grazing permits without completing the required environmental assessments. I think that this blanket waiver proposed under the terms of the bill is, from a policy point of view, a bad idea; but I understand the practical reasons for doing this waiver, for proposing this waiver.

The problem is the forest service does not have the resources to do all of the environmental assessments that it should do when it renews livestock grazing permits. Everybody agrees that abuse of grazing can be bad for the land. It can jeopardize endangered species. It can pollute streams and lakes, and it can lead to soil erosion; and everybody understands the environmental assessments are a positive step to working cooperatively with the ranching community and with the environmental community through the

good offices of the forest service to protect the land, to allow it to be used appropriately for grazing, which is a necessary activity in the West, necessary for the economic stability of the West.

In our efforts to be good stewards of the land, the forest service needs the resources to conduct these environmental reviews, and they have at the forest service a huge backlog.

In 1995 in the rescissions act, Congress allowed them to waive these environmental assessments, but they were supposed to follow a self-determined schedule for trying to do those assessments as best they could. By their own acknowledgment, they are 55 percent behind even their own schedule of assessments.

The system is not working. I think a blanket waiver alone is not the right answer, nor is it the right answer to oppose the waiver because such a block of the waiver might also have unintended consequences, bad for the ranching community and not helpful to environmental protection.

So I want to thank the gentleman from New Mexico (Mr. SKEEN), the chairman, and the gentleman from Washington (Mr. DICKS), the ranking member, for already recognizing this problem. The underlying bill would add $6 million to the grazing management account in the forest service.

My amendment would add an additional $5 million to the grazing management account. It would help the forest service complete these assessments; and I have received a commitment only verbally, I am afraid, not in writing, from the forest service that it will use these additional funds, the funds that the committee has already earmarked and the additional funds represented by this amendment, to catch up on the backlog of environmental assessments that go back to 1999 all the way through 2002 and to work to do as many environmental assessments in 2003 as they possibly can.

The more money we give them, the better job they can do. I thank the Chair and his staff and the ranking member and his staff for coming together for this good idea in this cooperative way, and I hope we can agree to do the proper oversight of the forest service to make sure that they live up to their commitments to do the very best job with these environmental assessments as possible.

Mr. UDALL of New Mexico. Mr. Chairman, will the gentleman yield?

Mr. HOEFFEL. I yield to the gentleman from New Mexico.

Mr. UDALL of New Mexico. Mr. Chairman, just a brief comment on this. I have spoken with the gentleman from Pennsylvania (Mr. HOEFFEL); and first of all, I want to congratulate him on his leadership and his looking out for forest service lands. I know that he cares a lot about these lands and has worked on them and worked on these issues; and I think that the $5 million additional in these accounts is really going to make a difference in terms of moving us along.

It is a win-win situation for both of us, and so I look forward to supporting the amendment and urge all of my colleagues to do so; and I thank the gentleman from Washington (Mr. DICKS) and the gentleman from New Mexico (Mr. SKEEN) for working with the gentleman from Pennsylvania (Mr. HOEFFEL) on this and for their leadership.

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

Mr. HOEFFEL. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I want to just commend the gentleman on his creative work here. This is an important issue. I think the way he has handled it will produce a real result, and we can help the gentleman if the forest service does not keep its word. The gentleman needs to make sure he lets us know. We will be following it, too.

Mr. HOEFFEL. Mr. Chairman, I thank the gentleman very much for his kind words and for his support and his staff's support on this important amendment.

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

Mr. HOEFFEL. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Chairman, we are prepared to accept the gentleman's amendment. We commend his work. As he knows, the chairman of our subcommittee is very committed to the ranchers and wants the grazing plans to get updated more quickly himself. This is why our committee mark did have the $5 million increase for grazing plans. We are willing to increase this further in order to see that proper environmental clearances get done and that ranchers are not harmed.

We commend all of the partners in a bipartisan way for doing what is right.

Mr. HOEFFEL. Mr. Chairman, I thank the ranking member, and I thank the gentleman who spoke for their comments. I ask for support for the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. HOEFFEL).

The amendment was agreed to.

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

Earlier under section 1, I had planned to offer an amendment to the appropriations bill to increase by $5 million compact impact aid for Guam. I commend the progress of the committee on this particular issue, which is a very important issue to the people of Guam, in order to make sure that there is adequate compensation for migration from the Freely Associated States, mostly from the Federated States of Micronesia to Guam.

□ 1530

I am pleased to note that today's bill is a big step in the right direction, as it includes a $1 million increase above the President's budget, a proposal of $4.58 million in Compact Impact Aid, bringing Guam's total amount to $5.58 million. This amount still does not reach last year's final amount, and my amendment would have increased Compact Impact Aid by $5 million.

Even the GAO recognizes that the actual impact to Guam is over $12 million. The Government of Guam thinks it is a little bit closer to $19 million. But in any event, it is clear that the Compact Impact assistance that Guam is receiving under this Interior appropriations bill is clearly inadequate.

It is particularly critical at this time because Guam has just undergone the impact of two storms, Chata'an and Ha Long. As we speak today, power and water have been out on Guam for nearly 3 weeks. So we were hoping that if we could get some recognition of this fact, that we would use the proposed increase in Compact Impact assistance to ready the schools, which will be opening next month, and also to ensure that the hospitals be open.

I know that there has been an effort here on the part of both the majority and the minority to recognize that there is a need for some increased funds for Guam.

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

Mr. UNDERWOOD. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Chairman, clearly this is another issue we plan to take up in conference and we will give the gentleman and his constituents the highest consideration in the conference. We appreciate his raising this issue yet again today on the floor, and I am sure we will do all we can within our power to address this satisfactorily.

Mr. UNDERWOOD. Reclaiming my time, Mr. Chairman, I thank the gentleman for his assurance on that, and I thank also the chairman, the gentleman from New Mexico (Mr. SKEEN), for his understanding of this issue during the course of his work.

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

Mr. UNDERWOOD. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, we certainly appreciate the gentleman's leadership, and we are very sympathetic to the problems that the gentleman is facing in Guam. We know the gentleman has done a terrific job in representing his area, and we will do everything we can to help him as the process moves forward.

Mr. UNDERWOOD. Mr. Chairman, once again reclaiming my time, I thank the gentleman from Washington very much.

The CHAIRMAN. The Committee will rise informally.

The SPEAKER pro tempore (Mr. FOSSELLA) assumed the Chair.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence

of the House is requested, a bill of the House of the following title:

H.R. 3763. An act to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes.

The message also announced that the Senate insist upon its amendment to the bill (H.R. 3763) ''An Act to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes,'' requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SARBANES, Mr. DODD, Mr. JOHNSON, Mr. REED, Mr. LEAHY, Mr. GRAMM, Mr. SHELBY, Mr. BENNETT, and Mr. ENZI to be the conferees on the part of the Senate.

The SPEAKER pro tempore. The committee will resume its sitting.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

The Committee resumed its sitting.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

WILDLAND FIRE MANAGEMENT

For necessary expenses for forest fire presuppression activities on National Forest System lands, for emergency fire suppression on or adjacent to such lands or other lands under fire protection agreement, hazardous fuel reduction on or adjacent to such lands, and for emergency rehabilitation of burned-over National Forest System lands and water, $1,513,449,000, to remain available until expended: *Provided*, That such funds including unobligated balances under this head, are available for repayment of advances from other appropriations accounts previously transferred for such purposes: *Provided further*, That not less than 50 percent of any unobligated balances remaining (exclusive of amounts for hazardous fuels reduction) at the end of fiscal year 2002 shall be transferred, as repayment for past advances that have not been repaid, to the fund established pursuant to section 3 of Public Law 71–319 (16 U.S.C. 576 et seq.): *Provided further*, That notwithstanding any other provision of law, $8,000,000 of funds appropriated under this appropriation shall be used for Fire Science Research in support of the Joint Fire Science Program: *Provided further*, That all authorities for the use of funds, including the use of contracts, grants, and cooperative agreements, available to execute the Forest and Rangeland Research appropriation, are also available in the utilization of these funds for the Joint Fire Science Program: *Provided further*, That funds provided shall be available for emergency rehabilitation and restoration, hazard reduction activities in the urban-wildland interface, support to Federal emergency response, and wildfire suppression activities of the Forest Service: *Provided further*, That of the funds provided, $640,000,000 is for preparedness, $420,699,000 is for wildfire suppression operations, $228,109,000 is for hazardous fuel treatment, $63,000,000 is for rehabilitation and restoration, $20,376,000 is for capital improvement and maintenance of fire facilities, $27,265,000 is for research activities and to make competitive research grants pursuant to the Forest and Rangeland Renewable Resources Research Act, as amended (16 U.S.C. 1641 et seq.), $58,000,000 is for state fire assistance, $8,500,000 is for volunteer fire assistance, $27,000,000 is for forest health activities on State, private, and Federal lands, and $12,500,000 is for economic action programs: *Provided further*, That amounts in this paragraph may be transferred to the ''State and Private Forestry'', ''National Forest System'', ''Forest and Rangeland Research'', and ''Capital Improvement and Maintenance'' accounts to fund state fire assistance, volunteer fire assistance, and forest health management, vegetation and watershed management, heritage site rehabilitation, wildlife and fish habitat management, trails and facilities maintenance and restoration: *Provided further*, That transfers of any amounts in excess of those authorized in this paragraph, shall require approval of the House and Senate Committees on Appropriations in compliance with reprogramming procedures contained in House Report No. 105–163: *Provided further*, That the costs of implementing any cooperative agreement between the Federal Government and any non-Federal entity may be shared, as mutually agreed on by the affected parties: *Provided further*, That in entering into such grants or cooperative agreements, the Secretary may consider the enhancement of local and small business employment opportunities for rural communities, and that in entering into procurement contracts under this section on a best value basis, the Secretary may take into account the ability of an entity to enhance local and small business employment opportunities in rural communities, and that the Secretary may award procurement contracts, grants, or cooperative agreements under this section to entities that include local non-profit entities, Youth Conservation Corps or related partnerships with State, local or non-profit youth groups, or small or disadvantaged businesses: *Provided further*, That in addition to funds provided for State Fire Assistance programs, and subject to all authorities available to the Forest Service under the State and Private Forestry Appropriations, up to $15,000,000 may be used on adjacent non-Federal lands for the purpose of protecting communities when hazard reduction activities are planned on national forest lands that have the potential to place such communities at risk: *Provided further*, That included in funding for hazardous fuel reduction is $5,000,000 for implementing the Community Forest Restoration Act, Public Law 106–393, title VI, and any portion of such funds shall be available for use on non-Federal lands in accordance with authorities available to the Forest Service under the State and Private Forestry Appropriation: *Provided further*, That in expending the funds provided with respect to this Act for hazardous fuels reduction, the Secretary of the Interior and the Secretary of Agriculture may conduct fuel reduction treatments on Federal lands using all contracting and hiring authorities available to the Secretaries applicable to hazardous fuel reduction activities under the wildland fire management accounts: *Provided further*, That notwithstanding Federal Government procurement and contracting laws, the Secretaries may conduct fuel reduction treatments, rehabilitation and restoration, and other activities authorized under this heading on and adjacent to Federal lands using grants and cooperative agreements: *Provided further*, That notwithstanding Federal Government procurement and contracting laws, in order to provide employment and training opportunities to people in rural communities, the Secretaries may award contracts, including contracts for monitoring activities, to local private, nonprofit, or cooperative entities; Youth Conservation Corps crews or related partnerships, with State, local and non-profit youth groups; small or micro-businesses; or other entities that will hire or train a significant percentage of local people to complete such contracts: *Provided further*, That the authorities described above relating to contracts, grants, and cooperative agreements are available until all funds provided in this title for hazardous fuels reduction activities in the urban wildland interface are obligated: *Provided further*, That the Secretary of Agriculture may transfer or reimburse funds, not to exceed $7,000,000, to the United States Fish and Wildlife Service of the Department of the Interior, or the National Marine Fisheries Service of the Department of Commerce, for the costs of carrying out their responsibilities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) to consult and conference as required by section 7 of such Act in connection with wildland fire management activities in fiscal years 2002 and 2003: *Provided further*, That the amount of the transfer of reimbursement shall be as mutually agreed by the Secretary of Agriculture and the Secretary of the Interior or Secretary of Commerce, as applicable, or their designees. The amount shall in no case exceed the actual costs of consultation and conferencing in connection with wildland fire management activities affecting National Forest System lands.

AMENDMENT NO. 16 OFFERED BY MR. TANCREDO

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 16 offered by Mr. TANCREDO:

Page 77, line 8, after the dollar amount insert ''(increased by $43,000,000''.

Page 78, line 8, after the second dollar amount insert ''(increased by $8,000,000)''.

Page 78, line 9, after the dollar amount insert ''(increased by $35,000,000)''.

Page 114, line 7, after the dollar amount insert ''(decreased by $50,000,000)''.

Mr. TANCREDO. Mr. Chairman, I rise today to offer an amendment that I hope will help those of us among the body who feel a terrible mistake was made in an earlier amendment that actually increased funding for the National Endowment for the Arts. My amendment reduces funding for the National Endowment for the Arts by $50 million and redirects the money into the budget for the U.S. Forest Service.

We all know and certainly have had a lot of discussion about the devastating impact the fires have had on the American West, with hundreds of thousands of acres in Arizona, Nevada, Oregon, and my home State of Colorado reduced to charcoal by wildfire. In many of these States, the fire season is only now underway. According to the Forest Service, an additional 73 million acres remain at risk to catastrophic fire. To put it in perspective, 73 million acres is an area slightly larger than the State of Arizona.

While this amendment only reduces its budget, few programs seem more worthy of outright elimination than the National Endowment for the Arts. First created in 1965, the NEA has been one of the most controversial government programs on the books, almost since its inception. The most notorious aspects of the NEA have been talked about for many years, and I will not go into them today.

Instead of squandering nearly $100 million on questionable and offensive exhibits, we should utilize these funds in a way that better serve the public interest. In a lean budget year like this one, we ought to not squander limited resources on subsidizing the arts. Instead, I believe we should use these funds to increase the government's ability to help control and prevent wildfires in the American West.

My amendment would do just that by redirecting the portion of the NEA budget to the U.S. Forest Service Wildland Fire Management Plan, splitting the dollars between fire suppression efforts and hazardous fuels reduction programs.

Mr. Chairman, President Theodore Roosevelt's then agricultural secretary James Wilson wrote a letter where he said, ''And where conflicting interests must be reconciled, the question should always be decided from the standpoint of the greatest good for the greatest number over the long run.'' I ask my colleagues to let Mr. WILSON's words guide them in their actions today when making a decision on this amendment. Which program will do the greatest good for the greatest number.

Mr. WAMP. Mr. Chairman, I rise in opposition to the gentleman's amendment on behalf of the committee.

This agreement that we have on NEA is long-standing, it is bipartisan, it is very delicate, and conservatives and liberals and moderates have come together on this in the past. Obviously, the amendment that just passed increasing NEA funding makes this amendment somewhat problematic for some on this side.

I have to also say, as a member of the subcommittee for 6 years, we have seen tremendous improvement. Under Bill Ivey's leadership, the NEA is much more accountable, much more responsive, and much more efficient. I know he is no longer there, but it is a much-improved organization. The funding levels have been agreed to.

This bill is a careful balance. On virtually every item in the bill we have had to work through a compromise so that we could report the bill out with comity and cooperation for the good of the country. This agreement, at approximately $100 million for the NEA, is a carefully crafted bill. This amendment cuts that in half, which obviously would create the inability to ever pass this bill, to ever conference this bill with the Senate, to ever finally arrive at an agreement here.

So we respectfully oppose the amendment and ask the entire body to vote against the amendment.

Mr. DICKS. Mr. Chairman, I move to strike the last word, and I rise in very willing opposition to this amendment.

This amendment is not about adding money to anything, it is about cutting the minimal funding which is currently in this bill for the arts. In light of the vote just taken by the House of Representatives, in which 234 Members voted for the arts, I think it is also very untimely.

This amendment would cut the NEA below the $116 million requested by President Bush and recommended by the Republican leadership of the committee. The $116 million provided in this bill for the National Endowment for the Arts is only 1 percent above last year. It is $46 million below the level approved in 1994 for the agency.

The gentleman's arguments against NEA are outdated and do not reflect the many reforms implemented by the Congress and former NEA chairman Bill Ivey, and the new chairman, Eileen Mason, to address public concerns about controversial arts projects supported by public funds.

Anyone who knows about the arts realizes that there will always be controversy. These include broader distribution of funds throughout the United States, elimination of general operating support for organizations with no control on content, and prohibitions on regranting of NEA funds to other organizations. Today, funds at NEA flow to over 300 congressional districts with great enthusiasm and very little complaint, and with an emphasis on quality.

Essentially, the same item was offered last year on the Interior bill by the gentleman from Florida (Mr. STEARNS). It failed on a vote of 145 to 264. I hope an even larger number of Members will vote ''no'' on this amendment and finally declare an end to the culture wars which started 8 years ago in this House. It is over.

Let me also say that the gentleman from Washington was the author of an amendment to increase the firefighting funds available to this administration in a supplemental attached to this bill by $700 million with $200 million for the BLM and $500 million for the Forest Service. Obviously, we recognize the need to deal with forest fires.

I would say that those who were voting yesterday to kill the cut of the BLM funding are the same people who should be looked at in terms of their commitment to having adequate funding at the BLM in order to do the firefighting.

This amendment is bad, it is wrong, it is unnecessary, and I think we should voice vote it and move along.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. TANCREDO).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. TANCREDO. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) will be postponed.

The Clerk will read.

The Clerk read as follows:

For an additional amount for ''Wildland Fire Management'', for fiscal year 2002 in addition to the amounts made available by Public Law 107–63 $500,000,000, remain available until December 31, 2002, for the cost of fire suppression activities carried out by the Forest Service and other Federal agencies related to the 2002 fire season, including reimbursement of funds borrowed from other Department of Agriculture programs to fight such fires: *Provided*, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

CAPITAL IMPROVEMENT AND MAINTENANCE

For necessary expenses of the Forest Service, not otherwise provided for, $572,731,000, to remain available until expended for construction, reconstruction, maintenance, and acquisition of buildings and other facilities, and for construction, reconstruction, repair, and maintenance of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532–538 and 23 U.S.C. 101 and 205, of which, $64,866,000 is for conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: *Provided further*, That up to $15,000,000 of the funds provided herein for road maintenance shall be available for the decommissioning of roads, including unauthorized roads not part of the transportation system, which are no longer needed: *Provided further*, That no funds shall be expended to decommission any system road until notice and an opportunity for public comment has been provided on each decommissioning project.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $146,336,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for the conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,069,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, such sums, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 percent of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the 16 Western States, pursuant to section 401(b)(1) of Public Law 94–579, as amended, to remain available until expended, of which not to exceed 6 percent shall be available for administrative expenses associated with on-the-

ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $92,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

MANAGEMENT OF NATIONAL FOREST LANDS FOR SUBSISTENCE USES

For necessary expenses of the Forest Service to manage federal lands in Alaska for subsistence uses under title VIII of the Alaska National Interest Lands Conservation Act (Public Law 96–487), $5,542,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (1) purchase of not to exceed 113 passenger motor vehicles, of which 10 will be used primarily for law enforcement purposes and of which 113 shall be for replacement; acquisition of 25 passenger motor vehicles from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed seven for replacement only, and acquisition of sufficient aircraft from excess sources to maintain the operable fleet at 195 aircraft for use in Forest Service wildland fire programs and other Forest Service programs; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (2) services pursuant to 7 U.S.C. 2225, and not to exceed $100,000 for employment under 5 U.S.C. 3109; (3) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (4) acquisition of land, waters, and interests therein, pursuant to 7 U.S.C. 428a; (5) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, and 558a note); (6) the cost of uniforms as authorized by 5 U.S.C. 5901–5902; and (7) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

Any appropriations or funds available to the Forest Service may be transferred to the Wildland Fire Management appropriation for forest firefighting, emergency rehabilitation of burned-over or damaged lands or waters under its jurisdiction, and fire preparedness due to severe burning conditions if and only if all previously appropriated emergency contingent funds under the heading ''Wildland Fire Management'' have been released by the President and apportioned and all funds under the heading ''Wildland Fire Management'' are obligated.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Foreign Agricultural Service in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report No. 105–163.

None of the funds available to the Forest Service may be reprogrammed without the advance approval of the House and Senate Committees on Appropriations in accordance with the procedures contained in House Report No. 105–163.

No funds available to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture that exceed the total amount transferred during fiscal year 2000 for such purposes without the advance approval of the House and Senate Committees on Appropriations.

Funds available to the Forest Service shall be available to conduct a program of not less than $2,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps, defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

Of the funds available to the Forest Service, $2,500 is available to the Chief of the Forest Service for official reception and representation expenses.

Pursuant to sections 405(b) and 410(b) of Public Law 101–593, of the funds available to the Forest Service, up to $2,500,000 may be advanced in a lump sum as Federal financial assistance to the National Forest Foundation, without regard to when the Foundation incurs expenses, for administrative expenses or projects on or benefitting National Forest System lands or related to Forest Service programs: *Provided*, That of the Federal funds made available to the Foundation, no more than $300,000 shall be available for administrative expenses: *Provided further*, That the Foundation shall obtain, by the end of the period of Federal financial assistance, private contributions to match on at least one-for-one basis funds made available by the Forest Service: *Provided further*, That the Foundation may transfer Federal funds to a non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds: *Provided further*, That authorized investments of Federal funds held by the Foundation may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

Pursuant to section 2(b)(2) of Public Law 98–244, $2,650,000 of the funds available to the Forest Service shall be available for matching funds to the National Fish and Wildlife Foundation, as authorized by 16 U.S.C. 3701–3709, and may be advanced in a lump sum as Federal financial assistance, without regard to when expenses are incurred, for projects on or benefitting National Forest System lands or related to Forest Service programs: *Provided*, That the Foundation shall obtain, by the end of the period of Federal financial assistance, private contributions to match on at least one-for-one basis funds advanced by the Forest Service: *Provided further*, That the Foundation may transfer Federal funds to a non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds.

Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities for sustainable rural development purposes.

Notwithstanding any other provision of law, 80 percent of the funds appropriated to the Forest Service in the ''National Forest System'' and ''Capital Improvement and Maintenance'' accounts and planned to be allocated to activities under the ''Jobs in the Woods'' program for projects on National Forest land in the State of Washington may be granted directly to the Washington State Department of Fish and Wildlife for accomplishment of planned projects. Twenty percent of said funds shall be retained by the Forest Service for planning and administering projects. Project selection and prioritization shall be accomplished by the Forest Service with such consultation with the State of Washington as the Forest Service deems appropriate.

Funds appropriated to the Forest Service shall be available for payments to counties within the Columbia River Gorge National Scenic Area, pursuant to sections 14(c)(1) and (2), and section 16(a)(2) of Public Law 99–663.

For fiscal years 2003 through 2007, the Secretary of Agriculture is authorized to enter into grants, contracts, and cooperative agreements as appropriate with the Pinchot Institute for Conservation, as well as with public and other private agencies, organizations, institutions, and individuals, to provide for the development, administration, maintenance, or restoration of land, facilities, or Forest Service programs, at the Grey Towers National Historic Landmark: *Provided*, That, subject to such terms and conditions as the Secretary of Agriculture may prescribe, any such public or private agency, organization, institution, or individual may solicit, accept, and administer private gifts of money and real or personal property for the benefit of, or in connection with, the activities and services at the Grey Towers National Historic Landmark: *Provided further*, That such gifts may be accepted notwithstanding the fact that a donor conducts business with the Department of Agriculture in any capacity.

Funds appropriated to the Forest Service shall be available, as determined by the Secretary, for payments to Del Norte County, California, pursuant to sections 13(e) and 14 of the Smith River National Recreation Area Act (Public Law 101–612).

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service not to exceed $500,000 may be used to reimburse the Office of the General Counsel (OGC), Department of Agriculture, for travel and related expenses incurred as a result of OGC assistance or participation requested by the Forest Service at meetings, training sessions, management reviews, land purchase negotiations and similar non-litigation related matters. Future budget justifications for both the Forest Service and the Department of Agriculture should clearly display the sums previously transferred and the requested funding transfers.

Any appropriations or funds available to the Forest Service may be used for necessary expenses in the event of law enforcement emergencies as necessary to protect natural resources and public or employee safety: *Provided*, That such amounts shall not exceed $750,000.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

(DEFERRAL)

Of the funds made available under this heading for obligation in prior years, $50,000,000 shall not be available until October 1, 2003: *Provided*, That funds made available in previous appropriations Acts shall be available for any ongoing project regardless of the separate request for proposal under which the project was selected.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95–91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, and for conducting inquiries, technological investigations and research concerning the extraction, processing, use, and disposal of

mineral substances without objectionable social and environmental costs (30 U.S.C. 3, 1602, and 1603), $664,205,000, to remain available until expended, of which $11,000,000 is for construction, renovation, furnishing, and demolition or removal of buildings at National Energy Technology Laboratory facilities in Morgantown, West Virginia and Pittsburgh, Pennsylvania; and for acquisition of lands, and interests therein, in proximity to the National Energy Technology Laboratory, and of which $150,000,000 are to be made available, after coordination with the private sector, for a request for proposals for a Clean Coal Power Initiative providing for competitively-awarded demonstrations of commercial scale technologies to reduce the barriers to continued and expanded coal use: *Provided*, That no project may be selected for which sufficient funding is not available to provide for the total project: *Provided further*, That funds shall be expended in accordance with the provisions governing the use of funds contained under the heading ''Clean Coal Technology'' in prior appropriations: *Provided further*, That the Department may include provisions for repayment of Government contributions to individual projects in an amount up to the Government contribution to the project on terms and conditions that are acceptable to the Department, including repayments from sale and licensing of technologies from both domestic and foreign transactions: *Provided further*, That such repayments shall be retained by the Department for future coal-related research, development and demonstration projects: *Provided further*, That any technology selected under this program shall be considered a Clean Coal Technology, and any project selected under this program shall be considered a Clean Coal Technology Project, for the purposes of 42 U.S.C. 7651n, and Chapters 51, 52, and 60 of title 40 of the Code of Federal Regulations: *Provided further*, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas: *Provided further*, That up to 4 percent of program direction funds available to the National Energy Technology Laboratory may be used to support Department of Energy activities not included in this account.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For expenses necessary to carry out naval petroleum and oil shale reserve activities, $20,831,000, to remain available until expended: *Provided*, That, notwithstanding any other provision of law, unobligated funds remaining from prior years shall be available for all naval petroleum and oil shale reserve activities.

ELK HILLS SCHOOL LANDS FUND

For necessary expenses in fulfilling installment payments under the Settlement Agreement entered into by the United States and the State of California on October 11, 1996, as authorized by section 3415 of Public Law 104–106, $36,000,000, to become available on October 1, 2003 for payment to the State of California for the State Teachers' Retirement Fund from the Elk Hills School Lands Fund.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $984,653,000, to remain available until expended: *Provided*, That $300,000,000 shall be for use in energy conservation grant programs as defined in section 3008(3) of Public Law 99–509 (15 U.S.C. 4507): *Provided further*, That notwithstanding section 3003(d)(2) of Public Law 99–509, such sums shall be allocated to the eligible programs as follows: $250,000,000 for weatherization assistance grants and $50,000,000 for State energy conservation grants.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Office of Hearings and Appeals, $1,487,000, to remain available until expended.

STRATEGIC PETROLEUM RESERVE

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), $175,856,000, to remain available until expended.

SPR PETROLEUM ACCOUNT

For the acquisition and transportation of petroleum and for other necessary expenses pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), $7,000,000, to remain available until expended.

NORTHEAST HOME HEATING OIL RESERVE

For necessary expenses for Northeast Home Heating Oil Reserve storage, operations, and management activities pursuant to the Energy Policy and Conservation Act of 2000, $8,000,000 to remain available until expended.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $80,611,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private or foreign: *Provided*, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further*, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further*, That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

No funds provided in this Act may be expended by the Department of Energy to prepare, issue, or process procurement documents for programs or projects for which appropriations have not been made.

In addition to other authorities set forth in this Act, the Secretary may accept fees and contributions from public and private sources, to be deposited in a contributed funds account, and prosecute projects using such fees and contributions in cooperation with other Federal, State or private agencies or concerns.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act with respect to the Indian Health Service, $2,508,756,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 238(b) for services furnished by the Indian Health Service: *Provided*, That funds made available to tribes and tribal organizations through contracts, grant agreements, or any other agreements or compacts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: *Provided further*, That $15,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund: *Provided further*, That $468,130,000 for contract medical care shall remain available for obligation until September 30, 2004: *Provided further*, That of the funds provided, up to $25,000,000 shall be used to carry out the loan repayment program under section 108 of the Indian Health Care Improvement Act: *Provided further*, That funds provided in this Act may be used for 1-year contracts and grants which are to be performed in 2 fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall remain available until expended for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): *Provided further*, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available for obligation until September 30, 2004: *Provided further*, That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended: *Provided further*, That, notwithstanding any other provision of law, of the amounts provided herein, not to exceed $270,734,000 shall be for payments to tribes and tribal organizations for contract or grant support costs associated with contracts, grants, self-governance compacts or annual funding agreements between the Indian Health Service and a tribe or tribal organization pursuant to the Indian Self-Determination Act of 1975, as amended, prior to or during fiscal year 2003, of which not to exceed $2,500,000 may be used for contract support costs associated with new or expanded self-determination contracts, grants, self-governance compacts or annual funding agreements: *Provided further*, That funds available for the Indian Health Care Improvement Fund may be used, as needed, to carry out activities typically funded under the Indian Health Facilities account.

INDIAN HEALTH FACILITIES

For construction, repair, maintenance, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of modular buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act, and the Indian Health Care Improvement Act, and for expenses necessary to carry out such Acts and titles II and III of the Public Health Service Act with respect to environmental health and facilities support activities of the Indian Health Service, $391,865,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities: *Provided further*, That from the funds appropriated herein, $5,000,000 shall be designated by the Indian Health Service as a contribution to the Yukon-Kuskokwim Health Corporation (YKHC) to continue a priority project for the acquisition of land, planning, design and construction of 79 staff quarters in the Bethel service area, pursuant to the negotiated project agreement between the YKHC and the Indian Health Service: *Provided further*, That this project shall not be subject to the construction provisions of the Indian Self-Determination and Education Assistance Act and shall be removed from the Indian Health Service priority list upon completion: *Provided further*, That the Federal Government shall not be liable for any property damages or other construction claims that may arise from YKHC undertaking this project: *Provided further*, That the land shall be owned or leased by the YKHC and title to quarters shall remain vested with the YKHC: *Provided further*, That not to exceed $500,000 shall be used by the Indian Health Service to purchase TRANSAM equipment from the Department of Defense for distribution to the Indian Health Service and tribal facilities: *Provided further*, That not to exceed $500,000 shall be used by the Indian Health Service to obtain ambulances for the Indian Health Service and tribal facilities in conjunction with an existing interagency agreement between the Indian Health Service and the General Services Administration: *Provided further*, That not to exceed $500,000 shall be placed in a Demolition Fund, available until expended, to be used by the Indian Health Service for demolition of Federal buildings: *Provided further*, That notwithstanding the provisions of title III, section 306, of the Indian Health Care Improvement Act (Public Law 94–437, as amended), construction contracts authorized under title I of the Indian Self-Determination and Education Assistance Act of 1975, as amended, may be used rather than grants to fund small ambulatory facility construction projects: *Provided further*, That if a contract is used, the IHS is authorized to improve municipal, private, or tribal lands, and that at no time, during construction or after completion of the project will the Federal Government have any rights or title to any real or personal property acquired as a part of the contract: *Provided further*, That notwithstanding any other provision of law or regulation, for purposes of acquiring sites for a new clinic and staff quarters in St. Paul Island, Alaska, the Secretary of Health and Human Services may accept land donated by the Tanadgusix Corporation.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376; hire of passenger motor vehicles and aircraft; purchase of medical equipment; purchase of reprints; purchase, renovation and erection of modular buildings and renovation of existing facilities; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and for uniforms or allowances therefor as authorized by 5 U.S.C. 5901–5902; and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

In accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651–2653) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation. Notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86–121 (the Indian Sanitation Facilities Act) and Public Law 93–638, as amended.

Funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation.

Notwithstanding any other provision of law, funds previously or herein made available to a tribe or tribal organization through a contract, grant, or agreement authorized by title I or title III of the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), may be deobligated and reobligated to a self-determination contract under title I, or a self-governance agreement under title III of such Act and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation.

None of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to the eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law.

Funds made available in this Act are to be apportioned to the Indian Health Service as appropriated in this Act, and accounted for in the appropriation structure set forth in this Act.

With respect to functions transferred by the Indian Health Service to tribes or tribal organizations, the Indian Health Service is authorized to provide goods and services to those entities, on a reimbursable basis, including payment in advance with subsequent adjustment. The reimbursements received therefrom, along with the funds received from those entities pursuant to the Indian Self-Determination Act, may be credited to the same or subsequent appropriation account which provided the funding. Such amounts shall remain available until expended.

Reimbursements for training, technical assistance, or services provided by the Indian Health Service will contain total costs, including direct, administrative, and overhead associated with the provision of goods, services, or technical assistance.

The appropriation structure for the Indian Health Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

OTHER RELATED AGENCIES

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93–531, $14,491,000, to remain available until expended: *Provided*, That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: *Provided further*, That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further*, That no relocatee will be provided with more than one new or replacement home: *Provided further*, That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d–10.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by title XV of Public Law 99–498, as amended (20 U.S.C. 56 part A), $5,130,000, of which $1,000,000 shall remain available until expended for construction of the Library Technology Center.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

(INCLUDING RESCISSION)

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed 30 years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to five replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees, $450,760,000, of which not to exceed $41,884,000 for the instrumentation program, collections acquisition, exhibition reinstallation, the National Museum of the American Indian, security improvements, and the repatriation of skeletal remains program shall remain available until expended, and including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research

Centers: *Provided*, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations: *Provided further*, That the Smithsonian Institution may expend Federal appropriations designated in this Act for lease or rent payments for long term and swing space, as rent payable to the Smithsonian Institution, and such rent payments may be deposited into the general trust funds of the Institution to the extent that federally supported activities are housed in the 900 H Street, N.W. building in the District of Columbia: *Provided further*, That this use of Federal appropriations shall not be construed as debt service, a Federal guarantee of, a transfer of risk to, or an obligation of, the Federal Government: *Provided further*, That no appropriated funds may be used to service debt which is incurred to finance the costs of acquiring the 900 H Street building or of planning, designing, and constructing improvements to such building.

From unobligated balances of prior year appropriations $14,100,000 is rescinded.

REPAIR, RESTORATION AND ALTERATION OF FACILITIES

For necessary expenses of maintenance, repair, restoration, and alteration of facilities owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including necessary personnel, including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $81,300,000, to remain available until expended, of which $16,750,000 is provided for maintenance, repair, rehabilitation and alteration of facilities at the National Zoological Park: *Provided*, That contracts awarded for environmental systems, protection systems, and repair or restoration of facilities of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses for construction, including necessary personnel, $10,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, SMITHSONIAN INSTITUTION

None of the funds in this or any other Act may be used to make any changes to the existing Smithsonian science programs including closure of facilities, relocation, of staff or redirection of functions and programs without approval by the Board of Regents of recommendations received from the Science Commission.

None of the funds in this or any other Act may be used to initiate the design for any proposed expansion of current space or new facility without consultation with the House and Senate Appropriations Committees.

None of the funds in this or any other Act may be used for the Holt House located at the National Zoological Park in Washington, D.C., unless identified as repairs to minimize water damage, monitor structure movement, or provide interim structural support.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $78,219,000, of which not to exceed $3,026,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $16,230,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

For necessary expenses for the operation, maintenance and security of the John F. Kennedy Center for the Performing Arts, $16,310,000.

CONSTRUCTION

For necessary expenses for capital repair and restoration of the existing features of the building and site of the John F. Kennedy Center for the Performing Arts, $17,600,000, to remain available until expended.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $8,488,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $99,489,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to organizations and individuals pursuant to sections 5(c) and 5(g) of the Act, for program support, and for administering the functions of the Act, to remain available until expended.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $109,932,000, shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, to remain available until expended.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $16,122,000, to remain available until expended, of which $10,436,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

CHALLENGE AMERICA ARTS FUND

CHALLENGE AMERICA GRANTS

For necessary expenses as authorized by Public Law 89–209, as amended, $17,000,000 for support for arts education and public outreach activities, to be administered by the National Endowment for the Arts, to remain available until expended.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses: *Provided further*, That funds from nonappropriated sources may be used as necessary for official reception and representation expenses: *Provided further*, That the Chairperson of the National Endowment for the Arts may approve grants up to $10,000, if in aggregate this amount does not exceed 5 percent of the sums appropriated for grant making purposes per year: *Provided further*, That such small grant actions are taken pursuant to the terms of an expressed and direct delegation of authority from the National Council on the Arts to the Chairperson.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $1,255,000: *Provided*, That the Commission is authorized to charge fees to cover the full costs of its publications, and such fees shall be credited to this account as an offsetting collection, to remain available until expended without further appropriation.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99–190 (20 U.S.C. 956(a)), as amended, $7,000,000.

ADMINISTRATIVE PROVISION

None of the funds appropriated in this or any other Act, except funds appropriated to the Office of Management and Budget, shall be available to study the alteration or transfer of the National Capital Arts and Cultural Affairs program.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For necessary expenses of the Advisory Council on Historic Preservation (Public Law 89–665, as amended), $3,667,000: *Provided*, That none of these funds shall be available for compensation of level V of the Executive Schedule or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40

U.S.C. 71–71i), including services as authorized by 5 U.S.C. 3109, $7,553,000: *Provided*, That all appointed members of the Commission will be compensated at a rate not to exceed the daily equivalent of the annual rate of pay for positions at level IV of the Executive Schedule for each day such member is engaged in the actual performance of duties.

UNITED STATES HOLOCAUST MEMORIAL MUSEUM

HOLOCAUST MEMORIAL MUSEUM

For expenses of the Holocaust Memorial Museum, as authorized by Public Law 106–292 (36 U.S.C. 2301–2310), $38,663,000, of which $1,900,000 for the museum's repair and rehabilitation program and $1,264,000 for the museum's exhibitions program shall remain available until expended.

PRESIDIO TRUST

PRESIDIO TRUST FUND

For necessary expenses to carry out title I of the Omnibus Parks and Public Lands Management Act of 1996, $21,327,000 shall be available to the Presidio Trust, to remain available until expended.

Mr. WAMP (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through title II be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there further amendments to title II?

AMENDMENT NO. 8 OFFERED BY MR. SANDERS

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. SANDERS: Page 95, line 14, insert ''(reduced by $3,000,000) (increased by $3,000,000)'' after ''$984,653,000''.

Mr. SANDERS. Mr. Chairman, this tripartisan amendment is being cosponsored by the gentleman from Iowa (Mr. LEACH), the gentleman from Colorado (Mr. MARK UDALL), the gentleman from New York (Mr. GILMAN), the gentleman from Wisconsin (Mr. KIND), and the gentlewoman from Wisconsin (Ms. BALDWIN). To the best of my knowledge, it has been agreed to by the majority, and I thank them very much for that.

The legislative intent of this amendment is to increase funding for the highly successful Energy Star program by $3 million, bringing the total funding for this program up to the President's request of $6.2 million. This increase in funding will be offset by a $3 million reduction in salaries and expenses at the Department of Energy that I hope will be restored in conference.

Mr. Chairman, the Energy Star program has a cost-effective proven track record of saving energy and saving money. In fact, for every dollar spent on program costs, the Energy Star program produces average energy bill savings of $75 and sparks $15 in investment and new technology. This voluntary partnership program helps businesses, State and local governments, homeowners, and consumers save money by investing in energy efficiency.

The bottom line is that if this amendment is passed, we will increase energy efficiency, save consumers money, protect the environment and enhance our energy security.

According to the Alliance to Save Energy, in 2001 alone, Americans, with the help of Energy Star, saved $5 billion on their energy bills, reduced carbon dioxide emissions by the equivalent of taking 10 million cars off the road, and prevented 140,000 tons of nitrogen oxide emissions.

To date, more than 55,000 Energy Star homes have been built, locking in financial savings for homeowners of more than $15 million every single year.

□ 1545

Through the Energy Star Building Program, more than $25 billion kilowatt hours of energy have been saved. However, as successful as the Energy Star program has been, much more could be accomplished with increased funding. For example, it is estimated that if all consumers chose only Energy Star-labeled products over the next decade or so, the Nation's energy bill would be reduced by about $100 billion while avoiding 300 million metric tons of greenhouse gas emissions.

If all commercial building owners took advantage of the Energy Star program, they could achieve another $130 billion in energy savings and reduce 350 million metric tons of carbon dioxide emissions over the next 10 years.

Mr. Chairman, rising energy costs and consumer demands make today's investments in energy efficiency ever more vital to America's energy security.

Mr. Chairman, I thank the gentleman from New Mexico (Mr. SKEEN) and the gentleman from Tennessee (Mr. WAMP) for accepting this amendment. I think it is an excellent amendment, and we appreciate their support as well as the support of the gentleman from Washington (Mr. DICKS) and the minority.

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

Mr. SANDERS. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Chairman, on behalf of the subcommittee, we have no objection to this amendment and we commend the gentleman from Vermont (Mr. SANDERS) for offering it.

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

Mr. SANDERS. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I also commend the gentleman from Vermont. This is a very good amendment. The gentleman every year has had a constructive addition to this bill, and we compliment him for that.

Mr. UDALL of Colorado. Mr. Chairman, I rise in strong support of this amendment that would increase funding by $3 million for the Energy Star program, bringing it to the level of the President's request.

Energy Star is a voluntary partnership program that helps businesses, state and local governments, homeowners, and consumers save money by investing in energy efficiency in homes, businesses, buildings, and products.

For every federal dollar spent on program costs, the Energy Star program produces average energy bill savings of $75 and sparks $15 in investment in new technology.

Recognizing this impressive track record, the Bush Administration called for Energy Star's expansion in last year's National Energy Policy report, and this year requested a higher level of funding for the program. Sixty of my colleagues in the House indicated their endorsement of the President's request by signing a letter I circulated this year in support of increased Energy Star funding.

Through programs like Energy Star, we can reduce pollution, promote economic growth by stimulating investment in new technology, help reduce dependence on imported oil, and help ensure the reliability of our electric system by reducing peak demand. An investment in Energy Star today means greater energy security tomorrow.

The President's FY03 request for increased funding for Energy Star recognized that this program could accomplish more with increased funding. It is estimated that if all consumers chose only Energy Star-labeled products over the next decade or so, the nation's energy bill would be reduced by about $100 billion while avoiding 380 million metric tons of carbon-equivalent in greenhouse gas emissions.

These are real benefits that make the Energy Star program worthy of funding at the level of the President's request. I urge support for this amendment.

Mr. BOEHLERT. Mr. Chairman, I rise in support of the amendment by the gentleman from Vermont to restore $3 million requested by the Administration for the Department of Energy's Energy Star program. I do so with at least a measure of reluctance because I understand the Appropriations Committee leadership's frustration with the current administration of program and the agency's inability to meet deadlines.

As the Chairman of the House Committee on Science and someone committed to the cause of energy conservation and energy efficiency, I am a strong supporter of the goals of the Energy Star program. The program helps identify products that are the most energy efficient products currently available in the marketplace—thereby assisting consumers in reducing their energy costs, encouraging manufacturers to develop more energy efficient products and helping the nation to reduce our dependence on foreign oil. However, I can attest that timeliness has been a serious problem for DOE's Energy Star program—at least in the development of new standards for energy efficient windows.

It is my understanding that several manufacturers, not just one as some have alleged, are ready to go forward with new window products that could help cut energy losses through improved design. These designs meet mandatory codes already in effect in several states. Despite widespread support for the standards, DOE's has been working on this issue for 18 months. The agency has proposed new standards on two occasions, issued a delay to the

effective date once and now has withdrawn the proposal entirely pending further analysis.

Therefore, I understand the committee's frustration with the program as evidenced by their reduction of the amount requested. I am concerned, however, that the reduction below the requested amount could only further delay these important rules. I appreciate the committee's sensitivity to the window issue and their willingness to provide additional funding for window related research, research that should be used to expedite the decision-making on the proposed new standards and not to delay action further. However, I believe the Energy Star program funds are needed to ensure the fastest possible action.

Accordingly, I urge a yes vote on the amendment to restore the program to the level recommended by the Administration.

Mr. ISRAEL. Mr. Speaker, as a freshman Member of the House Financial Services Committee, I'm still new enough to hope that both sides of the aisle truly want to accomplish meaningful corporate reform. But I'm not naive.

A few months ago, in the wake of Enron, many of us on the Committee offered amendments to the majority's corporate governance reform. We offered an amendment to stop the conflicts between analysts and investment bankers. The majority defeated it. We offered an amendment to ensure independence of auditors. The majority diluted it. We offered amendments to achieve true structural reform and end corporate thievery. The majority delayed it.

And now, in the bottom of the ninth with two outs and two strikes, suddenly the majority has seen the light and felt the heat of an expansive population of angry Americans who are watching their retirements dissipate.

The President has asked us to get a bill on his desk—while members of his Administration deal with a daily barrage of reports on their own conduct as the corporate leaders of Haliburton, Harkin, Enron and others.

Tonight we have a choice. We can continue to allow the majority to defeat, dilute and delay true protections of Main Street investors and retirees. Or we can draw the line with the Sarbanes bill that puts people ahead of politics.

The CHAIRMAN. Is there further debate on the amendment?

If not, the question is on the amendment offered by the gentleman from Vermont (Mr. SANDERS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title II?

If not, the Clerk will read.

The Clerk read as follows:

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 302. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 303. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 304. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 305. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless advance notice of such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

SEC. 306. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (Sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands in a manner different than such sales were conducted in fiscal year 2002.

SEC. 307. (a) LIMITATION OF FUNDS.—None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws.

(b) EXCEPTIONS.—The provisions of subsection (a) shall not apply if the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before September 30, 1994; and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by the applicant by that date.

(c) REPORT.—On September 30, 2003, the Secretary of the Interior shall file with the House and Senate Committees on Appropriations and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on actions taken by the Department under the plan submitted pursuant to section 314(c) of the Department of the Interior and Related Agencies Appropriations Act, 1997 (Public Law 104–208).

(d) MINERAL EXAMINATIONS.—In order to process patent applications in a timely and responsible manner, upon the request of a patent applicant, the Secretary of the Interior shall allow the applicant to fund a qualified third-party contractor to be selected by the Bureau of Land Management to conduct a mineral examination of the mining claims or mill sites contained in a patent application as set forth in subsection (b). The Bureau of Land Management shall have the sole responsibility to choose and pay the third-party contractor in accordance with the standard procedures employed by the Bureau of Land Management in the retention of third-party contractors.

SEC. 308. Notwithstanding any other provision of law, amounts appropriated to or earmarked in committee reports for the Bureau of Indian Affairs and the Indian Health Service by Public Laws 103–138, 103–332, 104–134, 104–208, 105–83, 105–277, 106–113, 106–291, and 107–63 for payments to tribes and tribal organizations for contract support costs associated with self-determination or self-governance contracts, grants, compacts, or annual funding agreements with the Bureau of Indian Affairs or the Indian Health Service as funded by such Acts, are the total amounts available for fiscal years 1994 through 2002 for such purposes, except that, for the Bureau of Indian Affairs, tribes and tribal organizations may use their tribal priority allocations for unmet indirect costs of ongoing contracts, grants, self-governance compacts or annual funding agreements.

SEC. 309. Of the funds provided to the National Endowment for the Arts—

(1) The Chairperson shall only award a grant to an individual if such grant is awarded to such individual for a literature fellowship, National Heritage Fellowship, or American Jazz Masters Fellowship.

(2) The Chairperson shall establish procedures to ensure that no funding provided through a grant, except a grant made to a State or local arts agency, or regional group, may be used to make a grant to any other organization or individual to conduct activity independent of the direct grant recipient. Nothing in this subsection shall prohibit payments made in exchange for goods and services.

(3) No grant shall be used for seasonal support to a group, unless the application is specific to the contents of the season, including identified programs and/or projects.

SEC. 310. The National Endowment for the Arts and the National Endowment for the Humanities are authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such in furtherance of the functions of the National Endowment for the Arts and the National Endowment for the Humanities. Any proceeds from such gifts, bequests, or devises, after acceptance by the National Endowment for the Arts or the National Endowment for the Humanities, shall be paid by the donor or the representative of the donor to the Chairman. The Chairman shall enter the proceeds in a special interest-bearing account to the credit of the appropriate endowment for the purposes specified in each case.

SEC. 311. (a) In providing services or awarding financial assistance under the National Foundation on the Arts and the Humanities Act of 1965 from funds appropriated under this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that serve underserved populations.

(b) In this section:

(1) The term ''underserved population'' means a population of individuals, including urban minorities, who have historically been outside the purview of arts and humanities programs due to factors such as a high incidence of income below the poverty line or to geographic isolation.

(2) The term ''poverty line'' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(c) In providing services and awarding financial assistance under the National Foundation on the Arts and Humanities Act of 1965 with funds appropriated by this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that will encourage public knowledge, education, understanding, and appreciation of the arts.

(d) With funds appropriated by this Act to carry out section 5 of the National Foundation on the Arts and Humanities Act of 1965—

(1) the Chairperson shall establish a grant category for projects, productions, workshops, or programs that are of national impact or availability or are able to tour several States;

(2) the Chairperson shall not make grants exceeding 15 percent, in the aggregate, of such funds to any single State, excluding grants made under the authority of paragraph (1);

(3) the Chairperson shall report to the Congress annually and by State, on grants awarded by the Chairperson in each grant category under section 5 of such Act; and

(4) the Chairperson shall encourage the use of grants to improve and support community-based music performance and education.

SEC. 312. No part of any appropriation contained in this Act shall be expended or obligated to complete and issue the 5-year program under the Forest and Rangeland Renewable Resources Planning Act.

SEC. 313. None of the funds in this Act may be used to support Government-wide administrative functions unless such functions are justified in the budget process and funding is approved by the House and Senate Committees on Appropriations.

SEC. 314. Amounts deposited during fiscal year 2002 in the roads and trails fund provided for in the 14th paragraph under the heading ''FOREST SERVICE'' of the Act of March 4, 1913 (37 Stat. 843; 16 U.S.C. 501), shall be used by the Secretary of Agriculture, without regard to the State in which the amounts were derived, to repair or reconstruct roads, bridges, and trails on National Forest System lands or to carry out and administer projects to improve forest health conditions, which may include the repair or reconstruction of roads, bridges, and trails on National Forest System lands in the wildland-community interface where there is an abnormally high risk of fire. The projects shall emphasize reducing risks to human safety and public health and property and enhancing ecological functions, long-term forest productivity, and biological integrity. The projects may be completed in a subsequent fiscal year. Funds shall not be expended under this section to replace funds which would otherwise appropriately be expended from the timber salvage sale fund. Nothing in this section shall be construed to exempt any project from any environmental law.

SEC. 315. Other than in emergency situations, none of the funds in this Act may be used to operate telephone answering machines during core business hours unless such answering machines include an option that enables callers to reach promptly an individual on-duty with the agency being contacted.

SEC. 316. No timber sale in Region 10 shall be advertised if the indicated rate is deficit when appraised under the transaction evidence appraisal system using domestic Alaska values for western redcedar: *Provided*, That sales which are deficit when appraised under the transaction evidence appraisal system using domestic Alaska values for western redcedar may be advertised upon receipt of a written request by a prospective, informed bidder, who has the opportunity to review the Forest Service's cruise and harvest cost estimate for that timber. Program accomplishments shall be based on volume sold. Should Region 10 sell, in fiscal year 2002, the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan in sales which are not deficit when appraised under the transaction evidence appraisal system using domestic Alaska values for western redcedar, all of the western redcedar timber from those sales which is surplus to the needs of domestic processors in Alaska, shall be made available to domestic processors in the contiguous 48 United States at prevailing domestic prices. Should Region 10 sell, in fiscal year 2002, less than the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan in sales which are not deficit when appraised under the transaction evidence appraisal system using domestic Alaska values for western redcedar, the volume of western redcedar timber available to domestic processors at prevailing domestic prices in the contiguous 48 United States shall be that volume: (i) which is surplus to the needs of domestic processors in Alaska; and (ii) is that percent of the surplus western redcedar volume determined by calculating the ratio of the total timber volume which has been sold on the Tongass to the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan. The percentage shall be calculated by Region 10 on a rolling basis as each sale is sold (for purposes of this amendment, a ''rolling basis'' shall mean that the determination of how much western redcedar is eligible for sale to various markets shall be made at the time each sale is awarded). Western redcedar shall be deemed ''surplus to the needs of domestic processors in Alaska'' when the timber sale holder has presented to the Forest Service documentation of the inability to sell western redcedar logs from a given sale to domestic Alaska processors at price equal to or greater than the log selling value stated in the contract. All additional western redcedar volume not sold to Alaska or contiguous 48 United States domestic processors may be exported to foreign markets at the election of the timber sale holder. All Alaska yellow cedar may be sold at prevailing export prices at the election of the timber sale holder.

SEC. 317. A project undertaken by the Forest Service under the Recreation Fee Demonstration Program as authorized by section 315 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1996, as amended, shall not result in—

(1) displacement of the holder of an authorization to provide commercial recreation services on Federal lands. Prior to initiating any project, the Secretary shall consult with potentially affected holders to determine what impacts the project may have on the holders. Any modifications to the authorization shall be made within the terms and conditions of the authorization and authorities of the impacted agency;

(2) the return of a commercial recreation service to the Secretary for operation when such services have been provided in the past by a private sector provider, except when—

(A) the private sector provider fails to bid on such opportunities;

(B) the private sector provider terminates its relationship with the agency; or

(C) the agency revokes the permit for noncompliance with the terms and conditions of the authorization.

In such cases, the agency may use the Recreation Fee Demonstration Program to provide for operations until a subsequent operator can be found through the offering of a new prospectus.

SEC. 318. Prior to October 1, 2003, the Secretary of Agriculture shall not be considered to be in violation of subparagraph 6(f)(5)(A) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(5)(A)) solely because more than 15 years have passed without revision of the plan for a unit of the National Forest System. Nothing in this section exempts the Secretary from any other requirement of the Forest and Rangeland Renewable Resources Planning Act (16 U.S.C. 1600 et seq.) or any other law: *Provided*, That if the Secretary is not acting expeditiously and in good faith, within the funding available, to revise a plan for a unit of the National Forest System, this section shall be void with respect to such plan and a court of proper jurisdiction may order completion of the plan on an accelerated basis.

SEC. 319. Until September 30, 2004, the authority of the Secretary of Agriculture to enter into a cooperative agreement under the first section of Public Law 94–148 (16 U.S.C. 565a–1) for a purpose described in such section includes the authority to use that legal instrument when the principal purpose of the resulting relationship is to the mutually significant benefit of the Forest Service and the other party or parties to the agreement, including nonprofit entities.

SEC. 320. No funds provided in this Act may be expended to conduct preleasing, leasing, and related activities under either the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) within the boundaries of a National Monument established pursuant to the Act of June 8, 1906 (16 U.S.C. 431 et seq.) as such boundary existed on January 20, 2001, except where such activities are allowed under the Presidential proclamation establishing such monument.

SEC. 321. Section 347(a) of the Department of the Interior and Related Agencies Appropriations Act, 1999, as included in Public Law 105–277 as amended, is amended by striking ''2004'' and inserting ''2005''. The authority to enter into stewardship and end result contracts provided to the Forest Service in accordance with section 347 of title III of section 101(e) of division A of Public Law 105–277 is hereby expanded to authorize the Forest Service to enter into an additional 12 contracts subject to the same terms and conditions as provided in that section.

SEC. 322. TECHNICAL CORRECTION RELATED TO CABIN USER FEES.—Section 608(b)(2) of the Cabin User Fee Fairness Act of 2000 (16 U.S.C. 6207(b)(2); Public Law 106–291) is amended by striking ''value influences'' and inserting in lieu thereof ''criteria'' and striking ''section 606(b)(3)'' and inserting in lieu thereof ''section 606(b)(2)''.

SEC. 323. EXTENSION OF FOREST SERVICE CONVEYANCES PILOT PROGRAM.—Section 329 of the Department of the Interior and Related Agencies Appropriations Act, 2002 (16 U.S.C. 580d note; Public Law 107–63) is amended—

(1) in subsection (b), by striking ''10'' and inserting ''20''; and

(2) in subsection (d), by striking ''2005'' and inserting ''2006''.

SEC. 324. A grazing permit or lease issued by the Secretary of the Interior or the Secretary of Agriculture where National Forest System lands are involved that expires (or is transferred or waived) during fiscal year 2003 shall be renewed under section 402 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1752), section 19 of the Granger-Thye Act, as amended (16 U.S.C. 5801), or if applicable, section 510 of the California Desert Protection Act (16 U.S.C. 410aaa–50). The terms and conditions contained in the expiring permit or lease shall continue in effect under the new permit or lease until such time as the Secretary of the Interior or the Secretary of Agriculture completes processing of such permit or lease in compliance with all applicable laws and regulations, at which time such permit or lease may be canceled, suspended, or modified, in whole or in part, to meet the requirements of such applicable laws and regulations. Nothing in this section shall be deemed to alter the statutory authority of the Secretary of the Interior or the Secretary of Agriculture. Any Federal lands included within the boundary of Lake Roosevelt National Recreation Area, as designated by the Secretary of the Interior on April 5, 1990 (Lake Roosevelt Cooperative Management Agreement), that

were utilized as of March 31, 1997, for grazing purposes pursuant to a permit issued by the National Park Service, the person or persons so utilizing such lands as of March 31, 1997, shall be entitled to renew said permit under such terms and conditions as the Secretary may prescribe, for the lifetime of the permittee or 20 years, whichever is less.

SEC. 325. Notwithstanding any other provision of law or regulation, employees of foundations established by Acts of Congress to solicit private sector funds on behalf of Federal land management agencies shall qualify for General Services Administration contract airfare rates and Federal Government hotel accommodation rates when such employees are traveling on official foundation business.

SEC. 326. Notwithstanding any other provision of law or regulation, to promote the more efficient use of the health care funding allocation for fiscal year 2003, the Eagle Butte Service Unit of the Indian Health Service, at the request of the Cheyenne River Sioux Tribe, may pay base salary rates to health professionals up to the highest grade and step available to a physician, pharmacist, or other health professional and may pay a recruitment or retention bonus of up to 25 percent above the base pay rate.

SEC. 327. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriations Act.

SEC. 328. In entering into agreements with foreign countries pursuant to the Wildfire Suppression Assistance Act (42 U.S.C. 1856m) the Secretary of Agriculture and the Secretary of the Interior are authorized to enter into reciprocal agreements in which the individuals furnished under said agreements to provide wildfire services are considered, for purposes of tort liability, employees of the country receiving said services when the individuals are fighting fires. The Secretary of Agriculture or the Secretary of the Interior shall not enter into any agreement under this provision unless the foreign country (either directly or through its fire organization) agrees to assume any and all liability for the acts or omissions of American firefighters engaged in firefighting in a foreign country. When an agreement is reached for furnishing fire fighting services, the only remedies for acts or omissions committed while fighting fires shall be those provided under the laws of the host country and those remedies shall be the exclusive remedies for any claim arising out of fighting fires in a foreign country. Neither the sending country nor any organization associated with the firefighter shall be subject to any action whatsoever pertaining to or arising out of fighting fires.

SEC. 329. PROHIBITION OF OIL AND GAS DRILLING IN THE FINGER LAKES NATIONAL FOREST, NEW YORK.—None of the funds in this Act may be used to prepare or issue a permit or lease for oil or gas drilling in the Finger Lakes National Forest, New York, during fiscal year 2003.

Mr. WAMP (during the reading). Mr. Chairman, I ask unanimous consent that the bill through page 135, line 13, be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

AMENDMENT NO. 2 OFFERED BY MRS. CAPPS

Mrs. CAPPS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of amendment No. 2 is as follows:

Amendment No. 2 offered by Mrs. CAPPS:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. ____. None of the funds provided in this Act may be expended by the Department of the Interior to approve any exploration plan, any development and production plan, any application for permit to drill or to permit any drilling on Outer Continental Shelf Southern California Planning Area leases numbered OCS–P0443, OCS–P0445, OCS–P0446, OCS–P0449, OCS–P0499, OCS–P0500, OCS–P0210, OCS–P0527, OCS–P0460, OCS–P0464, OCS–P0409, OCS–P0396, OCS–P0397, OCS–P0402, OCS–P0403, OCS–P0408, OCS–P0414, OCS–P0319, OCS–P0320, OCS–P0322, OCS–P0323–A, OCS–P0426, OCS–P0427, OCS–P0432, OCS–P0435, OCS–P0452, OCS–P0453, OCS–P0425, OCS–P0430, OCS–P0431, OCS–P0433, OCS–P0434, OCS–P0415, OCS–P0416, OCS–P0421, and OCS–P0422.

Mrs. CAPPS. Mr. Chairman, I am offering this amendment with the gentleman from West Virginia (Mr. RAHALL) and the gentleman from California (Mr. GEORGE MILLER). It is time to take action to permanently end the threat of new oil drilling off the central coast of California. Californians oppose new drilling. We have plenty of oil platforms already, and even the oil companies themselves want a resolution to our mess.

Passage of this amendment would be a major step toward terminating the leases that threaten the central coast's environment and economy. Specifically, our amendment would prohibit the Department of Interior from spending any funds during this funding cycle to permit new drilling activities on the 36 undeveloped oil and gas leases off California's coast. We hope this will spur negotiations between the administration, the oil company lease holders, and the State of California about terminating these leases.

Mr. Chairman, there is precedent for this approach. Settlements to remove leases from Alaska and North Carolina occurred after congressional action to prevent new leasing and the development of existing leases. Last year the House passed a historic amendment similar to what we are offering here today. The Davis amendment halted the sale of Lease 181 off Florida's coast. It passed by a wide bipartisan margin, with 70 of my Republican colleagues voting in favor of it. Following up on this action, the administration reached an agreement with Florida to purchase drilling leases in Lease 181 area and other coastal areas and the Everglades. These actions have been widely acclaimed throughout Florida. I fully supported this bold step to protect their environment and economy.

The President cited local opposition to new drilling as a prime reason for the decision. Which left Californians asking, What about us? According to Department of Interior Secretary Norton, ''A major difference between Florida and California is that Florida opposes coastal drilling and California does not.''

As the U.S. Representative for Santa Barbara and San Luis Obispo counties, and a nearly 40-year resident of the central coast, I was dumbfounded by this assertion. The Santa Barbara News Press editorialized about what it called Secretary Norton's jaw-dropping remarks asking, ''What alternative universe is Ms. Norton living in?''

Mr. Chairman, I lived in Santa Barbara in 1969 when a huge blowout on Union Oil's platform A put 4 million gallons of oil into our sea. It killed thousands of sea birds, and I will show one. Sea birds like this one, seals, dolphins, fish and other sea life; and it damaged a huge swath of our beautiful coast.

It galvanized central coast residents, indeed virtually the whole State, against more offshore oil drilling. While we were outraged by the environmental damage, we knew another blowout would wreak havoc on our tourism, fishing, and recreation industries, all critical components of our local economy.

As the newspaper noted, ''This catastrophe helped spark an environmental movement that has spread far beyond Santa Barbara.'' Since that time, at least two dozen city and county governments have passed anti-oil measures. In 1994, Republican Governor Pete Wilson signed into a law a permanent ban on new offshore leasing in State waters.

In 1999, the State Assembly adopted a resolution requesting the Federal Government enact a permanent ban on drilling off California's coast. Even the Federal Government has demonstrated its sensitivity to Californians' opposition to new drilling.

In 1990, President George H.W. Bush placed a 10-year moratorium on new leasing in Federal waters off California, later renewed and extended by President Clinton. We have asked for the administration, the leaseholders, and the State of California to work with us to terminate the leases off California's coast.

It is time to end the long-standing controversy surrounding the 36 undeveloped leases. Californians have spoken loud and clear. We do not want more drilling. The Federal Government should respect our wishes.

California's coastline is a priceless treasure. It is home to everything from blue whales to otters, and it is home to two of our national marine sanctuaries and the Channel Islands National Park. This map shows where the park fits and where these leases are right in between. More oil drilling is just not worth the risk to this environmentally and economically valuable area.

I urge support for the Capps-Rahall-Miller amendment to demonstrate the House's commitment to protecting the environment and the economy of both coastlines, the Atlantic and the Pacific.

Mr. WAMP. Mr. Chairman, I ask unanimous consent that all debate on

this amendment and all amendments thereto be limited to 30 minutes equally divided.

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

There was no objection.

The CHAIRMAN. The gentlewoman from California (Mrs. CAPPS) and the gentleman from Tennessee (Mr. WAMP) each will control 15 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. WAMP).

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

Mr. Chairman, I very reluctantly rise on behalf of the subcommittee to oppose the gentlewoman's amendment. She is a class act in every sense of the term, and such a wonderful person, and serves her State and district with such distinction, and certainly her motives are pure here in trying to take care of the environment in the great Pacific region of our country. Certainly there is a need there.

However, there is no reason for this funding limitation in this bill when there are no development plans approved by the Department of Interior for this year. Both the State of California and the leaseholders are currently litigating this issue. Some Members today will likely point to the actions that Congress took last year with respect to the leases off the coast of Florida, but the facts are very different and there has not been offshore oil and gas development off the coast of Florida.

We know there has been a significant amount of development off the coast of California. As a matter of fact, Federal leases have produced more than a billion barrels of oil, and State leases have produced more than 2.5 billion barrels of oil.

I am the co-chairman of the House Renewable Energy Efficiency Caucus and have worked with the gentlewoman there on a variety of new technologies and alternative energy sources. And clearly with respect to energy and the environment, we need to do that. I advocate that greatly. However, we cannot reduce the amount of energy production that our country has today without dramatically impacting our freedom in this country.

In order to maintain our society as we know it, we are going to have to maintain a certain amount of domestic production, and this obviously would cut into that domestic production. Energy issues have dominated recent debate, especially as both price and supply of energy fuels have been in the headlines. This amendment would actually send the wrong message right now to the markets. It would potentially drive up costs at a time when we are experiencing economic pains; and clearly, we are going to have to look at both reducing the demand and increasing the supply.

That is what the President's comprehensive energy proposal is all about. That bill is in conference today between the Senate and the House. We need a conference report on the energy bill, but we better not tie our hands behind our backs through this amendment and actions like this amendment because we have to be able to produce a certain amount of oil in this country in order to not be so reliant on foreign sources and ultimately have the proverbial gun to our head from OPEC, Iraq and other nations.

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Therefore, the subcommittee respectfully, very respectfully, opposes the gentlewoman's amendment.

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

Mrs. CAPPS. Mr. Chairman, I am pleased to yield 5 minutes to the gentleman from West Virginia (Mr. RAHALL), the ranking member of the Committee on Resources and the coauthor of this amendment.

Mr. RAHALL. Mr. Chairman, I thank the gentlewoman from California for yielding me this time, and I certainly want to commend her for her excellent leadership on this issue, an issue that is dear and near to her State and to her people. She has been a true fighter on this most important matter.

Mr. Chairman, many of us concerned with the impacts of Federal oil and gas leasing sought to overlook the politics of the issue when President Bush, as a favor to his brother Jeb, recently announced the buyback of certain oil and gas leases in Florida. These were highly controversial leases and their development threatened parts of Florida's coastline and efforts to restore the Everglades. Moreover, there have been similar settlements in the past, although they were prompted by congressional action in the case of OCS leases off the coast of North Carolina and in Bristol Bay, Alaska.

So initially we sought to overlook the fact that the President's brother was up for reelection as Governor of Florida and that the buyback of these leases would help his candidacy as well as the President's own fortunes in the State of Florida. And we sought to ignore it as well because the buyback was the right thing to do.

I would say to my colleagues that we were not allowed to overlook the politics for too long. I say this because the Governor of California also asked for the same consideration for 36 highly controversial OCS leases off the coast of that State. These are undeveloped leases, several of which are over 3 decades old. Yet the Secretary of the Interior, Gale Norton, denied that request. She stated, and it is quoted here in this editorial, ''A major difference between Florida and California is that Florida opposes coastal drilling and California does not.'' As this editorial states, ''What alternative universe is Ms. Norton living in?'' Even a person of my generation, born and raised in the southern coal fields of Beckley, West Virginia, knows that the very genesis of the campaign to limit offshore oil and gas drilling was in that State of California.

We are offering this amendment today to say thank you, President Bush, for what you did in Florida. Thank you very much, Mr. President. But the interests of all Americans should compel you to do the same thing in the State of California. There are resources at stake here that have national significance. The OCS oil and gas leases in question are adjacent to the Channel Islands National Park which encompasses 250,000 acres over five islands. The park is of international significance, having been designated a Biosphere Reserve by the United Nations in 1976. Further, this area is also part of a national marine sanctuary. Clearly oil and gas development is not compatible with these national preservation designations.

This amendment is premised on seeking equity for all parties involved, for the people of southern California who want to protect their shoreline and their economy; equity for the American people as a whole who have a vested interest in the integrity of units of the national park system such as the Channel Islands; and equity for the holders of 36 OCS leases themselves who are left holding the bag with these stranded investments in some cases for 3 decades now.

In my view, in conclusion, Mr. Chairman, it is time to come to grips with this controversy, to own up to the fact that these 36 leases will probably never be developed, and to work out a sensible solution. I urge the House to adopt the pending amendment.

Mr. WAMP. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Pennsylvania (Mr. PETERSON), a member of the subcommittee.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I find this amendment interesting. These 36 leases are suspended. They are not active. This language only deals with 1 year, if my information is correct, so it says no money in this budget could be spent. From my understanding of the oil and gas business—and I come from where it started in Pennsylvania, I live 5 miles from the first oil well—is that really this legislation is of no value, or is somewhat meaningless, because you could not facilitate in 12 months what it would take to get these leases active, and so it prohibits activity for the next 12 months.

But I would like to speak a moment on the bigger issue. Coming from an oil patch, I want to share with you what nature does. The hills in Pennsylvania where oil was first discovered, and we did not know much about production, they had gushers, it comes spurting out of the ground. There are pictures of a place that is now called Oil Creek State Park where there was nothing growing. Every tree was dead. Every blade of grass was dead. The streams were polluted. The hills were washing away every time you would get a rainstorm. Today, that is a mature oak forest. It is a State park. It is beautiful.

The springs are clean. The streams are natural habitat for brook trout, as good as it gets. It was totally destroyed 100 and some years ago when oil was discovered, but nature has healed it.

Back then, we did not know how to produce oil. But I find it troubling every time we get an oil or gas vote on this floor, we vote to lock it up. We had the President's set-asides with his areas. We had a vote last year on the Great Lakes where you now do slant drilling and you do not drill into the lake but you drill under the lake. We buy oil and gas from Canada that comes out from under the Great Lakes but we prohibit Great Lakes drilling in the States. Much of the coastline is locked up. Last year we locked up some more of the Gulf. Much of the Midwest is locked up. I guess the question I ask is, is it more important to lock up oil and gas drilling around this country when we have safe, modern methods that do not cause environmental degradation? You look at the record in recent years of oil and gas drilling in this country, and it is pretty good, because we have the skill to do it. For a country as dependent on energy as us and that energy comes from countries like Iraq and Iran, does it make sense to continue, every time we have a vote on oil and gas, to lock it up? I find it interesting that one of the debaters for this amendment supports mountaintop mining, certainly with greater environmental degradation than drilling an oil and gas well, punching a little hole in the ground.

I think we as a body need to be more thoughtful. Where do we go with energy? We know it needs to be more renewable. We know we need to be better conserving. But in the interim, until we have something to replace oil, we need oil for this country. Every time we have a spike in oil and gas prices, and we had one in 2000 and 2001, this economy pays. We lost millions of jobs in this country with a spike in energy prices just a year and a half ago. Yet we continue on a course, with supposedly good environmental stewardship, of locking it up, resources that we can extract today with good sound science, and I think it is a debate we better think seriously about. These leases could not be developed in the next 12 months if we wanted to, yet that is what this amendment does. It says we lock it up for 12 more months because no money can be spent. It is an amendment to raise another vote against oil and gas development, something this country is dependent on for its absolute economic future. I think it is something we need to be very thoughtful about.

Mrs. CAPPS. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Chairman, I thank the gentlewoman for yielding me this time. I rise in strong support of this amendment. It is very important to this Nation, and let me point out why.

First of all, there is a big myth going on that we need this oil and gas off the California coastline. These leases have been out there since 1968 and the oil companies did nothing with them. They did not drill on these leases. They have sat on them. They have been exempt from all the moratoriums and now they want to continue these leases. Why, we think? What has changed since 1968? What has changed is that California has invested in alternative energy. No other State has developed more alternatives. No other State has more geothermal, wind, biomass, hydro, nuclear, natural gas. In energy conservation, we have done more than any other State to make our State not dependent on one source of energy but independent by developing all kinds of alternatives.

We want our State coastline back. Why? Because a majority of Californians live on that coastline. It is the most productive, prosperous, enjoyed, visited, photographed, painted, lived-in coastline in the United States. The people that come there to photograph it, enjoy it and swim in that ocean are your constituents. They do not want to come to visit offshore oil rigs. They want to enjoy the pristine California coast.

So, Mr. President, do for California what you did for your brother in Florida. Buy back the leases.

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

Mrs. CAPPS. Mr. Chairman, I am very pleased to yield 3 minutes to the gentleman from Washington (Mr. DICKS), the ranking member of the Subcommittee on Interior.

Mr. DICKS. Mr. Chairman, I want to commend the gentlewoman for her outstanding amendment. We have had similar problems in the State of Washington. We passed numerous amendments to deal with that problem and, of course, the issue now is that of equity between California and Florida.

In May of this year, President George Bush reached agreement with Governor Jeb Bush to buy back a series of oil leases which had been awarded many years ago, but which were under a moratorium from development as a result of public opposition to drilling near the Florida coastline. This agreement, which we support, will cost $235 million. I would note, however, that the National Environmental Trust has described the deal as a $235 million campaign contribution to the incumbent Governor of Florida.

California is faced with very similar circumstances but has so far received no similar accommodation from the Federal Government. There are currently 36 Outer Continental Shelf leases off the California coast which the Governor of California does not want to develop because of threats to the beach and coastline. They have taken the Federal Government to court as did the State of Florida. But a court case could take many, many years due to the uncertainty with regard to the Federal Government's position on drilling in California waters.

The amendment offered by the gentlewoman from California and others would send a clear signal that the Federal Government will not permit drilling. This action, while effective for 1 year only, would push both the State and the Department of the Interior to reach a settlement so that the people of California will know that these areas remain free of risk from drilling and potential environmental damage.

The amendment should be agreed to.

Mr. WAMP. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. ROHRABACHER) who is the past chairman of the Subcommittee on Energy and Environment of the Committee on Science and the current chairman of the Subcommittee on Space and Aeronautics.

Mr. ROHRABACHER. Mr. Chairman, sometimes it is very perplexing to be a Member of Congress to note the way this body sometimes will simply go with the trends, what is trendy, especially when it comes to issues of science and energy. I am perplexed as much as I ever have been about this particular issue. I, as most of you know and as many people in the public may know, am an avid surfer. I am in the ocean water every weekend. Less than 4 days ago, I was out surfing. I am also a scuba diver. I am someone who loves the ocean. We have had offshore oil drilling in my district for almost 50 years and there has never been not only not a major problem but not even a significant problem with any type of spillage or any other type of threat to our environment. What did happen during that time period, however, was a major spill, and guess where it came from? A tanker. Yes, a tanker that was delivering oil. Let us also remember the Exxon Valdez was headed toward southern California. If it would have had its accident down there, we would still be cleaning up that mess. The tanker accident off of my district was when a tanker inadvertently ran over its own anchor, spilling a huge amount of oil onto our coastline.

What we hear being suggested today by people claiming to be concerned about the environment and the ocean is to make our coastline perhaps 10, perhaps a hundred times more likely to suffer from an oil spill because every drop of oil that we do not get from these offshore oil rigs will come to us by tanker. We can philosophize that, oh, we shouldn't be so dependent on oil in the first place.

□ 1615

Okay, I will listen to that. I will listen to we should try to develop other alternative resources, but in reality, everyone in here knows that if we do not develop the actual oil resources, we are going to get that oil from someone who will deliver it to us by tanker, which is perhaps 10 to 100 times more likely to spill that oil on our coastline.

This bill is an antienvironmental bill. This proposition is against cleanliness in the ocean, but it is trendy, it is

happy; we do not have to explain ourselves because everybody knows that one has to be against actual oil drilling to be for the environment.

Let me note that this also has a bad effect on the environment. I can tell my colleagues, I have gone as a scuba diver and taken dives off the offshore oil rigs and found that is where all the fish are because they know it is safe for them to be around those rigs. They are not in the other places, they are near those rigs. But what else does it do for us? It is better for the environment not to be dependent on these oil tankers, but it is also better for our country not to be dependent on hostile powers.

Why is it that we have people in this body who will vote against any type of energy development when it comes to oil or natural gas? Why is that, when they realize we have people overseas at this minute risking their lives because our country is dependent on potentially hostile powers for our oil. Again, we could philosophize and say, oh, well, we should not be so dependent on oil, we should develop wind and solar and the rest of it, and I am for that. But we know that if we do not develop our oil resources, we are going to have the Saudi Arabians, the Iraqis, all the others who we are going to be more dependent on.

So we cannot even drill in Alaska, one of the most God-forsaken areas of the world. So we cannot drill there and we cannot drill offshore, and what does that do to our economy? By the way, the local offshore rigs in my district have been providing revenue to our State and our local areas all of this time.

Mr. Chairman, let me say, why is it that we are doing this? Number one, it is trendy. It is very trendy to be against offshore oil drilling and, number two, we have some very wealthy people who are concerned about their view, and that is it; very wealthy people concerned about their view. We are making our country more likely to have oil spills. We are putting ourselves in jeopardy by being dependent on these overseas powers to give us the oil, and we are hurting ourselves by eliminating that resource in terms of tax resources. And, by the way, when we talk about the balance of payments, if we are concerned about our economy, and it is wavering now, this is a major cause of unbalanced payments. We are not going to do anything to try and help those things, but we are going to help the rich people so they do not have to see an ugly oil well. Well, I would support anything that says let us make those oil wells not ugly. But I will not say we should not have oil. We can build those oil wells offshore that are safe and are beautiful, but let us not say we are not going to utilize what God gave us as these natural resources when it is safer to do so.

Mrs. CAPPS. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. INSLEE), my esteemed colleague.

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

Mr. INSLEE. Mr. Chairman, the President of the United States of America has taken action against offshore oil drilling in Florida. The problem we have here is we just have not been able to find any of his relatives in California.

I have checked the Santa Barbara phone book and I found an Allison Bush, an Albert Bush and an Anna Bush, and I hope that they or any of the other people named Bush in the Santa Barbara area will call the White House and ask the President to afford them the same courtesy he afforded his relative in Florida.

The President takes care of his family, and this is a noble, virtuous thing. We believe in family values on this side of the aisle, but we want to believe that to take care of all of the Bush relatives in the State of California, I do not care if it is a second cousin, third time removed, call the White House and ask him to take care of California.

Mrs. CAPPS. Mr. Chairman, I am happy to yield 1½ minutes to the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Chairman, about 1 year ago, former Congressman Joe Scarborough and I led a debate on the floor of the House that is remarkably similar to the one today, except it had to do with the coast of Florida. One of the arguments we raised was that the minimal amount of supply available off the coast of Florida did not warrant the extraordinary risk to our State, its pristine beauty, and to so many people that depended upon the economy associated with those beautiful beaches. Those same arguments apply here today in California.

We are talking about supply related to asphalt. I do not hear anybody here complaining we are depending on other countries to build enough parking lots in this Nation. California needs a few less parking lots and so do the State of Florida and others. So we are not talking about a precious supply for motor vehicles, for generating electricity for industry and manufacturing; we are talking about asphalt. I think the Democrats and Republicans in the State of California are entitled to the same respect that we afford to Floridians when we sat up and told our colleagues of the economic impact to our State associated with a spill that could occur.

The final point here is that the President of the United States and others need to stand up and say, why are Californians different than Floridians? Are they of some inferior status? Of course the answer is no. We are a country. This is an issue to put politics aside. It does not matter who the Governor of the State of California is this year or in the future. It is the same issue. If this Congress will pay attention to the details, because the devil is in the details, as we did last year, we will adopt the Capps amendment, and I urge adoption of the amendment.

Mrs. CAPPS. Mr. Chairman, I am very pleased to yield 1½ minutes to the gentleman from California (Mr. GEORGE MILLER), the former chair of the Committee on Resources.

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

Mr. GEORGE MILLER of California. Mr. Chairman, this is a critical issue for so many reasons. It is not only a question of equity of whether or not California will be treated the same as Florida, but it is also a question about the California economy.

Our oceans, our beaches, our seaside landscapes are huge economic engines within our State. They are the engines that drive individuals who want to come and reside there and start businesses and provide opportunity. They are the engines for tourism. They are the engines for a whole range of economic activity.

Now, we know that this is a much better oil industry today than it was at the time of the Santa Barbara oil spill. We know that the technology is much better today than it was then. But we also know that we have a much more intense concentration of economic benefits on our coast today than we had then, and that an accident and the risk of that accident for the benefits of the amount of oil available just does not make sense.

Mr. Chairman, our colleague, the gentleman from California (Mr. ROHRABACHER) said, how can we do this? How can we turn down the supply of oil? Well, if we are going to take the supply of oil and put it into cars that get 12 and 13 miles a gallon, we have already made a decision that we are going to waste this oil. Seventy percent of our oil goes into transportation, and earlier this year, this Congress made the decision that we are not going to improve the CAFE standards, not a mile, not 2 miles, not 3 miles. So why would we risk this magnificent coastline, its magnificent benefits to us and its dynamic economic energy, why would we risk that at a time when the Congress has made a decision that they are simply going to waste the oil?

We have to support the Capps amendment. I want to thank the gentlewoman for her leadership and her tenacity on this issue. We are not going away until we get the same justice that the people in Florida got and we get it for our economy and for our environment.

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

Mrs. CAPPS. Mr. Chairman, I am pleased to yield 1½ minutes to the gentlewoman from California (Ms. ESHOO), my colleague on the Committee on Energy and Commerce.

Ms. ESHOO. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I am pleased to rise in support of this very important amendment today.

I would like to state some facts for the Record. Why are we in support of

this? First of all, we have the fifth largest economy in the world, California does. We are a nation State and, you bet, we are going to go to bat for our economy. A good deal of our economy rests on our coast side. We have fishermen, we have tourism, we have many small businesses, and we want to protect them. We do not want these parts of our coast side despoiled.

Now, I purposely said ''parts.'' We are not talking about the entire coastline of California. California today produces its fair share of our Nation's need for oil supply from its coast. We want a fair shake from the President, from this administration, that we be able to buy these leases that have been outstanding.

We think that the President should speak to his father, who agreed with us on this. This is a long-term, bipartisan issue in California.

Today the Republican nominee in California says no offshore oil drilling; continued moratorium on these specific leases. So as the Bush administration of today says ''yes'' to his brother in Florida, we say, Mr. President, Members of Congress, follow the previous President's support and the President before that, George Bush 41. Give us a fair shake. Let us buy back these leases to protect California's coastline and her economy.

Mrs. CAPPS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. WOOLSEY).

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

Ms. WOOLSEY. Mr. Chairman, this is a battle that my California colleagues and I have been fighting for many, many years. It is not a fad. I thank the gentlewoman from California (Mrs. CAPPS), as well as the gentleman from California (Mr. GEORGE MILLER) and the gentleman from West Virginia (Mr. RAHALL) for their leadership on this issue.

Without this amendment, the Bush administration's concern with promoting the interests of big oil over serving the people of California will cause great harm to our coast.

The answer to America's energy needs is not contained in 36 oil leases; our energy future depends on increased use of renewable energy sources and conservation measures. Drilling for oil off our coast will threaten to destroy our environment, wreak havoc on our economy, an economy that depends on tourism and a great deal on fishing.

Unfortunately, the future of these 36 undeveloped leases is only a symptom of a bigger problem.

The real solution is for the Federal Government to enact a permanent ban on drilling off California's coast. For too long now, the coast of California has been protected only by a multiyear presidential order.

Mrs. CAPPS. Mr. Chairman, I yield myself the remaining time.

I would like to thank the gentleman from Tennessee (Mr. WAMP), and I thank my colleagues for joining with me in presenting our case for the State of California. This is about our economy, it is about a national economy, a State that produces its fair share of energy resources, a State where we have a coastline that needs protection. This amendment seeks to limit the Interior Department's funding for the funding cycle so that we can encourage the Federal Government and the State of California to sit with the local oil lessees, oil lessees who have come to my office and told me that they would like to settle, they would like to find a way out, and this amendment can give them that time and give us the opportunity to make a resolution in some situation such as Florida has done.

□ 1630

Again, it will protect our environment. This oil-soaked bird is an example of what can happen with one accident.

Our economy needs this protection; our environment needs this protection. I am pleased to implore my colleagues to support this amendment and work with us to allow these negotiations to occur for the State of California, for our environment and our economy.

Mr. WAMP. Mr. Chairman, I yield myself the balance of our time.

Mr. Chairman, I do commend the gentlewoman from California (Mrs. CAPPS) and all of our friends from California for fighting for a clean environment and fighting for what is right and good in our country. I have been there and seen the whales and enjoyed it as much as anyone.

But I think we must be vigilant and continue to recognize in the days following September 11 how fragile our economy is, how fragile our freedom is, and how much we must reduce our dependence on the Middle East for oil.

If we are going to do that, we cannot cancel leases. We cannot use funds to restrict oil and gas leases that we have domestically. The vast majority of people in this country believe we must have our own production capabilities, and we must not retreat from that, and in doing so, keep our country free and strong and productive. That is what we must do.

So on behalf of the subcommittee, we respectfully ask that the amendment be denied, with the greatest respect for those that offered it, because their motives are pure; but it is not in our country's best interest to limit this capability at this time through this appropriations bill.

Mrs. DAVIS of California. Mr. Chairman, I rise to support the Capps-Rahall-Miller amendment as a matter of equity for California in its long effort to protect its coastline from the potential effects of offshore oil production.

Many of us remember the devastation to the Santa Barbara coastline because of an oil spill. The state of California has been actively fighting these leases since then, including a 1994 law permanently banning new offshore oil leasing in state waters.

Like Florida, the coastal resources of California are critical to the strong economy of the state as well as to the aesthetic appreciation of its citizens and people around our Nation. I have been proud to join the authors in a series of efforts to insist that California be protected from potential environmental effects of new oil and gas offshore drilling.

It is important to protect our coastline by preventing the administration from expending funds to allow new drilling activity.

Mr. HOEFFEL. Mr. Chairman, I rise to express my strong support for the Capps-Rahall-Million amendment. This important amendment would work toward ending 36 undeveloped oil leases off the Californian cost. If these leases are allowed to be developed, we risk the tragic environmental contamination of a great swath of coastline. Executive Orders have placed moratoriums on developing these leases since 1990 and this outstanding amendment moves us closer to a permanent solution that will protect the health of the coast.

While I am greatly pleased with this amendment, I must also voice my criticism of two provisions within this bill that I find objectionable. I have long been an opponent of corporate welfare in its many forms. This bill contains several provisions that benefit corporate America at the expense of the American taxpayer. I believe that the are wrong and should be addressed.

The fee charged for grazing animals on public lands is one of the most blatant and objectionable subsidies in this bill. Currently, ranchers may apply for permits to graze their animals on Federal land at significantly below market rates. The Bureau of Land Management and the Forest Service each charge approximately $1.43 per animal per month, whereas the market value of the same averages $13.10 per head. This is a 915 percent difference. This body and this country should not allow this gift to continue unabated.

This bill also contains another offensive subsidy to corporate America that should be addressed. Hardrock mining, the mining of solid minerals that are not fuel from rock deposits, are governed by the General Mining Law of 1872. The law ranges free access to individuals and corporations to prospect for minerals in public domain lands, and allows them, upon making a discovery, to stake (or ''locate'') a claim on that deposit. A claim gives the holder the right to develop the minerals and may be ''patented'' to convey full title to the claimant. The total amount of money that the claimant pays to the government to develop the mining claim is a $100 a year holding fee and between $2.50 and $5.00 an acre (not adjusted since 1872) for an application fee.

The 1872 law allows companies to extract minerals without paying a royalty. This is unlike all other resources taken from public lands. For example, oil gas and coal industries operating on public lands pay a 12.5 percent royalty on the gross income of the operation. We are giving away resources that belong to us all. The public interest is not being served, and will not be served until we eliminate this example of corporate welfare.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Mrs. CAPPS).

The question was taken; and Chairman announced that the noes appeared to have it.

Mrs. CAPPS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California (Mrs. CAPPS) will be postponed.

Are there further amendments?

AMENDMENT NO. 1 OFFERED BY MR. BLUMENAUER

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. BLUMENAUER:

Add at the end, before the short title, the following new section:

SEC. ____. None of the funds appropriated or otherwise made available by this Act may be used to enter into any new commercial agricultural lease on the Lower Klamath and Tule Lake National Wildlife Refuges in the States of Oregon and California that permits the growing of row crops or alfalfa.

Mr. WAMP. Mr. Chairman, I ask unanimous consent that all debates on this amendment and all amendments thereto be limited to 40 minutes, equally divided.

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

There was no objection.

The CHAIRMAN. The gentleman from Oregon (Mr. BLUMENAUER) will control 20 minutes and the gentleman from Tennessee (Mr. WAMP) will control 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER).

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

Mr. Chairman, Members may remember the huge controversy from last year when the Bureau of Reclamation shut off irrigation water to farmers in order to provide enough water for endangered suckerfish and threatened coho salmon. It was back in the news again recently, where the Bureau of Reclamation announced last week that this will be another dry year in the Klamath Basin.

Mr. Chairman, this issue is always going to be a story, or on the verge of being one, for two reasons: number one, land management on our refuges in the Klamath Basin, and part of what I want to talk about here today deals with this remarkable wildlife refuge, it is guided by incompatible priorities: the reclamation of wetlands for agriculture and the preservation of wetlands for wildlife.

The water in this basin is overallocated by some 100,000 acre feet a year. Visualize 100,000 football fields covered by a foot of water. The water will be available for competing uses in the Klamath Basin only for perhaps 6 out of every 10 years; 2, 3, 4, 5 of those 10 years, we are going to be in deficit.

Now, the Federal Government created this mess at the beginning of the century by draining regions where there was too much water and creating an artificial hydrological system in the basin. The basin was a 3,500-acre wetland. Now, over 75 percent of this 350,000 acres has been drained for agriculture and other developments.

The water that is left in the basin is damaged. The Klamath River is one of the more polluted rivers in the State of Oregon, and the Upper Klamath Basin Lake is severely polluted. American Rivers has listed the Klamath as one of America's most endangered rivers.

The basin is always going to be in the news unless and until we take steps to reduce the damage. This amendment is a simple, commonsense step towards addressing part of the conflict in the basin between farmers, endangered species, the wildlife refuges, and Native Americans. It aims to reduce the damage from commercial agriculture and the refuge lands in the basin.

The Lower Klamath National Wildlife Refuge was established by Teddy Roosevelt as the Nation's first waterfowl refuge in 1908. Members may be surprised to find out, as I was, that the Klamath Basin refuges are the only refuges in the country that allow leasing for commercial agriculture of this nature. They are damaging wildlife in the process.

Farming on the refuge currently uses 56 different pesticide products, including 10 carcinogenics, two neurotoxins, and 13 endocrine disrupters. At least six of the pesticides have been determined by the U.S. EPA and the U.S. Geological Survey to be toxic to salmon. This is activity that is going on in one of our precious natural wildlife refuges.

That is one of the reasons, perhaps, the daily peak of overall number of birds who visit the refuge have declined from 6 million birds in the sixties to less than 1 million birds today.

For most of America, the conflict between wildlife refuge use and agriculture was fixed by Congress when it passed the National Wildlife Refuge System Improvement Act in 1997 by an overwhelming vote of 407 to one. The act clarified that wildlife conservation is the singular mission of wildlife refuges. It requires that the economic uses of national wildlife refuges only be permitted if they contribute to the achievement of refuge purposes and that such uses not degrade biological integrity, diversity, and environmental health.

Unfortunately, this standard has not yet been applied to the Klamath Basin.

I want to be clear: the amendment would not eliminate the lease land program on Tule Lake in the Lower Klamath Wildlife Refuge. The amendment only applies to the 17 agricultural leases that will be up for renewal in October of this year, a little over 2,000 acres out of the 22,000 acres that we are currently leasing.

The amendment does not stop agricultural activity. Farmers would be able to continue to farm in the wildlife refuge; but it would prohibit the growing of alfalfa, which is water-intensive, and row crops such as onions and potatoes, which are pesticide-intensive, on any new leases. The statistics are rather stark about the intense use of water for these row crops during the summer months when water is scarce in the basin. Farmers would still be able to grow crops that are beneficial to wildlife, such as barley, oats, and wheat.

The Federal Government's efforts in the Klamath Basin have been uncoordinated; and in fact, in concert with some local boosters over the last 100 years, they have made environmental shortcuts and did not honor basic agreements on the scale of ownership, financial commitment, and water use. In this process, Native Americans, the environment, wildlife, and the taxpayers have all been shortchanged.

I strongly urge that my colleagues join me in helping restore the integrity of the Klamath Basin and the National Wildlife Refuge system, and support this amendment that has been offered by myself and my colleague, the gentleman from California (Mr. THOMPSON).

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

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

Mr. Chairman, on behalf of the subcommittee, I rise in opposition to the gentleman's amendment.

Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. HERGER), the distinguished subcommittee chairman.

Mr. HERGER. Mr. Chairman, the lease land program is a perfect example of how wildlife and agriculture can thrive together. Congress recognized that balance and specifically afforded farming a special status in the national wildlife refuges of the Klamath Basin. The Kuchel Act enshrined the lease land farm program in Federal law, specifying a compromise between row and forage crops and cereal grains in a way that would satisfy the requirements of the law, including maximizing revenues to the government and to local counties, and providing food and habitat for the migrating birds and other wildlife.

While couched in seemingly innocent terms, this amendment takes a short step in the direction of eliminating the lease land program by chipping away at its foundation. If we remove row crops, we remove the greatest incentive to farm and upset the balance that was established in Federal law almost 40 years ago.

Moreover, this would deal another devastating economic blow to these communities, which have already suffered incredible hardship in the wake of last year's tragic water shutoff. Estimates are that these crops generated an average of approximately $10 million annually over the last 5 years. Those same acres planted to grain, as required by this amendment, would generate a little over $1 million. That is a $9 million out of $10 million loss that would cripple this community.

Mr. Chairman, my colleagues with agriculture in their districts know how

tenuous commodity markets are. Farmers need opportunities, not more baseless limitations. The irony here is, Mr. Chairman, that despite the gentleman's stated desires to help wildlife, their amendment would do precisely the opposite. By preventing the planting of onions, potatoes, and alfalfa, we effectively eliminate an important food source.

The potatoes, which I should note the gentlemen have specifically targeted, provide a particularly important source of nutrients for geese, allowing them to migrate and breed successfully; and they remove the very mechanism, crop rotation, that allows farmers to maintain the quality of the soils, and, in turn, enhance the production of the cereal grains that provide food and habitat. That is why it is in the Kuchel Act.

Claims of harm from pesticides used are simply unfounded. There is not a shred of evidence, not one, despite years of study, that lends any support whatsoever to that argument. The refuge manager himself has stated that there is ''no smoking gun.'' That is because pesticide use is severely restricted. California has the most stringent pesticide rules in the country, and over 95 percent of those allowable pesticides are prohibited on the leased lands.

Despite the rhetoric of the radical environmental groups, all the evidence is exactly to the contrary. Mr. Chairman, consider this statement from the California Waterfowl Association: ''For nearly 100 years, farmers and ranchers of the Klamath Basin have co-existed with immense populations of wildlife. Many wildlife species, especially waterfowl, are familiar visitors to their highly productive farms and ranches. Klamath Basin agriculture provides a veritable nursery for wildlife.''

So if there is no harm here, if experience over the long history of this program has shown that agriculture helps and enhances wildlife, then why seek to undo the delicate balance? The only explanation is, quite simply, that this is another attempt to shrink farming in this area.

Note that some of the same radical environmental groups behind this amendment were the same groups that were pursuing a similar proposal 2 years ago which would have eliminated the leases entirely. There is no doubting these groups' desire to remove agriculture from the Klamath Basin.

Mr. Chairman, I urge my colleagues to reject this anti-agriculture amendment.

Mr. BLUMENAUER. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. THOMPSON).

Mr. THOMPSON of California. Mr. Chairman, I would like to thank the gentleman from Oregon for yielding time to me and for his work on this very important matter.

Mr. Chairman, this amendment is good for agriculture, it is good for waterfowl, it is good for the fishing industry, and it is good for the families in the Klamath Basin, the north coast of California, and the coast of Oregon.

In 1908, President Theodore Roosevelt established our country's first waterfowl refuge in the Klamath and Tule Lake National Wildlife Refuge.

□ 1645

These are among the most important refuges in our country and they are the most important refuges in California. It is the largest staging area for waterfowl in the entire Pacific flyway. It also has the greatest concentration of wintering bald eagles in the United States. As was pointed out earlier, these are the only refuges in the country that allow commercial lease land farming. They farm over 20,000 acres of farmland. Many of the crops are water-consumptive and chemically intensive. The area is an area of very little waterfall. The average is less than that of some parts of Arizona where they have next to nothing.

There are about 100,000 acre-feet of water that are overallocated in the basin; and this, Mr. Chairman, coupled with a multiyear drought, has hurt farmers, it hurts fish, and it hurts waterfall. The area of the headwaters of the Klamath River, which was the number one salmon river in the Lower 48 States. Today's water shortages and intensive chemicals have greatly diminished the fish and the economy of the coastal communities of Northern California and some parts of Oregon.

In 1988, sports and commercial fishing in the Pacific region generated over $1.2 billion to our regional economy. Today's salmon fishing between Fort Bragg, California and my district and Coos Bay, Oregon has been all but shut down for the last 10 years. Klamath River salmon are 1 percent of their historical population, and the coast families in California and Oregon have lost over 72,000 family wage jobs. We must address the water problems of the Klamath Basin. We have got to do it soon.

This amendment, I believe, is a very important first step in doing that. The amendment will limit the crops grown on about 2,000 acres of the refuge that is leased to farming. That is 17 leases and, remember, they farm 2,000 acres of lease farming there. The crops that will be grown on those 17 leases, on those 2,000 acres, will be less water-consumptive. They will rely less on chemicals and they will provide some very needed food to waterfowl.

We are talking about going from row crops and alfalfa to potatoes to cereal grain to crops that are beneficial to the important wildlife that fly through the entire Pacific flyway. And most important and against what some of the critics of this amendment will say is that it still allows families in the area to farm. These areas will not go out of farming production. They will continue to be farmed. There are just going to be restrictions on what can be farmed in this area, restrictions that will be good for the coastal communities, good for the farming communities, good for the Native American community, good for fish, good for wildlife and good for waterfowl.

This is an important solution to the Klamath Basin water problem and it will help immensely with the downturn in the economy for the aforementioned reasons, and I would urge all of my colleagues to vote in favor of this initiative, and do so knowing this can be good for fish, good for waterfowl and good for people.

I thank the gentleman from Oregon again.

Mr. WAMP. Mr. Chairman, I yield 6 minutes to the distinguished gentleman from Oregon (Mr. WALDEN), a member of the Committee on Energy and Commerce and the Committee on Resources.

Mr. WALDEN of Oregon. Mr. Chairman, I am dismayed that my colleague from Portland has chosen to attack farming the Klamath Basin with this reckless and harmful amendment. By doing so, we are kicking the very farmers in the stomach just when they have been begun to recover from the last attack that this government hit them with. You remember, these are the men and women of the Klamath Basin who had their irrigation water cut off to them last year. They could not raise their crops and then the National Academy of Science has found the government's decision to cut off their water could not be backed up by science.

In short, the Federal Government got it wrong, terribly wrong.

What makes this amendment especially troubling is that it flies in the face of science and could hurt the farmers, the economy, the community and the very species that it is supposed to be introduced to protect.

Mr. Chairman, it is our responsibility to see that this Congress does not get it wrong again and do even more damage in the Klamath Basin, damage not only to the farmers who lease the lands on the refuges but also damage the wildlife, the waterfowl and refuges.

The proponents make two arguments: That growing row crops and alfalfa are incompatible with the refuges and the pesticides are adversely affecting the environment of the refuges. First, growing row crops is not only compatible with the refuges, but is also a practice that benefits the soil by improving its fertility as crops are rotated. This practice is as old as farming in America. The increased fertility of the soil in turn benefits the cereal grains that represent more than 75 percent of the acreage in the refuges which are then eaten by various species.

Mr. Chairman, activities on the Klamath and Tule Lake Refuges are governed by several Federal laws, including the 1964 Kuchel Act, which restricts row crops on the refuges to no

more than 25 percent. It is worth noting that current planning of row crops represents less than that figure.

Periodically the U.S. Fish and Wildlife Service conducts a compatibility determination, a formal and involved public process to make sure that agricultural processes are consistent with operating the refuges for the benefit of wildlife and waterfowl. The latest compatibility determination was issued on June 4 of this year. It selected a no-action alternative which means that the farming activities are indeed compatible with the goals of the refuge.

Further, Fish and Wildlife determined that even if these leased lands are reduced, the increased returned flows of water generated from reduced lease land farming would not be available to refuge wetlands. They are the lowest on the priority list to water rights in the basin. This is because the Endangered Species Acts, tribal trust assets, and agricultural contracts take precedent.

In short, cutting back on leasing the lease lands will not result in more water to the refuge wetlands.

Now let us talk about alfalfa. We are talking about onions and potatoes. Growing onions requires hand-weeding which helps keep down the noxious weeds. What better way to control noxious weed infestations than by hand-weeding. Growing potatoes benefits waterfowl. According to the California Waterfowl Association, potatoes specifically benefit two types of geese, the lesser snow and the white-fronted geese, because after the first frost the potatoes left in the field provide food for these geese. The pronghorned antelope on the refuge eat the alfalfa sprouts.

Mr. Chairman, the Blumenauer-Thompson amendment would deny leases that allow farmers to raise these row crops that have indeed been found compatible with the purposes of the refuge.

Now let us move on to pesticides. It is ironic that my friend from California would be on this amendment about pesticides when all the scientific studies, and I have a list of them here, found no adverse effect from these pesticides. And, in fact, I want to go to a statement by the manager of the Klamath Basin National Wildlife Refuge. ''We have never found that the pesticides have had an adverse effect on the environment.''

The Littlejohn report from 1993, the Boyer and Grew reports from 1994, the Moore report in 1993, on and on. These farmers used integrated pest management programs to minimize the use of pesticides in this basin. Each year they go through a pesticide use proposal process. I have the minutes of the April meeting here where they go through and look at how they can minimize the use.

California, and you all from California know this, probably has the most restricted use of pesticides in the United States of America. On this refuge, 97.8 percent of those pesticides allowed everywhere else in California are denied in this refuge already. They only use 2.2 percent of the available pesticides. For nearly a decade scientist after scientist has studied the use of the pesticides and found no problems. Where they have thought there might be some concerns, they have moved back how they applied the pesticides so it does not get in the water, does not get in the canals, and does not adversely affect the species in the Klamath Refuge.

It is important to note, because I know my friend and colleague from Portland originally wanted to ban funding for any renewal of leases but then compromised and just wants to do away about the row crops. Let me point out what Phil Norton, the manager of the Klamath Basin Refuge said. His greatest nightmare would be to have a whole bunch of lands that we were not set up to handle. That is what will happen if we start cutting off these leases.

Again, I want to make the point, if the lease lands are not used, the water does not go to the refuge but to other higher-use priorities.

Finally, let me close by saying this. Those of us who represent rural areas have a concern when those in the urban areas have situations far worse than polluting rivers. In the city of Portland, 3.4 billion gallons of stormwater and sewage flow in in 55 locations into the Columbia and the Willamette River; 3.4 billion gallons of raw sewage. They flush it and it flows right into where the endangered salmon are. Right over where there are toxic dumps, Superfund sites in the Willamette River. Yet the American Rivers Council does not say that one is polluted. They just say that Klamath is.

Mr. Chairman, this is a bad amendment for agriculture. It does not work for the wildlife. What they have done on that refuge is compatible, and I urge opposition to this amendment.

Mr. BLUMENAUER. Mr. Chairman, I yield myself 1 minute.

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

Mr. BLUMENAUER. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Chairman, I ask if there is a chance we could get a unanimous consent agreement on dividing the time equally, but limiting the remaining debate to 12 minutes so we can honor leadership's commitment to rise at a time certain, and that would be six minutes per side?

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

Mr. BLUMENAUER. With all due respect, I wanted to cooperate with the gentleman. I did this from the beginning. It was the other side who asked for 20 minutes. I had agreed to 15 minutes a side. Now I am going to get behind the curve. If you give me 9 minutes, I will agree to 6. I think that will put us even and I am a happy guy.

Mr. WAMP. If we go beyond 12, we will have to rise and come back at 6 o'clock. That was an agreement we made earlier.

Mr. BLUMENAUER. I will be happy to do it.

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

There was no objection.

The CHAIRMAN. The gentleman from Oregon (Mr. BLUMENAUER) is recognized.

Mr. BLUMENAUER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, first of all, I have been working very hard, as I think my gentleman friend from Eastern Oregon knows, to deal with the problems in the Willamette River. I negotiated a settlement. We put a lot of money into it. I am continuing to work on that. But one thing we decided is we were going to make it better, not worse. And what this amendment is seeking to do is to make sure that we are making it better.

Second, the notion is given to the 1964 Kuchel Act. Well, give me a break. We have learned a lot about managing the environment in the last 28 years. And if we were doing it over again, we would not enact, I do not think even this Congress would enact something that looks like that 1964 act. And I am suggesting that what we are doing here is an attempt to bring that into conformity.

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

Mr. GEORGE MILLER of California. Mr. Chairman, I thank the gentleman for yielding me time and for offering this amendment.

To follow up on what he said, we have spent the last 15 years cleaning up after the reclamation projects that were started in the 1950s, the 1960s and even into the 1970s. We completely reorganized the Central Utah project, the Central Arizona project, the Garrison project, the Central Valley project in California. Why? Because in 1964 and 1960 and 1970, we made some very bad decisions about the use of those lands, and the damage from those decisions was now spilling over onto other farmers, onto the cities, onto water users, onto tribes, onto the environment.

We have an opportunity here under this amendment to take a realistic look at a very oversubscribed basin on the use of water. And the particular use here is at the behest of Federal leases that are subsidized; at crops, in some cases, that are subsidized or the farmer was growing crops, one subsidized, one unsubsidized, and I am not clear whether or not yet the water is in fact subsidized.

That is kind of what makes this basin go. But the spillover effect of this basin is all the way to the Pacific Ocean, and it spills over to the recreational industries, onto tourism industry, onto the farming industry, onto the Pacific Coast fisheries, onto the

water qualities issues, and the environmental issues.

At a minimum what the gentleman has raised is something we ought to take very seriously because we had a huge outbreak of concern in the Klamath about how we will allocate water between species and farmers and Indians and fish and all the rest of it.

We have an opportunity with the renewal of these leases to put some of this in abeyance and see what the impact is on the other entities in what is an area that is clearly oversubscribed. If everybody exercises their water rights, the species, the farmers, the tribes, then we know that it is oversubscribed. That is why we are having this problem. Yes, this might have made sense 40 years ago and it might have made sense at the turn of the century when people came to the Klamath Basin. But the State of Utah made a decision, the State of Arizona made a decision, to some extent the State of California, it does not make sense to keep raising alfalfa in the desert.

□ 1700

Because the usage of the water is just too high, especially if we are doing it on subsidized land, and those are the kinds of changes that have to be made.

I do not know if this is the perfect amendment, but we ought not to turn down the serious consideration, what the gentleman is offering here, as we in the Committee on Resources sit and look at the struggle that is going on in this basin. This may be one of the easier options that we can have in trying to sort out an area that is so terribly over subscribed and short of water for all of the competing uses, all of which have very, very legitimate claims on that water. But as we try to sort it out, I think the gentleman has brought forth one of the tools that might be used that is under the control of the Secretary who has to make some very tough decisions and can try to balance out the competing interests of the parties.

I thank the gentleman for yielding me the time.

Mr. WAMP. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. NETHERCUTT), a distinguished member of the subcommittee.

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

I am sort of amazed at the overkill, the overrhetoric that comes on some of these debates. I know there has been allegations by the distinguished gentlemen who were the sponsors of this amendment, both of whom I respect, who said there is damage to the fowl and the fish; and yet the manager of the refuge has not made that determination at all. In fact, he said we found that the pesticides that are used, that none of these pesticides have an adverse effect on the environment.

I listened to the gentleman from California talk about environmental protection. Ninety-eight percent of the pesticides that are allowed in California are already prohibited from use on this refuge. So I say let us clean up California. Maybe if there is such a pesticide problem in California or on this refuge, clean up California first rather than coming out and trying to whack away at farmers.

Frankly, Mr. Chairman, this is 17 families that are affected by this issue, 17 leases. Well, that is 17 families who were trying like crazy to make a living in farming. In fact, the refuge monitors pesticides all the time. That is why we have managers of refuges. That is what they do. They make sure there is no adverse effect on fish or fowl.

So to come in here and keep saying there is damage to this and there is damage to that, it just is not true. There is no evidence of it, and I think that this House ought to stand up and say, wait a minute, this is overkill and let us not go to extremism that I think some of the supporters of this amendment want us to go to.

In fact, if a person does not grow potatoes in this refuge, the lesser snow and white fronted geese feed on the first frost in the refuge. So my point is this is good for wild fowl and snow and white fronted geese. Same with alfalfa, it is good for the fowl and the animals in the refuge.

So enough overkill. That is what this amendment is, and I urge its defeat.

The CHAIRMAN. The gentleman from Oregon (Mr. BLUMENAUER) has 2 minutes remaining. The gentleman from Tennessee (Mr. WAMP) has 4 minutes remaining.

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

In conclusion, Mr. Chairman, I have been listening to the rhetoric, and I find it somewhat amusing. First, they have been quoting Phil Norton, the refuge manager, about the fact that there are not any problems with pesticides. First of all, it might be hard to tell the effect of the pesticides when the farmers are not allowed to go on the fields after they spray for 48 to 72 hours. That is a hint that it may not be as healthy as one suggests.

The notion that this Mr. Norton somehow is a proponent of continuation, I read an article in the San Francisco Chronicle. Mr. Norton said, ''We want to manage the land we already own.'' That, ''we want.'' The leased land program has to go. We get conflicting reactions from the wildlife manager; but the point is, I think it is bizarre that it is being advanced that somehow the wildlife are not going to survive unless we are growing things like potatoes on the wildlife refuge.

The fact is that the wildlife got along quite well without us. It is after we went in and monkeyed with the ecosystems up and down the coasts that we have had problems.

We are suggesting that farming can continue consistent with the uses of the refuge. We are hearing about potatoes; $10 million was referenced by my friend, the gentleman from California (Mr. HERGER). That has been a wildly up and down notion in terms of the value. My friend who is in the Chair right now knows that last year people were leaving potatoes in the field because they cannot afford to harvest them. The point is the potatoes use extensive water, particularly during the growing season. It is not the best use.

We have the charge about reckless and damaging; and with all due respect, as I think my colleagues review the hundred-year history of the Klamath Basin, the people who are reckless and damaging are those who feel that we do not need any changes, that somehow we can continue to ignore the demands of the overall environment of wildlife, of Native Americans, and that the failure to renew 17 leases for other than uses that are compatible with agriculture is reckless and upsetting, I think, Mr. Speaker is overblown, and anybody who looks at it will concur.

Dennis Healey once talked about the theory of the hole; when a person is in it, stop digging. This is a tiny step to restoring the health of the Klamath Basin and protecting the wildlife refuge.

I urge its passage.

Mr. WAMP. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. HASTINGS), a member of the Committee on Rules.

Mr. HASTINGS of Washington. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. WALDEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. HASTINGS of Washington. I yield to the gentleman from Oregon.

Mr. WALDEN of Oregon. Mr. Chairman, let us get to the facts here; and the facts are these, and let me read this. I will turn to pesticides. Although current studies and modern activities have failed to detect an acute problem with pesticides on the refuge, they go into this. That is why they did, the IPM, the integrated pest management plan. I can give my colleague study after study right here of great researchers in the State of Oregon that have looked at pesticide use and have found no significant impact.

Beyond that, let me just say this. I have supported, as have the gentleman, legislation to study the water quality and quantity in this basin. It has passed this Congress, probably unanimously, and the agencies are working on that. I have supported and the gentleman has supported legislation to improve fish passage at Chilicottan dam. I have supported conservation efforts to improve water quality and quantity in this basin and habitat.

My feet are not stuck in concrete, but I want to do it in a way that works in the basin for the farmers and the fish and the fowl with science-based decisions. The rest is the rhetoric.

Mr. HASTINGS of Washington. Mr. Chairman, I have to say that when I see somebody from an urban area sponsoring an amendment that deals with

rural America, I get a little bit antsy, and I think that is the case that is happening right here.

I was down at Klamath Basin a little over a year ago at a hearing, and I heard what the farmers went through. It was devastating to them; and now this amendment, which looks innocuous, it just simply says a person cannot grow row crops and no money should be used for row crops or alfalfa. That has an unintended consequence in my view in the future of now saying on reclamation projects a person is limited to what crops they can grow.

It sets a precedent and I think a very bad precedent that could apply to areas probably all over the country, including the central valley of California and my area of Washington, Columbia Basin Project, that I think is very detrimental because those larger areas have the large diversity of crops.

I think the gentleman comes at this with strong feelings. It is a bad way to go, in my view. I urge my colleagues to oppose the amendment.

Mr. WAMP. Mr. Chairman, I yield the balance of our time to the gentleman from California (Mr. DOOLITTLE), a member of the Committee on Appropriations.

Mr. DOOLITTLE. Mr. Chairman, this area has been devastated by government mismanagement already. We already know the history when for no good scientific reason the water was cut off to the farmers. It did irreparable harm, and it should not have happened, and now we come with this new amendment which is going to just compound the error that was made then and will do grave injustice to a community that depends upon the farming.

The farming is essential to these refuges. These refuges do not use much water. I think 2 percent of the water developed in the basin goes for the purpose of agriculture. It is really a de minimus amount.

It is clear that pesticides are not a problem. We have had these uses compatible that have gone on for over a hundred years in this area. There is a waterfowl area. We need farming. The Kuchel Act mandates we have farming in order to sustain the refuges. We have to have this continue. It would be a terrible injustice to enact this amendment.

We need to stay focused, get the good science; and the good science says that agriculture and refuges are compatible. Please defeat this amendment.

The CHAIRMAN. The question is on the amendment of the gentleman from Oregon (Mr. BLUMENAUER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BLUMENAUER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Oregon (Mr. BLUMENAUER) will be postponed.

Mr. WAMP. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. DAN MILLER of Florida) having assumed the chair, Mr. SIMPSON, Chairman 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. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes, had come to no resolution thereon.

APPOINTMENT OF CONFEREES ON H.R. 3763, CORPORATE AND AUDITING ACCOUNTABILITY, RESPONSIBILITY, AND TRANSPARENCY ACT OF 2002

Mr. OXLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3763) to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

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

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. CONYERS moves that the managers on the part of hte House at the conference on the disagreeting votes of the two Houses on the Senate amendments to the bill H.R. 3763 be instructed to recede from disagreement with the provisions contained in the proposed section 1520 of Chapter 73 of Title 18 of the United States Code added by section 802, and the provisions contained in sections 804, 805, and 806 of the engrossed Senate amendment.

The SPEAKER pro tempore. Under the rule, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Ohio (Mr. OXLEY) each will be recognized for 30 minutes.

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

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

This motion to instruct conferees would be to ask the acceptance of four antifraud measures contained in the Senate measure that were not included in yesterday's suspension bill. These provisions relate to document retention, statute of limitations, whistleblower protection, and sentencing enhancement. All of these were contained in the same measure in the other body that enjoyed a 97 to 0 vote last week.

First, we would ensure that auditors maintain their audit review and other work papers for a period of 5 years after the conclusion of an audit review. This will make sure that evidence of potential accounting fraud is retained for future investigation. In addition, the motion would give defrauded investors more time to seek relief. Under current law, defrauded investors have a year from the date on which the alleged violation was discovered or 3 years after the date on which the alleged violation occurred; but because these types of wrongs are often successfully concealed for years, the other body increased the time period to 2 years after the date on which the alleged violation was discovered or 5 years after the date on which the alleged violation occurred.

□ 1715

And this motion to instruct carries that provision.

In addition, we protect corporate whistleblowers. In the other body that measure was contained in the Grassley amendment, which extended whistleblower protections to corporate employees, thereby protecting them from retaliation in cases of fraud and other acts of corporate misconduct. Those like Sharon Watkins should be afforded the same protections as government whistleblowers.

The last provision in the motion to instruct would provide for strong sentencing enhancements. In the other body the bill included the Leahy-Hatch sentencing enhancements when a securities fraud endangers the solvency of a corporation and for egregious obstruction of justice cases where countless documents are shredded or destroyed.

Now, the Enron scandal broke in November 2001. Since then, our stock market and the economy as well have been devastated by a wave of scandals: Arthur Andersen, Global Crossing, Xerox, MCI, Merck, Quest and others. Tens of billions of hard-earned pension and retirement dollars have evaporated while those at the top of the corporate ladder have cashed out their options.

During this period of time, no person, not a single individual, has faced a single indictment from the Department of Justice. My instructions will give the Department the tools that they need to protect our investors and bring some of these people who have escaped, so far, to justice.

It is my hope that we will get the support that is needed to instruct our conferees in this fashion.

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

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

Mr. Speaker, having just seen this document, the motion to instruct, I would have to say to my friend, the gentleman from Michigan, that most of the issues that he talks about in his motion I have a great deal of empathy for. Certainly the issue over document destruction, of whistleblower protections, and the like, are all part and parcel of what ultimately I think this legislation needs to look at.

I have some concerns, as the gentleman might expect, regarding the language of the extension of the statute of limitations in regard to lawsuits. As the gentleman knows, back in

1995, Congress, on a bipartisan basis, passed the Securities Litigation Reform Act. That was vetoed by then-President Clinton and was the only veto ultimately overridden. So, in fact, the House and the Senate spoke very loudly in 1995 on that issue.

It is also true that Chairman Greenspan, when asked in the Senate yesterday, when he testified as to whether he saw any need to change the existing statute in regard to securities litigation reform, answered in the negative. So we are, on this side, somewhat perplexed that the minority would choose this particular issue, which was ultimately not part of the legislation that came out of the Committee on Financial Services, the committee of major jurisdiction, so I have some concerns about that part.

On the other hand, it seems to me those are the kinds of issues that we need to work towards and to complete in a conference.

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

Mr. CONYERS. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from New York (Mr. LAFALCE), the distinguished ranking member of the Committee on Financial Services.

Mr. LAFALCE. Mr. Speaker, I thank the distinguished ranking member of the Committee on the Judiciary, the gentleman from Michigan, for yielding me this time.

I think the best thing that this House could have done would have been to accept the Senate-passed bill as is. Pass it today and send it today to the President for his signature. I cannot think of anything else that would have restored as much integrity to our publicly traded markets, as much confidence on the part not just of the American public but the world in the integrity of those markets of that single act.

I would still like to hear President Bush call for passage by the House of Representatives of the bill that passed the Senate 97 to 0. Now, my colleagues like to talk about bipartisanship. Ninety-seven to 0 is unanimous with respect to every single Senator from both parties that was voting. They were able to forge a consensus. If they can forge a consensus 97 to 0, and if the President really wants to sign a bill before the end of July, as he said, that is the approach we should take.

Now, unfortunately, the House Republican leadership does not want to take that approach. However, there are alternatives. We could take up the Senate bill and offer one or two amendments to it. If there are four or five or six amendments, my colleagues could offer those four, five, or six amendments to the Senate bill and send it back to them. And that would be a very expeditious way of proceeding.

What I am fearful of is that this conference that my colleagues want to go to could be two things: Number one, long and drawn-out; and, number two, an opportunity to dilute behind the scenes and closed doors the strong provisions of the Senate bill. And we are not going to let that happen.

I want to put everyone on notice right now that on every single issue where we differ from the Senate I intend to have total transparency. There will be a revelation to the world of every single issue and difference and every single vote within conference. There will be total transparency so that they can understand what we are trying to do to protect the American investor and what others might be trying to do.

Now, with respect to the motion of the gentleman from Michigan, what he is trying to do is say that at the very least there are certain provisions within the Senate-passed bill that the House should recede to. It is basically the Sarbanes-Leahy bill, and the ranking member of the House Committee on the Judiciary has focused in on the Leahy provisions, particularly section 802, dealing with the criminal penalties for the altering of documents; section 805, mandating a review of the Federal sentencing guidelines; section 806, creating a private cause of action for whistleblowers if they are in any way discriminated against, a civil cause of action; and very, very importantly, a statute of limitations, because the statute of limitations issue that we are talking about was not dealt with by this Congress. The statements that we did were erroneous.

We need to deal with that because, unfortunately, by the time we discovered the wrongdoing that took place in the Enron case, in the Global Crossing case, in the WorldCom case, et cetera, the private cause of action may have seen the statute of limitations expire. So we need more time. That is an essential and important provision.

There is no reason whatsoever for opposing that. There is no reason whatsoever for opposing any of those provisions. And because of that, the distinguished gentleman from Michigan has said let us instruct the conferees to recede to the Senate on those issues.

If my colleagues oppose this motion to instruct, that means that they oppose those particular provisions within the Senate bill. Let there be no mistake about that. So the issues will be quite clear when we do go to a vote on this motion to instruct.

Mr. OXLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. ROGERS).

Mr. ROGERS of Michigan. Mr. Speaker, I want to commend the chairman on his work in gaining corporate responsibility. I would not stand here today if I did not believe at the end of our session here before recess that we would not have a bill on the President's desk.

Just in the last few weeks, the Dow Jones Industrial saw about a 10 percent decline. Yesterday, just yesterday alone, $152 billion of wealth disappeared; $2.6 trillion just this year alone. Those are big numbers.

Now, we heard from my good friends in the minority about process and what goes where and about a very long drawn-out process. But let me say this: The other day I had a woman at a coffee who came in, an elderly woman, and she could not get three words into her story before she started to shake and tears started running down her face because she was just informed that they would not be able to retire in 12 months. Too much of their 401(k), too much of their retirement, was gone.

Now, let me tell my colleagues what they understand, my colleagues. They do not care whose name is on the bill. They do not care what process is used to get to the bill. They want trust, they want accountability, and they want somebody to pay the price for stealing. They understand that whether someone wears an Armani suit or a cheap ski mask, if they steal money, they ought to go to jail. They want us to understand that they are counting on us in Congress, not Republicans, not Democrats, not a name on a bill, but all of us to stand up together and say we are going to reinvigorate the trust and confidence in our American markets.

I think today that will happen. I am very, very pleased at what this chairman has done and what he has committed to do, and with that, I intend to enter into a colloquy with the chairman.

The gentleman from Ohio is going to be the chairman of the conference committee that will hear this matter in conference; is that not true?

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

Mr. ROGERS of Michigan. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Speaker, the gentleman is correct.

Mr. ROGERS of Michigan. Reclaiming my time, Mr. Speaker, the gentleman has made a commitment, and today a very public commitment, that by the end of next week, before this House recesses, the President will have on his desk to sign into law a bill that upholds the principles that the gentleman has fought so hard for these last few months on corporate responsibility; is that correct?

□ 1730

Mr. OXLEY. Mr. Speaker, if the gentleman will continue to yield, I want to assure the gentleman from Michigan (Mr. ROGERS) that is exactly what our goal is. The President has tasked this Congress to get a bill to his desk before the August break. The Speaker has done the same. I am committed, and I think all of us are committed, to getting that job done.

Mr. ROGERS of Michigan. Mr. Speaker, reclaiming my time, we have heard from the gentleman who has given his commitment. Do not talk about months; do not talk about weeks. Do not let one more tear fall on the statement of a 401(k) plan. Let us work together and get this done for the people of America. It is too important.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, I am delighted that the gentleman wants to work together. That is what we want to do. We want to instruct the conferees to accept these specific four provisions of the Senate-passed bill. If the gentleman wants to work with us, let us vote for this motion to instruct the conferees, unless the gentleman opposes those four provisions. If he opposes those four provisions, or portions of them, the gentleman should come to the floor and tell us what he opposes about them. I do not think that we could be any more cooperative than that.

Mr. OXLEY. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, we talk about important bills, and this is one of them. I support the gentleman from Ohio (Mr. OXLEY), who has worked very hard on this issue. I also want to see this issue resolved by next week.

The Democrats talk about the Sarbanes bill as if it is the end-all, be-all bill on this floor. While I was on the Senate floor watching the debate, they resisted Senator MCCAIN's efforts to include language relative to options. They did a procedural effort to stop calculating options in the corporate environment. So it is not perfect.

But I have been given assurances by the gentleman from Ohio (Mr. OXLEY), the chairman of the Committee on Financial Services, that he is going to go into the room and see that we have a final working product with Senator SARBANES, who I have a great deal of respect for on this issue; and I believe that is going to be accomplished.

The gentleman from Michigan (Mr. ROGERS) enunciated some of the concerns that I have as well: stabilizing the markets, ensuring integrity, bringing relief.

I will not be supporting the motion to instruct. I am going to work with our chairman, and I hope that we will deliver a product. But I can assure the House that we will be back on Wednesday and Thursday if it is not delivered to the floor for a vote.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, I have great regard for the gentleman from Florida (Mr. FOLEY), and even higher regard because of the letter which he sent out saying, let us send something to the President's desk before we recess, and if need be, the Senate-passed bill. I thank the gentleman very much for that.

With respect to the issue of the expensing of stock options, I would love to have FASB promulgate a requirement that stock options be expensed. I have called for that since 1994 when FASB recommended that. But unfortunately, there was so much pressure within Congress to do that that FASB withdrew it as a mandate and merely said do it voluntarily. Only two companies in the world did it.

At the very least, the Senate bill does say to FASB reconsider that issue and if they think it should be mandated, mandate it. The House bill is absolutely silent on that. So if Members want the ranking member from Michigan to alter his motion to instruct the conferees to get them to accept that provision of the Senate bill, I will do what is within my power to get him to so amend that amendment.

The House bill is silent on the issue of expensing. We on this side of the aisle want FASB to reconsider it and not just recommend it, but require it, as Warren Buffitt says we should do, as Alan Greenspan says we should do, as Coca-Cola said they will do, as BankOne said they will do, and as the Republicans have repeatedly said, let us not do.

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. COX), a valuable member of our committee.

Mr. COX. Mr. Speaker, I have read carefully the very brief motion to instruct conferees and the underlying provisions of the Senate-passed bill that the House would recede were we to adopt this. I am surprised that the motion to instruct focuses on the criminal provisions of the House and the Senate bills respectively because it is well known that the House-passed bill that we adopted here earlier this week by a vote of 391 to 28 is much tougher than the Senate bill.

The specific provision concerning shredding of documents that this motion to instruct would have us adopt, we would recede to the Senate position, drop any disagreement with the Senate position, would have us adopting a 10-year maximum sentence for shredding documents. But just a few days ago by a vote of 391 to 28, virtually every Member sitting on the floor right now voted for a maximum sentence of 20 years.

I cannot understand why, if we want to be tough on corporate fraud, if we want to be tough on corporate wrongdoers, we would focus on this portion of the disagreement between the House and Senate bill and substitute the far-weaker provisions of the Senate bill.

The Senate bill provisions that we are asked to accept in this motion to instruct also include obstruction of justice penalties. The maximum penalty for obstruction of justice in the House-passed bill earlier this week is 20 years, significantly lengthening the provisions under existing law. What the Senate bill does on this point is ask the United States Sentencing Commission to review the sentencing guidelines and do what they think is necessary to deter offenders.

Adopting the far weaker provisions of the Senate bill in this respect, where we know that the criminal provisions enacted by this House are much tougher, makes no sense at all; and I regretfully must oppose this motion to instruct conferees.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to myself.

Mr. Speaker, I must say to the gentleman from California (Mr. COX) the conference is on the Sarbanes bill and the Oxley bill. This motion to instruct in no way changes anything in either of the two bills, and it merely adds some items in the unanimously reported Sarbanes bill.

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

Mr. CONYERS. I yield to the gentleman from California.

Mr. COX. Mr. Speaker, as a conferee, I certainly would urge, and I believe it is the general intent of all of the conferees in the House to urge, as the House position in this conference when it comes to criminal changes, criminal law changes, to urge the House-passed bill be included in the conference report.

Were we to adopt this motion to instruct, we would undermine that position of the House. We would be required to take the much weaker Senate provisions.

Mr. CONYERS. Mr. Speaker, all we want to do is add these four recommendations to the two bills. We are not diluting anything. There is no dilution in here. I just want the gentleman to understand what is going to conference and what it is we are giving instructions on.

Mr. COX. Mr. Speaker, if the gentleman will continue to yield, the dilution is moving from the House position of 20 years maximum sentence for shredding of documents and for obstruction of justice to 10 years.

Mr. CONYERS. Mr. Speaker, reclaiming my time, no, what we are dealing with is document retention. We deal with audit review, statute of limitations, whistleblower protection, and sentencing enhancement. If the gentleman from California (Mr. COX) is confused on this, there may be some other Members that are not clear on this.

We are talking about document retention, statute of limitations, whistleblower protection, and sentencing enhancement only. We are not reducing any time for shredding or anything else.

Mr. OXLEY. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I apologize for attempting to create a partisan approach to dealing with a very real problem.

I think all of us are intending to make a good bill better. But one of the things we have to be cautious about is in examining the Senate bill which has been brought over is to be reminded that article I, section 7 of the Constitution says, ''All bills for raising revenue shall originate in the House of Representatives.''

Referring back to the opening of the 102nd Congress in which the CONGRESSIONAL RECORD reflected, and I will

have this made a part of the RECORD at the appropriate time, ''jurisdictional concepts related to clause 5(b) of rule XXI.''

This is an attempt to create a systematic approach: ''In order to provide guidance concerning the referral of bills to assist committees in staying within their appropriate jurisdictions under rule X, to assist committees without jurisdiction overtax or revenue measures, it should be emphasized that the constitutional prerogative of the House to originate revenue measures will continue to be viewed broadly to include any meaningful revenue proposal that the Senate may attempt to originate.''

I would tell the gentleman in reviewing the Sarbanes bill, especially in terms of the scope of the board under section 108 on page 61 and the requirement that the fees be raised necessary to meet the needs of the board, when we take those two provisions along with several others, there is no narrowly defined board which would produce narrowly defined fees which could meet the test of fees.

When we have a broadly based, loosely determined jurisdiction of a board and a commitment that mandatory fees cover all of those activities, we begin to slip into the area Speaker FOLEY rightly referred to as broadly to include any revenue proposals.

The constitutional and institutional prerogative of the House I would hope everyone would want to maintain. We do not want to delay producing this product, given the commitment of the chairman on a very tight time line. We just want to make note of the fact that we believe there is a possibility of this violation. As this bill goes to committee, I understand that the Committee on Ways and Means will be conferees. We will work with everyone to make sure that the fees that are called fees in the Senate truly are fees that do not violate the revenue provision and/or we will work together to produce a product which the House participates in, protecting our constitutional prerogative to generate revenue. The goal is not to stop progress, but to make sure that it is done correctly.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, I heard this morning that the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means, had contemplating issuing what is known as a ''blue slip.'' That is a document that would have precluded the House from going to conference with the Senate on the Senate-passed bill on the grounds that it had violated a constitutional prerogative. I disagree with his interpretation, but I am pleased he realized if he did proceed on the course that he outlined this morning, the issuance of his blue slip would have caused thousands of pink slips across America.

□ 1745

However, my primary concern now that he has not exercised what he intended to is what will happen when we go to conference because the chairman of the conference committee has publicly said within the past several days that what we need is a cooling-off period, a cooling-off period. Rather than expeditious action, he has publicly called for, it has been printed in the paper, a cooling-off period. We need action. We need action before we recess. We are not cool right now. We are hot. We want action while we are hot because that is when we can get a tough law on the books. We do not need time to cool off. We need to pass a tough bill and send it to President Bush and he will sign whatever we send to his desk and we know that.

Let us make it good and tough.

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

Mr. LAFALCE. On your time.

Mr. THOMAS. He has not dropped the gavel, so I assume there is still time on your time.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Does the gentleman from New York yield back the time?

Mr. LAFALCE. Yes, to the gentleman from Michigan.

Mr. THOMAS. So the gentleman voluntarily removes the time.

Mr. LAFALCE. I would be pleased to answer any questions on your time.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I was not interested in yielding to ask the gentleman a question but merely to clarify that the gentleman is adept at putting words in people's mouths. I did not say that I was going to blue-slip it. At no time did I say I was going to blue-slip it. The determination was whether or not it was blue-slippable, and those are two entirely different things, in an attempt to create an appearance that we were slowing the process down. All I wanted to do was make sure that constitutionally and institutionally we did it correctly. I would assume that would be in the interest of all Members of the House, in fact, anyone who raised their hands and swore to uphold the Constitution.

I thank the gentleman for yielding the time.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Washington (Mr. INSLEE).

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

Mr. INSLEE. Mr. Speaker, I think one thing that we all know about all Americans of whatever party today is that they do not want weak tea, they want strong medicine to deal with this economic crisis. They do not want passivity. They want action. The majority party is giving them nothing but delay and inaction. Did the majority party just pass a 97–0 vote in the Senate? No. Will they accept this substantive amendment to give instructions to the committee? No.

But let me tell you what the majority party leadership did 5 days ago. I read about this in the newspaper today. The leadership of the Committee on Energy and Commerce in the midst of this economic crisis had time to send a letter to the Public Broadcasting System to complain about the introduction of a new Muppet character. It was not the gentleman from Ohio (Mr. OXLEY), of course, but the chair of another committee. These majority party Members did not think it was right to have a new Muppet that had HIV. They thought that was a problem they had to deal with.

Well, America wants an answer to this question. If the majority party can stand up to Sesame Street, why will you not stand up to Wall Street? If you will deal with the Cookie Monster, why will you not deal effectively with the moral monsters who are stealing America's retirement accounts? That is what America wants to know. It is not enough simply to say you are going to increase jail time, and I will tell you why not. When we were dealing with the terrorist threat to our air system, did we think our job was done by just saying everybody that blows up an airplane gets 50 years instead of 25 years? Did we consider our job done when we did that? No. We developed a security system to check to make sure terrorists do not get into our airplanes, and now we need a security system to make sure fiscal terrorists are not taking over the boardroom.

You need to join with us and stop messing around with Sesame Street and start taking on Wall Street to save people's retirement incomes.

Mr. OXLEY. Mr. Speaker, may I inquire of the time remaining on both sides?

The SPEAKER pro tempore. The gentleman from Ohio (Mr. OXLEY) has 18½ minutes and the gentleman from Michigan (Mr. CONYERS) has 9½ minutes.

Mr. OXLEY. Mr. Speaker, I yield 1 minute to the gentleman from Delaware (Mr. CASTLE), a valuable member of the Committee on Financial Services.

Mr. CASTLE. Mr. Speaker, I rise a little bit perplexed about the motion to instruct conferees in that it appears to me that the Republican-passed legislation calls for stricter penalties from a group which is asking for stronger measures which does not seem quite right.

But that is not really what I want to speak to right now. What I want to speak to is the fact that the Senate, in my judgment, has adopted a very good piece of legislation, at least as I know it, the Sarbanes legislation. But there are some questions about that that I certainly have and that I think conferees would have. The House has also passed, in my judgment, a very good piece of legislation, frankly not that

dissimilar from the Sarbanes legislation, and it also has provisions in it that I think should be looked at. I believe that the right way to do this is to go to conference, not to instruct the conferees as to what to do. Let them make their decisions on the timetable as outlined by the chairman of the Committee on Financial Services here before us tonight to look at some of the House issues as well as some of the Senate issues. The real-time disclosure, in my judgment, is a real issue. The FAIR account to return money to investors which the gentleman from Louisiana (Mr. BAKER) got done, I think, is very significant. This whole issue of the criminal penalties we are talking about right now is very significant. I believe that we can do this.

I believe we can adopt good legislation with good committee review, with good staff review, something I agree with that has been said on the other side, the President will sign this, and when he does, I believe we will have legislation which the investors in America can look to and say, this will help us make our decisions about the future of corporate America.

Mr. CONYERS. Mr. Speaker, the manager on the other side has twice as much time remaining as I do.

Mr. OXLEY. Is that a good thing or a bad thing?

Mr. Speaker, I am pleased to yield 2½ minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Speaker, this morning I asked Chairman Greenspan a question which is directly relevant to this motion to instruct. My question was:

''Do you think that increasing the ability for individuals to sue corporations for inaccuracies in their statements is a proper goal for this kind of legislation?''

I am quoting now from Mr. GREENspan's response. He said:

> I think not. I don't see that has any particular economic advantage. The issue is a technical one and a complex one and should be really under the aegis of the Securities and Exchange Commission. And they should be taking the actions which are required to redress inaccuracies, mistakes, malfeasance and the like. I don't think you gain anything by increasing the ability to sue the company. Because remember that it is shareholders suing other shareholders. That is what it is.

Republicans are committed to strengthening this legislation in conference by including real-time disclosures, adding a provision to ensure that investors and not trial lawyers are the beneficiaries of funds recovered from corporate malfeasance and adding tougher penalties to corporate fraud.

If the Senate had not dragged its feet, this bill would have been done months ago. But for whatever cynical reasons they have, the Senate chose to play politics with this issue. And for the same cynical reasons, the Democratic leadership is threatening to drag out any conference for 2 months.

Mr. Speaker, I ask my colleagues on both sides of this aisle to join us in voting against this motion to instruct and for a stronger corporate accountability law.

Mr. CONYERS. Mr. Speaker, the manager on the other side still has twice as much time left as we do.

Mr. OXLEY. Then we will continue to plod on.

Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Louisiana (Mr. BAKER), the distinguished chairman of the Subcommittee on Capital Markets.

Mr. BAKER. I thank the gentleman for yielding me this time.

Mr. Speaker, this is a very important matter that the House must consider this evening and I do appreciate the recommendations the gentleman has made in his motion to instruct. All of those issues will certainly be the subject of conversation during the course of this important conference.

I am surprised that the motion to instruct did not include the specific directions to adopt the provisions contained in the Senate-passed bill, the Sarbanes bill, since it has been viewed by so many as being the answer to the problem. But as is always the case, no legislative product is the perfect answer for all issues. I respectfully suggest that the Sarbanes bill is no different. There is work to do.

For example, the Sarbanes bill does not make provision with regard to real-time material fact disclosure. What does that mean? That means if the corporate manager knows it and it is something that affects shareholder value and he does not report it until the 90-day quarterly earnings statement, you have terrific volatility in the markets and prices go up and down. We unfortunately are seeing that to great extreme today. That is why companies all too often file what they call pro forma returns. They get something out early that is not really a total disclosure, but it is something to help defuse the volatility of the quarterly earnings report.

Real-time material disclosure says if you know it, you got to tell it. If you know it and you do not tell it, that is a criminal penalty. If you did not know it but should have, that is a civil penalty. We want to talk about what real-time material fact disclosure means. That will be the subject of the conference, because that is in the House-passed bill. But what has not been in either bill, and unfortunately I did not see in the motion to instruct, is to do something to actually help the defrauded investor. It troubles me to get home in the evening, turn on the TV and see some millionaire in Mississippi with an $18 million mansion who has run a corporation into the ground and we cannot get the house because he built it with shareholder-defrauded funds. We want to include a fair fund that says within the SEC all fines, all penalties, everything that is disgorged, that means taken back from the guys who have gotten ill-gotten gains, put it into an account and then let the SEC be bound to distribute 90 percent or more of it to the defrauded investor. With all due respect, we are not into a transfer of wealth. We do not want to take corporate wealth and give it to trial lawyer wealth by simply creating new causes of action while the shareholder sits on the sidelines and watches assets be spent in the courts while the fellow is down in the Caribbean enjoying a $150-million-a-year lifestyle. We need to fix that, and we are going to.

In summary, the gentleman from California (Mr. COX) talked about the fact that the House-passed criminal penalties for inappropriate conduct are twice what are now suggested by the motion to instruct. If you want to be tough on criminals, if you want to get the money back and you want to give information to investors, please defeat this motion to instruct.

Mr. CONYERS. Mr. Speaker, the other side now has 12 minutes remaining and I have 9. I would recommend that they continue to carry on the debate.

Mr. OXLEY. Mr. Speaker, I think the gentleman from Michigan has several speakers available in the bullpen. We are prepared to listen to their dulcet tones.

The SPEAKER pro tempore. Does the gentleman from Michigan wish to yield time? Who wishes to yield time?

Mr. OXLEY. Mr. Speaker, we have no further speakers at this time. I would ask the gentleman if he is prepared to yield back the balance of his time and we could proceed to a vote.

Mr. CONYERS. Mr. Speaker, I am very pleased to yield 4 minutes to the gentleman from Michigan (Mr. DINGELL), the dean of the House.

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

Mr. DINGELL. Mr. Speaker, I have heard the name Alan Greenspan mentioned on several occasions in connection with this. This is what Alan had to say yesterday:

''Even a small increase in the likelihood of large, possibly criminal penalties for egregious misbehavior of CEOs can have profoundly important effects on all aspects of corporate governance because the fulcrum of governance is the chief executive officer.''

What he is saying there is, put them in jail, they will understand. The problem here is that the bill that the House has passed has nothing on criminal penalties but the bill passed yesterday does. The motion to instruct takes care of that problem.

I think we ought to adopt the Senate bill because the Senate bill is a good bill. The House bill is nothing. It is pablum. On the 30th of June, the New York Times warned that there is a staggering rush of corporate debacles and that they are raising a disturbing question: Can capitalism survive the capitalists themselves? It should be noted the market has fallen, it should be noted the dollar is weaker, all of which, experts say, is related to the behavior of Global Crossing, Enron,

Adelphia, WorldCom and others. We need strong medicine, not a placebo.

The Washington Post has pointed out that a distinguished member of this body is punting because apparently my friends on the other side are not real anxious to pass strong bills and strong legislation like the Senate. The House-passed bill purports to set up a lot of things, including a regulatory board, to oversee accountants, but it really does not mean anything because it really does not do anything.

□ 1800

The House-passed bill does not require an outright halt of the peddling of lucrative consulting services to audit clients and the conflicts that ensue.

The House-passed bill does nothing about the revolving door between auditors and clients.

The House-passed bill ducks many important issues such as the conflicts of interest between Wall Street analysts and credit-rating agencies, by relegating them to, guess what? Studies. The bill is replete with studies, but there is no strong Federal policy direction here.

Let us look at what the Senate bill does. It improves the timeliness, quality, and transparency of financial reporting. It creates an independent Public Company Accounting Oversight Board to strengthen the regulation of, guess who? The accountants, who certainly need regulation, because there has been more misbehavior there than there has been outside of a red light district. It would ban consulting services that clearly compromise the independence of accountants and auditors. It would enhance the accounting standards process and provide independent funding for the FASB. It would increase accountability of corporate officers and boards of directors. It would require objectivity and independence by securities analysts, and it would enhance SEC resources and authority. It would increase criminal penalties for corporate securities frauds that figured in the recent chain of debacles.

Mr. Speaker, it is time we passed strong legislation to stop the misbehavior in the corporate behavior and in the accounting profession that is shaking the faith of the American people and that is raising real questions about the viability of our securities markets and the well-being of capitalism in this country.

Vote for the motion to instruct and vote for a strong bill. We have had enough nonsense in this place.

On June 30, 2002, the New York Times warned that the ''staggering rush of corporate debacles is raising a disturbing question: can capitalism survive the capitalists themselves?''

Confidence in U.S. capitalism has been dealt a severe blow. U.S. investors and foreign investors are fleeing stocks in droves.

From Enron to Global Crossing, Adelphia to WorldCom, and many more examples, companies lied about their performance, the watchdogs slept or were complicit, and investors and employees paid a dear price.

To cure this problem, we need strong medicine, not a placebo.

On April 24, 2002, a Washington Post editorial entitled ''Mr. Oxley Punts'' lambasted the House bill for taking ''half-steps and side-steps.''

The House-passed bill purports to step up a new regulatory board to oversee and discipline accountants, which everybody agrees is needed, but the bill includes no details on the board's staffing and budget and provides inadequate disciplinary authority.

The House-passed bill stops short of requiring an outright halt to the peddling of lucrative consulting services to audit clients and the conflicts that ensue.

The House-passed bill also says nothing about the revolving door between auditors and their clients.

The House-passed bill ducks many important issues, such as the conflicts of interest among Wall Street analysts and credit rating agencies, by allegating them to studies. The bill is replete with studies rather than the strong Congressional policy direction that is called for.

I therefore urge the House to accept the Sarbanes bill.

It would: Improve the timeliness, quality, and transparency of financial reporting; create an independent Public Company Accounting Oversight Board to strengthen regulation of, and where appropriate disciplinary actions against, firms that audit public companies; ban the consulting services that clearly compromise auditor independence; enhance the accounting standards setting process and provide independent funding for FASB; increase the accountability of corporate officers and boards of directors; require objectivity and independence by securities analysts; enhance SEC resources and authority; and increase criminal penalities for the corporate and securities frauds that figured in the recent chain of debacles.

This morning's Washington Post reports on the front page for all the world to see that ''House Republicans say they will try to delay, and likely dilute, some of the proposed changes.''

Shame on the GOP! And shame on the House if decent Members in this body allow such a travesty to occur.

[From the Washington Post, April 24, 2002]

MR. OXLEY PUNTS

The House is due to vote today on a package of post-Enron reforms prepared by Rep. Michael Oxley (R-Ohio), chairman of the Financial Services Committee. The bill is a troubling sign of how easily the momentum for reform can be dissipated. Though it purports to deal with many of the audit reforms discussed during dozens of congressional hearings since January, it actually pulls its punches. Democrats will get a chance to offer some better provisions in the House today, but nobody expects them to pass. It will be up to the Senate, if it can ever terminate its interminable debates on energy, to produce a stronger bill.

The Oxley bill purports to set up a new regulatory board to oversee and discipline auditors, which everybody agrees is needed. But it would not give this body powers of subpoena, which would undermine its authority; and it would allow auditors to fill some of the board's positions, which could undermine its independence. The details of the new board would be left to the Securities and Exchange Commission, which would have to decide among other things how the new body would be funded. Given the SEC's vulnerability to industry lobbying, there is a danger that the result will fall short of what's needed.

The Oxley bill takes other half-steps and side-steps. It directs the SEC to prohibit auditors from performing certain types of consulting services for their clients, but it stops short of requiring an outright halt to consulting and the conflicts of interest that ensue. The bill says nothing about the revolving door between auditors and their clients—Enron, for example hired several Arthur Andersen auditors—even though auditors who are angling for jobs from their customers are unlikely to show much independence from them. The bill is also silent on the rotation of audit firms. If an auditor knew that, after a few years, a different outside auditor would scrutinize its efforts, this would create a strong incentive to keep the numbers honest.

The Oxley bill does at least boost the SEC's budget substantially, and it has the right mood music. But given the outrage that Congress has expressed about the Enron scandal, that is a weak effort. Just this week, Enron announced that it had discovered a further $14 billion worth of assets in its balance sheet that don't really exist after all, and it confessed that a ''material portion'' of this overstatement was due to accounting irregularities. This kind of confession further undermines investors' trust in financial disclosures. Congress needs to restore that trust with tough legislation. Perhaps the Senate can deliver if the House won't.

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

I am constantly amazed. The minority party offered a motion to instruct that basically tells the House we ought to accept lower penalties instead of the higher penalties that this House passed just this week. I am frankly stunned at that. I want to make it clear that House Republicans support a much stronger bill and reject the kind of efforts to weaken this bill that our friends on the other side have projected.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. NEY).

Mr. NEY. Mr. Speaker, I rise in opposition to the motion to instruct conferees.

This motion would hinder the House's ability to have a meaningful conference with the Senate on H.R. 3763. The Senate does not equate to perfection. We have two bodies here, and this is an important issue.

Mr. Speaker, it is also important that we have a conference on this important bill so that we have the ability to negotiate on all the issues contained in this bill. It is vital to protecting investors and creating the best legislation we can possibly bring to the American people.

For example, there are some provisions in the House-passed version that are not in the Senate version that I believe will increase investor protections, transparency, and improve disclosure. The gentleman from Ohio (Chairman OXLEY) and the gentleman from Louisiana (Chairman BAKER) have done a good job, and a lot of time has been put into this.

But let me just say something in addition to what the gentleman from Ohio (Chairman OXLEY) just mentioned. I think this is very important for anybody who has any doubt. We had a 391 to 28 vote here. Mr. Speaker, H.R. 5118, in the Senate, increased the penalties for fraud to a maximum of 10 years. The House increases the penalties for mail and wire fraud from 5 to 20 years and creates a new securities fraud section and carries a maximum penalty of 25; 25 versus 10. I think we are a little bit better, obviously.

The Senate, the maximum penalty for destruction of records and documents is 10 years. The House strengthens laws that criminalize document shredding and other forms of obstruction of justice and provides a maximum of 20 years. The Senate 10, House 0.

Under the Senate version, the maximum penalty a corporate officer would face is a $1 million fine and 10 years in prison. The House, $5 million and 20 years. One and 10; 5 and 20.

The last provision I wanted to mention does not change the current penalties of a maximum fine of $1 million and 10 years in prison; corporations would still only face a maximum fine of $2.5 million. The House increases the criminal penalties for those who file false statements with the Securities and Exchange Commission to a maximum penalty of $5 million and 20 years; 1 and 10 in the Senate, 5 and 20 in the House.

It is so clear, and the rhetoric is unbelievable here tonight. We are the strong version. We are the version that is right for the American people. Going to a conference does not do anything except help us to get these tough penalties to protect the American people and to make this a better bill.

I surely urge that people rise in opposition to this conference report.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Speaker, passing the Senate bill is but the first step. Hopefully, the conferees will go beyond even the Senate bill or will take up new legislation in the Committee on Financial Services.

The Senate bill contains the provisions that reauthorize the SEC and contains provisions that talk about expensing stock options. We can no longer leave this issue to the Financial Accounting Standards Board that acknowledged long ago that it was best to expense stock options and then refused to make that mandatory. Nor can we allow the recent situation where consumers can compare Coke and Pepsi, but investors cannot, because the two similar companies use different methods of accounting for stock options.

Further, in reauthorizing the SEC, we must demand that they actually read the filings of the largest 1,000 companies, something that their chairman refuses to even consider because he has adopted a ''hear no evil, see no evil'' approach.

Mr. Speaker, we need to go far beyond even the Senate bill.

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

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I support the motion to go to conference because it affirms the supremacy of the Leahy provisions. The President asked Congress to get him a bill before the August recess. We could easily get him a good bill by the weekend if we took up and passed the Sarbanes bill.

The problems facing corporate America are extremely serious; and I think the head of Goldman Sachs, Henry Paulson, put it well when he said accounting at Enron ''bore little or no relationship to economic reality.''

The Sarbanes bill will restore the credibility of the accounting industry by creating a truly independent accounting oversight board that will not be dominated by the industry. The Sarbanes bill will not solve all of corporate America's problems overnight, but it will send a strong message to investors that Congress did not succumb to special interests but, rather, worked very hard at the public interest in building in more accountability.

Mr. Speaker, I urge my colleagues to support the motion to instruct, and I hope that we will report back to the floor the Sarbanes bill.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Louisiana (Mr. BAKER).

Mr. BAKER. Mr. Speaker, I would like to engage the gentleman from California (Mr. COX) on the question of the criminal penalties issue which seems to be still in some contention.

As I understand the Sensenbrenner bill we passed in the House on yesterday, there was a provision that required the CEO of a corporation to certify the accuracy of financial statements and also to certify the accuracy of reports to the Securities and Exchange Commission.

In both of those cases, it was my understanding that the penalties that were adopted in that matter dramatically exceeded the prior existing criminal penalties for misrepresentation.

Is that the gentleman's understanding?

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

Mr. BAKER. I yield to the gentleman from California.

Mr. COX. Mr. Speaker, that is certainly correct.

Mr. BAKER. It was also my understanding that there were additional personal liabilities associated with underperformance or inappropriate conduct that either did not exist in prior law or that the penalties associated with that conduct were dramatically increased.

Is the gentleman familiar with those provisions, and is that accurate?

Mr. COX. Mr. Speaker, I am certainly familiar with those provisions, and that is accurate as well. The gentleman might also point out that not only were the provisions of H.R. 5113 adopted almost unanimously by this House just a few days ago, not only are those provisions much tougher than existing law, but they are significantly tougher than comparable provisions in the Senate legislation.

Mr. BAKER. Mr. Speaker, may I further inquire of the gentleman, once an individual is found to have violated or has committed criminal conduct and found guilty, that the consequence of that activity is to be banned from holding even a corporate or board position for the individual's life?

Mr. COX. That is correct.

Mr. BAKER. Can the gentleman tell me how we could go further in protecting shareholders and constituents with any additional penalties or assessments that would be appropriate in light of the egregious examples we have seen in the marketplace?

Mr. COX. Well, certainly the scope of this legislation on both the House and the Senate side gives ample opportunity to do other things, to reinforce these criminal law provisions; but the motion to instruct that is before us is addressed only to the criminal law provision.

Mr. BAKER. Mr. Speaker, I appreciate the gentleman's explanation. It is clear to me we have taken a very bold step, and I cannot understand anyone who would want to reduce these provisions.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The gentleman from Ohio (Mr. OXLEY) has 8 minutes remaining, and the gentleman from Michigan (Mr. CONYERS) has 3½ minutes remaining and the right to close.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from California (Mr. ROYCE), our good friend and a valuable member of the Committee on Financial Services.

Mr. ROYCE. Mr. Speaker, one of the points I was going to make was that prior to the passage of our CAARTA bill, during a Committee on Financial Services meeting, I asked the SEC chairman if the SEC had all of the tools that it needed to return the ill-gotten gains from dishonest executives to the shareholders of these companies. His response was that it would be helpful if Congress were to include language that made it clear that it is Congress's intent that the SEC have the power to return these stolen funds to the shareholders.

Now, the Federal Account for Investor Restitution language, as proposed by the gentleman from Louisiana (Mr. BAKER), would effectively accomplish this task.

Now, currently, the Securities and Exchange Commission has the power to disgorge these funds from corrupt managers. However, the funds rarely make

it back to the shareholders who deserve them. They are currently distributed in an ad hoc fashion. I would say less than 20 percent are returned to the shareholders today, with the rest going to the plaintiffs, attorneys' fees, and to the Treasury's general revenue.

So this proposal that is offered by the gentleman from Louisiana (Mr. BAKER) to the conference would ensure that all of these ill-gotten gains be returned to the people who deserve them, and that is the individual shareholders and pension investors who were bilked out of their money through corporate malfeasance. It is another reason why we need to move forward with that conference.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, I want to commend my colleagues on both sides of the aisle for the work that we have done in this House over the last several weeks to move to the position that we find ourselves in today, going to conference with the Senate on this very important legislation. The President is urging us to act quickly, and we intend to do so. It is our intention on the majority side, and I think it is the intention also on the minority side, to get a bill as soon as possible, certainly by the end of the next week when we adjourn for our August recess.

To that end, in the House of Representatives we have enacted not one, but two bills addressed to this subject; indeed, three bills, because we have included pension reform as well. Several months ago we responded to the President's call for 10 major reforms addressed to corporate wrongdoing. We waited quite a long time for a response from the other body, but now we have it and we are moving quickly.

It should be the position of this House when we go to conference to back the toughest criminal penalties that we can impose as a Nation on those who would undermine our markets, on those who would steal from investors.

□ 1815

That is what this House voted to do just a few days ago. H.R. 5118, produced by the Committee on the Judiciary, which ought to, in our standing committee structure, write criminal laws, that bill passed 391 to 28; and it should be the position of this House. We all voted for it.

I am very puzzled that we would now have a motion to instruct that says, abandon the House position articulated by all of us here on the floor, produced in a quality fashion by the ranking member on the Committee on the Judiciary, who is here with us on the floor today, and by the gentleman from Wisconsin (Chairman SENSENBRENNER); abandon those positions, those tough positions, and instead insert essentially identical positions in the House bill that differ only in that they have half the penalty that we approved here earlier this week.

There is not much to this motion to instruct. It says that ''the House should recede from disagreement with section 802, section 804, section 805, and section 806 of the Senate bill.''

Section 802 of the Senate bill concerns criminal penalties for shredding documents, and the penalty is very clearly stated in section 802 of the Senate bill. It is 10 years. The provision in our House-passed bill, a bill that I think the ranking member on the Committee on the Judiciary takes pride in, that I take pride in, I voted for it, I supported it here on the floor, that identical provision in the House-passed bill is 20 years. That should be our position in conference.

The same with obstruction of justice. The same with all of the things covered in this motion to instruct, which are addressed essentially to the criminal features only of this otherwise broad legislation.

I strongly oppose, therefore, this motion to instruct and urge my colleagues to do likewise.

Mr. CONYERS. Mr. Speaker, I am delighted to yield 1 minute to the distinguished gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, there has never been a period in U.S. history when the economy grew and the stock market shrank at the same time. They have always gone hand in hand.

I think our government must inject a sense of calm into our capital markets, and it is going to take more than just cheerleading. It is actually going to require Congress to pass legislation that not only removes the ability for the greedy to cut corners and defraud investors, but make sure they go to prison, just like any other thief. I think we are on the right track.

Four months ago, the gentleman from New York (Mr. LAFALCE) offered a substitute to the accounting reform bill in the House that sought to do many of the things the other body has agreed to do unanimously. Four months ago, the proposal of the gentleman from New York (Mr. LAFALCE) did not get a single vote from our colleagues on the other side. But yesterday morning, most Members voted for a bill that would send someone to prison for 25 years for securities fraud, and I think that is good. I think we are on the right path.

But the Members know and I know that tougher criminal penalties for wrongdoing are not the solutions to the market's deficiencies. So let us get serious and let us make it nearly impossible to pass fraudulent information along to investors. Let us have more transparencies. Let us clean up the mess. Let us get a bill to the President next week and restore the trust and confidence of the public in the markets.

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

Mr. Speaker, this has been an enlightening debate. Let me just review the bidding, if I can. Back when Enron became a household word, and all of the scandals that developed, the Committee on Financial Services was the first committee last year in December to hold a hearing on the Enron scandal.

Our committee, the committee of jurisdiction, passed strong legislation, the CAARTA legislation, Corporate and Auditing Accountability, Responsibility, and Transparency Act. It passed in the committee with a strong bipartisan vote, dealing with corporate scandals, dealing with accounting irregularities, directing our efforts at the real problem while preserving the ability of the marketplace to work very effectively.

Then the bill came to the floor. It passed by a large margin, 334 to 90; 119 Democrats wisely voted for that piece of legislation. We waited and we waited and we waited for the other body to act, almost 3 months. Finally, when the WorldCom bombshell hit, the Senate finally decided to act, and act they did.

In large measure, the Sarbanes bill and our bill are very, very similar. I applaud Senator SARBANES, Chairman SARBANES, for his hard work and his dedication. We are now in a process where we all ought to be, and that is to reconcile the differences between the House and Senate. That is what we do here. That is what legislators do.

Those who would say we need to take the Senate bill lock, stock, and barrel and not worry about any of the potential problems in that bill, I think, denigrate our committee and the legislative process.

So we are here to say, let us do regular order. Let us get to a conference. We can do this. The President said, let us get this done before the August recess. The Speaker said, get this done before the August recess. We are going to get this done before the August recess; and we are going to have a good, bipartisan bill that we can take to the President for his signature and send a strong signal to the American people and the investing public that the Congress has done everything possible to restore confidence to our public markets.

We should take a great deal of pride on both sides of the aisle for the way that we have addressed this issue. I have been proud to work with my good friend, the gentleman from New York (Mr. LAFALCE), the ranking member. We have had our differences of opinion; but at the same time, he has been a very strong advocate for doing the kind of reform necessary. I salute him in his last few months here in this great body.

We are on the verge of a very positive approach to the scandals that have enveloped corporate America. Let us move on to the conference. Let us reject this unwise motion and move to a conference in good order.

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

Mr. CONYERS. Mr. Speaker, I am delighted to yield 1 minute to the gentlewoman from California (Ms. WATERS), a member of the Committee on the Judiciary.

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

Mr. Speaker, I do not delight in having to reveal that the Chairs of both the Committee on Financial Services and the Committee on the Judiciary just did not do their job.

My friend on the other side of the aisle, the gentleman from Ohio (Mr. OXLEY), is a good chairman; and I suppose if he had had the support of his Republican conference perhaps he could have had a stronger bill; but the bill that we passed was just too week.

The gentleman from New York (Mr. LAFALCE) never had an opportunity in the Committee on Financial Services to really get his amendments set forth in the way that he would like. The gentleman from Wisconsin (Mr. SENSENBRENNER) did not even take up the bill that the gentleman from Michigan (Mr. CONYERS) was trying so desperately, begging him to take up, so we could have a stronger response to corporate crime.

Now we have an opportunity to instruct the conferees. The Sensenbrenner bill that surfaced yesterday does not do what we need to have done. It is not even in conference. As a matter of fact, they would want us to believe that it is tougher because they have some tougher sentencing, but all of the issues that have been identified here in the Conyers motion are what we all need to embrace. Unless we do it, we are not sincere about doing something about corporate crime.

Mr. CONYERS. Mr. Speaker, I yield the balance of my time to our distinguished colleague, the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, vote for this motion. If the Republican bill were an SEC filing, it almost would be actionable under the antifraud provisions of the Federal securities laws. It is a fraud. It masquerades as an investor protection bill when, in actuality, it is an accountant and corporate wrongdoer protection act.

What does it not have in it? Well, it does not have an accounting board that is controlled by independent auditors. It is all controlled by the accounting industry, just as the Securities and Exchange Commission is now controlled by the accounting industry.

It does not separate auditing from consulting when an auditing firm, an accounting firm, goes inside to audit a firm.

It does not separate investment banking from analyst recommendations in terms of the compensation which is received by the analyst, a conflict of interest that is creating all of the problems.

What does this motion to recommit say? It says we should extend from 3 years to 5 years the time that people have to go in and do something about fraud, because we are now talking about fraud committed in 1998 and 1999, and the statute of limitations has run. We must extend it out to 5 years. Ordinary investors are only finding out now how valueless their investments were.

In addition, the auditors must keep the work paper for 5 years so people can bring action against them, whether it be criminal or civil.

Vote for this meaningful motion if Members want to protect American investors against further fraud in the American marketplace.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Michigan (Mr. CONYERS).

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 207, nays 218, not voting 9, as follows:

[Roll No. 313]

YEAS—207

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

NAYS—218

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

NOT VOTING—9

Blagojevich	Lantos	McHugh
Bonior	Lipinski	Nadler
Ganske	Mascara	Traficant

□ 1849

Messrs. MCINNIS, SIMMONS and BASS changed their vote from ''yea'' to ''nay.''

Mrs. TAUSCHER, Ms. HOOLEY of Oregon and Ms. WATERS changed their vote from ''nay'' to ''yea.''

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Without objection, the Chair appoints the following conferees:

From the Committee on Financial Services, for consideration of the House bill and the Senate amendments, and modifications committed to conference: Messrs. OXLEY, BAKER, ROYCE, NEY, Mrs. KELLY, Messrs. COX, LAFALCE, FRANK, KANJORSKI and Ms. WATERS.

Provided that Mr. SHOWS is appointed in lieu of Ms. WATERS for consideration of section 11 of the House bill and section 305 of the Senate amendment, and modifications committed to conference.

From the Committee on Education and the Workforce, for consideration of sections 306 and 904 of the Senate amendment, and modifications committed to conference: Messrs. BOEHNER, JOHNSON of Texas and GEORGE MILLER of California.

From the Committee on Energy and Commerce, for consideration of sections 108 and 109 of the Senate amendment, and modifications committed to conference: Messrs. TAUZIN, GREENWOOD and DINGELL.

From the Committee on the Judiciary, for consideration of section 105 and titles 8 and 9 of the Senate amendment, and modifications committed to conference: Messrs. SENSENBRENNER, SMITH of Texas and CONYERS.

From the Committee on Ways and Means, for consideration of section 109 of the Senate amendment, and modifications committed to conference: Messrs. THOMAS, MCCRERY and RANGEL.

There was no objection.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

The SPEAKER pro tempore. Pursuant to House Resolution 483 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5093.

□ 1852

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of 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, with Mr. SIMPSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, a request for a recorded vote on amendment No. 1 by the gentleman from Oregon (Mr. BLUMENAUER) had been postponed, and the bill was open from page 126, line 15 through page 135, line 13.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment No. 16 by Mr. TANCREDO of Colorado;

Amendment No. 2 by Mrs. CAPPS of California;

Amendment No. 1 by Mr. BLUMENAUER of Oregon.

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

AMENDMENT NO. 16 OFFERED BY MR. TANCREDO

The CHAIRMAN. The pending business is the demand for a recorded vote on amendment No. 16 offered by the gentleman from Colorado (Mr. TANCREDO) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 123, noes 300, not voting 11, as follows:

[Roll No. 314]

AYES—123

Aderholt	Diaz-Balart	King (NY)
Akin	Doolittle	Kingston
Armey	Dreier	Lewis (KY)
Bachus	Duncan	Linder
Barr	Emerson	Lucas (KY)
Bartlett	Everett	Manzullo
Barton	Flake	McCrery
Bilirakis	Forbes	McInnis
Blunt	Goode	Miller, Gary
Boehner	Goodlatte	Miller, Jeff
Boozman	Graves	Myrick
Brady (TX)	Green (WI)	Ney
Bryant	Gutknecht	Norwood
Burton	Hall (TX)	Osborne
Buyer	Hansen	Otter
Callahan	Hastings (WA)	Paul
Cannon	Hayes	Pence
Cantor	Hayworth	Petri
Chabot	Hefley	Pickering
Chambliss	Herger	Pitts
Coble	Hilleary	Pombo
Combest	Hostettler	Putnam
Cooksey	Hulshof	Radanovich
Cox	Hunter	Rehberg
Crane	Hyde	Riley
Cubin	Istook	Rohrabacher
Culberson	Jenkins	Royce
Cunningham	Johnson, Sam	Ryan (WI)
Davis, Jo Ann	Jones (NC)	Ryun (KS)
Deal	Keller	Schaffer
DeLay	Kennedy (MN)	Sensenbrenner
DeMint	Kerns	Sessions
Shadegg	Stearns	Toomey
Sherwood	Stump	Vitter
Shimkus	Sullivan	Watkins (OK)
Shows	Tancredo	Weldon (FL)
Shuster	Tauzin	Weller
Skelton	Taylor (MS)	Wicker
Smith (NJ)	Taylor (NC)	Wilson (NM)
Smith (TX)	Thornberry	Wilson (SC)
Souder	Tiahrt	Young (AK)

NOES—300

Abercrombie	Frelinghuysen	McGovern
Ackerman	Frost	McIntyre
Allen	Gallegly	McKeon
Andrews	Ganske	McKinney
Baca	Gekas	McNulty
Baird	Gephardt	Meehan
Baker	Gibbons	Meek (FL)
Baldacci	Gilchrest	Meeks (NY)
Baldwin	Gillmor	Menendez
Ballenger	Gilman	Mica
Barcia	Gonzalez	Millender-McDonald
Barrett	Gordon	Miller, Dan
Bass	Goss	Miller, George
Becerra	Graham	Mink
Bentsen	Granger	Mollohan
Bereuter	Green (TX)	Moore
Berkley	Greenwood	Moran (KS)
Berman	Grucci	Moran (VA)
Berry	Gutierrez	Morella
Biggert	Hall (OH)	Murtha
Bishop	Harman	Napolitano
Blumenauer	Hart	Neal
Boehlert	Hastings (FL)	Nethercutt
Bonilla	Hill	Northup
Bono	Hilliard	Nussle
Borski	Hinchey	Oberstar
Boswell	Hinojosa	Obey
Boucher	Hobson	Olver
Boyd	Hoeffel	Ortiz
Brady (PA)	Hoekstra	Ose
Brown (FL)	Holden	Owens
Brown (OH)	Holt	Oxley
Brown (SC)	Honda	Pallone
Burr	Hooley	Pascrell
Calvert	Horn	Pastor
Camp	Houghton	Payne
Capito	Hoyer	Pelosi
Capps	Inslee	Peterson (MN)
Capuano	Isakson	Peterson (PA)
Cardin	Israel	Phelps
Carson (IN)	Issa	Platts
Carson (OK)	Jackson (IL)	Pomeroy
Castle	Jackson-Lee (TX)	Portman
Clay	Jefferson	Price (NC)
Clayton	John	Pryce (OH)
Clement	Johnson (IL)	Quinn
Clyburn	Johnson, E. B.	Rahall
Collins	Jones (OH)	Ramstad
Condit	Kanjorski	Rangel
Conyers	Kaptur	Regula
Costello	Kelly	Reyes
Coyne	Kennedy (RI)	Reynolds
Cramer	Kildee	Rivers
Crenshaw	Kilpatrick	Rodriguez
Crowley	Kind (WI)	Roemer
Cummings	Kirk	Rogers (KY)
Davis (CA)	Kleczka	Rogers (MI)
Davis (FL)	Knollenberg	Ros-Lehtinen
Davis (IL)	Kolbe	Ross
Davis, Tom	Kucinich	Rothman
DeFazio	LaHood	Roukema
DeGette	Lampson	Roybal-Allard
Delahunt	Langevin	Rush
DeLauro	Larsen (WA)	Sabo
Deutsch	Larson (CT)	Sanchez
Dicks	Latham	Sanders
Dingell	LaTourette	Sandlin
Doggett	Leach	Sawyer
Dooley	Lee	Saxton
Doyle	Levin	Schakowsky
Dunn	Lewis (CA)	Schiff
Edwards	Lewis (GA)	Schrock
Ehlers	LoBiondo	Scott
Ehrlich	Lofgren	Serrano
Engel	Lowey	Shaw
English	Lucas (OK)	Shays
Eshoo	Luther	Sherman
Etheridge	Lynch	Simmons
Evans	Maloney (CT)	Simpson
Farr	Maloney (NY)	Skeen
Fattah	Markey	Slaughter
Ferguson	Matheson	Smith (WA)
Filner	Matsui	Snyder
Fletcher	McCarthy (MO)	Solis
Foley	McCarthy (NY)	Spratt
Ford	McCollum	Stark
Fossella	McDermott	Stenholm
Frank		

Strickland
Stupak
Sununu
Sweeney
Tanner
Tauscher
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Walden
Walsh
Wamp
Waters
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (PA)
Wexler
Whitfield
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—11

Blagojevich
Bonior
Johnson (CT)
LaFalce
Lantos
Lipinski
Mascara
McHugh
Nadler
Smith (MI)
Traficant

□ 1910

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

ANNOUNCEMENT NO. 2 OFFERED BY MRS. CAPPS

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from California (Mrs. CAPPS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 252, noes 172, not voting 10, as follows:

[Roll No. 315]

AYES—252

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Bartlett
Becerra
Berkley
Berman
Bilirakis
Bishop
Blumenauer
Boehlert
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Burr
Calvert
Capito
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Cox
Coyne
Cramer
Crowley
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Dunn
Ehlers
Ehrlich
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gephardt
Gilchrest
Gilman
Gonzalez
Gordon
Goss
Green (WI)
Greenwood
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hunter
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kirk
Kleczka
Kucinich
LaFalce
LaHood
Langevin
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Miller, Jeff
Mink
Moore
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Neal
Oberstar
Obey
Olver
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Petri
Phelps
Platts
Pomeroy
Portman
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Rivers
Roemer
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryan (WI)
Sabo
Sanchez
Sanders
Sawyer
Saxton
Schakowsky
Schiff
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Strickland
Stupak
Sununu
Sweeney
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Walsh
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Woolsey
Wu
Wynn
Young (FL)

NOES—172

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Barton
Bass
Bentsen
Berry
Biggert
Blunt
Boehner
Bonilla
Boozman
Brady (TX)
Brown (SC)
Bryant
Burton
Buyer
Callahan
Camp
Cannon
Cantor
Carson (OK)
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Crane
Crenshaw
Cubin
Culberson
Davis, Jo Ann
Deal
DeLay
DeMint
Doolittle
Duncan
Edwards
Emerson
Everett
Flake
Fletcher
Foley
Forbes
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Graham
Granger
Graves
Green (TX)
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hostettler
Hulshof
Hyde
Isakson
Istook
Jenkins
John
Johnson, Sam
Keller
Kerns
King (NY)
Kingston
Knollenberg
Kolbe
Lampson
Latham
LaTourette
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Mollohan
Moran (KS)
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Otter
Pence
Peterson (PA)
Pickering
Pitts
Pombo
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Reyes
Reynolds
Riley
Rodriguez
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Royce
Ryun (KS)
Sandlin
Schrock
Sessions
Shadegg
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Smith (MI)
Smith (TX)
Souder
Stenholm
Stump
Sullivan
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Vitter
Walden
Wamp
Watkins (OK)
Watts (OK)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NOT VOTING—10

Bereuter
Blagojevich
Bonior
Lantos
Lipinski
Mascara
McHugh
Nadler
Schaffer
Traficant

□ 1919

Mr. ROGERS of Michigan changed his vote from ''aye'' to ''no.''

Mr. CRAMER changed his vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 1 OFFERED BY MR. BLUMENAUER

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment No. 1 offered by the gentleman from Oregon (Mr. BLUMENAUER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 201, noes 223, not voting 10, as follows:

[Roll No. 316]

AYES—201

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Berkley
Berman
Biggert
Blumenauer
Boehlert
Borski
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Ehlers
Ehrlich
Engel
Eshoo
Evans
Farr
Fattah
Ferguson
Filner
Ford
Frank
Frelinghuysen
Frost
Gephardt
Gilman
Gonzalez
Gordon
Green (TX)
Greenwood
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kirk
Kleczka

Kucinich
LaFalce
Lampson
Langevin
Larson (CT)
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moore
Moran (VA)
Morella
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Platts
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (PA)
Wexler
Woolsey
Wu
Wynn

NOES—223

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Berry
Bilirakis
Bishop
Blunt
Boehner
Bonilla
Bono
Boozman
Boswell
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Costello
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Emerson
English
Etheridge
Everett
Flake
Fletcher
Foley
Forbes
Fossella
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Jenkins
John
Johnson, Sam
Jones (NC)
Keller
Kerns
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McInnis
McIntyre
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—10

Bereuter
Blagojevich
Bonior
Istook
Lantos
Lipinski
Mascara
McHugh
Nadler
Traficant

□ 1927

Mrs. JOHNSON of Connecticut changed her vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SHADEGG

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

The Clerk read as follows:

Amendment offered by Mr. SHADEGG:

At the end of the bill, before the short title, insert the following new section:

SEC. . The Regional Forester for a National Forest System Region may exempt a specific project involving the removal of trees with a diameter of 12 inches or less on land owned or managed by the Forest Service in that Region from the applicability of the citizen suit authority contained in section 11(g) of the Endangered Species Act of 1973 (16 U.S.C. 1540(g)) if the Regional Forester finds (and certifies these findings to the Chief of the Forest Service and Congress) that, on the basis of the best scientific information available, (1) a wildfire in the area of the project is likely to cause extreme harm to the forest ecosystem and destroy human life and dwellings and (2) the project is necessary to prevent these occurrences.

□ 1930

Mr. GEORGE MILLER of California. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman reserves a point of order.

Mr. SHADEGG. Mr. Chairman, this amendment is designed to address a problem with the Endangered Species Act and the fires that are raging across the West at the present time. Right now citizens' suits are being brought to prevent the clearing of these forests by thinning out the dead wood and thinning out the smaller trees. As a result of the fact that we are not doing this removal of smaller trees, we are encouraging crown fires which destroy entire areas.

In my State of Arizona, we have just had a fire that has destroyed 500,000 areas. If you look at areas that have been treated, it appears as though the fire never even went through those areas. If you look at areas where they were not treated, there has been absolute, total devastation. This simply says that a regional forest ranger could make a determination that a wildfire in the area of the project to thin out the fire load was likely to cause extreme harm to the forest ecosystem and destroy human life and dwellings and that the project was necessary to prevent these occurrences. Once that finding had been made and had been certified to the United States Congress, then the thinning could occur without there being a citizen lawsuit to block the thinning from occurring.

Mr. Chairman, I yield to the gentleman from Utah to discuss the issue as well.

Mr. HANSEN. I thank the gentleman for yielding.

Mr. Chairman, let me point out as the chairman of the Committee on Resources, one of the biggest problems we have in America and the West at this particular time is called fuel load. Fuel load is when we have dead trees and we have all kinds of trash and no one is allowing prescription, to go in and take these out on prescribed fires. We have case after case all over America where forests are burning to the ground. Last year I went with staff and we went to about four Western States. You have got fuel load up to your armpits. All you need is one strike of lightning and you have got a fire. Never have we had fires like this. Last year I asked all of the forest supervisors, are we going to have more fires? They said, ''Count on it. You'll never have as many fires as you have.''

Why is this? It is because we cannot go in and we cannot seem to find a position that we can clear it out like we have since 1905. In one committee we had one of the large environmental groups there. She said, ''We don't believe in this. We shouldn't do it that way. It's not nature's way.''

I think this amendment is an excellent amendment. Somebody has got to wake up, be honest, and have guts enough to look some of these guys in the face and say, we have to clean the forests or we are going to burn the West down, and we are well on the way to doing it.

Mr. SHADEGG. Mr. Chairman, I yield to the gentleman from Washington (Mr. NETHERCUTT).

Mr. NETHERCUTT. Mr. Chairman, I rise in support of the gentleman's amendment and in opposition to the point of order.

The gentleman's amendment allows the management of the forest by thinning and protection of life and health of the forest by local control, that is, the Forest Service regional forester. I think it is a commonsense amendment, I cannot imagine anybody would be against it, and so I support the gentleman's amendment.

Mr. SHADEGG. Mr. Chairman, it seems to me this is, in fact, a commonsense amendment. It does not say that you can never bring such a lawsuit. It is limited to certain circumstances where they are cutting small diameter trees, trees of less than 12 inches. It would not allow commercial logging. It simply allows a reasonable thinning of the forest to stop the kind of devastating crown fires that have destroyed Arizona recently and have stricken California and Colorado and

many other States. It is, I believe, an absolute essential requirement that we allow this thinning to occur so that we do not burn our forests down. When you look at the language of the amendment, which requires a rather extreme certification that the wildfire is likely to cause extreme harm to the forest ecosystem, destroy human life and dwellings, and that the project is necessary to prevent these occurrences, I believe it is a very, very reasonable amendment. It is designed to protect our forests and strike a balance, because this would not block a citizen lawsuit if they wanted to thin larger trees. It would not block a citizen lawsuit under other circumstances where these certifications were not made. It is a middle ground that I think makes a great deal of sense.

I would urge that the point of order be withdrawn so that the Members can at least look at this policy. Our forests are burning to the ground. We lost over 460 homes of people that live in those forests in Arizona in the absence of being able to strike a reasonable policy, and I think this does. This requires a certification. It requires that the certification be that there be extreme harm and that it is going to destroy human life and dwellings and that the thinning project is necessary. In Arizona, the environmental groups have agreed that they support thinning so long as it does not go to large-diameter, old-growth trees. Indeed they have rushed to say we are willing to support this kind of policy as long as it is limited.

I was urged not to put a diameter limit in this because I was told, look, if you put a diameter limit in it, we may need to cut some larger trees. I said, no, I want a bright line so that those who oppose allowing timber harvesting to go forward under this policy will not be able to see this as a ruse. It is not a ruse. It is a genuine effort by us to strike a reasoned policy that will allow thinning to go forward without extended legal battles where the thinning is not a commercial logging effort but is, rather, necessary to save the forest and to prevent these kind of crown fires.

The evidence is absolutely clear that these crown fires take off and occur only when there is the underlying load, fuel load, which has not been removed. In the strongest possible terms, it seems to me that this is a reasonable compromise which I would urge upon this Congress and upon our colleagues that they withdraw the point of order.

POINT OF ORDER

Mr. GEORGE MILLER of California. Mr. Chairman, I insist upon my point of order. I make a point of order against the amendment because it proposes to change existing law and imposes new duties and constitutes legislation on an appropriation bill and therefore violates clause 2 of rule XXI. The rule states, in pertinent part, ''No amendment to a general appropriation bill shall be in order if changing existing law.'' The amendment imposes additional duties.

Therefore, I ask for a ruling of the Chair.

The CHAIRMAN. Are there other Members who wish to be heard on the point of order?

Mr. KINGSTON. Mr. Chairman, I ask to speak on the point.

I just want to say I have read this amendment and listened to a lot of testimony over the past several years about the need to do this sort of thing in our forests. When you look at the common sense of preserving the life of the forest, the ecosystem and helping save human lives and dwellings, this is a reasonable, commonsense approach. I would ask my friend from California to reconsider the point of order simply because I do think this is something in the interest of forest management that our agencies need. I regret that the gentleman from Arizona did not have it in the committee because I think that we would certainly try to work with you on the committee. But I hope the gentleman will withdraw the point of order because I think this is common sense, and I am an Easterner, but I have lots of forests, tree farms, as we would call them in my district, and forest management is part of the responsibility and it is a great, I would say, intercourse between man and nature and great involvement.

I think this is a good amendment. I hope that we can keep it in the bill and that the gentleman would withdraw his point.

Mr. DICKS. Mr. Chairman, I hate to do this, but we are supposed to be talking about the point of order, not the substance of the amendment. I would hope that the gentlemen would restrict their discussion to the point of order.

The CHAIRMAN. Are there other Members who wish to be heard on the point of order?

Mr. HANSEN. Mr. Chairman, I would hope the gentleman from California would withdraw the point of order. I think it is substantive when you talk about these particular areas. We have a situation out there, and we had the BLM director.

Mr. DICKS. Mr. Chairman, I have to raise a point of order here. The gentleman is not discussing the point of order. You have to have some way to talk about the rules of the House. He is not addressing the point of order.

The CHAIRMAN. Members are reminded to confine their remarks to the point of order.

The gentleman may proceed.

Mr. HANSEN. Parliamentary inquiry. Would you define ''point of order'' for us?

The CHAIRMAN. The gentleman will proceed on the point of order. The point of order is whether the amendment legislates on an appropriation bill.

Mr. GEORGE MILLER of California. Mr. Chairman, I ask for a ruling on my point of order.

The CHAIRMAN. The gentleman from Utah may proceed.

Mr. HANSEN. I will say that we legislate on appropriations on a very regular basis around here. I think that my good friend from Washington is making something out of nothing, but that is his privilege to do that. But I would just like to say this.

Mr. DICKS. The gentleman is willing to exercise his points of order when he needs them.

The CHAIRMAN. The gentleman from Washington is not recognized.

Mr. HANSEN. You have a situation with the BLM and the gentleman from Washington (Mr. DICKS) got up, he talked about show us a place where you can save money yesterday, he was talking of one, and here is one that comes out. The new director of BLM stands up and says, ''I'm spending close to 50 percent of my money on litigation.''

Mr. DICKS. Mr. Chairman, I insist that the gentleman speak on the point of order and not talk about irrelevancies.

The CHAIRMAN. If there is no further debate on the point of order, the Chair is prepared to rule.

The amendment proposes to convey new authority to the Executive and, as such, constitutes legislation in violation of clause 2(c) of rule XXI. The point of order is sustained.

AMENDMENT OFFERED BY MS. NORTON

Ms. NORTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. NORTON:

At the end of the bill (before the short title), insert the following:

SEC. ____. None of the funds made available in this Act may be used for the planning, design, or construction of improvements to Pennsylvania Avenue in front of the White House without the advance approval of the Committees on Appropriations.

Ms. NORTON. Mr. Chairman, I believe this is a noncontroversial amendment. It is language identical to the language included in six previous appropriations bills. It makes sure that Pennsylvania Avenue, for 200 years America's Main Street, does not become a park without Congress having some say in it, that it would not be an administrative matter that the Park Service should simply be allowed to go ahead and do.

It has been offered every year in the past by the distinguished former chair of this subcommittee, the gentleman from Ohio (Mr. REGULA). I understand it has been cleared with the present chair, the gentleman from New Mexico (Mr. SKEEN), and with ranking members of the full committee and of the subcommittee on our side. I want to make clear that it has no security impact. All during the time this amendment has been in force, all 6 years, the White House has proceeded to on Pennsylvania Avenue put up the appropriate security. If you go there now, they have the same contraption that goes up and down that we have to come into the Senate and House side of the House.

While I am on the floor, I want to explain why I did not offer an amendment

on the payment of rent by Wilson Center at the Ronald Reagan Building to the Federal building fund. I have been assured of discussions going on now to accomplish what my amendment seeks, so I will hold it in abeyance for the time being.

This is a noncontroversial amendment. I simply ask that we reinsert the amendment that has previously been in the appropriation for the last 6 years.

Mr. SKEEN. Mr. Chairman, we accept the gentlewoman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from the District of Columbia (Ms. NORTON).

The amendment was agreed to.

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

We just recently were talking about this issue of fuel load which is a very sensitive issue to those of us in the West. We are seeing the West burn up. It is a very important thing. I remember yesterday when some people were talking about the idea of show us where you can save money. The new director of BLM is a lady by the name of Kathleen Clark. Kathleen Clark is a very bright lady. She was head of the natural resources department in the State of Utah. She has had all kinds of experience. We had her before the committee of which I chair of Natural Resources. She made an interesting statement. She said that she spends almost 50 percent of her budget fighting lawsuits put in by extreme environmental people. That was very interesting to us.

Then we turned and asked the question also to Dale Bosworth, the new chief of the Forest Service. His is not that high, but it is pretty high. We are sitting here worried about the lands of America. What are we going to do to take care of this thing? How are we going to clean this forest? How are we going to get rid of this fuel load? So all this money we are putting up, we are turning around and paying it to attorneys. Around here, attorneys' retirement plans are a pretty big deal, it seems like. I have never seen such a waste of money, especially when they get on this rule 28. Win, lose or draw, they get paid 350 bucks an hour. I think that is really excessive. If we are going to take care of the forests, if we are going to take care of the public lands, if we are going to take care of these areas, somebody in Judiciary, this committee and others have got to have courage enough to start reining these people in. We can hardly go out spending all of this money that these CATs yesterday were talking about taking out. Look how much you could put into taking care of the forest if you did not do it this way. The judges, in effect, have taken over the public lands of America. Hardly qualified in my mind as I read many of their decisions to come up and explain what they feel is right in public lands.

I wish I had an hour, and on a special order I may do this, talking about some of the dumbest decisions I have ever read in my life where these people are telling us how to run the public lands of America.

□ 1945

The reclamation, the BLM, the forest service and services as this.

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

Mr. HANSEN. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, this just jumps out at me that if the gentleman has been reading these decisions and we do not like the current law, which is what the judges are interpreting, the gentleman from Utah was in a wonderful position as chairman of the committee to try and do something about it, to clarify the law, or to make it clearer on some of these points.

Mr. HANSEN. Mr. Chairman, I appreciate those comments. Believe me, if the gentleman has watched what we have done in the committee, he would know that we have tried very diligently to do it, and we would sure like the gentleman's support.

Mr. GEORGE MILLER of California. Mr. Chairman, I move to strike the last word.

I want to take a moment to thank the gentleman from California (Mr. DICKS) and the gentleman from New Mexico (Chairman SKEEN) for securing funding for the Urban Park and Recreation Funding Program, known as UPAR, and for increasing the allocation for National Parks operation.

Since its inception in 1979, UPAR has provided over 1,400 grants to 42 States, Puerto Rico, and the District of Columbia for the revitalization of our urban and suburban parks and sports facilities and recreational facilities for young people throughout this country.

The President has zeroed out the UPAR program, and I am thankful to the gentleman from New Mexico (Chairman SKEEN) and the ranking member, the gentleman from Washington (Mr. DICKS), for restoring this funding for this critically important urban and suburban program.

This is a program that is sponsored by many, many parts of the private sector, from the sporting good manufacturers, pro sports and national league baseball, the NBA, the NFL, the Women's National Basketball Association and so many others who have participated with this in this effort to revitalize these recreational opportunities in our cities and in our suburbs.

I also want to thank them, as I mentioned, for restoring and increasing of funds for the Park Service operations. Over 83 Members wrote to the committee asking for an increase in this, and they were able to secure an additional $118 million for Park Service operations, which are so vital to the operations of the Park Service and to continue to present the kind of experience that the American citizens and people from around the world expect when they visit these massive, world-famous national parks in our system.

I also want to take a moment just to recognize the gentleman from New Mexico (Chairman SKEEN), whom I have had the pleasure of serving with in Congress for these many years, and who I have found to be one of the really fun people in the Congress of the United States, who has been a gentleman whenever we have had our disagreements. I have had the chance to travel with him on the issues of trade and agriculture, between Mexico and the United States, and enjoyed listening to him and the information that he understood, given his long background of living on the border, if you will, and understanding the relationships between our two nations.

This is the final bill of his career; and I just want to thank him for all of his kindness, for his generosity, for hearing me out; not always granting my wishes, but at least hearing me out and being very fair about it. I thank the gentleman, and I thank him for his chairmanship of this committee and for his time served in Congress. It has been a joy to serve with the gentleman.

AMENDMENT OFFERED BY MR. SHADEGG

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

The Clerk read as follows:

Amendment offered by Mr. SHADEGG:

At the end of the bill, preceding the short title, insert the following:

SEC. . The amounts otherwise provided by this Act are revised by reducing the amount made available for "DEPARTMENT OF THE INTERIOR—BUREAU OF LAND MANAGEMENT—Land Acquisition" and by increasing the amount made available for "DEPARTMENT OF THE INTERIOR—BUREAU OF LAND MANAGEMENT—Wildland Fire Management" by $36,000,000 and $23,089,000 respectively.

Mr. SKEEN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be limited to 20 minutes to be evenly divided.

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

Mr. DICKS. Mr. Chairman, reserving the right to object, does the gentleman think we need that much time on this amendment?

Mr. SHADEGG. Mr. Chairman, I certainly would agree with the gentleman from Washington that we will not need more, but we might need 20 minutes. I think it is a reasonable number.

Mr. DICKS. Mr. Chairman, continuing my reservation, could the gentleman state how many other speakers there will be on this amendment?

Mr. SHADEGG. I do not know.

Mr. DICKS. Mr. Chairman, I withdraw my reservation of objection.

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

There was no objection.

The CHAIRMAN. The gentleman from Arizona (Mr. SHADEGG) will control 10 minutes and the gentleman from New Mexico (Mr. SKEEN) will control 10 minutes.

The Chair recognizes the gentleman from Arizona (Mr. SHADEGG).

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

This is a straightforward amendment about prioritization. I have, as I indicated last night in my remarks, the greatest admiration both for the chairman of the overall committee and for the chairman of the subcommittee. I have worked with him since I got here. I know that in the process of drafting this bill they had to make many hard choices, but I believe that one of them has been misallocated.

The bill currently provides $23 million less for the Bureau of Land Management's budget for wildfire management than the current year allows. We have reduced the amount of money to fight wildfires. At the same time, we have increased the amount of money to acquire land to $49 million. I would suggest that this is a misprioritization of our resources.

In an age when we have seen outrageous fires across the West, in my State, as I mentioned a moment ago, we have lost half a million acres to wildfire, we are seeing a situation where we are reducing the amount of money to fight wildfires; but we are increasing the amount of money to buy land. It seems to me clearly imprudent to follow that course of conduct.

Now, the acquisition of land would mean that we are going to buy more land in the western United States, because the BLM operates exclusively in the western United States. What that means is that this $49 million that is in the bill currently to acquire more land will be used to buy even more Federal land.

I would suggest that that is a serious problem, that we do not need to acquire more land; but most importantly, we certainly do not need to acquire more Federal land in the eastern United States.

In my State of Arizona, there is no shortage of public land. The Federal Government owns 29 percent of all of the land in the United States, and 92 percent of that land is in the 12 Western States. In my State of Arizona, 83 percent of Arizona's landmass is owned by one level of the government or other, leaving only 17 percent of our land in public ownership. There are only 32 States that have higher percentages of public ownership than Arizona, and that is Alaska, which is 90 percent public owned, and Nevada, which is 87 percent publicly owned. I might add Utah is 79 percent publicly owned.

In contrast, the number of eastern States like Connecticut is only fourtenths Federal. New York is 1.4 percent Federal. We do not need at this moment in our history, with a war on and a battle over domestic terrorism, to be acquiring more Federal land, but we particularly do not need to do so at the expense of wildfire fighting. That should be obvious to anyone who has read the papers in the last month.

It may be true that we need to acquire some land, and my amendment does not take out all of the monies in this legislation to acquire additional land. Some $13 million is left in this legislation to buy more land. But it does say that we are going to transfer a portion of that $49 million to buy more land, leaving $13 million there, a portion of that $49 million to buy more land we are going to transfer over to fight wildfires. I would suggest that it is absolutely irrational to oppose this amendment.

Right now, again, I want to make this point, that there is an over-$23 million cut in the current bill for wildfire fighting. That is obviously an error. In this bill itself, there is a supplemental for this year of $700 million to add for firefighting this year. If it was not enough last year, and it clearly was not enough, and it was the Dicks amendment which added $700 million for wildfire fighting this year, how can it be rational to cut wildfire fighting next year by $23 million over the figure from this year, before we add the $700 million? It simply does not make any sense.

Nobody can stand here today and say that there is a dramatically smaller chance of wildfires next year. Nobody has that kind of crystal ball. Indeed, what we are told, Arizona is in one of the worst droughts in its history; the entire West is in one of the worst droughts in its history. The entire West is burning up from heat. Temperatures are way up in Washington, hotter than they are in my State of Arizona. And that is part of a long-term drought.

It is very obvious to me that we are going to need money to fight wildfires next year. I am simply saying that it does not make sense, when we are having to add in this very piece of legislation $700 million additional dollars to fight wildfires in the current fiscal year, that we would, at the same time, reduce the amount of money that we are allocating to fight wildfires in the coming year. Who can explain that? There is no reason to believe the drought is going to end; there is no reason to believe that the cost of fighting fires is going to go down. What we are doing is creating a situation where we will have to be back here on this floor the next time a devastating wildfire occurs finding more money for next year's budget because we simply underfunded it.

With all due respect to the members of the committee, I think they made a conscientious effort, but we ought to make priorities. It is literally irrational to spend all of this money for additional firefighting efforts this year, $700 million under the Dicks amendment, and cut $23 million next year. I simply say we restore that by taking that money from land acquisition.

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

Mr. SKEEN. Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. NETHERCUTT).

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

I want to rise in opposition to the gentleman's amendment, but praise him for his concern about this. I have the same concerns and the same philosophy about this issue.

What I want to emphasize in my remarks, however, is that the subcommittee has led the way on the wildfire issue. For the forest service the subcommittee provided $146 million more than the President requested for wildfire. We added $5 million, over $5 million for the readiness and program management, which is really the money to get out there and fight these fires. We have $700 million additional in emergency spending for wildfires and fighting those within the system of the Interior Department, and we are at the President's budget request of $160 million for fire suppression operations.

I think the gentleman makes some very good points; and I am going to be real frank about it, because I come from the West, and I know we are worried about additional acquisitions that are not then properly accounted for within the system. In other words, proper management falls behind.

I will say, with respect to the gentleman's offset and the reduction, that if this land acquisition program reduction occurs, there will be a disruption in some of the agreed upon acquisitions that Members of this body, the House, and Members on both sides of the aisle, have looked at and agreed upon as a sensible acquisition, not an insensible one.

So I think we, again, feel as though the subcommittee has balanced this issue pretty carefully, and I really want to commend the gentleman for his sensitivity about fire issues, especially from his State and his concern in this amendment. Again, I reluctantly oppose it; but on the other hand, I oppose it because there is a substantial amount of money in the bill that the subcommittee looked at and the full committee looked at and felt was appropriate at a level that meets the needs of fire suppression.

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

Mr. NETHERCUTT. I yield to the gentleman from Arizona.

Mr. SHADEGG. Mr. Chairman, my only question is, this does reduce the amount of money for land acquisition, but it does not zero it out. I mean, the intention of the amendment was to say let us leave some money there and to recognize that we need to acquire some lands. There are things that need to happen in a timely fashion. It seems to me reasonable to delay some of those land acquisitions.

I guess I am asking, does the gentleman know what projects have to be delayed, what acquisitions would have to be delayed, based on the reduction contemplated in the legislation?

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Mr. NETHERCUTT. Reclaiming my time, Mr. Chairman, I do not know

which would be delayed. That is part of the problem that we have, that there may be some agreed-upon acquisitions that the BLM and the Members and others, and the administration and others, feel are sensible and genuine. So that is part of the problem that we cannot identify them exactly.

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

Mr. DICKS. Mr. Chairman, will the gentleman from New Mexico (Mr. SKEEN) yield me time?

Mr. SKEEN. Yes. Mr. Chairman, I yield 5 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I appreciate the gentleman from Arizona mentioning the fact that our committee, when we looked at this in the full committee, added $200 million for the BLM for this purpose as a 2002 supplemental.

I would like to see us in the supplemental, the one that is moving now in conference committee, and the administration suggested that we do that, add the $700 million in the 2002 conference so we will get the money back faster for the agencies, because they desperately need this money.

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

Mr. DICKS. I yield to the gentleman from Arizona.

Mr. SHADEGG. Mr. Chairman, I certainly concur with the gentleman that the place for firefighting money is in the supplemental, which could become law literally next week.

Mr. DICKS. In a couple of days.

Mr. SHADEGG. In a couple of days, rather than leaving it in this bill, which is not likely, at best, to become law before October. So I join the gentleman.

Mr. DICKS. Reclaiming my time, Mr. Chairman, we are trying to do what the gentleman is suggesting, what the gentleman has suggested, that we need more money for firefighting. We do. The agencies are telling us that they have to borrow money from other accounts in order to pay for the firefighting; that they are going to be completely dislocated in the last quarter of this year because they have not got the resources. Once they give the money for firefighting, all kinds of other things are going to stop within the BLM and the forest service.

The gentleman has a stake in that, and I do. Many in this House have a stake in that. What I suggest to the gentleman, what I would suggest to the gentleman, is let us try to work on that issue with both of our leaderships on that committee to try to get the $700 million, it actually needs to be a couple more hundred million than that right now, into the supplemental.

What we do here in the land acquisition account is completely disrupt the program that the President of the United States sent up. The President asked for $44,686,000. The committee added a small amount of money.

There is, on page 21 of the report of the gentleman from Washington, the gentleman from Arizona, a list of the projects that will be affected, and these are all projects that I think are very well thought out. I notice there is one in Moses Lake, Washington, for example; one for Lewis and Washington Historic Trail in Montana; the Lewis and Clark National Historic Trail in Idaho.

These are well thought out and very important projects; so I would urge the gentleman, he has made his point. We want to help him on the firefighting deal, but do not go in and disrupt this other program and slash the money that the President asked for. Yes, there are a few congressional projects in here, but this is well thought out, well balanced.

The majority staff works with all the Members on this. This is not the place to take the money. What we should do, this should be emergency money. We should not have to take it out of this account. This should be emergency money.

Mr. SHADEGG. If the gentleman will continue to yield, Mr. Chairman, certainly I agree with the gentleman that this should be emergency money. I believe it belongs in the supplemental bill and not in this bill.

But that $700 million goes to this current fiscal year. What we are debating in my amendment is the funding for next fiscal year, where the committee has reduced the amount of money for wildfire fighting by $23 million. That is what I am trying to restore.

I would point out, the gentleman points out there is a list on page 21 of the report that shows the projects that need to be purchased, or that the committee has looked at purchasing; but no one of those projects is above the amount of money that I have left in the bill for land acquisition.

This simply would say that in the current circumstances, with the unbelievable fires we are having in the West, with Colorado burning up and Arizona burning up, that for next year, we go through and reprioritize this list, delay the acquisition of some of that land.

Mr. DICKS. Mr. Chairman, I get the gentleman's point.

Mr. SHADEGG. And fight fires.

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

Mr. DICKS. I yield to the gentleman from Washington.

Mr. NETHERCUTT. I thank the gentleman for pointing out the list on page 21. As I look at it and see the Lewis and Clark National Historic Trail, that affects numerous States from Missouri westward, and I think that is a fair acquisition. I think it is necessary as we come up on the bicentennial.

We have the Lower Salmon River Area in Idaho of critical environmental concern. I think there has been some sensitivity about that whole issue. I do not think this list is the one to knock out, because it is agreed upon. They are necessary projects.

I would just point out, too, to my friends, the gentleman from Washington and the gentleman from Arizona, the President is $150 million above the fire plan. We have that 150 extra in. We are right where the President wants us to be in the budget request, so we are on budget. We are on target. We are even over with respect to the critical issues of fire suppression and fire assistance.

So, Mr. Chairman, I would urge that the amendment be defeated.

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

Mr. Chairman, I simply want to make the point that my colleague, the gentleman from Washington, and I complimented the committee for its effort to begin with, has pointed out some of these particular projects: the Lewis and Clark National Historic Trail. I simply want to make the point that project is only $1 million. The second project that he cited is also only $1 million.

We have left, under my amendment, a substantial sum of money in the bill so that we could go through and acquire much of this land in the current year as planned; and even with that, if we restored $23 million, we will probably have to come back here and put more money into wildfire fighting next year.

But I would simply say that it should be obvious to anyone, certainly it is obvious to the people of Arizona, that the devastation of these wildfires has not stopped and is not going to stop.

I would point out that my colleague on the opposite side of the aisle just fought us, at least his side of the aisle did, and objected to an effort by our side to allow a thinning of the forest, to allow us to clean out the fuel wood load so we would not have the devastating crown fires we now have.

Some of the Nation's best experts are in Arizona. Dr. Wally Covington of NAU has said the only way we can save these forests is to clean out the fire load, fuel load that is underneath them. Yet we just made an effort to try to do that, and it was blocked on a point of order by the other side.

If we cannot thin the forests, if we cannot take the advice of the experts like Dr. Wally Covington to avoid these wildfires, then we had better put the money behind fighting them. It is simply irrational, and I hope my colleagues in this Congress are listening carefully, it is simply irrational to add $700 million to firefighting this year and cut $23 million from wildfire fighting next year. What we are doing is we are putting the people who live in those forests at risk, and we are putting the firefighters who need that funding at risk, and we are putting the people who need these funds at risk.

Right now, we just heard my colleague, the gentleman from the other side, say that, by gosh, we should not put these firefighting funds at risk. It is desperate to get money into them. Well, if it is desperate to get money

into them, it is irrational and I would say dangerous to take money out of them; to undercut, underfund next year's firefighting effort by $23 million, when we know this is a long-term drought; when we know we are not thinning the forest the way we need to. It simply makes no sense.

I have the greatest respect for the committee. I am simply saying we should not be buying millions of dollars of additional land that we cannot protect at the same time that we are bulldozing extra money into the current year. If we need $700 million more this year, by gosh, it is wrong to cut $23 million next year.

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

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. NETHERCUTT).

Mr. NETHERCUTT. Mr. Chairman, I thank the chairman for yielding time to me.

Mr. Chairman, I think the point that is being missed here is that this acquisition list for limited purposes, for conservation or preservation, will be managed, will be managed against wildfire. I think by doing that in this particular bill in this particular acquisition, we are going to assure that the Lewis and Clark Trail does not burn up. We are going to assure that, as acquisition comes, so does management. This is not just land that is being bought for public purposes. It is bought for purposes of a specific region, a specific area that goes or carries along with it the obligation to manage it, to protect it from wildfires.

So I would argue that it has a greater opportunity to be protected from wildfire on these particular lands than if it were otherwise acquired, or just left unacquired.

So I think we agree with the gentleman, and I think there is some validity to the argument that we can protect this property from wildfire by having it acquired.

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

First of all, I want to thank the participants in this debate for its collegial nature. I think we are debating very, very important issues. I know for the people of Arizona, for the people of Colorado, for the people of California, and indeed, for the people of the entire West, Washington and New Mexico and all of these States, these are critically important issues. I appreciate the debate.

My colleague, the gentleman from Washington, I paid a compliment to earlier. I think the committee struggled with these issues. I would simply argue that when this committee draft was put together, I do not know that we appreciated the dimension of this year's problems. I know this report was prepared very, very recently; and I know that the fire in Arizona literally was contained just a matter of a week or so ago.

With regard to the point my colleague just made with regard to we can protect the land we are acquiring, yes, I would certainly agree, we can protect the lands we are acquiring. But candidly, we cannot protect it by reducing the amount of money for wildfire fighting for the coming year by $23 million. It is simply irrational to say that we can protect it next year for $23 million less, but we need $700 million more this year.

I think for the people across America who understand this issue, certainly for my constituents in the West, they have to say, I would rather we acquired a little bit less, just acquire a little bit less, still go ahead and acquire the Lewis and Clark Trail, and I am just finishing the book on Lewis and Clark, ''Undaunted Courage,'' so I certainly think we ought to protect those lands. But we can slow down the acquisition of more Federal land this year in this economic climate, just slow it down, not bring it to a stop, and put a little of that money back into wildfire fighting, so we knew that money was there when we needed it.

It simply makes no sense, and it literally cannot be justified, given the fires; and I know the Colorado fires recently broke out. They are a recent development. The committee may not have thought through those. I know the California fires are relatively recent. I know the Arizona fires that have been devastating to my State and to 460 families who lost their homes, and to half a million acres of Arizona that is burned up and gone, I know those people would want to know that the money is not just there, the $700 million in the current year, but is going to be there next year. Because no one, again, I challenge my colleagues, either of my colleagues from Washington or anybody else on this floor, can say to me that they can establish that next year is going to be a less severe fire season than this year.

If it is not going to be, and they cannot prove it is going to be, we cannot plus it up by $700 million this year and pull it down by $23 million in the next year. We will be back at this issue. We should not do it this way. We ought to put the $23 million back in.

Mr. SKEEN. Mr. Chairman, I yield 30 seconds to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, we have it. We have it.

Mr. Chairman, I would just say to the gentleman that I understand his concern. He has made a very valid point about the importance of proper funding, which this administration has refused to fund. Mitch Daniels should pull his head out of the sand and smell the smoke, okay? That is what happened: the West is burning. I quoted that from the gentleman from Wisconsin (Mr. OBEY), and he got it from Archie.

The bottom line here is we will try to take care of this in the conference between the House and Senate. I urge our colleagues not to destroy this other program which we need in order to do it. We have heard them, and we will help them in the conference. I think they ought to withdraw the amendment.

Mr. SKEEN. Mr. Chairman, I yield 30 seconds to the gentleman from Georgia (Mr. KINGSTON).

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

Mr. Chairman, sometimes in this body we get to an issue that we want to flip a coin on and say, heads or tails, because we are genuinely confused. Sometimes that coin actually lands on the edge.

I have to say to my friend, the gentleman from Arizona, as I listened to his arguments, as I know my own philosophy on Federal land acquisition, the coin lands on a clear message that he has. I am going to support the Shadegg amendment. I believe he has proven the case. I think this is a worthwhile amendment with sincere reasons.

Should it fail, I will commit, as will the gentleman from Washington (Mr. DICKS), that we are going to try to work this out in conference. Should it pass, I will try to protect it in conference. I think the gentleman has a good amendment, and he has raised some excellent points.

The CHAIRMAN. All time for debate has expired.

The question is on the amendment offered by the gentleman from Arizona (Mr. SHADEGG).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SHADEGG. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Arizona (Mr. SHADEGG) will be postponed.

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

Mr. Chairman, I have two amendments which I am not yet offering to insert two new sections related to the Everglades restoration effort. These sections are structured slightly differently but are functionally identical to the language included by the committee when it reported the bill to the House.

The first amendment would add a provision to require the Secretary of Interior to be a full partner in the interagency RECOVER team which oversees the hundreds of individual projects which make up the $8 billion Everglades restoration effort. My amendment is consistent with the long-held position of the Committee on Appropriations that if this project is to achieve true environmental restoration, the Secretary of Interior must be an equal partner with the Army Corps of Engineers and the Florida Water Management District.

The second amendment provides statutory authority necessary to resolve

pending litigation against the Army Corps of Engineers and its implementation regarding the so-called Modified Water Deliveries Project, the heart of the restoration effort. This language is supported by Governor Jeb Bush, the Secretary of Interior, the Army Corps of Engineers and several prominent environmental organizations. This project, which involves acquisition within the 8.5 square mile area, has been controversial. However, after a lengthy public hearing process and supplemental EIS, a final decision was made in 2000 by the Army Corps of Engineers to adopt a compromise measure, alternative 6D. This action was supported by the Florida Water Management District and the Secretary of the Interior.

Alternative 6D was also formally adopted by the Congress in the WRDA 2000 Act. But notwithstanding this agreement, the file actions have been tied up in court and the language inserted by the committee and reinserted by amendment is absolutely necessary if Everglades renewal and water development in South Florida are to be successful.

It really upsets me to read today again in the Washington Post, there is a very good picture of the chairman of the Committee on Natural Resources, that because of maybe less than two or three dozen homes, we are standing in the way of this entire Florida restoration effort. And I will tell you, the gentleman from Washington is getting fed up. We are supposed to send them something like $8 billion in Federal money to fund this project. And if we cannot get them to at least have the courage to deal with this issue and to start this project moving forward, I think the committee has to seriously reconsider funding for the Florida project.

And what is happening here is that Members of the Florida delegation are quietly behind the scenes going to the chairman of the Committee on Transportation and Infrastructure, the chairman of the Committee on Natural Resources because politically they cannot stand up here and offer the amendment themselves. In order to get, in order to protect a handful of people in their district, they are subverting the whole process of moving forward with this project.

This is an important project. This may be the most important environmental restoration effort ever attempted. And if we cannot do this thing, if we cannot do mod 6, if we cannot make this initial start, then how are we ever going to move this project forward?

AMENDMENT OFFERED BY MR. DICKS

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

The Clerk read as follows:

Amendment offered by Mr. DICKS:

At the end of the bill, before the short title on page 135, insert the following new section:

SEC. . Of the amounts provided under the heading ''NATIONAL PARK SERVICE, LAND ACQUISITION AND STATE ASSISTANCE'', $20,000,000 may be for Federal grants, including Federal administrative expenses, to the State of Florida for the acquisition of lands or waters, or interests therein, within the Everglades watershed (consisting of the lands and waters within the boundaries of the South Florida Water Management District, Florida Bay and the Florida Keys, including the areas known as the Frog Pond, the Rocky Glades and the Eight and One-Half Square Mile Area) under terms and conditions deemed necessary by the Secretary to improve and restore the hydrological function of the Everglades watershed: *Provided further*, That funds provided under this heading for assistance to the State of Florida to acquire lands within the Everglades watershed are contingent upon new marching non-federal funds by the State, or are matched by the State pursuant to the cost-sharing provisions of section 316(b) of Public Law 104–303, and shall be subject to an agreement that the lands to be acquired will be managed in perpetuity for the restoration of the Everglades: *Provided further*, That none of the funds provided for the State assistance program may be used to establish a contingency fund: *Provided further*, That notwithstanding any other provision of law, funds provided in this Act and in prior Acts for project modifications by the Army Corps of Engineers pursuant in section 104 of the Everglades National Park Protection and Expansion Act of 1989 shall be made available to the Army Corps of Engineers, which shall implement without further delay Alternative 6D, including acquisition of lands and interests in lands, as generally described in the Central and Southern Florida Project, Modified Water Deliveries to Everglades National Park, Florida, 8.5 Square Mile Area, General Reevaluation Report and Final Supplemental Environmental Impact Statement, dated July 2000, for the purpose of providing a flood protection system for the 8.5 Square Mile Area.

Mr. YOUNG of Alaska. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman reserves a point of order.

Mr. DICKS. Mr. Chairman, why do my colleagues object to this? The President, the Governor of Florida, the Corps of Engineers, the Department of Interior, all think this is necessary in order to move this project forward. Are we going to let a couple dozen people, and most of which I am told are prepared to sell their property, so it gets down to a handful of people, are we going to let that block this project?

I think the gentleman from Alaska who has been a great leader in terms of our efforts on the West Coast to return the salmon runs, I think of that and this as the two most important environmental efforts of our time. Why are we trying to block this?

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. There are two reasons. One is I am not terribly fond of what originally this Congress did about the Florida Everglades. This is one of the largest pits we have ever created as far as dollars and expenditures. And we have some difference of opinion from science about the benefit of what they are trying to do. I have heard this as Resources chairman.

Secondly, although small in number, there are about 200 people that are directly affected by the actions that you propose. Now, that may be small in number for a lot of people in this room, but I am one that believes that the individual is all-important, not the mass.

Mr. DICKS. The gentleman has answered the question. Let me ask this. If we are going to let a handful of people block this project, how are we going to complete this immense effort? How are we going to get that done if we cannot get this small initial project started?

Mr. YOUNG of Alaska. I think there are different alternatives. I think it can be done a different way. I am not convinced that this is the perfect way of doing it, as I mentioned to you. As long as, in fact, I have the opportunity to see a different way, I am going to try to have that happen.

Now, I know the sincerity of the gentleman. I do not doubt that, but I am not convinced that everybody is right in this issue. I have people from Florida calling me, talking to me, asking me to do this. And very frankly, just because there is 200 does not make the project that important if they are going to be adversely affected.

Mr. DICKS. I definitely disagree with the gentleman.

Mr. Chairman, I yield to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Chairman, I would just reiterate what I said yesterday, that this is a major project. It is basically sold on the fact that we will restore the Everglades as a great national monument and part of our heritage, biological heritage. To not allow the Secretary of Interior to have a voice in the management of this project does not make any sense at all because it is fundamentally Interior. We have put in a billion dollars thus far from Interior. We are going to put 100 million in in this bill. And certainly the American people who are putting up the money with their taxes are doing this not because they care about Florida, but because they care about the Everglades. It is a great natural asset.

Unfortunately, the language as it would be at the moment is that the Corps of Engineers and the South Florida Development Association will be calling the shots. And what is the key to all of this? Water. And, therefore, the Secretary of Interior should have a voice in the access to the water because that is the thing that makes the Everglades what it is.

And, of course, on this land issue I thought that they had that resolved in the 8.5 square miles because they changed it so that only a limited number of houses are affected by it. But if we want to restore the Everglades, and that has been the basic premise of which all this has been done, we have to have the water and we have to have the Secretary of Interior playing a role in management.

Mr. DICKS. I will just say the final thing since the gentleman has covered

my second amendment, and I think the gentleman from Alaska will object to both of them, I would let the gentleman now proceed with his point of order which I will concede.

POINT OF ORDER

Mr. YOUNG of Alaska. Mr. Chairman, I raise a point of order.

This amendment violates clause 2 of rule XXI. It changes existing law and, therefore, constitutes legislating on an appropriation bill in violation of House rules.

The CHAIRMAN. Does any Member wish to be heard on the point of order? If not, the Chair is prepared to rule.

The amendment waives existing law in violation of clause 2 of rule XXI.

The point of order is sustained.

AMENDMENT OFFERED BY MR. FLAKE

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

The Clerk read as follows:

Amendment offered by Mr. FLAKE:

At the end of the bill (before the short title), insert the following:

SEC. . None of the funds made available in this Act may be used to provide any grant, loan, loan guarantee, contract, or other assistance to any entity (including a State or locality, but excluding any Federal entity) identified specifically by name as the recipient in a report of the Committee on Appropriations of the House of Representatives or the Senate, or in a joint explanatory statement of the committee of conference, accompanying this Act unless the entity is also identified specifically by name as the recipient in this Act.

Mr. DICKS. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman reserves a point of order.

The gentleman from Arizona (Mr. FLAKE) is recognized for 5 minutes.

Mr. FLAKE. Mr. Chairman, this amendment is actually quite simple. We have a situation in Congress now, we have been spending the last full day, many, many hours trying to amend the Interior appropriations bill. This is the bill. There are very strict limits on what we can amend and what we can do because we can only amend the bill. The problem is most of the spending is actually directed not on the bill itself but in the committee report.

The committee report actually directs how a lot of the money is to be spent. The hard marks are in the bill. The soft marks are in the committee report.

The problem we have is once this bill passes through the House, passes through the Senate, and then comes to a House-Senate conference, we then have the bill which we in the House vote on and they vote on it in the Senate, we have to go up or down. We cannot go in and amend specific language. But, again, most of the spending is actually directed, not then by a committee report, but by a conference report. Ordinary run-of-the-mill Members, if you are not a member of Committee on Appropriations, really do not have a chance to go in and amend some of the most egregious pork barrel projects that are often part of the bill. And there are some doozies. We hear about them all the time.

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We have little ability on the House floor either at this point or no ability when we vote on the House-Senate conference report to actually go in and amend and actually go to try to clean up some of these pork barrel projects. What this amendment simply says is the executive branch of government cannot spend money, cannot expend any of the money appropriated in the bill that is not expressly contained in the bill.

This does not get rid of earmarks. Earmarks are an important part of the congressional prerogative. The executive branch does not always know the best way to spend money, and Congress has the prerogative to direct that spending.

What this amendment simply says is that if we want to direct the spending, if we want to earmark the spending, do so in the bill, not in the conference report; and that will allow Members to go in and actually take that money out or move it around and not be limited to the very limited amount of money that we can actually direct or rescind or move around in the bill. We have to remember, most of the money is directed and earmarked through soft marks in the report language in the committee and then the conference report.

I think this amendment is very simple. It actually would shine a lot of sunshine on the process. This would allow Members of the House and the Senate, not just those on the Committee on Appropriations, but Members at large to actually go in and face that pork barrel spending and actually do something about it, not just tell their constituents, hey, I was forced with an up-or-down vote, I had to vote ''yes'' or I had to vote ''no.''

That is the amendment and I urge my colleagues to support it.

POINT OF ORDER

Mr. DICKS. Mr. Chairman, I make a point of order against the amendment, and I insist on my point of order because it proposes to change existing law and imposes new duties and constitutes legislation in an appropriation bill and, therefore, violates clause 2 of rule XXI.

The rule states in pertinent part, ''No amendment to a general appropriation bill shall be in order if changing existing law the amendment imposes additional duties.''

I ask for a ruling from the Chair.

The CHAIRMAN. Are there other Members who wish to be heard on the point of order?

Mr. FLAKE. Mr. Chairman, I wish to be heard on the point of order.

The CHAIRMAN. The gentleman from Arizona is recognized.

Mr. FLAKE. Mr. Chairman, as I understand the rules of the House, a proposal constitutes legislating if it imposes an additional task or new task on the executive branch or a government official, such as having information that that government official does not currently have.

I would inquire of the Chair, is that the correct understanding of this provision?

The CHAIRMAN. The Chair is going to listen to arguments on the point of order, and then the Chair is going to rule.

Mr. FLAKE. Mr. Chairman, the amendment I have proposed only requires that a government official responsible for making grants or loans knows what is in the appropriation bill. Now I think we assume that those on the executive side actually read the bill. That is all that is required here. When they read the bill, they will know if this is report language or if it is language actually contained in the bill.

With this information, they are able to make that determination simply by reading the bill. I do not see how this imposes a new task on a government official.

If the Chair rules that my amendment is subject to a point of order because it proposes a new duty, then the Chair is ruling that a government official does not have the responsibility to actually read the bill. That is, I think, the least we can expect of government officials is that they actually read the bills that we pass.

I would submit that this should not be subject to a point of order. It is inconceivable that this body is deciding that government officials cannot actually read the report. I respectfully ask that the Chair does not sustain the point of order.

The CHAIRMAN. Are there other Members who wish to be heard on the point of order? If not, the Chair is prepared to rule.

The gentleman from Washington (Mr. DICKS) makes a point of order that the amendment offered by the gentleman from Arizona (Mr. FLAKE) changes existing law in violation of clause 2 of rule XXI.

The amendment in pertinent part would require the examination of certain legislative reports to determine whether an entity is specifically identified by name. As indicated on page 802 of the House Rules and Manual, the burden is on the proponent of the amendment to prove that the amendment does not change existing law. In this instance, the proponent has been unable to prove the existence of a requirement in law requiring the examination of legislative reports by Federal agencies.

Accordingly, the point of order is sustained.

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

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

Mr. FALEOMAVAEGA. Mr. Chairman, I am in support of the proposed interior appropriations, and I am including my statement in the RECORD

and also a letter from deputy assistant Secretary David Cohen.

Mr. Chairman, the gentleman from California, Congressman DARRELL ISSA, has introduced two amendments to reduce considerably funding for my district of American Samoa. It is my understanding that there has been an exchange of communications between the Gentleman and the Governor of American Samoa. Specifically the gentleman's constituent has had an employment contract dispute with the American Samoa Government, and this matter has been ongoing for almost two years now.

Mr. Chairman, it is my understanding the gentleman has withdrawn his amendments, and that he will insert a statement for the record. I do appreciate the fact that the gentleman has decided not to introduce his amendments, but I would also like submit this statement to express my concerns on the proposed amendments.

I can appreciate the gentleman's concerns for his constituent, and I commend the gentleman for his efforts to look after the needs of his constituent. And every member should follow his good example.

Mr. Chairman, my concern for these two amendments is that the gentleman's constituent has not sought judicial adjudication for whatever rights he felt were not fulfilled by the American Samoa Government. To punish every man, woman, and child in my district by reducing critically needed funding as the gentleman's amendments proposed—is just simply unfair and not right.

This matter was never brought to the attention of the Interior Appropriations Subcommittee, as well as the Full Appropriations Committee. And the matter certainly has been reviewed by the appropriate authorizing committees.

Mr. Chairman, we have the courts to deal with contractual disputes between individuals and government entities. Our High Court in my district is the proper forum for my colleague's constituent to pursue his rights under the employment contract he agreed to with the American Samoa Government.

I submit the American Samoa Government does have budgetary and fiscal problems, but so does our federal government, the state of California and all other states and other territorial governments. But this is not an issue about fiscal management or mismanagement. It is an issue about making sure the constitutional rights of my colleague's constituent are protected. And I submit the constituent always was afforded an opportunity to take the matter to court, but he did not. And for this basic reason, my colleague's amendments are not in order and should not be approved by this body.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, July 16, 2002.

Hon. C.W. BILL YOUNG,
Chairman, Committee on Appropriations, House of Representatives, Washington, DC

DEAR MR. CHAIRMAN: It has come to our attention that two amendments have been offered to the Department of the Interior's appropriations bill that would limit grants to the government of American Samoa for fiscal year 2003 to $22,012,058 (under one proposed amendment) or $23,012,058 (under the other proposed amendment). As you know, a total of $33,240,000 was earmarked for American Samoa's government operations and capital improvement projects for fiscal year 2002, and the same amount was requested by the Administration for these purposes for fiscal year 2003. Additionally, approximately $2,100,000 in technical assistance grants is provided to American Samoa through my office in a typical year. Therefore, the more severe of the two proposed amendments would have the effect of reducing appropriations to American Samoa for fiscal year 2002 to fiscal year 2003 by approximately $13,328,000 or by approximately 38%. Needless to say, such a drastic reduction would jeopardize essential projects that my office was supported for hospital improvements, new classrooms, water and wastewater systems, public safety equipment and other essential activities. Either of the proposed amendments would likely have a significant adverse impact on the health and safety of the people of American Samoa.

Please feel free to contact me at my office at 208–4736 should you or your staff have any questions.

Sincerely,

DAVID B. COHEN
Deputy Assistant Secretary, for Insular Affairs.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. SHADEGG

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Arizona (Mr. SHADEGG) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 153, noes 269, not voting 12, as follows:

[Roll No. 317]

AYES—153

Aderholt
Akin
Armey
Bachus
Baker
Barr
Bartlett
Barton
Bilirakis
Blunt
Boehner
Boozman
Brady (TX)
Bryant
Burr
Burton
Buyer
Cannon
Cantor
Chabot
Chambliss
Coble
Collins
Combest
Condit
Cooksey
Cox
Crane
Cubin
Culberson
Cunningham
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Emerson
Everett
Flake
Fletcher
Foley
Forbes
Fossella
Gallegly
Ganske
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goss
Graham
Graves
Green (WI)
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hoekstra
Horn
Hostettler
Hunter
Hyde
Issa
Istook
Jenkins
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Kolbe
Latham
Lewis (KY)
Linder
Lucas (OK)
Manzullo
Matheson
McCrery
McInnis
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Myrick
Ney
Norwood
Nussle
Osborne
Ose
Otter
Paul
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Pryce (OH)
Putnam
Radanovich
Rehberg
Reynolds
Riley
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Schaffer
Sensenbrenner
Sessions
Shadegg
Shays
Sherwood
Shimkus
Shuster
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Stump
Sullivan
Tancredo
Tauzin
Taylor (NC)
Terry
Thornberry
Thune
Tiahrt
Toomey
Turner
Upton
Vitter
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Wicker
Wilson (NM)
Wilson (SC)

NOES—269

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Bass
Becerra
Bentsen
Berkley
Berman
Berry
Biggert
Bishop
Blumenauer
Boehlert
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Callahan
Calvert
Camp
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Crenshaw
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Dunn
Edwards
Ehlers
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Ford
Frank
Frelinghuysen
Frost
Gekas
Gephardt
Gilman
Gonzalez
Gordon
Granger
Green (TX)
Greenwood
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hayes
Hill
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley
Houghton
Hoyer
Hulshof
Inslee
Isakson
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKeon
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Napolitano
Neal
Nethercutt
Northup
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Platts
Pomeroy
Portman
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Rivers
Rodriguez
Roemer
Rogers (KY)
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Serrano
Shaw
Sherman
Shows
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Sununu
Sweeney
Tanner
Tauscher
Taylor (MS)
Thomas
Thompson (CA)
Thompson (MS)
Thurman
Tiberi
Tierney

Towns	Waters	Wolf
Udall (CO)	Watson (CA)	Woolsey
Udall (NM)	Watt (NC)	Wu
Velazquez	Waxman	Wynn
Visclosky	Weiner	Young (AK)
Walden	Weldon (PA)	Young (FL)
Walsh	Wexler	
Wamp	Whitfield	

NOT VOTING—12

Bereuter	Lantos	Meehan
Blagojevich	Lipinski	Nadler
Bonior	Mascara	Oxley
Ehrlich	McHugh	Traficant

□ 2058

Mr. BRADY of Pennsylvania, Mr. QUINN, Ms. McCOLLUM, Ms. JACKSON-LEE of Texas, Mrs. JO ANN DAVIS of Virginia, and Mr. LUTHER changed their vote from ''aye'' to ''no.''

Mr. SHAYS changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 2100

Mrs. WILSON of New Mexico. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it has been a long couple of days for all of us, and we are coming to the end of the Department of Interior appropriations bill, which will be the last appropriations bill with the gentleman from New Mexico (Mr. SKEEN) as the chairman of a subcommittee of this House.

Whenever I walk through the halls of the House and I pass by the statue of Will Rogers, I always think of JOE because Will Rogers is such a wonderful, funny man with a dry sense of humor who loved his country. JOE SKEEN is the same kind of guy. He is a gentleman with a dry sense of humor, almost as dry as New Mexico this year. He loves his country, he loves this House; and he has served it well. I think we should all show our thanks to the gentleman from New Mexico.

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

Mrs. WILSON of New Mexico. I yield to the gentleman from New Mexico.

Mr. SKEEN. Mr. Chairman, I thank the Members. Now sit down and go to work.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the ''Department of the Interior and Related Agencies Appropriations Act, 2003''.

Mr. UDALL of Colorado. Mr. Chairman, this is a good bill. I support it, and urge its passage by the House.

This bill is important for the whole country, of course, but it is particularly important for Colorado and other states that include large amounts of federal lands.

So, I am very appreciative of the hard work of Chairman JOE SKEEN, ranking Member NORM DICKS, and the other members of the Interior Subcommittee as well as Chairman YOUNG and ranking Member OBEY of the full Appropriations Committee.

In particular, I want to thank them for including in the bill $700 million in Fiscal Year 2002 emergency firefighting funds. As we in Colorado are all too aware, the combination of serious drought conditions and the results of a century's policy of suppressing all fires on federal lands has produced a series of extreme wildfires that have threatened the lives and property of thousands of people in our state and elsewhere.

As a result, the Forest Service, Bureau of Land Management, and other federal land-managing agencies have exhausted the funds budget for firefighting and have had to divert money from other important purposes to respond to the emergency conditions.

That was why last month, along with my Colorado colleagues, Representative HEFLEY, Representative DEGETTE, and Representative TANCREDO, and my cousin, Representative TOM UDALL of New Mexico, I wrote to Chairman YOUNG and Mr. OBEY, urging that the agencies be provided with emergency supplemental firefighting funds.

I thought then—and still think—that the best way to accomplish this would be to include the funds in the conference report on the emergency supplemental bill already passed in both Chambers. However, I understand that the Administration opposes that idea and therefore as an alternative the money has been included in this bill. I certainly support that, although I am concerned that the result may be to unnecessarily delay the provision of these vitally-needed funds to the agencies.

I also want to express my appreciation for inclusion of the bill of $4 million to enable the Forest Service to continue acquiring lands in the Beaver Brook area of Clear Creek County, in Colorado's Second Congressional District.

This tract encompasses almost the entire watershed of Beaver Brook, which flows into Clear Creek. the city of Golden originally acquired the lands as a potential source of water. However, it now wants to sell the lands so it can use the money for pressing municipal needs.

The Beaver Brook lands, nearly 6,000 acres in all, are important elk habitat and include pristine riparian areas and ponderosa pine stands that are comparatively rare in this part of Colorado. The tract also is a key part of a corridor of open and undeveloped lands linking the alpine terrain of the Mount Evans Wilderness with the foothills and piedmont of the Front Range area. In short, these lands provide scenic, recreational, and wildlife resources that are important to all Coloradans, and it is very important that they remain undeveloped—especially because our population growth is leading to increasing development throughout this part of the state.

The City of Golden—the property owner—is willing to sell the lands to the federal government so they can be added to the national forest. Clear Creek County, where the lands are located, also supports that acquisition, and the Forest Service has identified it as a high regional priority. The acquisition is also supported by a wide range of other individuals and groups in Colorado—and here in Washington, Representative TANCREDO and I have been working together on the idea as well.

Last week, I had the pleasure of attending a ceremony marking transfer of part of the lands to the United States for inclusion in the Arapaho National Forest. The funds provided in this bill will help maintain momentum as we move toward completion of this important acquisition.

The bill also includes a number of other items of particular importance to Colorado, including money for construction work at Rocky Mountain National Park and the Great Sand Dunes National Monument, funds to make the land acquisition that will set the stage for upgrading the Great Sand Dunes to National Park status, and funds for important work to further the protection of endangered species and the sound management of our natural resources.

Of course, no bill is perfect. But this bill is a good one and I urge its passage.

Mr. BLUMENAUER. Mr. Chairman, today I voted for the Appropriations Bill for the Department of the Interior and Related Agencies for the year FY 2003. It is not a perfect bill, but it includes many provisions that are important for Oregon and the rest of the country.

The bill appropriates a total of $20.4 billion, which includes an important $700 million for emergency fire fighting in the West. The bill includes an increase in funding over both the President's request and the appropriation for last year for important programs within the Bureau of Indian Affairs and the Indian Health Service. The bill also increases funding for the National Parks Service, which has a tremendous responsibility as caretaker of some or our nation's most valued natural, cultural, and historic resources that draw nearly 300 million visitors annually. I was also pleased to vote for a bill that provides $1.4 billion for conservation programs, $120 million more than what President Bush recommended. Finally, on the 100-year anniversary of the National Wildlife Refuge system, the bill provided a $60 million increase for the refuge system to $458 million.

I was pleased that the bill also provides funding for programs that are crucial to Oregon. We were able to secure $10 million and $2.5 million to purchase land from willing sellers in the Columbia River Gorge and the Sandy River watershed, respectively. The bill increases funding to help fish in the Pacific Northwest, providing $4 million for fish screens and $20 million for additional fish passage projects. It also provides $500,000 for the Columbia River Estuary Research program at the OGI School of Science and Engineering.

This bill was also improved on the floor. Amendments on the floor increased funding for the National Endowment for the Humanities that will help improve our federal commitment to the arts, which make a community vibrant, unique and lively. On the floor the House also voted to increase funding for the Energy Star Program and to prohibit funding for new oil drilling activity on the coast of California. Finally, adjustments were made to the bill on the floor to remove provisions that would be at best troubling, and possibly destructive to, the Native American community. More importantly, a strong commitment was made by the appropriators and members to work together to fashion a solution to the long ignored Native American trust issues.

Unfortunately, an amendment I introduced that would have helped improve the situation in the Klamath Basin did not pass. The amendment would have help solveed the inherent conflicting priorities and competition over scarce basin water by farmers, endangered species, wildlife refuges, and Native Americans. The amendment would have also helped make farming on the Lower Klamath and Tule Lake Wildlife Refuges more consistent with farming on other refuges around the country by prohibiting new leases from

growing row crops or alfalfa. I pledge to continue to work with my colleagues in Oregon and California to address the shortage of water and habitat degradation in the Klamath basin.

Overall, I believe this is a good bill for Oregon and for the United States.

Mr. HOLT. Mr. Chairman, as a Member of the National Parks Subcommittee in Congress, I have made the protection of our National Parks one of my priorities in Congress. Our National Parks are our national treasures, and belong to each and every American.

Each year millions of American families enjoy the fresh air, natural splendor, and diverse wildlife of our National Parks. If we are to preserve our Parks for future generations, however, we must invest the resources necessary for their continued preservation and maintenance.

Due to a lack of funds, many of our parks suffer from inadequate sewer systems, poor and deteriorating facilities, and an insufficient number of park rangers. In addition to damaging the parks themselves, these conditions detract from the experience that visitors take away with them.

Yellowstone National Park, the world's first National Park and one of my favorites, is representative of this problem. Created to preserve its unique geothermal features, Yellowstone currently lacks a geologist on staff to monitor and protect the park's geysers and ''underground plumbing.''

Yellowstone, and the rest of or nation's treasures, deserve better. Earlier this year I joined 83 of my colleagues urging a significantly higher increase for the operations of the National Parks than provided in the bill we are debating today. But, given the funding constraints placed on the Committee, this bill takes a big step in the right direction to address the significant operating shortfalls facing our nation's parks. Because of this I would like to applaud the efforts of the committee. As the bill moves to Conference, it is critical that at a minimum, we hold the line on funding provided in this bill, and even do better.

The CHAIRMAN. Are there any further amendments?

If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. ISAKSON) having assumed the chair, Mr. SIMPSON, Chairman 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. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes, pursuant to House Resolution 483, he reported the bill, as amended pursuant to that rule, back to the House with sundry further amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Under clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 377, nays 46, not voting 11, as follows:

[Roll No. 318]

YEAS—377

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Bartlett
Bass
Becerra
Bentsen
Berkley
Berman
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Combest
Condit
Conyers
Cooksey
Costello
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Granger
Green (TX)
Greenwood
Grucci
Gutierrez
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Phelps
Pickering
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Serrano
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—46

Akin
Barr
Barton
Berry
Boswell
Capuano
Chabot
Collins
Cox
Crane
DeMint
Doggett
Duncan
Emerson
Flake
Gibbons
Goode
Graves
Green (WI)
Gutknecht
Hefley
Hostettler
Jones (NC)
Kerns
Manzullo
Miller, Gary
Miller, Jeff
Myrick
Paul
Pence
Petri
Pitts
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Sensenbrenner
Sessions
Shadegg
Smith (MI)
Stearns
Terry
Tiahrt
Toomey
Weldon (FL)
Wilson (SC)

NOT VOTING—11

Bereuter
Blagojevich
Bonior
Lantos
Lipinski
Markey
Mascara
McHugh
Meeks (NY)
Nadler
Traficant

□ 2124

Mr. WILSON of South Carolina changed his vote from ''yea'' to ''nay.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FUNDING FOR THE ARTS AND HUMANITIES

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, as evidenced by the enormous vote on the previous appropriations bill, the Interior bill enjoys much support from this body. It is a bill that protects our natural resources and the natural beauty of this Nation.

I rise to speak to this bill for its inclusion of support of the National Endowment for the Arts and the National Endowment for the Humanities. I was very pleased to be able to support the Slaughter amendment which added $15 million to the budgets of the NEA and the NEH. It is a small but important step, for those two organizations raise the Nation's cultural competence. It is extremely important that the next generation of Americans be culturally aware. They need to understand the history, the art, the culture, the literature and archaeology not only of this Nation but of the world.

I am very proud, coming from the 18th Congressional District in Houston, to support the Houston Symphony, the Houston Ballet, the Houston Grand Opera, the Ensemble and many, many other arts institutions in our community. The many, many museums that we enjoy in Houston and the State of Texas, all of it benefits from the support of the National Endowment for the Arts and the National Endowment for the Humanities. That is why this bill was passed with such overwhelming support. That is why I am pleased to have supported the Slaughter amendment and to rise today to support the NEA and the NEH.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

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

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

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

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

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

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

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

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

PARTIAL-BIRTH ABORTION BAN ACT

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

Mr. PENCE. Mr. Speaker, in the midst of important debates in the last 48 hours over critical spending bills and the creation of our national budget, a very, very important piece of lawmaking has taken place that will find its way onto the blue carpet of this historic place next week. It is the issue of partial-birth abortion, H.R. 4965, the Partial-Birth Abortion Ban Act of 2001, which I am proud to say as a Member of the Committee on the Judiciary we marked up and reported out by an overwhelming vote earlier today.

Mr. Speaker, I would offer that societies are rightly judged by how they deal with the most defenseless among their citizenry and how they confront those who exploit the most defenseless. This is best expressed in the proverb that ''Whatsoever you do for the least of these, you do also for me.''

□ 2130

Today, in the House Committee on the Judiciary, we took up what for some, at times, sounded like the debate over abortion and the woman's right to choose that has been settled law in this country since 1973. In fact, Mr. Speaker, what we brought up today was an issue altogether different. It is about a practice in this country described in our legislation that is barbarous, to say the least.

In our legislation we describe the procedure that is banned, that the American Medical Association has said is never medically indicated. ''A partial-birth abortion under this law is an abortion in which a physician delivers an unborn child's body until only the head remains inside the womb, punctures the back of the child's skull with a sharp instrument and sucks the child's brains out before completing delivery of a dead infant.''

I must tell my colleagues that as a Christian and as an American and as a father of three children, it is astonishing to me that this is even remotely legal in America today, but it is. And as we will no doubt hear on this floor next week, it is practiced all too often in this country.

We will bring the Partial-Birth Abortion Ban Act of 2002 to the floor again. We have changed the bill, adding findings of fact to overcome constitutional barriers, and I am confident that it will survive judicial review. The American people, Mr. Speaker, want this bill in overwhelming numbers, believing in their hearts that we are better than this. We are a better people.

Lastly, Mr. Speaker, it is simply the right thing to do, to stand with newborn children, the most defenseless among us. The Good Book tells us, ''See I set before you today blessings and curses, life and death; now choose life so that you and your children may live.''

It is my hope, and it will be my prayer, in the intervening days as I urge my colleagues on both sides of the aisle to do as we have done in bipartisan fashion in the past in this institution, and send a deafening message into the laws of the United States that this heinous, barbarous practice of infanticide, which we call a procedure known as partial-birth abortion, has no place in the great and good Nation of the United States.

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

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

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

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

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

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

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

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

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

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

IN CELEBRATION OF THE 30TH ANNIVERSARY OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

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

Mrs. MINK of Hawaii. Mr. Speaker, June 23rd marked the 30th anniversary of Title IX of

the Education Amendments of 1972 which prohibits sex discrimination in any educational institution that receives federal funds. To commemorate this 30th anniversary, it is important that we celebrate the successes of Title IX, acknowledge its tremendous and positive impact on the lives of girls and women in our country, and rededicate ourselves to the continued pursuit of equal educational opportunities for girls and women.

I was a member of the House Education and Labor Committee in 1972. I worked diligently to promote civil rights legislation during my entire tenure. I consider Title IX to be one of my most significant efforts as a Member of Congress, and I take special pride in honoring its contributions to changing our view about women's role in America.

Title IX has opened the doors of educational opportunity to millions of girls and women who otherwise would have been shunned or relegated to a secondary place. Title IX has helped to tear down barriers to admissions, increase opportunities for women in nontraditional fields of study, improve vocational educational opportunities for women, reduce discrimination against pregnant students and teen mothers, protect female students from sexual harassment in our schools, and increase athletic competition for girls and women.

We have heard much about the many successes of Title IX, particularly in athletics. Most do not know of the long arduous course we took before the enactment of Title IX and the battles that we have fought to keep it intact. On the occasion of this 30th anniversary, it is appropriate to take time to reflect on the history of this landmark legislation so we may never forget the struggles and we may never forget the original purpose.

From the day at age four when I had my appendix removed, I knew I wanted to be a doctor. I went to college drive with this goal. I was elected President of our college pre-med organization. No one bothered to tell me that my career goal could not be achieved because I was female. In my senior year I applied to a dozen or more medical schools. Everyone turned me down because I was female. I was stunned. I had a degree in zoology and chemistry that could not get me to my coveted profession. America the land of the free had closed its doors of opportunity to me because I was female.

Again after I got my law degree I was shut out from employment because I was female.

When I ran for elected office was ostracized because I was ''only a woman'' and presumably therefore had nothing to contribute.

This personal story of my life adds meaning to what happened in Congress. Title IX had its origins in a series of hearings on sex discrimination and equal opportunities for girls and women held in the mid-1960s and early 1970s by the House Education and Labor Committee. Throughout that time, the committee had been engaged in the process of systematically gathering a large body of evidence of discrimination against girls and women in our educational system.

In 1965, the year I first came to Congress and became a freshman member of the Education and Labor Committee, Chair Adam Clayton Powell initiated an examination of discrimination in textbooks. Our committee scrutinized textbooks and found that they portrayed girls and women in stereotypical ways and minimized our potential to lead. We hauled in the U.S. Department of Health, Education, and Welfare because they were issuing brochures and films that consistently portrayed women in occupations such as nursing, teaching, or social work, but never as scientists, doctors, lawyers, judges, pilots, or engineers. We scrutinized vocational education courses and found that girls were being taught home economics while boys were being taught skills and concepts that would prepare them for higher wage careers. In addition, we found that the admissions policies of many institutions systematically excluded women from graduate and professional schools and rarely if ever afforded them scholarships, fellowships, research stipends, or staff assistantships.

In 1970, Congresswoman Edith Green (D–OR), Chair of the House Special Subcommittee on Education, held hearings on a bill she had introduced, H.R. 16098. This bill would have amended Title VI of the Civil Rights Act of 1964—which prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial assistance—to also ban sex discrimination.

On July 3, 1970, Assistant Attorney General for Civil Rights Jerris Leonard testified before Congresswoman Green's subcommittee on H.R. 16098. He said that while the Justice Department would not support language to amend the Civil Rights Act, ''we suggest an alternative''. The alternative was that the committee should concentrate on developing separate legislation that would prohibit sex discrimination in education. This was the genesis of Title IX.

It is important to put this initiative in the context of the times. This was right around the time of the big push for the Equal Rights Amendment. The women's movement was active and growing and supporters of equal rights for women were pursuing equal protection under the Constitution. Under the leadership of Representative Martha Griffiths (D–MI) Congress voted for the ERA in 1971 by a vote of 354 to 24, sending it to the states for ratification. While Congresswoman Green's bill to prohibit sex discrimination under the Civil Rights Act of 1964 would have provided broader protections for women, prohibiting sex discrimination in education would be a giant step forward in the fight for equal rights for girls and women.

The opportunity to add Title XI came in 1971 when the House turned its attention to consideration of amendments to the Higher Education Act, H.R. 7248. It was initially Title X of H.R. 7248 and it prohibited discrimination on the basis of sex in any educational institution receiving federal funds. It also authorized the Civil Rights Commission to investigate sex discrimination, removed the exemption of teachers from the equal employment coverage of the 1964 Civil Rights Act, and eliminated the exemption of executives, administrators, and professions from the Equal Pay Act.

The bill was reported out of the House Education and Labor Committee on September 30 1971 and was considered by the full House on October 27, 1971.

During consideration by the full House, Representative John Erlenborn (R–IL) offered an amendment to exempt undergraduate admissions policies of colleges and universities from the prohibition of sex discrimination. This amendment won by a 5-vote margin, 194 to 189.

The provision that would have authorized the Civil Rights Commission to investigate sex discrimination (section 1007) was eliminated during the floor debate on a point of order by House Judiciary Committee Chair Emanuel Celler (D–NY) because it came under the jurisdiction of his committee.

At the same time, the Senate was working on amendments to its Higher Education Act. The Senate also argued bitterly over the inclusion of a provision banning sex discrimination in schools.

During the Senate floor debate on August 6, 1971, Senator Birch Bayh (D–IN) offered an amendment, along with Senators EDWARD KENNEDY (D–MA) and Phil Hart (D–MI), to ban sex discrimination in any public higher education institution or graduate program receiving federal funds. Senator George McGovern (D–SD) also submitted an amendment prohibiting sex discrimination in education, but decided not to offer it and instead supported the Bayh amendment.

As the Bayh amendment was considered, Senator STROM THURMOND (R–SC) raised a point of order against it on the grounds that it was not germane. The point of order was sustained by the Chair, who agreed and ruled that ''the pending amendment deals with discrimination on the basis of sex. There are no provisions in the bill dealing with sex.'' A 50 to 32 roll call vote sustained the ruling of the Chair.

The Senate reconsidered the higher education legislation in early 1972 because it objected to the House version that included provisions prohibiting the use of federal education funds for busing. Again, the bill that came out of the Committee on Labor and Public Welfare did not include any provisions banning sex discrimination in schools.

Fortunately, Senator Birch Bayh was persistent on the issue of sex discrimination in education. During the floor debate that began on February 22, 1972 he offered an amendment that would prohibit sex discrimination in educational institutions receiving federal funds but would exempt the admissions policies of private institutions. Later, Senator Lloyd Bentsen (D–TX) offered an amendment to the Bayh amendment that also provided an exemption for public single-sex undergraduate institutions. Both amendments passed by voice vote. This time, a provision prohibiting sex discrimination in schools was included in the bill passed by the Senate.

Negotiations in the House-Senate Conference Committees, held in the spring of 1972, finally yielded Title IX. The final language prohibited sex discrimination in educational institutions receiving federal funding and applied to institutions of vocational education, professional education, and graduate higher education, and to public institutions of undergraduate higher education. The conference report was filed in the Senate on May 22 and in the House on May 23. The bill was approved by Congress on June 8. On June 23, 1972—30 years ago—President Nixon signed it into law.

Since its passage most people have come to associate Title IX with gains made by girls and women in athletics. Certainly, this is the most visible, spectacular, and recognized outcome of Title IX. However, many are surprised to learn that the topic of athletics did not even come up in the original discussions about Title IX. Our primary goal was to open up educational opportunities for girls and women in

academics, and the most controversial issue at that time was the application of Title IX to institutional admissions policies.

The impact of Title IX on athletics became apparent almost immediately. We were thrilled to see that athletic opportunities were starting to open up to girls and women, although these changes also sparked controversy. When coaches and male athletes began to realize that they would have to share their facilities and budgets with women, they became outraged. In 1975, this anger prompted the first and most significant challenge to the law.

Opponents of Title IX proposed an amendment to the education appropriations bill to prohibit the Department of Health, Education, and Welfare from promulgating Title IX regulations to apply to college and university athletics. They paraded a number of college and professional athletes through the committee room to testify that Title IX hurt men's athletics. At the time, women athletes were so few and unknown that the only well-known athlete we could bring in to testify was Billie Jean King. The fact that there were virtually no prominent women athletes in our country was a testament in itself to the necessity of Title IX.

The amendment was agreed to by the House and was included in the 1975 House appropriations bill (H.R. 5901), but it was not agreed to by the Senate and was stricken in conference.

On July 16, 1975, I managed the House floor debate against a motion by Representative Robert Casey (R–TX) to insist on the House position. In the midst of vigorous debate on the issue and just prior to the vote, I was sent word that my daughter had been in a life-threatening car accident in Ithaca, New York. I left the floor immediately and rushed off to Ithaca to be with her. After I left, the Casey motion carried on a vote of 212 to 211. The House had voted to exclude college athletics from Title IX regulations. The newspapers reported that I had left the floor ''crying'' in the face of defeat. Without checking with my office the paper indulged in the very stereotypical smear that we were fighting against.

The following day, the Senate voted 65 to 29 to insist on the Senate position and strike the amendment from the bill.

On the next legislative day, July 18, 1975, Speaker Carl Albert (D–OK) and Representative Daniel Flood (D–PA) took the House floor and explained the circumstances of my departure. Representative Flood then offered a motion ''to recede and concur in the Senate position''. An affirmative vote on this motion would reverse the vote taken by the House two days prior and would reject both the Casey position and the amendment. It carried by a vote of 216 to 178. Title IX's application to athletics for preserved.

While the story of Title IX is a story of celebration, it also a story of struggle to defend it against persistent challenges. Although we celebrate the year 1972 as the year of enactment of Title IX, in retrospect it is clear that I was engaged in efforts to pass a Title IX law since I first arrived in Congress in 1965. There is also a clear pattern of repeated attempts to weaken or undermine Title IX from the very beginning. For 30 years, we have constantly needed to be on guard to defend it.

Five years ago, several colleagues and I came together on the House floor to celebrate the 25th anniversary of Title IX. Since then its story of spectacular successes, coupled with new and significant challenges, has continued to evolve. One of the most notable successes since the last anniversary was the tremendous victory by the U.S. Women's Soccer Team in the 1999 Women's World Cup. Hundreds of thousands of spectators attended the games and millions more watched on television. These strong, disciplined, and exciting athletes drew record-breaking audiences, inspired a whole new generation of girls to pursue their dreams, and captivated a nation.

This victory was significant not only for its impact on women's athletics but as a testament to the power of Congress to change the nation for the better. Mia Hamm, one of the team's brightest stars, was born in 1972—the same year that Title IX was signed into law. Without Title IX, she and many of her teammates may have never had the opportunity to develop their talents and pursue their dreams.

Along with recent public celebrations of Title IX however, there have also been new and high-profile attacks. In 1998, the Republican majority of the Committee on Education and the Workforce inserted an 11th hour provision into the Higher Education Amendments that would have required colleges and universities to report annually any changes in funding or in the number of participants on an athletics team. In addition, it would have required them to forecast four years in advance any decisions to eliminate or reduce athletic programs or funding and to ''justify'' their decisions.

During the House floor debate on the Higher Education Amendments on May 6, 1998 TIM ROEMER (D–IN) offered an amendment to delete the provision.

Several colleagues and I argued strenuously in support of the Roemer amendment. We believed that this provision would have been extraordinarily intrusive on the decision-making processes of colleges and universities. We believed that it was impractical because it would have been virtually impossible for institutions to know four years in advance whether or not they would need to cut programs. Most importantly, we opposed this provision because of its potential for severe and adverse impact on the enforcement of Title IX. This provision had been supported by opponents of Title IX who wanted to force colleges and universities into blaming Title IX for their decisions to make reductions or cuts to minor, non-revenue men's sports teams.

The argument that Title IX is to blame for the reduction of some men's minor, non-revenue teams is patently false. Title IX regulations do not require schools to cut men's teams in order to comply with Title IX. Instead, reductions or cuts to some men's sports teams—and to many women's minor sports teams as well—are due to choices made by college administrators in favor of the big budget, revenue-generating programs such as football and basketball. To blame Title IX is disingenuous and just plain wrong! The goal of Title IX is not to disadvantage men but to provide equal opportunities for women.

After a vigorous debate on the House floor, the Roemer amendment was agreed to by a vote of 292–129. The provision was deleted from the Higher Education Amendments of 1998.

Unfortunately, the myth that Title IX is to blame for the reduction of men's minor sports teams on college campuses has continued to persist. In January of this year, the National Wrestling Coaches Association and other groups filed a high-profile lawsuit in federal court against the U.S. Department of Education, arguing that colleges and universities have cut wrestling teams and other men's minor sports teams in order to comply with Title IX.

This argument is unsupportable. The Department of Education's regulations regarding Title IX do not require schools to cut men's teams in order to comply with Title IX. Rather, ''proportionality'' is only one of three ways that schools can comply with the law. They may (1) offer athletic opportunities in substantial proportion to male and female enrollment, or (2) show that the institution is steadily increasing opportunities for women students overtime, or (3) show that the athletic interests and abilities of female students are being met. Institutions do not need to demonstrate all three.

While the Department of Justice filed a motion to seek dismissal of this lawsuit on May 29, 2002, the final disposition of the case is pending.

New challenges and questions have also been raised recently about Title IX and single-sex education. On May 8, 2002 the U.S. Department of Education announced its intention to encourage single-sex education in the nation's public schools by filing a notice of intent to propose amendments to the regulations implementing Title IX. According to the announcement in the Federal Register, the Bush Administration wants to ''provide more flexibility for educators to establish single-sex classes and schools at the elementary and secondary levels''. This announcement marked a reversal of three decades of federal education policy regarding single-sex education.

While advocates of this proposal cite research studies indicating that students may perform better in same-sex educational environments, opponents fear that the proposal endorses a form of segregation. In addition, many others worry that tampering with the current Title IX regulations is risky and dangerous and may have the ultimate effect of weakening Title IX.

Given difficult challenges such as these, it is especially important that we celebrate the many successess of Title IX. However, it is even more important that we not become complacent about Title IX. Many young girls and women today do not even know about Title IX and take it for granted that equal educational opportunities are safeguarded by the Constitution. While it is wonderful that equity has become the expected norm, we must also teach each new generation that there was a time when Title IX did not exist. Further, we all need to be reminded that since Title IX was put in a place by a legislative body, it can also be taken away by a legislative body. We need to be vigilant. Title IX must be protected and defended to ensure that equal educational opportunities for girls and women are preserved for all generations to come.

Mr. Speaker, as I have recounted this story here tonight, you can see that the pursuit and enforcement of Title IX has been a personal crusade for me for three decades. I am proud to have been a part of the enactment of Title IX in Congress 30 years ago, and I continue to be proud of its rich and lasting legacy of equal educational opportunities for girls and women. On this 30th anniversary, let us rededicate ourselves to the goals of dignity,

equality, and opportunity for all that characterized our dreams for Title IX 30 years ago. These goals are every bit as worthy and important today, in 2002, as they were in 1972.

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

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

LEGACIES OF DEBT

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

Mr. TAYLOR of Mississippi. Mr. Speaker, about a week ago the President of the United States went to Wall Street in the wake of the accounting scandals and the scandals that have caused so many Americans to lose so much money, so much of their life savings, so much money that they were counting on to pay for their retirements. One of the things he told the Wall Street firms was, you have to change the system of hiding your debts, making your balance sheets look better than they are. It is a shame the President did not live by his own axiom a year ago right now.

Those of my colleagues who watch television, those of my colleagues who read the newspapers know that starting last January, February, March, we are talking about a year ago, the President was telling the American people, Washington is awash in money, it is awash in money. We have to have this big tax break. Well, it is easy to pay, Mr. President, if you are hiding the debts of the country. You see, because a year ago right now, and I do mean a year ago right now, our Nation was $5,726,814,835,287.17 in debt, and yet you had the American people convinced that we were awash in money.

What is even worse than the fact that we owed all of that money was that we owed; and I look into the audience and I look around the country and I see folks who pay taxes and the biggest portion of a lot of folks' taxes is what they pay to Social Security, that is that FICA on your tax bill. The promise was made in the 1980s when they raised those taxes, with a Democratic House and a Republican Senate and a Republican President by the name of President Reagan, they were going to take that money and set it aside and make sure it is used for nothing but Social Security. They lied to us.

Mr. Speaker, right now, if we were to find the mythical lock box for Social Security and open it up, all we will find is an IOU that says we owe the people who paid into the Social Security Trust Fund $1,300,000,000,000. If we look a little bit farther down on our pay stub, and again, these taxes were raised in the 1980s, a Democratic House, a Republican Senate and a Republican President, they raised the taxes on Medicare. If you were to find the mythical lock box for Medicare, and I do mean mythical, because there is nothing there, we would find an IOU for $271 billion.

Now, for folks like myself from Mississippi, it is hard to imagine $1 billion. I think one of the reasons that the folks in Washington use the term ''billion'' is we think of it as 271 of these things, be it apples or boats or whatever. So let me walk an average Joe like myself through it.

Everybody can visualize $1,000. A lot of people pay $1,000 on their house on rent. So we can kind of visualize a thousand times a thousand. That gets us up to a million. Visualize a thousand times that. That is a billion. So a thousand times a thousand times a thousand times 271 is what we owe the Medicare trust fund. There is not a penny there. It is spent. The money collected was supposed to be set aside for Social Security, for Medicare. It is gone.

How about our military retirees? How many times have we heard since September how proud we are of our troops and how we need to do everything for them? Well, Mr. President, maybe one of the things we ought to do for them is pay back the $168 billion that we owe to their retirement fund. Again, a thousand times a thousand times a thousand times 168. There is not a penny there, it is just IOUs.

We have heard about our brave Border Patrol, the Customs agents, the FBI agents, the guys who sweep these buildings on a fairly regular basis looking for chemical and biological weapons. They pay into their retirement fund; this young lady right here pays into her retirement fund; her employer, you, the Federal Government pays a portion into her retirement fund. If we were to find the account for the retirement fund, all we are going to find is an IOU for a thousand times a thousand times a thousand times 540.

Mr. President, it begs the question, how did you tell the American people we were awash in money when we were $5 trillion in debt? You had your budget. You had a Republican House, a Republican Senate, they passed you a budget dollar for dollar the way you wanted it. You got your tax cuts, and in the wake of all of that, in 12 months alone, we have increased the national debt, the debt that all of these young people in this room have to pay, the debt that my kids have to pay, by $399,653,925,113.31.

Mr. Speaker, in the time that you have been Speaker of the House, the national debt has increased by $511,040,208,939. That is more money than this country accumulated in debt in 199 years, and yet, for 1,300 days you have not allowed us a vote on a balanced budget amendment. Is this not enough? Is this the legacy you want to leave the American people, or do you want to leave the American people a legacy of a balanced budget? I hope, and I ask, for the latter.

MUSHARRAF AND DEMOCRACY

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

Mr. PALLONE. Mr. Speaker, I would like to express my outrage over the continued infiltration by Pakistani-backed militants and the line of control in Kashmir and the continued blatant terrorist attacks on innocent women and children in Jammu and Kashmir.

About a month ago, President Musharraf of Pakistan acquiesced and promised to end infiltration of militants who were openly supported politically and morally by Pakistan. India had been willing to honor Musharraf's promise by giving him a chance to act on his word and waiting until October to assess the infiltration situation at the Line of Control.

But much to everyone's dismay, this brutal killing in this war-torn region is going on unabated, despite Musharraf's promises. This past weekend's savage attack has left 27 civilians dead and wounded another 30 civilians. Another attack today wounded 13 people in Kashmir. I do not think there is any justification for such violence.

Mr. Speaker, infiltration by militants at the border and terrorism in Kashmir needs to be stopped in order for peace and stability to be reinstated in this fragile region of the world. However, every step Musharraf is taking is, in fact, turning Pakistan in the opposite direction of achieving any sense of peace or stability, and, most importantly, achieving democracy.

Mr. Speaker, President Musharraf has proposed changes to the constitution that are of grave concern. The underlying strategy behind his guise of transitioning to democracy is, in fact, to restructure the Pakistani government to protect his dictatorship. Through over 70 proposed amendments, he is attempting to rewrite Pakistan's constitution in order to empower his branch of government over other branches of the Pakistani government. In addition, Musharraf would also be giving the constitutional power to dissolve the parliament, dismiss and appoint a prime minister, and establish a national security council as a constitutional body.

The latest piece of his proposal is to require members of parliament to hold university degrees which would disqualify 98 percent of Pakistan's 144 million citizens, but also would disallow over half of the politicians serving in the last parliament from holding office again.

Mr. Speaker, I am concerned about the use of American resources provided in economic and military aid to an antidemocratic Pakistani regime. In October 2001, Congress passed a bill, S. 1465, which granted the President authority to waive all sanctions against Pakistan, including sanctions against

Pakistan that prohibited aid to a nation whose democratically elected government was deposed. I introduced legislation today that reinstates the democracy sanctions, because I think it is necessary to implement measures that encourage Pakistan to transition back to democracy.

I have written to President Bush and I have requested that he and his administration, particularly Secretary Colin Powell, who will be visiting the region over the next 2 weeks, to take these violent actions by Pakistan into consideration for any future talks with Musharraf, and that the United States use its influence to encourage a return to democracy in Pakistan.

CORPORATE FRAUD

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

Mr. MCINNIS. Mr. Speaker, to my colleague, the gentleman from New Jersey (Mr. PALLONE), I am not going to follow up with some comments about your previous comments. In fact, I found the gentleman's comments pretty interesting.

This evening I want to spend the time with my colleagues speaking about corporate fraud. I spoke about that at length the other day but, actually, the conversation I wanted to have with my colleagues was cut short by the time. So tonight I wanted to go through it in much more detail at a little slower pace so that we have a pretty clear understanding of what is happening out there in corporate America, with a few bad apples, but these bad apples are so bad they are ruining the bushel of apples. I come from apple country out in the Rocky Mountains of Colorado, and I can tell my colleagues if we do not track down the bad apple in a bushel of apples, no matter how good the rest of the apples in that bushel are, it will not be very long before the stain from the bad apple begins to go over on the good apples, and pretty soon the whole bushel of apples is ruined.

Now, I have heard many of my colleagues recently talk about the corporate fraud that is going on and, remember, it is not all corporations. It does not entail all of the corporations. Keep in mind that there are many, many smaller corporations in America.

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When we speak of the word ''corporation,'' it is very broad. As I said the other evening, my in-laws are cattle ranchers. They are not big cattle ranchers, but they have a cattle ranch up in the mountains. It has been in their family since the 1880s. They are incorporated for liability purposes.

I have a friend who owns an ice cream shop. He has two employees, actually his partner, he and his wife, they are incorporated. So not all corporations fall into this.

There are a few corporations that I am going to address specifically by name this evening. There are a couple of corporate executives, thieves, that I am going to address this evening by name; and I hope my colleagues are attentive to this issue.

But back to the point that I was making, recently several Members have said that this is like a bank robbery. These guys are bank robbers. I stand to differ with them. These people, like the President of Tyco, or Bernie Ebbers, the President of WorldCom, or Scott Sullivan, the chief financial officer, they are not like bank robbers.

I will tell the Members the difference. It is right here on this poster. A bank robber, generally in a bank robbery the person who commits the bank robbery is generally a poor person taking from a rich person. That is not what we have here. What we have with these corporate problems in America today is not a poor person taking from a rich institution, but instead, just the opposite: we have a rich institution taking from the poor people. That is exactly what is happening out there.

So when we hear people say, this is kind of like a bank robber, it is just the opposite of a bank robbery. It is the institution taking from the small guy, instead of the poor guy maybe taking from the bank. That is the difference.

These people who are dealing with this are not any different than a bank robber, though, as far as how we might describe them otherwise, like two-bit crooks, two-bit hoods. That is exactly what we are talking about here.

Let me go over a few things. I think, first of all, the best thing to talk about, I mentioned earlier that, by far, most of the corporations in America are small companies. Most of the companies in America run a pretty good operation. America, by far, has the strongest economy in the world's history. America will continue to have a strong economy. We are going to get through this.

In a sense, this is somewhat of a cleansing process. We are cleansing ourselves of the bad apples in the bushel, so to speak. The cleansing process is always painful, but the only way the cleansing process works is that it has to be complete. The only way we save the bushel of apples is to get in there and find the bad apple.

We just cannot talk about the fact that we have a bad apple in a bushel of apples. We have to get in there and find out where that apple is and find out if the bruise and the rot in the bad apple has spread to others, and we have to get rid of all of those.

That is the duty of our enforcement agencies in this country. It is also the duty, the peer duty of other companies, other chief executives. We have to lift our standards in this country. This kind of behavior demands that other chief executives, the good chief executives, the good people who work hard out there, that deliver a good product on behalf of the company, that are honest with their books, that do not use their attorneys to try to deceive shareholders and employees, that these people demand a higher standard.

I know a number of chief executives. I can tell the Members, they pride themselves on the standards that they demand. Their standards exceed all of the standards that some accounting firm may want, or the standards that the law firm says are the minimal standards they must meet.

The most successful companies in America are not the companies that perform unethically, or perform right on the border. The successful ones over a long period of time or over the average period of time are the ones that are honest in their dealings with their employees. They are honest in their dealings with their shareholders. They are honest in their dealings with government agencies. They are honest in their dealings in the reports they give to the general public.

Those are the companies, those are the businesses in America, in fact, those are the businesses in the world that over the long run will be the most successful and the strongest.

Now, I think it is important that we have a good concept of what a corporation is. What makes up a corporation? How does it work? Who is an insider? What are some of the buzz words that are used when we talk about corporations?

Of course, the first buzz word we use is ''corporation'' itself. As I said earlier, a corporation really, or corporations in America, are comprised of many, many different sizes of corporations. We can go all the way from General Electric or a Wal-Mart Corporation clear down to the mom and pop ice cream shop in our local community that incorporates generally for tax or liability purposes.

So when we hear the word ''corporation,'' do not just apply it to the big corporations and do not just apply it every time we use it in a negative connotation to the bad corporations, like Tyco or K-Mart Corporation. And really, the corporation as a whole was not so bad, but the people who worked within it were rotten apples.

We have to be able to segregate the bad from the good because the good deliver us good products. We can take a look at the car we drive, we can take a look at the toothpaste that we brush our teeth with in the morning, the mouthwash, or the cold medicine that we take, or the pen that we write with, the lights, the power that is delivered here, or even the clothes we have on. There are a lot of good products in our country.

There are a lot of honest, hardworking people in our country. They are being smeared by the likes of Scott Sullivan in Florida, who right now is building his $19 million mansion, or the likes of Gary Winnick with Global

Crossing in California, who is building a $90 million mansion. We can go on and on. Bernie Ebbers.

I will go through a lot of these names with the Members because we ought to know the names of the people. We ought to be able to identify what apple in the bushel is bad. Remember the saying: once a crook, always a crook. A crook is a crook is a crook. That is the way it is. We have to call it as we see it. Call a spade a spade; call a crook a crook.

I will tell the Members, if we allow a crook to stay in our midst, if we allow a crook to stay and influence what we do, over time we begin to pick up some of those bad habits. After a while, that old saying, you cannot teach an old dog new tricks, it kind of applies to a crook, too.

Look at the president of Tyco, the guy who bought millions of dollars in art. He is worth hundreds of millions of dollars, but he cheated on a very small part of the art. He decided not to declare it on the sales tax so he could avoid it, save $100,000 here and $100,000 there.

To someone worth hundreds of millions of dollars, that is pennies; that is nothing. But to illustrate, that this individual would go to the trouble to cheat the State out of a small amount of State sales tax lets us know that that old saying, you cannot teach an old dog new tricks and once a crook, always a crook, those sayings out there have applicability to some of these individuals.

Let us go back and study what the structure of a corporation looks like. A corporation always starts here on the top. It always starts with the shareholders. The shareholders are the fundamental part of a corporation.

A corporation really is not recognized as a human being, obviously; it is a legal body that is created by law that allows a group of people, in some States as few as one or two people, in other States it requires more, but it can allow a corporation to be built with just a couple of people who own the shares of the corporation.

If it is tightly held, what ''tightly held'' means is a very few people or a family holds that corporation, the stock, the shares in that corporation, and shares and stock being synonymous, and ''closely held'' means maybe it is a little broader than tightly held, maybe you only have 20 shareholders.

We have lots of those. For example, my wife and her parents have a family ranch. It is very closely held, tightly held by the family, closely held; and it does not have but maybe, I do not know, 10 or 15 shareholders in that corporation.

A lot of corporations, for example, an IBM or a General Electric or a Wal-Mart Corporation, they literally have millions of shareholders, millions of people who want to pool their money together. They entrust their money. They entrust their investment in this corporate entity, in this vehicle, to go out and see if they can make a product upon which there will be demand, which the consumer will want.

In turn, those shareholders hope over time, as a result of their investment in this corporate vehicle, that they are going to get paid dividends, that they are going to be able to make money off their investment. But in making that investment, there are certain levels of integrity or trust.

Now, we are not fools. We know that we deal with a lot of different people that form these corporations. We know that in any given body of people, whether it is Congress or whether it is the Catholic priesthood or whether it is schoolteachers, once in a while we are going to get a corrupt person in that group.

So we do not just leave it to the honesty or integrity of people who form corporations, especially if those corporations are broader than a closely held corporation, if they are publicly traded, broadly traded, as they say. If they are broadly traded, we do not just totally trust them, the government. We do not completely trust them. We mostly trust them, but we do not completely trust them.

What we do is require audits. We require public disclosure statements, financial disclosure statements, so that the public has an opportunity to screen very carefully what the audit says or what the financial statements say. It is kind of a check and balance on the chief executives.

But in order for that check and balance to work to give protection not only to the shareholders but to the employees and to the people who are affiliated with that corporation, in order for that to work, we have to have honest accountants.

Here comes Arthur Andersen. There is a problem with Arthur Andersen. We have to have honest attorneys. Here comes a problem with K-Mart and Tyco Corporation; here comes a problem with Adelphia Cable Systems, where the family themselves stole from the public shareholders almost $3.5 billion, not million, billion dollars.

So in order for the whole system, in order for this whole system to work, which I am going to go through, we have to have some honesty. We have to have honesty and integrity from the attorneys.

If we happen to have an attorney, like in Tyco Corporation, who pays himself a $20 million or $30 million bonus and breaks it up so he does not have to put it in the public disclosure statement that I referred to, so the shareholders, the check and balance, can determine whether or not the attorney deserved his self-enrichment of 20 or $30 million, if we do not have an attorney who is honest, we ought to have him disbarred. That is the check and balance that tries to keep the legal counsel in check.

It did not work with Tyco Corporation. In fact, in Tyco Corporation, the attorney kind of was in bed with the president of the company. The president of the company self-enriched himself with hundreds of millions of dollars, and the same thing with the attorney. We are going to see the same thing in something called ImClone, ImClone, the Martha Stewart case. We are going to get into that in a little detail. That is where I am going to describe inside deals.

But let me go back to the corporate structure. So we have the shareholders. A shareholder could own one share. For example, I may own one share of BankOne, a very reputable company out there. I do not know what their shares, let us say it is $24. So you could own one share, or be a mutual fund that owns hundreds of thousands of shares.

Now, 10 or 15 years ago, 20 years ago, very few people, as a percentage of the whole of society, owned stock. The average person on the street did not invest in stock. But that has changed significantly over the last few years. One, we now have many more people that have retirement funds, called mutual funds, or 401(k)s with their company, or they form some other type of retirement vehicle. That money is pooled, and believe it or not, a lot of people out there who do not think they own stock, in fact, they indirectly do own stock because their retirement fund, their 401(k) or their mutual funds, actually are stockholders. They hold stock on your behalf. So today we have many, many more people invested in 401(k)s, et cetera. Therefore, we have many, many more people who now own stock.

We have also seen a surge of interest in the stock market, especially during the boom years. We now have a lot of people we would never imagine buying stock who would figure out the best stock to buy down at the local barber shop. We had a boom. That boom, that big bubble, has burst.

What I am trying to get at here is that we have lots of people who are now reliant on a credible corporate structure. We have more people in this country today dependent upon the integrity and the honesty and the strength of the corporate structure in America than we have ever had in the history of this country.

That is why it is important that, one, we recognize not every corporation is corrupt. We have a lot of good companies that produce good products out there: the toothpaste, the car, the electric blanket, you name it. But that is why it is so important that we find the corporations like Tyco, ImClone, or K-Mart, or some of these others, Enron Corporation, WorldCom, Waste Management, Adelphia, Conseco. That is why we have to clean house on these.

When I say clean house, I mean clean house. We cannot just sit back here and treat these people like they have not done something wrong. Keep in mind, in America, if you steal a car off a shopping center parking lot, and even though that car is only worth $50, and

somebody turns you in to the police, when the police stop you, they do not stop you with one police car and one police officer.

□ 2200

They stop you with a number of police officers. A number of police officers surround you. They pull you out of the vehicle at gun point for stealing this $50 car. They put you on the pavement. And while you are laying down on the pavements they handcuff you. They then put you in a police car, in a cage in the police car and they haul you to the police department.

Bernie Ebbers of WorldCom or Gary Winnick of Global Crossing, Gary Winnick is currently residing in his $90 million home in Bel Air, California. He has never felt handcuffs. Bernie Ebbers of WorldCom went to the board of directors and borrowed $408 million and neither he nor those board of directors have ever had the feel of handcuffs around their hands.

Our society has got to give them that feeling because if they do not get that feeling of handcuffs, we are not going to get the feeling of credibility. We are not going to get the feeling that our system is working, that the checks and balances are in place. So it is just as important to society that appropriate and tough punishment be meted out as it is to our own feeling of, well, they deserved this punishment as it is to fairness.

You go into a Kmart and you steal a candy bar, you will suffer a lot more penalty under the criminal law than the chief executives of Kmart who loan themselves millions of dollars, and then the week before the company was taken into bankruptcy, got the loans forgiven by corporate documents. In other words, you do not have to pay it back. You sign it. Self-serving. And then they took the company into bankruptcy. Remember, we are not just talking about shareholders. There is another group up here that hurts a lot, that has suffered a lot as a result of the Enron and the WorldComs and the Tycos and the people of Global Crossing and the companies like that. That is the ones clear at the bottom of the list, but probably the most important box on the list, and that is the employees. And not just the active employees. Do not forget we have retired employees. So there really should be another box right here. The retired employees. Some who have given their entire careers to these corporations, and now they find themselves out on the street. WorldCom, who bought company after company and assumed those employees, now those employees are out on the street.

This company will declare bankruptcy this week or early next week. These retired employees will find their pensions wiped out. The same with Global Crossing. How do you think the employees of Global Crossing feel today? They have been wiped out and Gary Winnick is living in a $90 million mansion, currently being remodeled because he thinks it needs upkeep, in Bel Air, California. Or Scott Sullivan, the 40-year-old guy who shows up in Congress chuckling while we are interviewing him while his $20 million home on the ocean or lakeside is currently under construction in Florida. You think he gives a hoot about these retired employees? You think he gives a hoot about the current employees?

These people have broken the trust of America and these people should pay the price. They should not be allowed to live the rest of their life in the luxury of a king and in the mockery of a justice system.

Let me go back to how this corporation is made up. We have talked about our shareholders. The corporation would not exist without the shareholders. Now the shareholders entrust their money and they give their money, they put their money into the corporation. And then you have gotten the corporation, a group of individuals who represent the best interests of the corporate entity as a whole, who look out for the shareholders, who have responsibility for guidance of the corporation, not day-to-day guidance of the corporation, but overall policy, overall direction of the corporation. And these people have what is described as a fiduciary duty.

What does fiduciary duty mean? It means a special duty, a special obligation to the people that you are representing. More than just, okay, I will do it for you. It is a special level of trust. It is a higher standard, and that is what these boards of directors do. I can tell you any time you find one of those overpaid executives, any of these corporations you would find in trouble whether it is Enron, TYCO, ImClone, whether it is Waste Management, whether it is Xerox Corporation, Sunbeam Corporation, any of these in trouble, you will find trouble in the board of directors. You will find a breach of fiduciary duty with those boards of directors. Either they fell asleep on the job or they were lulled asleep by the management that bestowed them with gifts.

For example, in WorldCom, Bernie Ebbers made sure that one of his board of directors was given a corporate jet which probably costs the corporation $200,000 a month, but he decided to lease it at an arm's length transaction, a fair transaction. So he let the director lease it for a dollar a year, and all the expenses were paid.

Do you think that director has got a fiduciary duty? Do you think he is representing the shareholders or the best interest of that corporation, or do you think he is representing the best interest of Bernie Ebbers of the WorldCom Corporation? It is clear he has breached his trust. That is why this part right here, these boards of directors, that is very, very important. Every box in here is important for the corporation to work correctly.

Every box in here has an integral part, a basic and fundamental part of the company. This vehicle cannot move forward effectively if any of the people in these boxes have corrupted the box. For example, if you have corrupt shareholders, this corporation will not work. It will not be a good corporation. If you have a corrupt board of directors, we have seen what has happened with Enron or these others. If you have corrupt legal counsel, corrupt auditors like Arthur Andersen, corrupt president like the president of Tyco or the president of ImClone, the inside deals, or if you have a management team that is corrupt, it will not work, or employees that steal from the company, if you have employees that are corrupt. Every box in here has to work; and if it works, it is a very powerful economic machine. If it does not work, it is a complete failure or close to it. It can cause an implosion, and that is what you are seeing with some of these companies. You are seeing an implosion with WorldCom. You have seen an implosion with Xerox. You have seen an implosion with some of these and it is because of defective management in a large degree.

So we talk about the board of directors. The board of directors does not go to work every day. They are generally retired executives, men and women, prominent in their communities, but they are supposed to be qualified on that board. They were not supposed to be on there for celebrity status. They are not supposed to be on there to be yes people. They are supposed to be on there for the best interest of the shareholder and of the corporation. And for some reason, that has been diluted.

In my opinion, the long-term solution for this, one of the key parts of that is that we have got to professionalize our boards of directors across this country. We have to increase the standards and the behavior that we expect from them, which also means we have to increase the punishment if the board goes bad, if they become corrupt.

So now we go and we have got our legal counsel. I have referred to our legal counsel a little. You should not have an attorney who gives you the advice that you want to hear. A good attorney will give you the advice regardless of what you want to hear. And what happens here, unfortunately, and Tyco is the excellent example, the attorney goes to work for Tyco. He got his job as a personal favor from the president of the company. The president of the company is a guy that cheats on his sales tax even though he makes tens of millions of dollars every year. And the lawyer here decides to cozy up in bed as well, so what he does is start to pay himself bonuses.

Now, remember that the board of directors issues reports that go out to the shareholders. They issue reports that go out to the public, and they issue reports that are read all the way down this system. In Tyco what happened is the legal counsel made sure that the bonus he got of $20 or $30 million was broken up and titled in such a

way that it would never have to show up in any of these reports. So the employees did not know what the attorney was paying himself. The board of directors, theoretically, did not know what he was paying himself. Certainly the shareholders did not know what he was paying himself. It was what is called a sweetheart deal.

Now, you also have the auditors over here. And you saw the same thing with Enron. That is the excellent example of Enron Corporation. With Enron what you did is you had Arthur Andersen in the morning, and keep in mind it is not just Arthur Andersen, but you had Arthur Andersen in the morning being your auditor, telling you whether or not your books were clean and whether or not they had been cooked, and in the afternoon offering to you a much more lucrative contract for themselves doing consulting.

We have got to break apart auditing firms that offer auditing at this time and consulting at this time. They are two separate functions, and they should be handled by two totally independent, unaffiliated units for it to work effectively. What happened with Arthur Andersen, they got too cozy with the management at Enron. These accountants, these CPAs out there making 100,000 or 90,000, they could not resist the temptation to make several hundred thousand like the executives at Enron. So when the executives at Enron or the board members that were corrupt at Enron came over to the accountants and said, here is what we want this report to the public to look like, the auditors for their own self-enrichment say, we can make it work. We can hide those numbers. And that is exactly what they did at WorldCom.

At WorldCom they took their expenses that should have been put in the expense column and they capitalized them so it looked like they were making more profits. And this was done with the assistance of their auditing team. And, in turn, they had stock options that went up in value because the stock price was high because the public, the shareholders and the public that wanted those shares thought the company was making money when, in fact, it never made money. It never made any kind of money. They threw out these corrupt corporate executives or these board members threw out a line. They got the auditors to bite on the bait. They pull in the auditors, then they throw in another line. They pull in the legal counsel and then, of course, pretty soon they say we have enough. Now, let us see what kind of suckers are out there.

The first suckers they go after are the shareholders. They suck in the shareholders, and then the people that suffer the worst at the bottom are the employees. People that have worked for these companies for years, for decades. What is left of their future is decimated. Their life savings is gone. It is pretty hard to stomach this. It is pretty hard to look at how much these employees of WorldCom or Enron or Kmart or Tyco or ImClone, it is hard to stomach what has happened to these people's savings, to their pensions, when people like Scott Sullivan are living in a $20 million brand new mansion in Florida or Gary Winnick of Global Crossing is living in a $90 million mansion in Bel Air, California, all at the expense of these employees and of these shareholders. Self-enrichment. Inside deal. Inside knowledge.

Now, what do I mean by inside knowledge? You know, to run a corporation, your executive officers have certain information that is obviously confidential. They have information that would impact the corporation. They cannot, for example, if they are negotiating to buy some property across the street, they do not want to release publicly about what price they are willing to pay for that. They keep that inside the company's information. And it is for obvious reasons. They keep it. And that is perfectly legal. That is called inside information. But what is not legal is when these executive officers, this management team or these boards of directors use that confidential inside information for their own self-enrichment. And I will give you the perfect example of it. I have it laid out right here for you. It is a company.

Many of you have never heard of ImClone Systems, Incorporated, but you have heard a case affiliated with it called Martha Stewart. She is tied into this little deal. Let us take a look at what ought to be a textbook example for every college business book that is published for study, a textbook example of corruption at the core, of the misuse, and the breach of fiduciary duty by your corporate officers. Here is what happens. ImClone has a president, and the president of the corporation finds out December 4, remember the dates. They are important. On my poster, this is the key date right here. Lots of these corporate officers, including the president, the vice president, the legal attorney, the vice president for marketing, they hold a lot of stocks. They hold a lot of options on shares of stocks.

Now they are about to get information that the public will not have access to for several days. Now under the rules of law, they are not to share this information with anybody because it gives one person an unfair advantage. Our stock market works out there, our investment market works because theoretically both parties have an equal advantage at least going into it. And they then negotiate and they bargain. But you cannot have a system that works correctly when one party has inside information and using it inappropriately, the other side can never get a fair deal. There is no square deal on something like that. And ImClone was not about to give anybody a square deal, except the inside people. Here is what happened.

□ 2215

December 4, FDA officials meet privately with the ImClone vice president and informally and probably improperly, but informally signaled that the company's cancer drug could have licensing problems. So on December 4, an FDA official, and again, I am not sure this was proper what this official told, but he hinted or dropped the hint, hey, your drug, which this company has built itself upon, is in serious trouble. It may not get its license. You guys may be in real trouble.

What happens? Look what happens. You think that they go public with this information? No. You think they are going to go out to the average John or Jane on the street that owns stock, that trusts this management, you think they go to the board of directors? They may, by the way, have gone to the board, but do you think they go to the employees who work so hard to make this a success and say we have got some information, you need to be aware this stock may collapse? No, they do not do that. These people are corrupt. They are going to use that to self-enrich themselves.

Here is the sequence of things that happen. December 6, two days later, their attorney, and remember, I told you how important it is that you have legal counsel that has integrity, that has capability and knows the rules of law when it comes to corporate governance. So what happens on December 6? This attorney, their general attorney, general counsel the title they use, unloads $2.5 million worth of ImClone stock. Cannot wait to sell. Two days after that information gets to him, he drops the stock. What a wonderful timing. What a coincidence, what a hunch. Must be a very brilliant guy in the stock market.

December 11, ImClone vice president Ronald Martell sells another two-point-some-million dollars' worth of ImClone stock.

On December 26, now we are jumping to December 26, a very key date right here, here is the CEO, this guy, in my opinion, is as big a two-bit crook as you have ever seen in the history of this country. This guy was called the general attorney, now the general counsel. He has already sold his stock because he knows the news is coming. He spends 17 minutes on the phone with the CEO, Sam Waksal, the president. Here is what he does. He spends 17 minutes on the phone with the president. The president then drafts a note, and on the note he marks ''urgent, immediate attention required,'' and he sends it to his broker, to the broker that holds the president's, this guy, he sends it over to his personal broker, this note, urgent, immediate attention required.

Then what he does is he knows that in the next couple of days, on December 27 or December 28, I guess it is December 28, there is going to be an announcement that ImClone's drug is not going to get licensed by the FDA, and

he knows that their stock price will implode. It will collapse. So he immediately calls his broker, and he knows that if he sells the stock in his name, it is going to be pretty obvious he had inside information.

So he transfers 4.5 million shares or $4.5 million, I cannot remember which, into his daughter's name and says to his daughter, sell the stock quick. What happens to the daughter? She turns around and sells her stock. She has got over $2 million or $3 million worth of stock. She attempts to sell her father's stock in her name, but Merrill Lynch says no, something is fishy here, we are not going to let you sell that 4 million shares, but we will let you sell your shares because maybe you are like the attorney and the marketing guy and like some of the other executive officers, you just know how to read the stock market, just timing, just a coincidence that you had such a hunch that this stock was going to implode.

Do not forget now they have got buddies out there. They do have a couple of close friends. One of their close friends is this broker at Merrill Lynch. What does this broker at Merrill Lynch do? He calls somebody named Martha Stewart. What does Martha Stewart do? He leaves a message to Martha Stewart. This is before the general public knows of the inside information that is going on. The Merrill Lynch broker calls Martha Stewart, and the message he leaves her is ImClone is going to start trading downward, ImClone is in trouble, in other words, but the exact quote is, ''ImClone is going to start trading downward.''

What happens? Martha Stewart immediately sells almost $300,000, I think it is within a few minutes sells $300,000 approximately worth of her stock.

What happens? Next day, the announcement comes out. ImClone stock almost becomes worthless. Who loses on the deal? Well, the shareholders of ImClone lose in a big way unless you happen to be on the inside. The employees of ImClone lose in a big way. The retired employees of ImClone get their pension plans, their retirements, all get wiped out.

Who comes out of it smelling like a rose? The two bit-crook comes out of it smelling like a rose. Some of the board members come out of it. The president of the company, the president's daughter and people like Martha Stewart, who by coincidence just happened to know the right day to sell.

These are the kind of deals that are putting a black eye on business in America. These are the kind of deals that are shading the honest people. These are the kind of bad apples in the bushel we have got to dig down and we have got to find it, and I will tell you it is not just with this ImClone Corporation.

Let me just give you a quick demonstration. Enron Corporation, I do not need to talk much about that. We know about the corruption that went on at Enron Corporation, and take a look at the problems they had on their board of directions at Enron Corporation. Not one of those executives has yet had the feeling of handcuffs on their wrists. Keep that in mind next time you go to the grocery store or the shopping center. You might see somebody that stole a 95 cent candy bar and they have got handcuffs on their wrists, but nobody at Enron did.

Take a look at Arthur Andersen, completely breached their duties, not the whole corporation. There were a lot of good people that worked in that, but the whole corporation was dependent on their executive officers who were supposed to have integrity and honesty, but they got reeled in. They cast out there and the executives reeled them in, said, come on, we will cut you in on the deal. Arthur Andersen.

Xerox Corporation overstates their sales, tried to deceive the shareholder.

Kmart Corporation goes out and loans its chief executive officers and several of the executive officers millions of dollars a couple of weeks before they know they are going to declare bankruptcy; and the week before they declare bankruptcy, the chief executive officers sit down and write a statement to themselves, dear self, the money that we had you loan from Kmart is now forgiven, signed self. That is what happened here.

I know people that worked at Kmart. You know stores of Kmart that have closed. They are trying to make it. They are still trying to make it go. There are a lot of people. These are blue collar workers, a lot of them. These are not wealthy people. It is like I said at the beginning of my remarks, this is not a bank robbery going on here because keep in mind, the bank robbery, it is generally a poor person trying to rob from a rich institution. These are wealthy institutions trying to rob from poor people; and at Kmart they were successful, lots of retired employees there that made maybe five, six bucks an hour who had just a few hundred dollars a month. They do not have a $90 million dollar mansion like Gary Winnick with Global Crossing.

They get wiped out, these people, and they are not 20-year-old kids that have a lot of life ahead of them. They are 50-, 60-, 70-year-old people that are dependent upon their pension after 30 years with Kmart.

Take a look at WorldCom, Tyco Corporation. Take a look at ImClone. That is the one that we took, and I have got more charts. I could tell you about more and more of them.

I have got back here Adelphia Corporation. There the executive officers bought their own sports team, built their own private golf course for $20 million, managed to siphon $3.5 billion, not million, billion off the corporate books. Where were the auditors? Where was the attorney? Where was the corporate board of directors? They stole that money. They are probably playing golf today, and we have more examples like that.

Waste Management, Sunbeam which was caught several years ago, Global Crossing.

There is a little game called Monopoly out there, and I am not trying to be cute here. I am serious as I can be. In that game you could pull a card, and if you get in trouble, you could pull a card. You know what that card says, ''Go to jail, and as you pass go, do not collect your $200.''

What I worry about here is that people like Gary Winnick, people like the head of Tyco, people like Scott Sullivan, and by the way, if you have not seen it, this is Scott Sullivan's $20 million palace currently under construction on Lakeside in Florida. These people should not only ought to go to jail. They should not collect the money on the way to jail.

These proceeds were taken from the employees of that corporation. These proceeds were taken from the shareholders who trusted the management team of that corporation. There is a solution, and our solution is kind of multistage.

The first step in the solution for getting this is to keep in mind that the whole system has not imploded. I would say that a very small fraction of the system is in trouble, but your body may be cancer-free and you may have just a little tiny bit of cancer on your big toe. If you do not catch that cancer for a while, most everything is going fine; but if you ignore that cancer on your toe, pretty soon it may go up your leg and then pretty soon it will kill you.

Now we have discovered it on our toe. Now is the time to act. Keep in mind that we do not need to pull out a gun and shoot ourselves because most of our body is in fine shape and we are going to be able to remove that cancer. If we remove it and if we act aggressively and if we dig deep enough, we can get that cancer off and we will be fine. So it is no use destroying your body. Keep in mind, most of your body is working well, but you have got to act aggressively against the problem you have got on that foot. It is the same thing here.

The second step, we have got to aggressively pursue these crooks. A crook is a crook is a crook; and a crook that steals from the poor, a crook that steals from the working population in this country, a crook that steals from anybody ought to be punished. The days of our society, of these people being allowed to live in these kinds of mansions after we know they took the money or the ImClone people and I do not care how popular they are. It may be Martha Stewart.

I admire Martha Stewart. She built her empire from nothing. She is a hard-working lady but she made a big mistake, in my opinion. She dealt on inside information, information that the little guy was not entitled to, but the law says the little guy is entitled to.

These people have broken the law, and these people should be punished. If

we do not punish these people, if we do not go aggressively after these people, then we begin to lose the integrity and the credibility that we are going to be able to get that cancer off our foot, and then we do have the risk of our entire system imploding.

That is a long way off because I am confident, especially under the President's statements of the last couple of weeks, under action take on this floor, under action taken on the other body's floor and the compromise that we will eventually come up with, we are going to go after them; but we need our local prosecutors to go after them. We need the Internal Revenue Service to go after them. We need the Securities and Exchange Commission to go after them. There is no reason any agency that has any kind of jurisdiction over these individuals should not pursue these people as aggressively as they would pursue a two-bit thief that walks out of one of these companies with a pen or a candy bar or calculator that they have stolen.

I have been pretty emotional with this speech because I feel deeply about it. I feel a lot of people have gotten cheated; and I know I have said it time and time again, but it is not a bank robbery. It is not poor people trying to steal from the rich. These are a very few people who are very wealthy who acted in a very self-serving, very selfish method for one purpose and that was to enrich themselves at the expense of somebody else; and in these particular cases, the people that have done this were already wealthy. It was not like they needed to get wealthy. It was not like they needed to take bread home to their kids. These people were already wealthy. They just did not have enough so they decided to cheat the system, and the people they cheated are the people that do not have enough.

□ 2230

They are the people that have had their pensions wiped out; that have had their dreams wiped out; that have had their jobs eliminated. Those are the people that are suffering, and the people who have invested in these shares and the American dream. Those are the people that are suffering, and we ought to right the wrong. It is dependent on us, colleagues, to right that wrong, and we are going to have this opportunity.

So once again I call for prosecutors across the country, for the IRS, for the SEC, for Congress, the President has already shown his aggressiveness on this, we need to come together and we need to bring down the hammer and we need to bring it down hard so that people know that the American business system is a credible system that works on integrity. If we can do that, we will restore the economic strength of our business machine. We have to have that for this country to continue its greatness.

CORPORATE RESPONSIBILITY

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

Mr. INSLEE. Mr. Speaker, I have come to the floor of the House tonight to advise the American people about the status of our efforts to deal with the crisis of confidence in our corporate structure, which indeed is deep.

Mr. Speaker, I have to say that one thing I realize all Americans share tonight, looking at these repeated scandals, fiscal collapses and debacles in the accounting structure of our corporations, all Americans, I think, share one belief, be they Democrats or Republicans, suburban, rural, north or south, and that is that we need strong medicine rather than weak tea in dealing with this problem. We need more aggressivity and not so much passivity in dealing with this problem. We need action rather than inaction.

Mr. Speaker, I must report to Americans that, unfortunately, we have not had enough action in dealing with these problems. Let me give an example of what I mean by that. A few days ago in the other body a bill was passed to deal with these problems by a vote of 97 to zero. Ninety-seven Democrats and Republicans joined together to pass a meaningful bill to provide for the security of Americans, for their retirement and investment in corporations.

We should be here voting on that bill tonight. Tonight, we should be sitting here, Republicans and Democrats, passing that legislation which had overwhelming bipartisan support in the other Chamber, but we are not. And why are we not doing that work for the American people tonight? Well, the reason is this, and it is sad to say, but the leadership in this House in the majority party has made a conscious decision to drag their feet; has made a conscious decision to be passive rather than active; has made a conscious decision to answer the needs of some special interests rather than the American investors who are losing their shirts in the last few days in the stock market and in their retirement funds, which are rapidly disappearing.

The sad fact is that we have some very commonsense things that we need to do to make sure that there is a fiscal security apparatus in our corporations so that people cannot pull the wool over the eyes of investors, defraud investors, and falsify their books. Unfortunately, the majority party refuses to adopt those measures.

Today, on this floor, we had a motion that my party proposed that would require some very commonsense measures so that investors would have greater confidence; measures to give whistleblowers protection, these whistleblowers who have blown the whistle on corporate misdeeds, to make sure they have protection. That was rejected by the majority party.

We had a proposal to require records to be kept for a decent interval so we could figure out what had happened and find the trail of fraud in these cases. That was rejected by the other party.

We had a provision that would give investors who had been damaged greater leeway, a greater period of time to seek redress if they had been hurt by corporate fraud. That was rejected by the majority party.

These are things we could have done today. For the last 2 months, it has been a common litany here that we have proposed ideas and we have had to drag the majority party kicking and screaming to get consideration of these issues. It is really sad, because I have a lot of friends on the other side of the aisle who, unfortunately, are not being given a chance to vote on these commonsense measures.

Now, let me mention what the majority party has been doing in the last week. During the last week, when the economy has been in a crisis of consumer confidence and investor confidence in the last week, on July 12, just a few days ago, the leadership of the Committee on Energy and Commerce in the majority party, in response to this, what did they do? Well, they wrote a letter to the Public Broadcasting Service, PBS. In the midst of this economic crisis, the leaders of this Chamber's Committee on Energy and Commerce wrote a letter to PBS. And you know what they wrote about? They were complaining that Sesame Street program was going to introduce a muppet character that was HIV-positive.

They were so concerned about this that they wrote a letter to PBS to stop this heinous introduction of this muppet character. Well, Americans want to know the answer to this question tonight: If the Republican Party in this House is willing to take on Sesame Street, why are they not willing to take on Wall Street? If the Republican Party is willing to take on the Cookie Monster, why are they not willing to take on these moral monsters who are defrauding American investors and taking away people's entire retirement income in some cases?

This is a time for a bipartisan response to an economic crisis that does not just give Americans weak tea. Yes, the majority party is going to have to stand up against some of the special interests who have been so prevalent in this Chamber in the last decade. Yes, they are going to have to do it. But we need them to do it. We need them to join us to do it.

Now, we have heard this response that they have made, and they have joined with Democrats to do one of the things that needs to be done. They have increased with us the jail time that corporate defrauders will be exposed to. And that is a good thing. It is necessary. It is probably not adequate, because I would support mandatory jail time. Because, unfortunately, a lot of

white collar criminals spend too little time in these country club prisons. We should have mandatory jail term. But, nonetheless, we have joined in a bipartisan way to increase the jail time.

Unfortunately, some Members on the other side of the aisle have said that is enough; our job is done. But that is not enough. If we draw a metaphor to our airline security system, when we had this terrorist threat against airlines, we did not say our job was done as soon as we increased jail time for terrorists. Because that is not enough. We have to draw a security ring around airplanes to make sure terrorists do not put bombs in the checked baggage of our airplanes, do not sneak weapons onto our airplanes. We need to be proactive, rather than just coming after the crime and sanctioning people with jail.

So it is not enough for the majority party to simply say we will increase jail times and go home. That is not enough. What we need to do is to assure that we have watchdogs watching corporate behavior to make sure investors are not defrauded. Now, what does that mean? Well, let me suggest some of the commonsense proposals that were adopted 97 to 0 in the other Chamber and have the overwhelming support of Democrats in this House. Let me mention a few.

One, a segregation, to make sure that auditors do not have conflicts of interest. We depend on auditors to act as referees or umpires, to make sure there are no fouls. But right now those auditors can have these huge conflicts of interest where they have these giant contracts with the companies they are supposed to be auditing, and we want to end that practice. We want auditors to be real meaningful cops on the beat. The majority party refuses to accept that. That is most unfortunate. We need to get that security ring up and running.

Second, we need CEOs to verify their financial statements. We need the people at the top, the captain of the ship, the one who is ultimately responsible for the corporation to sign their John Hancock to verify the financial accounting. If we do not do that, then nobody is in charge. And it is about time to adopt that proposal.

Third, we have to have an independent accountancy board to make sure that the rules of auditing are workable, tough, and enforceable. Unfortunately, right now, we have learned that the accounting rules have allowed tremendous creative accounting to take place. Creativity is something we need in artists, not in accountants and auditors. We need to have an independent board to establish the rules of how these audits are conducted, and we do not have that right now. Americans do not have that right now. The profession essentially writes its own rules, and that has been a recipe for disaster.

Now, in the other Chamber, on a 97 to 0 vote, that was adopted, and we have proposed this on our side of the aisle. But tonight, as people's retirements are disappearing all across America, the majority party refuses to allow us to have a vote on this House floor to implement that commonsense measure. And I respect people on the other side of the aisle. I have some great friends on the other side of the aisle. But it is wrong not to allow this House to have a vote on those commonsense measures, because ultimately America needs people who will stand up for those investors against fraud.

Mr. Speaker, I hope tomorrow that when we convene we will have people in the majority party who will join us on a bipartisan basis to get this job done, and finally convince the majority party if they are going to be willing to stand up to Sesame Street, join us in standing up to the shenanigans on Wall Street and get this job for the American people.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess for approximately 10 minutes.

Accordingly (at 10 o'clock and 44 minutes p.m.), the House stood in recess for approximately 10 minutes.

□ 2253

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. JEFF MILLER of Florida) at 10 o'clock and 53 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5120, TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2003

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 107–585) on the resolution (H. Res. 488) providing for consideration of the bill (H.R. 5120) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5121, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2003

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 107–586) on the resolution (H. Res. 489) providing for consideration of the bill (H.R. 5121) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MASCARA (at the request of Mr. GEPHARDT) for today on account of personal reasons.

Mr. MCHUGH (at the request of Mr. ARMEY) for today after 1:30 p.m. and the balance of the week on account of attending a funeral for a former member of his staff.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. LAFALCE, for 5 minutes, today.

Mr. KANJORSKI, for 5 minutes, today.

Mr. SANDLIN, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

Mr. BENTSEN, for 5 minutes, today.

Mr. TAYLOR of Mississippi, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

The following Members (at the request of Mr. PENCE) to revise and extend their remarks and include extraneous material:

Mr. OSBORNE, for 5 minutes, today and July 18.

Mr. DELAY, for 5 minutes, July 22.

Mr. BLUNT, for 5 minutes, July 22.

Mr. ADERHOLT, for 5 minutes, July 22.

Mr. PENCE, for 5 minutes, today.

Mr. KIRK, for 5 minutes, July 18.

The following Member (at his own request) to revise and extend his remarks and include extraneous material:

Mr. INSLEE, for 5 minutes, today.

ADJOURNMENT

Mr. LINDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 54 minutes p.m.), the House adjourned until tomorrow, Thursday, July 18, 2002, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

8047. A letter from the Counsel for Legislation and Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting the Department's final rule — Housing Assistance for Native Hawaiians: Native Hawaiian Housing Block Grant Program and Loan Guarantees for native Hawaiian Housing; Interim

Rule [Docket No. FR-4668-I-01] (RIN: 2577-AC27) received July 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

8048. A letter from the Director, FDIC Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule — Risk-Based Capital Standards: Claims on Securities Firms [No. 2002-5] (RIN: 1550-AB11) received July 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

8049. A letter from the General Counsel, Federal Energy Regulatory Commission, transmitting the Commission's final rule — Standards for Business Practices of Interstate Natural Gas Pipelines [Docket No. RM96-1-020; Order No. 587-O] received June 25, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8050. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Pakistan for defense articles and services (Transmittal No. 02-36), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

8051. A letter from the Director, Defense Security Cooperation Agency, transmitting the listing of all outstanding Letters of Offer to sell any major defense equipment for $1 million or more; the listing of all Letters of Offer that were accepted, as of March 31, 2002, pursuant to 22 U.S.C. 2776(a); to the Committee on International Relations.

8052. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a Report on Denial of Visas to Confiscators of American Property; to the Committee on International Relations.

8053. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the determination and certification of seven countries that are not cooperating fully with U.S. antiterrorism efforts: Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria; to the Committee on International Relations.

8054. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed transfer of major defense equipment pursuant to Section 3 (d) of the Arms Export Control Act (AECA); to the Committee on International Relations.

8055. A letter from the Chief, Regulations and Administrative Law, USCG, Departmenmt of Transportation, transmitting the Department's final rule — Safety and Security Zones; High Interest Vessels —— Boston Harbor, Weymouth Fore River, and Salem Harbor, Massachusetts [CGD01-01-227] (RIN: 2115-AA97) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8056. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Special Local Regulations; Beaufort Water Festival July 12th Fireworks Display, Beaufort River, Beaufort, SC [CGD07-02-087] (RIN: 2115-AE46) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8057. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulation; Pelican Island Causeway, Galveston Channel, TX [CGD08-02-003] (RIN: 2115-AE47) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8058. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations: Lady's Island Bridge, Atlantic Intracoastal Waterway (AIWW), Beaufort, South Carolina [CGD07-99-038] (RIN: 2115-AE47) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8059. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations; Chicago River, IL [CGD09-01-148] (RIN: 2115-AE47) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8060. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone: Sag Harbor Fireworks Display, Sag Harbor, NY [CGD01-02-085] (RIN: 2115-AA97) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8061. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety and Security Zones; Liquefied Natural Gas Carrier Transits and Anchorage Operations, Boston, Marine Inspection Zone and Captain of the Port Zone [CGD01-01-214] (RIN: 2115-AA97) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8062. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zone; Port Hueneme Harbor, Ventura County, CA [COTP Los Angeles-Long Beach 01-013] (RIN: 2115-AA97) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8063. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Ohio River Miles 355.5 to 356.5, Portmouth, Ohio [COTP Huntington-02-009] (RIN: 2115-AA97) Receive July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8064. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Lake Huron, Harbor Beach, MI [CGD09-02-038] (RIN: 2115-AA97) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8065. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Seafair Blue Angels Performance, Lake Washington, WA [CGD13-02-008] (RIN: 2115-AA97) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8066. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety and Security Zone; Boston and Salem Harbors, Massachusetts [CGD01-02-016] (RIN: 2115-AA97) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8067. A letter from the transmitting the Department's final rule —, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8068. A letter from the Chief, Regulations Branch, Department of Treasury, transmitting the Department's final rule — Import Restrictions Imposed On Pre-Classical and Classical Archaeological Material Originating in Cyprus [T.D. 02-37] (RIN: 1515-AC86) received July 16, 2002, pursuant to 5 U.S.C. 01(a)(1)(A); to the Committee on Ways and Means.

8069. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Last-in, First-out Inventorie [Rev. Rul. 2002-47] received July 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8070. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Returns of Information of Brokers and Barter Exchanges [Rev. Proc. 2002-50] received July 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8071. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Determination of Substitute Agent for a Consolidated Group when the Common Parent Ceases to Exist [Rev. Proc. 2002-43] received July 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8072. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability [Rev. Proc. 2002-49] received July 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8073. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Class Life of Floating Gaming Facilities — received July 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8074. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Rulings and determination letters [Rev. Proc. 2002-32] received July 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8075. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Last-in, First-out Inventories [Rev. Rul. 2002-29] received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8076. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Weighted Average Interest Rate Update [Notice 2002-32] received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HANSEN: Committee on Resources. H.R. 521. A bill to amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam (Rept. 107–584). Referred to the Committee of the Whole House on the State of the Union.

Mr. LINDER: Committee on Rules. House Resolution 488. Resolution providing for consideration of the bill (H.R. 5120) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes (Rept. 107–585). Referred to the House Calendar.

Mr. DIAZ-BALART: Committee on Rules. House Resolution 489. Resolution providing

for consideration of the bill (H.R. 5121) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes (Rept. 107–586). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. GILMAN (for himself, Mrs. ROUKEMA, Mr. FRELINGHUYSEN, Mrs. KELLY, Mrs. JOHNSON of Connecticut, Mr. HOLT, Mr. WALSH, Mrs. MCCARTHY of New York, and Mr. ENGEL):

H.R. 5146. A bill to establish the Highlands Stewardship Area in the States of Connecticut, New Jersey, New York, and Pennsylvania, and for other purposes; to the Committee on Resources.

By Mrs. BONO (for herself, Mr. TERRY, Mr. BUYER, Mr. GREENWOOD, Mr. FRANK, Mr. SWEENEY, Mr. QUINN, Mr. OSBORNE, Mr. GREEN of Texas, Mr. ENGLISH, Mr. SHERWOOD, Mrs. JOHNSON of Connecticut, and Mr. TAYLOR of Mississippi):

H.R. 5147. A bill to allow the Financial Accounting Standards Board to develop standards of financial accounting and reporting related to the treatment of stock options; to the Committee on Energy and Commerce.

By Mr. HOBSON (for himself, Mr. HALL of Ohio, Mr. TIBERI, Mr. PORTMAN, Mr. OXLEY, Mr. GILLMOR, Mr. NEY, Mr. REGULA, Mr. BROWN of Ohio, Mrs. JONES of Ohio, Mr. LATOURETTE, Mr. BOEHNER, Mr. KUCINICH, Mr. STRICKLAND, and Ms. PRYCE of Ohio):

H.R. 5148. A bill to establish the National Aviation Heritage Area, and for other purposes; to the Committee on Resources.

By Mr. LEACH:

H.R. 5149. A bill to establish the Securities and Commodities Exchange Commission in order to combine the functions of the Commodity Futures Trading Commission and the Securities and Exchange Commission in a single independent regulatory commission, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE:

H.R. 5150. A bill to remove the exemption with respect to Pakistan from the prohibition on assistance to a country whose elected head of government was deposed by decree or military coup; to the Committee on International Relations.

By Mr. PAUL:

H.R. 5151. A bill to exclude certain properties from the John H. Chafee Coastal Barrier Resources System; to the Committee on Resources.

By Mr. QUINN (for himself, Mr. NADLER, Mr. KING, Mrs. MALONEY of New York, Mrs. KELLY, Mr. CROWLEY, Mr. MCHUGH, Mrs. MCCARTHY of New York, Mr. HOUGHTON, Mr. ENGEL, Mr. FOSSELLA, Mr. TOWNS, Mr. BOEHLERT, Mr. OWENS, Mr. WALSH, Mr. ISRAEL, Mr. GRUCCI, and Mrs. LOWEY):

H.R. 5152. A bill to extend the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the case of victims of the terrorist attacks of September 11, 2001; to the Committee on Transportation and Infrastructure.

By Mrs. ROUKEMA:

H.R. 5153. A bill to designate the facility of the United States Postal Service located on Kinderkamack Road in Emerson, New Jersey, as the ''Gary Albero Post Office Building''; to the Committee on Government Reform.

By Mr. STUPAK:

H.R. 5154. A bill to provide Medicare beneficiaries with access to prescription drugs at Federal Supply Schedule prices; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BROWN of South Carolina (for himself, Mr. BARTLETT of Maryland, Mr. CHAMBLISS, Mr. DEMINT, Mr. DOOLITTLE, Mr. GOODE, Mr. GRAHAM, Mr. HALL of Texas, Ms. HART, Mr. HAYES, Mr. JENKINS, Mr. JONES of North Carolina, Mr. KERNS, Mr. KINGSTON, Mr. MCHUGH, Mrs. MYRICK, Mr. NORWOOD, Mr. OSBORNE, Mr. PENCE, Mr. PICKERING, Mr. PITTS, Mr. RILEY, Mr. SHIMKUS, Mr. SHOWS, Mr. SMITH of Michigan, Mr. SOUDER, Mr. SULLIVAN, Mr. TAYLOR of North Carolina, Mr. TIAHRT, Mr. VITTER, and Mr. WILSON of South Carolina):

H.J. Res. 106. A joint resolution proposing an amendment to the Constitution of the United States respecting real and virtual child pornography; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. BORSKI):

H. Con. Res. 442. Concurrent resolution recognizing the American Road and Transportation Builders Association for reaching its 100th Anniversary and for the many vital contributions of its members in the transportation construction industry to the American economy and quality of life through the multi-modal transportation infrastructure network its members have designed, built, and managed over the past century; to the Committee on Transportation and Infrastructure.

By Ms. CARSON of Indiana (for herself, Mr. VISCLOSKY, Mr. PENCE, Mr. ROEMER, Mr. SOUDER, Mr. BUYER, Mr. BURTON of Indiana, Mr. KERNS, Mr. HOSTETTLER, and Mr. HILL):

H. Con. Res. 443. Concurrent resolution expressing the sense of Congress supporting the 2002 World Basketball Championship and welcoming the 16 national teams competing; to the Committee on International Relations.

By Mr. ISAKSON (for himself, Mr. TANNER, Mr. MATHESON, Mr. SIMPSON, Mr. PLATTS, Mr. TOM DAVIS of Virginia, Mr. ISTOOK, Mrs. BIGGERT, Mr. EHLERS, Mr. CALVERT, Mrs. CUBIN, Mr. JONES of North Carolina, Mr. GUTKNECHT, Mr. TIBERI, Mr. HAYWORTH, Mr. LEWIS of Kentucky, Mr. WELLER, Mr. WATTS of Oklahoma, Mrs. JOHNSON of Connecticut, Mr. BROWN of South Carolina, Mr. WILSON of South Carolina, Mr. HAYES, Mr. KINGSTON, Mr. KENNEDY of Minnesota, and Mr. MCKEON):

H. Con. Res. 444. Concurrent resolution expressing the sense of the Congress that the Federal Mediation and Conciliation Service should exert its best efforts to cause the Major League Baseball Players Association and the National Association of Professional Baseball Leagues to enter into a contract to continue to play professional baseball games without engaging in a strike, a lockout, or any coercive conduct that interferes with the playing of scheduled professional baseball games; to the Committee on Education and the Workforce.

By Mr. FATTAH (for himself, Mr. PAYNE, and Mr. MEEKS of New York):

H. Res. 490. A resolution concerning the formation of the African Union; to the Committee on International Relations.

By Mr. STARK (for himself, Mr. GEORGE MILLER of California, Mr. BROWN of Ohio, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. MCKINNEY, Ms. LEE, Ms. MILLENDER-MCDONALD, Ms. WOOLSEY, Mr. DOGGETT, Mr. MCGOVERN, and Mr. FARR of California):

H. Res. 491. A resolution supporting the use of fair trade certified coffee; to the Committee on Government Reform, and in addition to the Committees on House Administration, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 360: Mr. SANDERS.

H.R. 632: Mr. FATTAH, Mr. STUPAK, and Mr. NORWOOD.

H.R. 638: Mr. CUMMINGS.

H.R. 658: Mr. PETERSON of Minnesota.

H.R. 840: Mr. SCHIFF, Mr. LANGEVIN, Mr. DINGELL, Mr. DOGGETT, and Mr. HOUGHTON.

H.R. 853: Mr. BARCIA.

H.R. 969: Mr. AKIN.

H.R. 1296: Mr. LEWIS of Kentucky.

H.R. 1307: Mr. CONYERS.

H.R. 1362: Mr. ROTHMAN.

H.R. 1581: Mr. CRENSHAW.

H.R. 1723: Mr. MARKEY.

H.R. 1726: Mr. MCGOVERN.

H.R. 1842: Mr. KANJORSKI.

H.R. 1907: Mr. ORTIZ.

H.R. 2117: Mr. SHERMAN and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 2570: Mrs. MALONEY of New York and Mr. RANGEL.

H.R. 2702: Mr. MATHESON and Mr. KIRK.

H.R. 2735: Mr. UNDERWOOD, Mr. SMITH of New Jersey, and Mr. KENNEDY of Minnesota.

H.R. 2763: Mr. GRAHAM.

H.R. 2874: Mr. PALLONE, Mr. MALONEY of Connecticut, and Ms. BERKLEY.

H.R. 3063: Ms. MCKINNEY, Mr. MCGOVERN, and Mr. KENNEDY of Rhode Island.

H.R. 3273: Mr. SIMMONS and Mr. WILSON of South Carolina.

H.R. 3321: Mr. ACEVEDO-VILA.

H.R. 3339: Mr. PRICE of North Carolina.

H.R. 3443: Mr. MANZULLO.

H.R. 3450: Mr. GOSS, Mrs. KELLY, and Mr. BARTON of Texas.

H.R. 3456: Mr. ROSS.

H.R. 3567: Mr. HOEKSTRA and Mr. WILSON of South Carolina.

H.R. 3594: Ms. WOOLSEY.

H.R. 3645: Mr. SMITH of New Jersey, Mr. MCKEON, and Mr. UDALL of New Mexico.

H.R. 3695: Mr. BROWN of Ohio and Ms. LEE.

H.R. 3831: Mr. THOMPSON of California, Mr. MORAN of Virginia, and Mrs. MCCARTHY of New York.

H.R. 3884: Mr. CARDIN, Mr. WEXLER, and Mr. MATHESON.

H.R. 3894: Mr. BARRETT.

H.R. 3974: Mr. FILNER.

H.R. 4061: Mr. LATOURETTE.

H.R. 4098: Ms. NORTON, Ms. DELAURO, Mr. BROWN of Ohio, and Mrs. LOWEY.

H.R. 4194: KLECZKA, Mr. PASTOR, and Mr. TOWNS.

H.R. 4483: Mr. LIPINSKI and Mr. LANTOS.

H.R. 4524: Mr. CUMMINGS and Mr. PAYNE.

H.R. 4600: Mrs. EMERSON, Mrs. JOHNSON of Connecticut, and Mr. ROGERS of Kentucky.

H.R. 4668: Ms. SLAUGHTER.

H.R. 4693: Mr. SKELTON and Mr. VITTER.

H.R. 4730: Mr. NADLER.
H.R. 4754: Mr. WILSON of South Carolina, Mr. FILNER, and Mr. PRICE of North Carolina.
H.R. 4757: Mr. SCHIFF.
H.R. 4780: Mr. BERMAN, Mr. KILDEE, Ms. WATERS, Mr. FRANK, and Mr. PHELPS.
H.R. 4790: Mr. KERNS.
H.R. 4792: Mr. BACA.
H.R. 4804: Mr. CRANE and Mr. KERNS.
H.R. 4821: Mr. ISRAEL.
H.R. 4840: Mr. RADANOVICH.
H.R. 4852: Mr. JEFF MILLER of Florida.
H.R. 4857: Mrs. MORELLA.
H.R. 4881: Mrs. MYRICK and Mr. ENGLISH.
H.R. 4894: Mr. BARRETT, Mr. NEAL of Massachusetts, Ms. MCCARTHY of Missouri, Mr. DOYLE, and Ms. MCKINNEY.
H.R. 4909: Mr. SOUDER.
H.R. 4937: Mr. STARK and Mr. CUMMINGS.
H.R. 4951: Mr. TOWNS, Ms. SLAUGHTER, Mr. WEXLER, Mr. KUCINICH, Mr. LEWIS of Georgia, Mr. PAYNE, and Mr. ENGEL.
H.R. 4963: Mr. DUNCAN and Mr. SMITH of New Jersey.
H.R. 4967: Mr. GUTIERREZ and Mr. BERMAN.
H.R. 4976: Ms. SCHAKOWSKY.
H.R. 5013: Mr. PICKERING, Mr. BOYD, Mr. FOLEY, Mr. KERNS, Mrs. JO ANN DAVIS of Virginia, and Mr. SHOWS.
H.R. 5033: Mr. BROWN of South Carolina, Mr. YOUNG of Alaska, Mr. GARY G. MILLER of California, Mr. WILSON of South Carolina, Mr. SOUDER, Mr. KERNS, Mr. TAYLOR of North Carolina, Mr. JONES of North Carolina, and Mr. KOLBE.
H.R. 5005: Mr. UDALL of New Mexico.
H.R. 5064: Mr. TAYLOR of North Carolina, Mr. FORBES, Mr. HERGER, Mr. HOEKSTRA, Mr. JEFF MILLER of Florida, Mr. CANTOR, Mrs. EMERSON, Mr. GRAVES, Mr. POMBO, and Mr. HAYES.
H.R. 5069: Mr. NADLER.
H.R. 5073: Ms. PELOSI.
H.R. 5089: Mr. LEVIN.
H.R. 5105: Mr. FRANK and Mr. MCGOVERN.
H.R. 5107: Mr. WYNN, Ms. SCHAKOWSKY, Mr. DEFAZIO, Mr. MENENDEZ, Mr. MALONEY of Connecticut, Mr. SANDLIN, Mr. ROSS, Ms. SLAUGHTER, Mr. KLECZKA, Mr. CUMMINGS, Mr. LAMPSON, Mr. HOEFFEL, Mr. JOHN, Mr. CARDIN, Mr. CARSON of Oklahoma, Mr. DICKS, Mr. HOLDEN, and Mr. BOSWELL.
H.R. 5129: Mr. BARR of Georgia.
H.R. 5135: Mr. BALLENGER and Mr. MEEKS of New York.
H.R. 5139: Mrs. JONES of Ohio, Mr. FROST, Mr. MCNULTY, Ms. NORTON, Mr. PETERSON of Minnesota, Ms. WOOLSEY, Mr. MCDERMOTT, Ms. MCCOLLUM, and Mrs. CLAYTON.
H. Con. Res. 221: Mr. MEEKS of New York.
H. Con. Res. 238: Mr. UDALL of New Mexico.
H. Con. Res. 269: Mrs. KELLY, Mr. MALONEY of Connecticut, and Mr. SENSENBRENNER.
H. Con. Res. 327: Mr. GILMAN, Mr. HASTINGS of Florida, and Mr. HOUGHTON.
H. Con. Res. 367: Mr. WALSH, Mr. STEARNS, Mr. JONES of North Carolina, and Mr. ROGERS of Michigan.
H. Con. Res. 385: Mr. SUNUNU, Mr. BENTSEN, and Mr. CUMMINGS.
H. Con. Res. 421: Mr. ROTHMAN.
H. Con. Res. 437: Ms. MILLENDER-MCDONALD, Ms. JACKSON-LEE of Texas, Mr. LANTOS, and Mr. MORAN of Virginia.
H. Con. Res. 439: Ms. ROYBAL-ALLARD, Ms. PELOSI, Ms. WATERS, Ms. DUNN, and Mrs. MEEKS of Florida.
H. Res. 94: Mr. FORD, Ms. JACKSON-LEE of Texas, Mr. THOMPSON of California, Mrs. CHRISTENSEN, Mr. KENNEDY of Rhode Island, Mr. FILNER, Mr. BARRETT, Mr. BACA, Mr. BAIRD, Mr. GIBBONS, Mrs. CUBIN, Mr. LEWIS of California, Mr. FALEOMAVAEGA, Mr. TOM DAVIS of Virginia, Mr. REYES, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. INSLEE, Mr. SERRANO, Mr. CROWLEY, Mr. HILL, Ms. PELOSI, Mrs. JONES of Ohio, Ms. SANCHEZ, Ms. DUNN, Mr. HINOJOSA, Ms. KILPATRICK, Mrs. MEEK of Florida, Ms. BROWN of Florida, Mr. DELAHUNT, Ms. ROS-LEHTINEN, Ms. MCCOLLUM, Mr. MCNULTY, Mrs. MINK of Hawaii, Mrs. CAPPS, Mr. LARSON of Connecticut, Mr. BERRY, Mr. SCHIFF, Mr. CARSON of Oklahoma, Mr. WU, Mr. HINCHEY, Ms. RIVERS, Mr. CUMMINGS, Mr. RAHALL, Mr. DICKS, Mr. CLAY, Mr. DAVIS of Illinois, Ms. HARMAN, Mrs. CAPITO, and Ms. ESHOO.
H. Res. 295: Mrs. MORELLA.
H. Res. 410: Mr. SCHAFFER.
H. Res. 443: Mr. PASTOR.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

AGRICULTURE APPROPRIATIONS BILL

OFFERED BY: MR. ROYCE

AMENDMENT NO. 1: At the end of the bill, before the short title, insert the following new section:

SEC. ____. None of the funds appropriated by this Act may be used to pay the salaries and expenses of personnel of the Department of Agriculture to carry out a market promotion/market access program pursuant to the Agricultural Trade Act of 1978.

H.R. 5120

OFFERED BY: MR. HEFLEY

AMENDMENT NO. 15: Page 57, line 1, after the dollar amount, insert the following: ''(reduced by $339,000)''.

H.R. 5120

OFFERED BY: MR. HEFLEY

AMENDMENT NO. 16: At the end of the bill (before the short title), insert the following:

SEC. ____. Each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is hereby reduced by 1 percent.

H.R. 5120

OFFERED BY: MR. KUCINICH

AMENDMENT NO. 17: Page 71, beginning on line 1, strike section 513 (relating to applicability of cost accounting standards to Federal Employees Health Benefits Program).

H.R. 5120

OFFERED BY: MR. KUCINICH

AMENDMENT NO. 18: At the end of the bill (before the short title), add the following new section:

SEC. . None of the funds provided in this Act shall be used to enforce or implement discounts for the statistical value of a human life estimated during regulatory reviews through implementation of OMB Circular A–94 Guidelines and Discount Rates for Benefit Cost Analysis of Federal Programs or any guidance having the same substance.

H.R. 5120

OFFERED BY: MS. MILLENDER-MCDONALD

AMENDMENT NO. 19: Page 61, line 12, insert before the period the following:

Provided further, That, of the funds provided in this paragraph, $600,000 shall be for the preservation of the records of the Freedmen's Bureau, as required by section 2910 of title 44, United States Code, and as authorized by section 3 of the Freedmen's Bureau Records Preservation Act of 2000 (Pub. L. 106–444)

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, SECOND SESSION

Vol. 148 WASHINGTON, WEDNESDAY, JULY 17, 2002 No. 97

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, whose mercies are new every morning, we praise You for Your faithfulness. We exalt You with a rendition of the words of that wonderful old hymn, ''Great is Your faithfulness! Great is Your faithfulness! Morning by morning, new mercies we see; all we have needed Your hand has provided. Great is Your faithfulness, Lord, unto us!''

As we begin this new day, we thank You for Your faithfulness to our Nation throughout history. One of the ways You express that now is through the labors of the women and men of this Senate. May they experience fresh assurance of Your faithfulness that will renew their faithfulness to be God-centered, God-honoring, God-guided, God-empowered leaders. In the quiet of this moment of prayer, grip them with the conviction that their labors today are sacred and that they will be given supernatural strength, vision, and guidance. Thank You in advance for a truly productive day. Through our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HILLARY RODHAM CLINTON led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 17, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. CLINTON thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

UNANIMOUS CONSENT REQUEST—H.R. 3210

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 252, H.R. 3210, the House-passed terrorism insurance bill; that all after the enacting clause be stricken, and the text of S. 2600, as passed in the Senate, be inserted in lieu thereof; the bill, as thus amended, be read a third time and passed; the motion to reconsider be laid on the table; the Senate insist on its amendment and request a conference with the House on the disagreeing votes of the two Houses; and the Chair be authorized to appoint conferees on the part of the Senate with the ratio being 4 to 3, without any intervening action or debate.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BENNETT. Madam President, I came to the floor to make a speech and discovered that my leader is not here. But to protect leadership rights in this matter, I will object until leadership has an opportunity to review the request made by the Senator from Nevada.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. REID. Madam President, there certainly is no surprise. We worked on this all day yesterday. We were told, as we are often told, that given a few more minutes, we will get it all worked out.

We need to have this terrorism insurance bill conferenced and completed. No one knows better than the Presiding Officer what the people of New York have gone through as a result of the terrorist acts of September 11. The people of this country and the businesses of this country need terrorism insurance.

Everyone should understand that on this side of the aisle we have done everything we can to get this passed. We were held up for weeks and weeks before we were allowed to bring it to the floor. Now we have been held up weeks and weeks to try to get the bill to conference.

It is too bad. There is a continuous pattern of obstruction that we have faced. Everyone should understand that terrorism insurance is being held up by the Republican minority.

PROGRAM

Mr. REID. Madam President, today the Senate will resume consideration of the motion to proceed to S. 812, the affordable pharmaceutical bill, time until 10:30 equally divided between the two managers, Senator KENNEDY and Senator GREGG.

UNANIMOUS CONSENT REQUEST—H.R. 5011

Mr. REID. Madam President, before my friend from Utah leaves the floor, I want to renew another unanimous consent request. I, along with a number of other people, were at the White House

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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yesterday. They were asking us what we were going to do about getting appropriations bills passed, especially the military bill that affects our defense.

We have 13 appropriations bills. Two of them are defense related—military construction and defense.

We reported out of the appropriations subcommittee yesterday the largest military appropriations bill in the history of the country—some $350 billion, approximately. The Military Construction Subcommittee reported it out. It came out of the committee, and we want to bring this to the floor. We have wanted to get it here for 2 weeks. They won't let us. The excuse now is forest fires.

The defense of this country depends on our doing these bills. Military construction is important for the fighting men and women of this country. We have 10 or 11 forest fires burning in Nevada right now. The people of Nevada want to go forward to help the service men and women of this country with military construction.

It is an excuse. It doesn't matter what we do over here to get a bill up. It doesn't matter what we do. It isn't quite right.

I renew my request that Senators FEINSTEIN and HUTCHINSON—the two managers of this bill—be allowed to bring this up under the time agreement that has been offered previously, which is 45 minutes for the bill and 20 minutes for Senator MCCAIN.

I would be happy to read it in its entirety. I have done that so many times that I almost have it memorized.

I ask unanimous consent that we be allowed to proceed under the terms and conditions of the previous unanimous consent request that I have made in this body, and that we be able to take the bill up as soon as the two leaders agree that it can be done.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BENNETT. Madam President, on the same basis as before, reserving the right for my leadership to examine it, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. REID. Madam President, I appreciate my friend from Utah, but having the leadership examine it, Senator LOTT has been out here on the floor saying he thinks it is the right thing to do.

It is too bad. I haven't changed a single word of the two requests I have made—one being the terrorism insurance bill going to conference, and the other simply allowing us to bring a bill to the floor. They won't allow us to do that. That is too bad for the country.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the motion to proceed to S. 812, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 812) to amend the Federal Food, Drug and Cosmetic Act to provide greater access to affordable pharmaceuticals.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10:30 a.m. shall be equally divided and controlled between the Senator from Massachusetts and the Senator from New Hampshire or their designees.

Mr. KENNEDY. Madam President, just to state the obvious so all of our colleagues understand exactly where we are, the bill before the Senate is the Schumer-McCain Greater Access to Affordability Pharmaceuticals Act of 2001.

This legislation closes loopholes in the law that deny patients access to low-cost, high-quality generic drugs.

It is the most important single step the Senate can take to slow the galloping increase in the cost of prescription drugs, and make medicines more affordable for all Americans. I anticipate that other constructive measures to control the cost of prescription drugs may be offered as amendments to this underlying legislation when we get to the legislation.

We have been denied the opportunity, for the last 2 days, to get to this legislation, but I believe there will be an overwhelming vote in the Senate to say: Let's move ahead on this legislation.

To a very real extent, what the Senate does with this legislation is a key indication and a key test, I believe, of the Senate of the United States. We have a major problem and concern for families all over this Nation; and that is, the cost of drugs and the availability of drugs. We have carefully thought out solutions to these particular problems. There are different solutions to it, but this institution has the opportunity, over the period of the next 2 weeks, to resolve a public policy concern that is of real deep concern to families all over this Nation.

This debate is not about technicalities, although if you listen to those who have been opposed to bringing this legislation up, they would list the various technicalities. They talk about jurisdictions. They talk about everything but the substance of the facts.

The interesting point is, there has been prescription drug legislation before the Senate in the committees over the last 5 years. This is our first opportunity to address this issue on the floor of the Senate. We have a responsible measure now that is going to be voted on now as to whether we are going to address this. That is how we are going to be able to deal with the problem which is called evergreening, which means that brand name companies can continue their patents on this and deny legitimate generic drug companies from getting into the market to produce lower cost quality drugs. And this is how we will be able to get to the issues of collusion between brand name companies and generic drug companies which also work to the disadvantage of consumers.

Our best estimate is that the savings, when this is scored, will be tens of billions of dollars, as much as even $60 billion. We will wait until that report is in.

Can you say to parents, can you say to children, can you say to families across this country, we can save you $60 billion, and yet our Republican friends refuse to let us get to this issue? We will get to this issue. It is of vital importance.

I look forward to continuing this debate.

Mr. DURBIN. Will the Senator yield for a question?

Mr. KENNEDY. I yield for a question.

Mr. DURBIN. I ask the Senator, is it not true that in the last 2 days we have really failed to seize an opportunity to move this bill forward? Have we not been tied up on the floor of the Senate with tactics from those who oppose prescription drug reform, to slow down the Senate debate, to try to stop us from passing this legislation before the August recess? Is it not true that we are now going to have a vote this morning to finally bring this to an issue so we have Members on the Record—Democrats and Republicans—and maybe once and for all we can see who is willing to stand in the path and who is willing to move forward when it comes to the issue you raised this morning?

Mr. KENNEDY. The Senator is absolutely correct. The measure that is before us passed the committee by a 16-to-5 vote, including five Republicans. It was bipartisan in nature. That is why it is difficult for us to understand why our Republican friends—because the objections were not from the Democratic side; the objections were all from the Republican side—why they would object to this, when five of their members—and I think we have more support from other members of the Republican Party who support this—why they would object to us, the Senate, considering this legislation, and other measures that are going to reduce the costs of prescription drugs for families.

I say to my friend from Illinois, I think the Senate will respond overwhelmingly and say: Let's get on with its business. But I regret the fact it has taken us 2 days in order to move this process forward.

Mr. DURBIN. Will the Senator yield for another question?

Mr. KENNEDY. I will.

Mr. DURBIN. On the substance of the issue, when you use the term ''generic drugs,'' that has a lot of connotations. But is it not true that a drug such as

Claritin, made by Schering-Plough, which is for allergies, widely advertised across the United States, when the patent on that drug expires, other drug companies can make the Claritin formula and sell it? It is exactly the same as the prescription drug that has been sold under patent for years and years, and that what you are talking about is making certain that kind of drug, generic drug, at a lower cost, is available to consumers across America so they can cut their drug bills and still have the same drug, which, under patent for years and years, was advertised as the very best for allergies and problems such as that?

Mr. KENNEDY. The Senator is quite correct.

I welcome the fact that the Senator has pointed out these generic drugs are effectively and actively the bioequivalence of the other brand name drugs. We will deal with those issues. They are effectively the same but at a very reduced cost.

I am glad to yield because I see my colleagues in the Chamber.

Madam President, we have how much time remaining?

The ACTING PRESIDENT pro tempore. Nineteen minutes.

Mr. KENNEDY. Nineteen minutes. So why don't I yield 4 minutes to the Senator from Michigan and do the same for the Senator from North Carolina. And other Senators want to speak.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Ms. STABENOW. Madam President, I thank our leader, the Senator from Massachusetts, who is such a stalwart and passionate advocate on this issue.

I wish to respond to one of my colleagues as to one of the reasons why I think this bill is being held up. I think it is being held up because it is not supported by the pharmaceutical industry.

We know there are six drug company lobbyists for every Member of the Senate. It is clear they would prefer the House plan, which they helped to write. I would, once again, share with my colleagues a quote that was in the Washington Post when the House plan was passed:

> A senior House GOP leadership aide said that Republicans are working hard behind the scenes on behalf of PhRMA [the pharmaceutical lobby] to make sure that the party's prescription drug plan for the elderly suits drug companies.

I believe the reason the bill is being held up is that, in fact, our prescription drug plan does not suit drug companies. Our prescription drug plan is written for the seniors and the disabled of America.

Our plan for lowering prices through the generics bill and through other options, to increase competition, is to make sure that prices are lower for everybody. The small business, which has premiums skyrocketing, and which has difficulty affording health care coverage for its employees, would see a major change as a result of our efforts to lower prices and create more competition. The manufacturers in my State would see decreases as well.

So, in fact, what we have are two distinct views of how to proceed. One, as was indicated in the paper, is a plan for the elderly that suits drug companies. We will have various versions of it on the floor. But I would argue that those fighting proceeding to a real Medicare plan are doing so because our plan does not suit the drug companies.

One of my major concerns is there is so much money that is going into this effort to promote the House plan—the drug company plan. What does the drug company plan do in the end analysis?

When we look at this, they are asking the senior citizens of our country, up front, to pay a $250 out-of-pocket deductible before they get any help. Then, out of the first amount of money, the beneficiary would pay $650 to get help with $1,100. But then the beneficiary would continue to have to pay while they have a gap in coverage. They would pay $2,800 when they received no help in the middle here, as shown on the chart, in order to get some catastrophic help at the end.

So what does this mean? It means, out of pocket, the average beneficiary will pay $3,700 to get $4,800 worth of help.

I am not that great on math, but I would suggest that, in fact, the $3,700 out of pocket for $4,800 is not that great a deal. I would suggest it is not that great a deal for the average person.

I have read a number of stories in this Chamber; one last night was of a gentleman who had an $800 a month income and his prescription drugs were $700 a month. This will not help him. This will not help the individual, the average individual who is struggling to pay their bills versus getting their medicine every day.

We have a better plan, a plan that will, on average, pay for 65 percent of the bill, which is a good start. It is a good step forward. It would not have a deductible. It would be a voluntary plan that would make sense and lower prices.

I realize my time is up, but I would like to also join with my colleagues in advocating that we get on with the business of real Medicare coverage and lowering prices for everyone.

Thank you.

Mr. KENNEDY. Madam President, I yield 4 minutes to the Senator from North Carolina and 4 minutes to the Senator from New York.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mr. EDWARDS. Madam President, this is a very simple proposition. Our friends on the other side of the aisle who oppose this prescription drug benefit largely oppose it because they say it is too expensive; we can't pay for it. They propose a prescription drug benefit that leaves lots of senior citizens behind.

The problem is, when we respond with, No. 1, a more comprehensive prescription drug benefit that, in fact, protects all senior citizens and, No. 2, with a real and meaningful proposal to bring the cost of prescription drugs under control so that we can, in fact, afford a comprehensive prescription drug benefit for all senior citizens, that will work for all senior citizens, then they also block us on that front. This makes no sense. There is no logic to this.

What we are saying is we want to provide a real and meaningful prescription drug benefit, No. 1; No. 2, in order to afford it, we have to do something about the cost of prescription drugs.

The costs of prescription drugs have been going up anywhere from 10 to 20 percent a year, way above the cost of inflation. We have to do something about that.

One of the issues Senator SCHUMER and Senator MCCAIN have worked very hard on is legislation to close the loopholes in the patent system that allow brand companies to keep a patent on a drug when the generic ought to be able to enter the marketplace. We know the way this works. The brand name company has a patent. As soon as the generic is allowed to enter the marketplace, the cost of the medicine goes down so that not only senior citizens but all Americans are able to afford it.

What we are doing and what they did in that legislation was to close loopholes that allowed brand name companies to keep generics out of the marketplace automatically for 30 months, if, in fact, a generic tried to enter the market at the time that a patent was about to expire.

What we have done is worked to close those loopholes so we get generics into the marketplace, so we have real competition and, most importantly, so we lower the cost of prescription drugs for all Americans and so we have a prescription drug benefit that we can, in fact, afford.

Senators MCCAIN and SCHUMER actually had a very good bill. It dealt with the abuses that were occurring, situations such as a brand name company had a patent that was about to expire. They would come in and say: We are entitled to a new patent because our pills have to be in brown bottles; or we are entitled to a new patent because our pills have two lines on them, as opposed to one, for scoring when you have to cut the pills—no innovation, no creativity, no new medical benefit. This is not the reason the patent system was created. It is not the reason the original legislation, the Hatch-Waxman legislation, back in 1984, was created.

What has happened is, the brand name companies have found a way to game the system, to exploit the system. The problem is, the people who pay the price of that are not the generic companies. The people who pay the price are Americans who have to go buy their medicine at the drugstore because when the generic can't get in the market, their cost stays up. And the

only people who benefit are the brand companies that keep their patent, and their profit, as a result, stays much higher.

What we have done, Senators MCCAIN and SCHUMER have done, was help close the loopholes. When that legislation came before our committee, the Labor Committee, the HELP Committee, we worked, Senator COLLINS and I, in a bipartisan way, along with a number of our colleagues on both sides of the aisle, to address some of the concerns that others had about the McCain-Schumer bill. I actually think their bill was a very good bill and the work they did was very good.

We dealt with it in a responsible way, found a bipartisan compromise. That is the legislation that is now on the floor of the Senate. It got the vote of five Republicans in committee. It is the kind of legislation that could actually do something about the cost of prescription drugs so we can afford a real and meaningful prescription drug benefit for all senior citizens in America.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. SCHUMER. I thank my colleague from Massachusetts and my colleague from North Carolina.

We have all been working together on this issue, as the Senator from North Carolina has said. It has been bipartisan—Senator MCCAIN and myself and then he and Senator COLLINS as well. The reason we are all coming together at this moment is a very simple one: These wonderful drugs that make people live longer and make people live better are just getting so darn expensive that most people can't afford them.

It is not just senior citizens, although it is certainly them. What about a family who has a child with a disease and they need that drug and the man works for a small business, the wife maybe works at home; they can't afford this drug for their child? Maybe a year from now it might be affordable, 6 months, because the generic is available. Then the pharmaceutical company goes and hires their lawyers and plays some trick and says the price is going to stay at $250 a month instead of $70 a month. What does that family think?

We have an urgency here. This is not just a political game. This is not just rhetoric. This is not just a stick to beat one party up or the other party. This is what we are all about—life. Our job is to make sure people can get these wonderful drugs.

I have no relish beating up on the drug companies. I think they have done great things, but unfortunately, as the Senator from Massachusetts said last night, they have lost their way. The generic drug proposal we are talking about puts them back on track. It says, instead of spending your time innovating patents, spend your time innovating drugs. Instead of going to Harvard Law School to hire people to come up with new legal tricks, go to Harvard Medical School and come up with the best researchers. For years this system has worked so well, but it has begun to get off track.

I make a plea to people on both sides of the aisle—I make a plea to the drug industry—get back with it. Go back to your noble mission of creating these wonder drugs that save people's lives, that avoid people having to go to the hospital and needing an operation.

The Schumer-McCain bill does that. It doesn't take away any of the incentives, the profits. We are a free market system. When you innovate that drug, you will make some money. But then don't, 15 years later, say: I have a new idea. I will make a blue pill red; I want another 15 years. I have another idea, I am going to say this drug is good for tennis elbow as well as pancreatis; I want another 15 years, not only for tennis elbow but for the pancreatis as well. That is what we are against here.

It is no longer that technical. When the Senator from Arizona and I started on our journey, people said: This is a very technical bill to which no one will pay attention. But now people realize what it is all about. It is about lowering costs dramatically.

By the way, it doesn't just lower the cost to the citizen. That is our paramount goal, to the average citizen. It lowers the cost to American business which has drug plans. Why is General Motors for this plan; why are so many corporate leaders for this plan? Why, when the pharmaceutical industry went to them and said, stop supporting Schumer-McCain, did they say: We can't for the very simple, self-interested reason, it means hundreds of millions of dollars to them? Why are State governments for this? Go to your counties, your State, and ask them what their biggest cost is. It is Medicaid.

What is the biggest cost within Medicaid? Whether it be Utah, Massachusetts, or New York, it is the rising cost of prescription drugs. This will limit it.

I urge that we not try to fight the Schumer-McCain bill but we, rather, try to build on it with some of the other proposals.

I yield the floor.

The PRESIDING OFFICER (Mr. EDWARDS). The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I have enjoyed being here this morning and hearing the debate. When I came to the Senate, I was interested in health care, anxious to do what I could to improve health care in this country, and recognized rather quickly that one of the major things that has happened in this country is that technology has long since outstripped, overcome, and ignored legislation.

I tell town meetings, among people who talk to me about Medicare, Medicare is the best Blue Cross Blue Shield fee-for-service indemnity plan that we could devise in the 1960s, frozen in time. Legislation does not allow flexibility; legislation freezes things. And we have a Medicare system that, frankly, makes little or no sense in the face of the way we practice medicine today.

In the 1960s, when Blue Cross Blue Shield laid down their fee-for-indemnity plan, which Congress basically embraced and froze in legislation, prescription drugs didn't make much of an impact. The big financial challenge in those days was the cost of going to the hospital. So a plan was frozen in place that said, We will reimburse you for going to the hospital and, today, 40 years later, the way Medicare is structured doesn't make any sense. People take pills rather than having an operation, but the pills, even though they are many times cheaper than the operation, are not reimbursed, whereas the operation would be.

There is a disincentive to practice intelligent medicine under Medicare. So to suggest that any rational individual looking at our present health care system does not support a prescription drug solution to our present dilemma is to misstate the facts. Everybody who looks at this, who has any understanding of the system, is in favor of a prescription drug benefit for Medicare. All right. We are all in favor. Let's do it. It is a little like someone having a medical condition back in the 1700s and turning to a physician and saying: We are all in favor of medical assistance, let's do it. And then the physician, acting on the conventional wisdom of the time, says: Bring in some more leeches, because that is the accepted technology.

Unfortunately, that point of view would cause someone who had greater knowledge to say: Don't seek medical assistance under this circumstance. Do something different.

Oh, no, we have to act quickly, and the prescribed method is to bring in some more leeches. So let's act quickly on this. The prescribed method is to simply attach a prescription drug benefit to the existing Medicare system and not pay much attention to any of the side effects.

I was here in 1993 when we debated health care almost exclusively on this floor. It was the raging issue through the end of 1993 and through almost all of 1994. I was here when the effort to reform our health care system died on this floor. A lot of people think it was voted down. It was not voted down. It simply died of its own weight.

George Mitchell, who was the majority leader at the time, despairing of the committee's not being able to produce a bill that might pass, took the whole process into his office and he produced, without any committee background, the Mitchell bill.

I was part of the effort to defeat the Mitchell bill. We met twice a day in Senator Dole's conference room. We met under the leadership of the then-ranking member of the Senate Finance Committee, Senator Packwood from Oregon, who understood this issue about as well as anybody, and we laid out the traps that we were setting for Senator Mitchell.

Quite frankly, it was not very difficult. His bill was filled with so many problems and so many challenges that we didn't have to be very expert or very careful to be able to shoot it down. As we would raise one issue after another, Senator Mitchell finally withdrew the bill and simply let it die. It was never voted down. It died of its own weight.

During that debate, Joe Califano—who served on the White House staff with Lyndon Johnson and was appointed Secretary of Health, Education, and Welfare, and who some have called the father of Medicare—wrote an editorial. I would like to quote from the Washington Post of August 18, 1994. He was urging caution based on his experience. Here is the relevant paragraph:

History teaches two lessons about Federal health care reform: It will cost more than any reasonable estimate at the time of enactment, and it will provoke a bevy of unintended consequences. The danger is that Congress may repeat history with a vengeance.

Picking up on Secretary Califano's two points—it will cost more than any reasonable estimate at the time of enactment and it will provoke a bevy of unintended consequences—let's talk about cost. I have heard this morning that we can solve the problem of cost by—if I may quote a colleague—''closing a few loopholes.'' We can solve the problem of cost by telling the drug companies to hire fewer lawyers. We can solve the problem of cost by preventing the pharmaceutical industry from having 30 months more of control on the prices of their original drugs.

For just 30 months more, they are somehow raising the price to the point that it is costing us so much money that we cannot afford this bill. And if we can just change that 30 months—just close that one little loophole—suddenly we will have enough money to pay for the whole thing.

Mr. SCHUMER. Will my colleague yield?

Mr. BENNETT. Yes.

Mr. SCHUMER. I thank my friend from Utah. He is always gracious in the spirit of debate. I ask two questions. First, does the Senator realize the generic drug is usually about a third of the cost?

Mr. BENNETT. I realize that. I am talking about loopholes.

Mr. SCHUMER. Second, not only is it one 30-month extension, many of the pharmaceutical companies line them up—30 months, 30 months, 30 months. So after they have made their rate of return, which they should, and I admire them for making these drugs, but I was asking the Senator if he realizes that the new practice is not just to have one automatic 30-month extension when you change the color of the bottle, but to pile them on and to have the patents extend long beyond the 20 years that was expected.

Mr. BENNETT. I realize the battle between the original creators of the patent and the generic drug companies has been going on ever since generic companies were formed, and that one group will always try to get the advantage over the other, and that a number of tactics are going on. I also realize the generic companies have been successful far more than many of the original companies would like, and to step in that battle and legislate that the generics will always win is fraught with all kinds of possibilities and all kinds of unintended consequences that Secretary Califano warned us against.

The Senator from New Jersey wishes to ask a question.

Mr. GREGG. Well, it is New Hampshire, but we are all in the East.

Mr. BENNETT. I am often considered the Senator from Idaho. So that is fair.

Mr. GREGG. I simply ask the Senator if he is aware that under the bill brought forward to us, as amended, the 30-day rolling exclusivity would be able to continue to roll over, that under this bill it is potential—and in fact likely—that second and third 30-day periods could be driven under this bill—and even fourth 30-day periods. There was actually language that would have eliminated that opportunity completely.

Mr. BENNETT. I was not aware of that. If I may, reclaiming my time, make this comment about this whole circumstance, one of the reasons I was unaware of that is because I am not a member of any of the committees that deal with this. I often thought that since I was not a member of the committees, I would not have an opportunity to be involved in the details of the bills. But I have discovered in this circumstance that not being a member of the committee is not a barrier to being involved, because the committee is not writing this legislation. The committee has been dismissed. The members of the committee who have expertise, the committee staffs that have been working on this for the 5 years that the Senator from Massachusetts referred to, have been dismissed. Their expertise is being ignored.

The majority leader has taken the bill into his office, and he has created his own bill, much like Senator Mitchell did back in 1994. I trust it will have the same effect. The Mitchell bill, however well-intentioned, hit the floor with all of the flaws in it that could have been worked had it had a proper committee process.

I submit that this bill is hitting the floor with this process. It is hitting the floor with all of the same potential so that Senators, such as the Senator from New Hampshire, who has expertise in this area, have been frozen out. Senators in the Finance Committee who have tremendous expertise in this area have been frozen out. And the majority leader has taken this all to himself.

That means all of us who have gaps in our knowledge are suddenly confronted with the responsibility of dealing with this issue without a committee report, dealing with this issue without the guidance of ranking minority concurrent opinions. We are just faced with this on the floor, and all of us, willy-nilly, have to do our best to do our homework.

I apologize to the Senator from New Hampshire for not knowing the specific he raised, but I point out that this is to be expected under the circumstances with which we are presented in this bill.

Mr. President, the phrase that is used over and over with respect to medicine goes all the way to the Hippocratic oath, which says: Do no harm. That is a more specific way of summarizing what Joe Califano warned us about in 1994, the unintended consequences and the cost.

The Senator from Massachusetts used the figure $60 billion in savings. I would like to see the background for that figure. He said it has not been scored yet, but I am sure he has some basis for coming up with that figure, and I do not challenge it. I am being told that the bill he would prefer to have passed, which also has not been scored, will eventually cost $1 trillion over a 10-year period—$1 trillion. Somehow, $60 billion does not get us to $1 trillion.

I cannot intuitively think that closing some loopholes in an area where there has been intense competition and litigation for years is somehow going to give us such dramatic savings that we can pay for this bill in a way that will not end up hurting the senior citizens and hurting the people at the bottom of our economic ladder.

Let me make this one additional point because I see one of my colleagues here, the Senator from Pennsylvania, who would like to speak further.

For those who say cost is important but health care is more important, that cost is important but compassion is the most important thing, and we should not let cost stand in the way of our helping our least fortunate citizens, that is an emotion with which I totally identify. That is a feeling that all of us can accept and agree with. But the fact—the cruel fact—is that if the economy is in trouble, if the Government is feeding inflation through tremendous deficits and soaring expenditures, the people who get hurt the most in those difficult economic times are the people at the bottom.

Conversely, in the period we have just gone through when everything was soaring and doing well, someone asked Alan Greenspan: Who benefited the most from this boom?—thinking he would say it was the Donald Trumps and the Bill Gates of the world who benefited the most from the boom.

He said: Without question, the evidence is overwhelming that the people who benefited the most from the sound economy were the people in the bottom quintile; that is, the people in the bottom fifth had the greatest benefit in terms of what happened to make their lives better.

When we talk about costs, we are not being cold hearted. We are not being green-eyeshade accountants. We are recognizing there is an element of compassion that redounds to the benefit of the people at the bottom if we keep our finances under control, if we see to it that the Government is properly funded and properly financed, and we do not allow expenditures to run willy-nilly out of control. That is part of compassion. That is part of taking care of the least fortunate, and that is a debate we are having on this floor now that some would like to wave aside.

I reserve the remainder of the time and yield to Senator GREGG, as he takes over the leadership spot, but yield to the Senator from Pennsylvania.

Mr. GREGG. If the Senator will yield a second, I want to clarify. I wandered in in the middle of the discussion and misunderstood the issue. I believe the Senator from New York is correct in his assessment of the bill on the 30-month issue. It was the 180-day rule to which I was referring.

Mr. BENNETT. So I was correct in saying I did not understand the Senator's point.

Mr. GREGG. Yes, that is correct. That happens to people from New Jersey.

Mr. BENNETT. I will be more than happy, Mr. President, to turn the control of the time over to the Senator.

Mr. GREGG. I yield the remainder of our time to the Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, how much time is remaining on both sides?

The PRESIDING OFFICER. There are 7½ minutes remaining for the Senator from Pennsylvania; 5 minutes 40 seconds for the Senator from Massachusetts.

Mr. SANTORUM. Does the Senator from Massachusetts want to go or have me finish the time?

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I want to make sure we understand, No. 1, this vote did not have to occur. We saw woeful crocodile tears today about how we have to have this vote today and be delayed 2 days. The Senator from New Hampshire yesterday afternoon agreed to vitiate this vote and agreed to proceed to the bill. We could be discussing amendments right now if we wanted. We could have been discussing amendments last night. When I was on the floor at about 5 o'clock, we could have been debating amendments, but we were debating whether we would allow this vote to be vitiated or not and agree to the motion to proceed.

I have to question how genuine the concern is about having this delay of 2 days when we could have been on the bill yesterday and we could be amending the bill as we speak. That is No. 1.

No. 2, let's understand, the underlying bill is the discussion, which has to do with the generics versus the main line pharmaceutical companies, and how we deal with the issue of reimportation of drugs is going to be an issue—there will be other issues—related to prescriptions. But this is a vehicle for a much broader and I think to the American public more important debate, and that is how we are going to provide prescription drugs for seniors. That is what the majority leader has said this debate is going to be all about that we are going to move to very quickly once this motion to proceed is agreed to, and I believe it will be unanimous.

Let's understand the game that has been set up. The majority leader has set up a procedure on the floor of the Senate to guarantee—and I am underlying that word—to guarantee that no bill to provide prescription drugs would pass the Senate. I do not say that lightly. I use the word ''guarantee.'' We have 100-percent assurance under this procedure that no bill to provide prescription drug coverage will pass the Senate. Why? Because in last year's budget agreement—I say last year's budget agreement and you say: Senator, what about this year's budget agreement? We do not have a budget agreement for this year. We have no agreement of the budget that provides for money to be set aside for a Medicare prescription drug benefit.

So we have to go to last year's budget agreement to see what that provides for with respect to Medicare and prescription drug benefits.

What does that provide for? Two things. No. 1, any bill that is not reported from the Finance Committee to the floor of the Senate on Medicare prescription drugs will have a 60-vote point of order against it. What does that mean? That means if we had a $10 bill, a bill that costs $10 to the American Treasury, on the floor of the Senate it would be subject to a budget point of order. It would have to have 60 votes.

So what the Senator from South Dakota, the majority leader, has done, is he has required every single Medicare prescription drug bill to get 60 votes. The other budget provision says it had to be under $300 billion.

Now, what we are hearing is that there is some outrage that we have delayed this all of less than a day actually, and that the majority wants to go forward and move their prescription drug bill. Fine. Let's look at this prescription drug bill. This is a bill they could not get through committee. Had they been able to get it through committee, I am sure they would have allowed Senator BAUCUS to mark up this bill and go through committee, but they could not get it through committee. So they bypassed the committee, thereby assuring, as the Senator from New Hampshire said, mutual assured destruction. This is a partisan exercise.

So the bill will come to the floor. This is a bill that I have heard out in the hallways is going to cost upwards of a trillion dollars. Nobody has seen this bill. This is the largest expansion of entitlements in the history of this country, and no one has seen the bill. It is going to cost hundreds of billions, potentially a trillion dollars, over the next 10 years; it has not had one hearing in committee and it has not been marked up in the committee. What we are expected to do in the Senate is somehow agree to pass this bill within, according to the majority leader, the next 7 days. Within 7 or 8 days, we are going to pass a prescription drug bill that no one has seen, that nobody knows how much it costs—it could cost up to a trillion dollars—that no hearing has been held on, that no markup has been done on.

If we are serious about getting a prescription drug benefit, this is not the way to present this to the Senate. What this is, pure and simple, is politics. This is about the majority leader being interested in setting up a procedure that will assure that no bill passes so they have the issue of saying, see, we wanted to give you all these wonderful things, we wanted to give you all these benefits, give you Cadillac this and Cadillac that, and these lousy Republicans do not want to let you have it.

I suggest that we have three proposals on this side of the aisle on which we would love to get votes. Senator SMITH from New Hampshire has one; Senators HAGEL and ENSIGN have one; and then there is the tripartisan bill, all of which will move the ball down the field substantially when it comes to providing prescription drug benefits for seniors, all of which I believe could pass the test of the budget, which is getting through the Finance Committee and being under $300 billion in expenditures.

That is what we should be doing. We should be trying to pass a bill that gets through the Senate so we can get it to conference, work with the House, and get a drug benefit by November, not get a political issue by November.

This process has been set up to fail. This process has been set up to fail so some believe they will get political advantage by doing so. I want everybody to understand that when next Friday rolls around and we are at loggerheads because nobody can get 60 votes on a budget point of order and everybody is now gnashing their teeth and wringing their hands and saying, oh, woe is us, we could not get a bill done, we failed the American public, the Republicans would not let us pass our bill, or whatever the case may be, understand the template has been set for that today. The template has been set for that today by bringing a bill to the floor which requires 60 votes as a budget point of order. Once that template was set, once the majority leader decided to bypass the Finance Committee, a Finance Committee that, without question, could pass a bill—there is no question they could pass a bill, but again the majority leader, as he did with trade, as he has done with a whole

lot of issues with respect to the Finance Committee, has basically pushed the Finance Committee aside.

I do not know whether he does not trust the committee, whether he does not trust the leadership. I do not know what it is, but the Finance Committee has pretty much been made irrelevant over the past several months by the majority leader. What we have as a result of that is a procedure that is doomed to failure.

The PRESIDING OFFICER. Who yields time? The Senator from Massachusetts.

Mr. KENNEDY. I understand we have 5 minutes 40 seconds left. Is that right?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. What I would like to do is give 1½ minutes to the Senator from New York and 3 minutes to the Senator from New Jersey.

Mr. SCHUMER. I yield my remaining time. Senator GREGG corrected the time. I would be happy to yield my remaining time.

Mr. KENNEDY. I yield 4½ minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I rise to speak about the unspeakable, as far as I am concerned. I picked up the paper this morning and I read House GOP leaders fight audit plan, an audit plan that passed this body 97 to 0.

There are rumors circulating out among those on the Hill that a procedural process called blue-slipping has been applied to the Senate-passed corporate responsibility act, more formally known as the Accounting Reform and Investor Protection Act, which our Nation is crying out for, in response to corporate malfeasance and the deterioration of the quality of financial reporting corporate governance in this Nation.

If we have ever seen a situation where politics is an overwhelming necessity, where the politics of a given issue is undermining the needs of the American people, investors across this country, retirees, people who are dependent on our financial system having integrity and how it responds to information presented from companies, it is demonstrated by these actions with regard to trying to stop or hold back something that is absolutely essential for making sure that our economy and our markets function properly.

In case people had not noticed, we have lost over $2.5 trillion in our financial markets this year alone with respect to what is going on in corporate governance, corporate malfeasance. Yesterday we heard a positive statement out of the Chairman of the Federal Reserve Board about the underlying fundamentals of the economy. Productivity is up; inflation is down. There is plenty of reason for why our market should be moving forward, why the marketplace should feel comfortable with itself, but what is standing in its way is the integrity of corporate responsibility, the integrity of our financial statements, the integrity of how our marketplace works. We are refusing to deal with this on a straightforward and expeditious manner.

The President has asked for it to be placed on his desk in less than 3 weeks, and now we are being stopped cold dead by the House leadership.

Mr. SCHUMER. Will my colleague yield for a question?

Mr. CORZINE. Absolutely.

Mr. SCHUMER. I could not agree more with what my colleague from New Jersey has said. We passed a 31(e) bill, which reduced taxes on corporate transactions but was supposed to fund the SEC. We could not even get an authorization to have pay parity for the SEC to hire new people. That is one of the reasons we are in the pickle we are in.

So I ask my colleague from New Jersey: Is this not the same type of thing where they say, oh, yes, we are for enforcement, but they do not put any money in to either get enforcers or the quality of enforcers that we need?

Mr. CORZINE. The reason we have had responses like we have had in the marketplace in the last 2 weeks is that people are hot on rhetoric and low, low, low with regard to results and doing anything that is proper action to deal with the problem.

Mr. SCHUMER. If the Senator will continue to yield, the best place we can have action is in the bowels of the agencies where they find the wrongdoing; capable people, Government workers, they find it, nail them, so it does not happen again. Am I wrong about that?

Mr. CORZINE. The Senator is certainly right.

The PRESIDING OFFICER. The Senator has used 3 minutes.

Mr. CORZINE. I hope we take real action soon to stop this crisis of confidence from continuing.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. Fifteen seconds.

Mr. KENNEDY. Vote for cloture and get on with debate. This is an important first step that can take us on the road to lower prices and better availability of drug coverage for people who need it in our country.

I understand under the procedure the yeas and nays are automatic; is that correct?

The PRESIDING OFFICER. That is right.

Mr. KENNEDY. I understand all time has expired.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on the motion to proceed to Calendar No. 491; S. 812, the Greater Access to Affordable Pharmaceuticals Act of 2001:

Senators Harry Reid, Jon Corzine, Byron L. Dorgan, Ron Wyden, Maria Cantwell, Paul Sarbanes, Debbie Stabenow, Dick Durbin, Thomas Carper, Tom Daschle, Jack Reed, Daniel K. Akaka, Kent Conrad, Zell Miller, Charles Schumer, Ernest Hollings, Hillary Clinton.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 812, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals, shall be brought to a close? The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 99, nays 0, as follows:

[Rollcall Vote No. 178 Leg.]

YEAS—99

Akaka	Dorgan	Lugar
Allard	Durbin	McCain
Allen	Edwards	McConnell
Baucus	Ensign	Mikulski
Bayh	Enzi	Miller
Bennett	Feingold	Murkowski
Biden	Feinstein	Murray
Bingaman	Fitzgerald	Nelson (FL)
Bond	Frist	Nelson (NE)
Boxer	Graham	Nickles
Breaux	Gramm	Reed
Brownback	Grassley	Reid
Bunning	Gregg	Roberts
Burns	Hagel	Rockefeller
Byrd	Harkin	Santorum
Campbell	Hatch	Sarbanes
Cantwell	Hollings	Schumer
Carnahan	Hutchinson	Sessions
Carper	Hutchison	Shelby
Chafee	Inhofe	Smith (NH)
Cleland	Inouye	Smith (OR)
Clinton	Jeffords	Snowe
Cochran	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kerry	Stevens
Corzine	Kohl	Thomas
Craig	Kyl	Thompson
Crapo	Landrieu	Thurmond
Daschle	Leahy	Torricelli
Dayton	Levin	Voinovich
DeWine	Lieberman	Warner
Dodd	Lincoln	Wellstone
Domenici	Lott	Wyden

NOT VOTING—1

Helms

The PRESIDING OFFICER. On this vote, the yeas are 99, the nays are 0. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the motion to proceed is agreed to and the clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

The Senate proceeded to consider the bill, which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 812

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Greater Access to Affordable Pharmaceuticals Act of 2001''.

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) prescription drug costs are increasing at an alarming rate and are a major worry of American families and senior citizens;

(2) enhancing competition between generic drug manufacturers and brand-name manufacturers can significantly reduce prescription drug costs for American families;

(3) the pharmaceutical market has become increasingly competitive during the last decade because of the increasing availability and accessibility of generic pharmaceuticals, but competition must be further stimulated and strengthened;

(4) the Federal Trade Commission has discovered that there are increasing opportunities for drug companies owning patents on brand-name drugs and generic drug companies to enter into private financial deals in a manner that could restrain trade and greatly reduce competition and increase prescription drug costs for consumers;

(5) generic pharmaceuticals are approved by the Food and Drug Administration on the basis of scientific testing and other information establishing that pharmaceuticals are therapeutically equivalent to brand-name pharmaceuticals, ensuring consumers a safe, efficacious, and cost-effective alternative to brand-name innovator pharmaceuticals;

(6) the Congressional Budget Office estimates that—

(A) the use of generic pharmaceuticals for brand-name pharmaceuticals could save purchasers of pharmaceuticals between $8,000,000,000 and $10,000,000,000 each year; and

(B) generic pharmaceuticals cost between 25 percent and 60 percent less than brand-name pharmaceuticals, resulting in an estimated average savings of $15 to $30 on each prescription;

(7) generic pharmaceuticals are widely accepted by consumers and the medical profession, as the market share held by generic pharmaceuticals compared to brand-name pharmaceuticals has more than doubled during the last decade, from approximately 19 percent to 43 percent, according to the Congressional Budget Office;

(8) expanding access to generic pharmaceuticals can help consumers, especially senior citizens and the uninsured, have access to more affordable prescription drugs;

(9) Congress should ensure that measures are taken to effectuate the amendments made by the Drug Price Competition and Patent Term Restoration Act of 1984 (98 Stat. 1585) (referred to in this section as the ''Hatch-Waxman Act'') to make generic drugs more accessible, and thus reduce health care costs; and

(10) it would be in the public interest if patents on drugs for which applications are approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(c)) were extended only through the patent extension procedure provided under the Hatch-Waxman Act rather than through the attachment of riders to bills in Congress.

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

(1) to increase competition, thereby helping all Americans, especially seniors and the uninsured, to have access to more affordable medication; and

(2) to ensure fair marketplace practices and deter pharmaceutical companies (including generic companies) from engaging in anticompetitive action or actions that tend to unfairly restrain trade.

SEC. 3. FILING OF PATENT INFORMATION WITH THE FOOD AND DRUG ADMINISTRATION.

(a) FILING AFTER APPROVAL OF AN APPLICATION.—

(1) IN GENERAL.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) (as amended by section 9(a)(2)(B)(ii)) is amended in subsection (c) by striking paragraph (2) and inserting the following:

''(2) PATENT INFORMATION.—

''(A) IN GENERAL.—Not later than the date that is 30 days after the date of an order approving an application under subsection (b) (unless the Secretary extends the date because of extraordinary or unusual circumstances), the holder of the application shall file with the Secretary the patent information described in subparagraph (C) with respect to any patent—

''(i)(I) that claims the drug for which the application was approved; or

''(II) that claims an approved method of using the drug; and

''(ii) with respect to which a claim of patent infringement could reasonably be asserted if a person not licensed by the owner engaged in the manufacture, use, or sale of the drug.

''(B) SUBSEQUENTLY ISSUED PATENTS.—In a case in which a patent described in subparagraph (A) is issued after the date of an order approving an application under subsection (b), the holder of the application shall file with the Secretary the patent information described in subparagraph (C) not later than the date that is 30 days after the date on which the patent is issued (unless the Secretary extends the date because of extraordinary or unusual circumstances).

''(C) PATENT INFORMATION.—The patent information required to be filed under subparagraph (A) or (B) includes—

''(i) the patent number;

''(ii) the expiration date of the patent;

''(iii) with respect to each claim of the patent—

''(I) whether the patent claims the drug or claims a method of using the drug; and

''(II) whether the claim covers—

''(aa) a drug substance;

''(bb) a drug formulation;

''(cc) a drug composition; or

''(dd) a method of use;

''(iv) if the patent claims a method of use, the approved use covered by the claim;

''(v) the identity of the owner of the patent (including the identity of any agent of the patent owner); and

''(vi) a declaration that the applicant, as of the date of the filing, has provided complete and accurate patent information for all patents described in subparagraph (A).

''(D) PUBLICATION.—On filing of patent information required under subparagraph (A) or (B), the Secretary shall—

''(i) immediately publish the information described in clauses (i) through (iv) of subparagraph (C); and

''(ii) make the information described in clauses (v) and (vi) of subparagraph (C) available to the public on request.

''(E) CIVIL ACTION FOR CORRECTION OR DELETION OF PATENT INFORMATION.—

''(i) IN GENERAL.—A person that has filed an application under subsection (b)(2) or (j) for a drug may bring a civil action against the holder of the approved application for the drug seeking an order requiring that the holder of the application amend the application—

''(I) to correct patent information filed under subparagraph (A); or

''(II) to delete the patent information in its entirety for the reason that—

''(aa) the patent does not claim the drug for which the application was approved; or

''(bb) the patent does not claim an approved method of using the drug.

''(ii) LIMITATIONS.—Clause (i) does not authorize—

''(I) a civil action to correct patent information filed under subparagraph (B); or

''(II) an award of damages in a civil action under clause (i).

''(F) NO CLAIM FOR PATENT INFRINGEMENT.—An owner of a patent with respect to which a holder of an application fails to file information on or before the date required under subparagraph (A) or (B) shall be barred from bringing a civil action for infringement of the patent against a person that—

''(i) has filed an application under subsection (b)(2) or (j); or

''(ii) manufactures, uses, offers to sell, or sells a drug approved under an application under subsection (b)(2) or (j).''.

(2) TRANSITION PROVISION.—

(A) FILING OF PATENT INFORMATION.—Each holder of an application for approval of a new drug under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) that has been approved before the date of enactment of this Act shall amend the application to include the patent information required under the amendment made by paragraph (1) not later than the date that is 30 days after the date of enactment of this Act (unless the Secretary of Health and Human Services extends the date because of extraordinary or unusual circumstances).

(B) NO CLAIM FOR PATENT INFRINGEMENT.—An owner of a patent with respect to which a holder of an application under subsection (b) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) fails to file information on or before the date required under subparagraph (A) shall be barred from bringing a civil action for infringement of the patent against a person that—

(i) has filed an application under subsection (b)(2) or (j) of that section; or

(ii) manufactures, uses, offers to sell, or sells a drug approved under an application under subsection (b)(2) or (j) of that section.

(b) FILING WITH AN APPLICATION.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended—

(1) in subsection (b)(2)—

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

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

(C) by adding at the end the following:

''(C) with respect to a patent that claims both the drug and a method of using the drug or claims more than 1 method of using the drug for which the application is filed—

''(i) a certification under subparagraph (A)(iv) on a claim-by-claim basis; and

''(ii) a statement under subparagraph (B) regarding the method of use claim.''; and

(2) in subsection (j)(2)(A), by inserting after clause (viii) the following:

''With respect to a patent that claims both the drug and a method of using the drug or claims more than 1 method of using the drug for which the application is filed, the application shall contain a certification under clause (vii)(IV) on a claim-by-claim basis and a statement under clause (viii) regarding the method of use claim.''.

SEC. 4. LIMITATION OF 30-MONTH STAY TO CERTAIN PATENTS.

(a) ABBREVIATED NEW DRUG APPLICATIONS.—Section 505(j)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)) is amended—

(1) in subparagraph (B)—

(A) in clause (iii)—

(i) by striking ''(iii) If the applicant made a certification described in subclause (IV) of paragraph (2)(A)(vii),'' and inserting the following:

''(iii) SUBCLAUSE (IV) CERTIFICATION WITH RESPECT TO CERTAIN PATENTS.—If the applicant made a certification described in paragraph (2)(A)(vii)(IV) with respect to a patent (other than a patent that claims a process for manufacturing the listed drug) for which patent information was filed with the Secretary under subsection (c)(2)(A),''; and

(ii) by adding at the end the following: ''The 30-month period provided under the second sentence of this clause shall not apply to a certification under paragraph (2)(A)(vii)(IV) made with respect to a patent for which patent information was filed with the Secretary under subsection (c)(2)(B).'';

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following:

''(iv) SUBCLAUSE (IV) CERTIFICATION WITH RESPECT TO OTHER PATENTS.—

''(I) IN GENERAL.—If the applicant made a certification described in paragraph (2)(A)(vii)(IV) with respect to a patent not described in clause (iii) for which patent information was published by the Secretary under subsection (c)(2)(D), the approval shall be made effective on the date that is 45 days after the date on which the notice provided under paragraph (2)(B) was received, unless a civil action for infringement of the patent, accompanied by a motion for preliminary injunction to enjoin the applicant from engaging in the commercial manufacture or sale of the drug, was filed on or before the date that is 45 days after the date on which the notice was received, in which case the approval shall be made effective—

''(aa) on the date of a court action declining to grant a preliminary injunction; or

''(bb) if the court has granted a preliminary injunction prohibiting the applicant from engaging in the commercial manufacture or sale of the drug—

''(AA) on issuance by a court of a determination that the patent is invalid or is not infringed;

''(BB) on issuance by a court of an order revoking the preliminary injunction or permitting the applicant to engage in the commercial manufacture or sale of the drug; or

''(CC) on the date specified in a court order under section 271(e)(4)(A) of title 35, United States Code, if the court determines that the patent is infringed.

''(II) COOPERATION.—Each of the parties shall reasonably cooperate in expediting a civil action under subclause (I).

''(III) EXPEDITED NOTIFICATION.—If the notice under paragraph (2)(B) contains an address for the receipt of expedited notification of a civil action under subclause (I), the plaintiff shall, on the date on which the complaint is filed, simultaneously cause a notification of the civil action to be delivered to that address by the next business day.''; and

(2) by inserting after subparagraph (B) the following:

''(C) FAILURE TO BRING INFRINGEMENT ACTION.—If, in connection with an application under this subsection, the applicant provides an owner of a patent notice under paragraph (2)(B) with respect to the patent, and the owner of the patent fails to bring a civil action against the applicant for infringement of the patent on or before the date that is 45 days after the date on which the notice is received, the owner of the patent shall be barred from bringing a civil action for infringement of the patent in connection with the development, manufacture, use, offer to sell, or sale of the drug for which the application was filed or approved under this subsection.''.

(b) OTHER APPLICATIONS.—Section 505(c)) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(c)) (as amended by section 9(a)(3)(A)(iii)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (C)—

(i) by striking ''(C) If the applicant made a certification described in clause (iv) of subsection (b)(2)(A),'' and inserting the following:

''(C) CLAUSE (iv) CERTIFICATION WITH RESPECT TO CERTAIN PATENTS.—If the applicant made a certification described in subsection (b)(2)(A)(iv) with respect to a patent (other than a patent that claims a process for manufacturing the listed drug) for which patent information was filed with the Secretary under paragraph (2)(A),''; and

(ii) by adding at the end the following: ''The 30-month period provided under the second sentence of this subparagraph shall not apply to a certification under subsection (b)(2)(A)(iv) made with respect to a patent for which patent information was filed with the Secretary under paragraph (2)(B).''; and

(B) by inserting after subparagraph (C) the following:

''(D) CLAUSE (iv) CERTIFICATION WITH RESPECT TO OTHER PATENTS.—

''(i) IN GENERAL.—If the applicant made a certification described in subsection (b)(2)(A)(iv) with respect to a patent not described in subparagraph (C) for which patent information was published by the Secretary under paragraph (2)(D), the approval shall be made effective on the date that is 45 days after the date on which the notice provided under subsection (b)(3) was received, unless a civil action for infringement of the patent, accompanied by a motion for preliminary injunction to enjoin the applicant from engaging in the commercial manufacture or sale of the drug, was filed on or before the date that is 45 days after the date on which the notice was received, in which case the approval shall be made effective—

''(I) on the date of a court action declining to grant a preliminary injunction; or

''(II) if the court has granted a preliminary injunction prohibiting the applicant from engaging in the commercial manufacture or sale of the drug—

''(aa) on issuance by a court of a determination that the patent is invalid or is not infringed;

''(bb) on issuance by a court of an order revoking the preliminary injunction or permitting the applicant to engage in the commercial manufacture or sale of the drug; or

''(cc) on the date specified in a court order under section 271(e)(4)(A) of title 35, United States Code, if the court determines that the patent is infringed.

''(ii) COOPERATION.—Each of the parties shall reasonably cooperate in expediting a civil action under clause (i).

''(iii) EXPEDITED NOTIFICATION.—If the notice under subsection (b)(3) contains an address for the receipt of expedited notification of a civil action under clause (i), the plaintiff shall, on the date on which the complaint is filed, simultaneously cause a notification of the civil action to be delivered to that address by the next business day.''; and

(2) by inserting after paragraph (3) the following:

''(4) FAILURE TO BRING INFRINGEMENT ACTION.—If, in connection with an application under subsection (b)(2), the applicant provides an owner of a patent notice under subsection (b)(3) with respect to the patent, and the owner of the patent fails to bring a civil action against the applicant for infringement of the patent on or before the date that is 45 days after the date on which the notice is received, the owner of the patent shall be barred from bringing a civil action for infringement of the patent in connection with the development, manufacture, use, offer to sell, or sale of the drug for which the application was filed or approved under subsection (b)(2).''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall be effective with respect to any certification under subsection (b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) made after the date of enactment of this Act in an application filed under subsection (b)(2) or (j) of that section.

(2) TRANSITION PROVISION.—In the case of applications under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) filed before the date of enactment of this Act—

(A) a patent (other than a patent that claims a process for manufacturing a listed drug) for which information was submitted to the Secretary of Health and Human Services under section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act (as in effect on the day before the date of enactment of this Act) shall be subject to subsections (c)(3)(C) and (j)(5)(B)(iii) of section 505 of the Federal Food, Drug, and Cosmetic Act (as amended by this section); and

(B) any other patent (including a patent for which information was submitted to the Secretary under section 505(c)(2) of that Act (as in effect on the day before the date of enactment of this Act)) shall be subject to subsections (c)(3)(D) and (j)(5)(B)(iv) of section 505 of the Federal Food, Drug, and Cosmetic Act (as amended by this section).

SEC. 5. EXCLUSIVITY FOR ACCELERATED GENERIC DRUG APPLICANTS.

(a) IN GENERAL.—Section 505(j)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)) (as amended by section 4(a)) is amended—

(1) in subparagraph (B)(v), by striking subclause (II) and inserting the following:

''(II) the earlier of—

''(aa) the date of a final decision of a court (from which no appeal has been or can be taken, other than a petition to the Supreme Court for a writ of certiorari) holding that the patent that is the subject of the certification is invalid or not infringed; or

''(bb) the date of a settlement order or consent decree signed by a Federal judge that enters a final judgment and includes a finding that the patent that is the subject of the certification is invalid or not infringed;''; and

(2) by inserting after subparagraph (C) the following:

''(D) FORFEITURE OF 180-DAY PERIOD.—

''(i) DEFINITIONS.—In this subparagraph:

''(I) APPLICATION.—The term 'application' means an application for approval of a drug under this subsection containing a certification under paragraph (2)(A)(vii)(IV) with respect to a patent.

''(II) FIRST APPLICATION.—The term 'first application' means the first application to be filed for approval of the drug.

''(III) FORFEITURE EVENT.—The term 'forfeiture event', with respect to an application under this subsection, means the occurrence of any of the following:

''(aa) FAILURE TO MARKET.—The applicant fails to market the drug by the later of—

''(AA) the date that is 60 days after the date on which the approval of the application for the drug is made effective under clause (iii) or (iv) of subparagraph (B) (unless the Secretary extends the date because of extraordinary or unusual circumstances); or

''(BB) if 1 or more civil actions have been brought against the applicant for infringement of a patent subject to a certification under paragraph (2)(A)(vii)(IV) or 1 or more civil actions have been brought by the applicant for a declaratory judgment that such a patent is invalid or not infringed, the date that is 60 days after the date of a final decision (from which no appeal

has been or can be taken, other than a petition to the Supreme Court for a writ of certiorari) in the last of those civil actions to be decided (unless the Secretary extends the date because of extraordinary or unusual circumstances).

''(bb) WITHDRAWAL OF APPLICATION.—The applicant withdraws the application.

''(cc) AMENDMENT OF CERTIFICATION.—The applicant, voluntarily or as a result of a settlement or defeat in patent litigation, amends the certification from a certification under paragraph (2)(A)(vii)(IV) to a certification under paragraph (2)(A)(vii)(III).

''(dd) FAILURE TO OBTAIN APPROVAL.—The applicant fails to obtain tentative approval of an application within 30 months after the date on which the application is filed, unless the failure is caused by—

''(AA) a change in the requirements for approval of the application imposed after the date on which the application is filed; or

''(BB) other extraordinary circumstances warranting an exception, as determined by the Secretary.

''(ee) FAILURE TO CHALLENGE PATENT.—In a case in which, after the date on which the applicant submitted the application, new patent information is submitted under subsection (c)(2) for the listed drug for a patent for which certification is required under paragraph (2)(A), the applicant fails to submit, not later than the date that is 60 days after the date on which the Secretary publishes the new patent information under paragraph (7)(A)(iii) (unless the Secretary extends the date because of extraordinary or unusual circumstances)—

''(AA) a certification described in paragraph (2)(A)(vii)(IV) with respect to the patent to which the new patent information relates; or

''(BB) a statement that any method of use claim of that patent does not claim a use for which the applicant is seeking approval under this subsection in accordance with paragraph (2)(A)(viii).

''(ff) UNLAWFUL CONDUCT.—The Federal Trade Commission determines that the applicant engaged in unlawful conduct with respect to the application in violation of section 1 of the Sherman Act (15 U.S.C. 1).

''(IV) SUBSEQUENT APPLICATION.—The term 'subsequent application' means an application for approval of a drug that is filed subsequent to the filing of a first application for approval of that drug.

''(ii) FORFEITURE OF 180-DAY PERIOD.—

''(I) IN GENERAL.—Except as provided in subclause (II), if a forfeiture event occurs with respect to a first application—

''(aa) the 180-day period under subparagraph (B)(v) shall be forfeited by the first applicant; and

''(bb) any subsequent application shall become effective as provided under clause (i), (ii), (iii), or (iv) of subparagraph (B), and clause (v) of subparagraph (B) shall not apply to the subsequent application.

''(II) FORFEITURE TO FIRST SUBSEQUENT APPLICANT.—If the subsequent application that is the first to be made effective under subclause (I) was the first among a number of subsequent applications to be filed—

''(aa) that first subsequent application shall be treated as the first application under this subparagraph (including subclause (I)) and as the previous application under subparagraph (B)(v); and

''(bb) any other subsequent applications shall become effective as provided under clause (i), (ii), (iii), or (iv) of subparagraph (B), but clause (v) of subparagraph (B) shall apply to any such subsequent application.

''(iii) AVAILABILITY.—The 180-day period under subparagraph (B)(v) shall be available to a first applicant submitting an application for a drug with respect to any patent without regard to whether an application has been submitted for the drug under this subsection containing such a certification with respect to a different patent.

''(iv) APPLICABILITY.—The 180-day period described in subparagraph (B)(v) shall apply to an application only if a civil action is brought against the applicant for infringement of a patent that is the subject of the certification.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective only with respect to an application filed under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) after the date of enactment of this Act for a listed drug for which no certification under section 505(j)(2)(A)(vii)(IV) of that Act was made before the date of enactment of this Act, except that if a forfeiture event described in section 505(j)(5)(D)(i)(III)(ff) of that Act occurs in the case of an applicant, the applicant shall forfeit the 180-day period under section 505(j)(5)(B)(v) of that Act without regard to when the applicant made a certification under section 505(j)(2)(A)(vii)(IV) of that Act.

SEC. 6. FAIR TREATMENT FOR INNOVATORS.

(a) BASIS FOR APPLICATION.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended—

(1) in subsection (b)(3)(B), by striking the second sentence and inserting ''The notice shall include a detailed statement of the factual and legal basis of the applicant's opinion that, as of the date of the notice, the patent is not valid or is not infringed, and shall include, as appropriate for the relevant patent, a description of the applicant's proposed drug substance, drug formulation, drug composition, or method of use. All information disclosed under this subparagraph shall be treated as confidential and may be used only for purposes relating to patent adjudication. Nothing in this subparagraph precludes the applicant from amending the factual or legal basis on which the applicant relies in patent litigation.''; and

(2) in subsection (j)(2)(B)(ii), by striking the second sentence and inserting ''The notice shall include a detailed statement of the factual and legal basis of the opinion of the applicant that, as of the date of the notice, the patent is not valid or is not infringed, and shall include, as appropriate for the relevant patent, a description of the applicant's proposed drug substance, drug formulation, drug composition, or method of use. All information disclosed under this subparagraph shall be treated as confidential and may be used only for purposes relating to patent adjudication. Nothing in this subparagraph precludes the applicant from amending the factual or legal basis on which the applicant relies in patent litigation.''.

(b) INJUNCTIVE RELIEF.—Section 505(j)(5)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)(B)) (as amended by section 4(a)(1)) is amended—

(1) in clause (iii), by adding at the end the following: ''A court shall not regard the extent of the ability of an applicant to pay monetary damages as a whole or partial basis on which to deny a preliminary or permanent injunction under this clause.''; and

(2) in clause (iv), by adding at the end the following:

''(IV) INJUNCTIVE RELIEF.—A court shall not regard the extent of the ability of an applicant to pay monetary damages as a whole or partial basis on which to deny a preliminary or permanent injunction under this clause.''.

SEC. 7. BIOEQUIVALENCE.

(a) IN GENERAL.—The amendments to part 320 of title 21, Code of Federal Regulations, promulgated by the Commissioner of Food and Drugs on July 17, 1991 (57 Fed. Reg. 17997 (April 28, 1992)), shall continue in effect as an exercise of authorities under sections 501, 502, 505, and 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, 355, 371).

(b) EFFECT.—Subsection (a) does not affect the authority of the Commissioner of Food and Drugs to amend part 320 of title 21, Code of Federal Regulations.

(c) EFFECT OF SECTION.—This section shall not be construed to alter the authority of the Secretary of Health and Human Services to regulate biological products under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.). Any such authority shall be exercised under that Act as in effect on the day before the date of enactment of this Act.

SEC. 8. REPORT.

(a) IN GENERAL.—Not later than the date that is 5 years after the date of enactment of this Act, the Federal Trade Commission shall submit to Congress a report describing the extent to which implementation of the amendments made by this Act—

(1) has enabled products to come to market in a fair and expeditious manner, consistent with the rights of patent owners under intellectual property law; and

(2) has promoted lower prices of drugs and greater access to drugs through price competition.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000.

SEC. 9. CONFORMING AND TECHNICAL AMENDMENTS.

(a) SECTION 505.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended—

(1) in subsection (a), by striking ''(a) No person'' and inserting ''(a) IN GENERAL.—No person'';

(2) in subsection (b)—

(A) by striking ''(b)(1) Any person'' and inserting the following:

''(b) APPLICATIONS.—

''(1) REQUIREMENTS.—

''(A) IN GENERAL.—Any person'';

(B) in paragraph (1)—

(i) in the second sentence—

(I) by redesignating subparagraphs (A) through (F) as clauses (i) through (vi), respectively, and adjusting the margins appropriately;

(II) by striking ''Such persons'' and inserting the following:

''(B) INFORMATION TO BE SUBMITTED WITH APPLICATION.—A person that submits an application under subparagraph (A)''; and

(III) by striking ''application'' and inserting ''application—'';

(ii) by striking the third through fifth sentences; and

(iii) in the sixth sentence—

(I) by striking ''The Secretary'' and inserting the following:

''(C) GUIDANCE.—The Secretary''; and

(II) by striking ''clause (A)'' and inserting ''subparagraph (B)(i)''; and

(C) in paragraph (2)—

(i) by striking ''clause (A) of such paragraph'' and inserting ''paragraph (1)(B)(i)'';

(ii) in subparagraphs (A) and (B), by striking ''paragraph (1) or''; and

(iii) in subparagraph (B)—

(I) by striking ''paragraph (1)(A)'' and inserting ''paragraph (1)(B)(i)''; and

(II) by striking ''patent'' each place it appears and inserting ''claim''; and

(3) in subsection (c)—

(A) in paragraph (3)—

(i) in subparagraph (A)—

(I) by striking ''(A) If the applicant'' and inserting the following:

''(A) CLAUSE (i) OR (ii) CERTIFICATION.—If the applicant''; and

(II) by striking ''may'' and inserting ''shall'';

(ii) in subparagraph (B)—

(I) by striking ''(B) If the applicant'' and inserting the following:

''(B) CLAUSE (iii) CERTIFICATION.—If the applicant''; and

(II) by striking ''may'' and inserting ''shall'';

(iii) by redesignating subparagraph (D) as subparagraph (E); and

(iv) in subparagraph (E) (as redesignated by clause (iii)), by striking ''clause (A) of subsection (b)(1)'' each place it appears and inserting ''subsection (b)(1)(B)(i)''; and

(B) by redesignating paragraph (4) as paragraph (5); and

(4) in subsection (j)—

(A) in paragraph (2)(A)—

(i) in clause (vi), by striking ''clauses (B) through ((F)'' and inserting ''subclauses (ii) through (vi) of subsection (b)(1)'';

(ii) in clause (vii), by striking ''(b) or''; and

(iii) in clause (viii)—

(I) by striking ''(b) or''; and

(II) by striking ''patent'' each place it appears and inserting ''claim''; and

(B) in paragraph (5)—

(i) in subparagraph (B)—

(I) in clause (i)—

(aa) by striking ''(i) If the applicant'' and inserting the following:

''(i) SUBCLAUSE (I) OR (II) CERTIFICATION.—If the applicant''; and

(bb) by striking ''may'' and inserting ''shall'';

(II) in clause (ii)—

(aa) by striking ''(ii) If the applicant'' and inserting the following:

''(i) SUBCLAUSE (III) CERTIFICATION.—If the applicant''; and

(bb) by striking ''may'' and inserting ''shall'';

(III) in clause (iii), by striking ''(2)(B)(i)'' each place it appears and inserting ''(2)(B)''; and

(IV) in clause (v) (as redesignated by section 4(a)(1)(B)), by striking ''continuing'' and inserting ''containing''; and

(ii) by redesignating subparagraphs (C) and (D) as subparagraphs (E) and (F), respectively.

(b) SECTION 505A.—Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended—

(1) in subsections (b)(1)(A)(i) and (c)(1)(A)(i)—

(A) by striking ''(c)(3)(D)(ii)'' each place it appears and inserting ''(c)(3)(E)(ii)''; and

(B) by striking ''(j)(5)(D)(ii)'' each place it appears and inserting ''(j)(5)(F)(ii)'';

(2) in subsections (b)(1)(A)(ii) and (c)(1)(A)(ii)—

(A) by striking ''(c)(3)(D)'' each place it appears and inserting ''(c)(3)(E)''; and

(B) by striking ''(j)(5)(D)'' each place it appears and inserting ''(j)(5)(F)'';

(3) in subsections (e) and (l)—

(A) by striking ''505(c)(3)(D)'' each place it appears and inserting ''505(c)(3)(E)''; and

(B) by striking ''505(j)(5)(D)'' each place it appears and inserting ''505(j)(5)(F)''; and

(4) in subsection (k), by striking ''505(j)(5)(B)(iv)'' and inserting ''505(j)(5)(B)(v)''.

(c) SECTION 527.—Section 527(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360cc(a)) is amended in the second sentence by striking ''505(c)(2)'' and inserting ''505(c)(1)(B)''.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I will propound a unanimous consent request. It has been agreed to on both sides. And then I would like to put the Senate in a quorum call so we might proceed in an organized way. I think we are just about there.

I ask unanimous consent that the committee-reported amendment be considered and agreed to, and the motion to reconsider be laid upon the table; that the bill, as thus amended, be considered as original text for the purpose of further amendment; that no points of order be considered waived by virtue of this agreement.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The committee amendment was agreed to.

Mr. DASCHLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. STABENOW). Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent the Senator from Arizona be recognized for up to 15 minutes and that I get the floor following the completion of his statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. The Senator from Arizona has indicated this is for debate only.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona is recognized for up to 15 minutes.

Mr. MCCAIN. Madam President, I thank the Senator from Nevada.

It is time to talk about the bill that is before us which, as we all know, is going to be used as a vehicle to attempt to address the very controversial issue of prescription drug benefits for Medicare.

I also thank the Senator from Massachusetts for passing this bill through his committee and reporting it to the floor.

I thank especially Senator SCHUMER who really is the person responsible for this legislation. All of us like to take credit for things in this body. The fact is, the reality is, Senator SCHUMER brought this issue, certainly the idea for this legislation, to my attention. He is the one who really worked on it. I am grateful he included me in this very important issue.

It is important to the people of my State and to all Americans. As we all know, there are large numbers of retirees who have been intelligent enough to move from New York to Arizona, and they are deeply affected by the cost of prescription drugs.

Mr. SCHUMER. Will the Senator yield for a brief comment?

Mr. MCCAIN. I am glad to yield to the Senator from New York.

Mr. SCHUMER. I thank my friend. I want to thank him. We have been in this together from the beginning—almost 2 years ago, when we realized that something had to be done. His steadfastness, his courage, and his constant efforts to refine the legislation and make it better and make sure we bring it to the floor has been a large part of why we are here. I thank the Senator for being a great colleague with whom to work. I wanted to repay the accolades and compliment of the Senator.

Mr. MCCAIN. I thank my friend from New York. Again, I reiterate that he really is the one who has been the leader in this issue and in this legislation. He is also well known for his tenacity.

Madam President, first of all, I think we also ought to understand that this issue alone—that of getting affordable drugs to all Americans—obviously, as I spoke of before, particularly seniors and those on fixed retirement incomes are the ones most dramatically affected. That is a critical issue in America today. I don't claim that this bill before us solves the problem of providing prescription drugs for all Americans, particularly seniors, but I do argue that this is a very important step in the right direction in lowering the cost of prescription drugs to all Americans.

Now, the drug companies have mounted a massive attack on this legislation. They were the major contributors in recent fundraisers on both sides of the aisle. It is not complicated. The bill is not complicated. It only has three or four provisions. Basically, what it achieves is an ability to do what the Hatch-Waxman bill was intended to do, and that is to make available generic drugs as early as possible, with respect for the rights of those who invested massive amounts of money, in many cases, in research and development and testing, and for them to have an adequate return on their investment. There is no intent here to harm the drug companies. What it is intended to do is to get drugs to the market in the generic fashion so people would only have to pay less.

Madam President, Allen Feezor, CalPERS' Assistant Executive Officer for Health Benefits, said:

> In two of the past three years, pharmaceutical costs have increased more than any other component in our CalPERS health rate.

CalPERS is the retirement plan for California employees, which are very large in number.

> In our Medicare Choice/Supplemental plans, pharmacy trend can account for over 50 percent of the increase in premium rates that we see in our retiree plans one year to the next.

The obvious result is very clear. Every year, prescription drugs become less and less affordable to all Americans but especially retirees. It should be noted. He goes on to say:

> It should be noted that in both our hospital and [prescription drug] trends, a measurable portion of the trend is due to increased utilization by our enrollees, but this cannot take away from the extraordinarily high trends in both pharmacy and hospital pricing.

The rising cost of prescription drugs is also playing a significant role in the growing financial burden companies experience as they struggle to provide employees with health care coverage. For example, General Motors, the largest provider of private sector health care coverage, spends over $4 billion a year to insure over 1.2 million workers, retirees and their dependents, $1.3 billion of which is on prescription drugs alone. Even with aggressive cost-saving mechanisms in place, GM's prescription drug costs continue to rise between 15 percent and 20 percent per year.

Given the crises in both corporate America and our Nation's health care

system, anticompetitive behavior in the marketplace is particularly onerous. That is what we are trying to get at, the anticompetitive behavior. This legislation is intended not to weaken patent laws to the detriment of the pharmaceutical industry, nor is it to impede the tremendous investments they make in the research and development of new drugs. The purpose of the underlying legislation is to close loopholes in the Hatch-Waxman act, and to ensure more timely access to generic medications. This is an important distinction which must be made clear.

However, to believe that patent laws are not being abused is to ignore the mountain of testimony from consumers, industry analysts, and the Federal Trade Commission. The Commerce Committee heard testimony regarding the extent by which pharmaceutical companies, including generic manufacturers, engage in anticompetitive activities and impede access to affordable medications. During that hearing, Chairman Muris, of the FTC, testified:

> In spite of this remarkable record of success, the Hatch-Waxman amendments have also been subject to abuse. Although many drug manufacturers, including both branded companies and generics, have acted in good faith, some have attempted to ''game'' the system, securing greater profits for themselves without providing a corresponding benefit to consumers.

The intent of the Hatch-Waxman act was to address the escalating costs of prescription drugs by encouraging generic competition, while at the same time providing incentives for brand name drug companies to continue research and development into new and more advanced drugs. To a large extent, Hatch-Waxman has succeeded in striking that difficult balance between bringing new lower cost alternatives to consumers, while encouraging more investment in U.S. pharmaceutical research and development.

In the 15 years since the enactment of Hatch-Waxman, research and development has increased from $3 billion to $21 billion. However, some bad actors have manipulated the law in a manner that delays and, at times, prohibits generics from entering the marketplace.

I believe this legislation will improve the current system while preserving the intent of Hatch-Waxman. This legislation is not an attempt to jeopardize the patent rights of innovative companies, nor does it seek to provide unfair advantage to generic manufacturers. Rather, the intent of this legislation is to strike a balance between these two interests so that we can close the loopholes that allow some companies to engage in anticompetitive actions by unfairly prolonging patents or eliminating fair competition. In doing so, we offer consumers more choice in the marketplace.

It is imperative that Congress build upon the strengths of our current health care system while addressing its weaknesses. This should not be done by imposing price controls or creating a universal, Government-run health care system. Rather, a balance must be found that protects consumers with market-based, competitive solutions without allowing those protections to be manipulated at the consumers' expense, particularly senior citizens and working families without health care insurance.

Madam President, today, there are probably buses leaving places in the Northeast and in the Southwest, loaded with seniors who are going either to Mexico or Canada to purchase drugs, which will probably cost them around half of what they would at their local pharmacy. There are people today, as we speak, who are making a choice between their health and their income. That is wrong. It is wrong. It is wrong when patent drug companies game the system by doing things like bringing suits, which then delays the implementation. It is wrong when the patent drug companies actually pay generic drug companies not to produce a particular prescription drug while they continue their profits, and it is wrong to game this system.

So here we are with a bill that with proper debate and perhaps amendments, could be passed by this body and is supported by an overwhelming number of consumer organizations. Even the patent drug companies and the generic drug companies themselves will admit that we need to make reforms.

Unfortunately, this statement that I have made and those made by Senator SCHUMER may be the only debate we have on this legislation which could be passed between now and September. So what are we going to do? What we are really going to do is have a debate over the prescription drug issue, Medicare, and that will bog us down with competing proposals, all of which will require 60 votes, and none of which has the 60 votes. At the end of 2 weeks, rather than passing this bill, which we should, we are going to say, oops, we really cannot come to an agreement, and if we did have an agreement, the House bill is very different, and we would have to go to a conference, from which bills would never emerge.

I think the American people deserve better. Why do we not pass this underlying bill, or at least make a commitment to pass this underlying bill, if the competing proposals that will be before us on Medicare prescription drugs do not receive 60 votes?

What I am afraid is going to happen is that none of the three will receive 60 votes. Then we will drop the bill and move on to other issues, and I think that is wrong. I think we know that with this approach, this underlying legislation, with some changes, absent, of course, the huge campaign contributions of the drug companies, we could reach an agreement which would be fair to the prescription drug companies, fair to the generics, and fair to the American public, and, indeed, in the view of anyone, including a recent study by the Federal Trade Commission that shows that these abuses are having a direct impact on the increasing costs of prescription drugs to all Americans particularly.

I remind my colleagues that we may be doing an injustice and a disservice to Americans for this year by not addressing this particular aspect of it and having it encumbered and bogged down by competing proposals.

I believe this legislation is fairly simple. It passed through the committee of jurisdiction with half of the Republican members voting for it. I know Senator GREGG, the ranking member, has some problems with it. I think with debate, amendment, and discussion, we could resolve those concerns that we might have and move forward.

Mr. GREGG. Will the Senator yield for a question?

Mr. MCCAIN. I would be glad to yield.

Mr. GREGG. The Senator characterizes my views accurately, and I agree with the Senator that this bill should be moved independent of the drug bill. Unfortunately, the greater issue, or game, of the drug fight has been set up to lose so that nothing will happen, as the Senator from Arizona so appropriately pointed out. I do think this is important legislation. I hope we will pass it somehow.

My concerns go to the expansion of lawsuits under the new cause of action. Much of the rest of the bill—in fact the vast majority of the rest of the bill—I think is excellent. I appreciate the work of the Senator from Arizona in bringing it forward.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MCCAIN. I ask unanimous consent for an additional 5 minutes, for debate purposes only.

Mr. REID. Under the same conditions we put forward earlier.

The PRESIDING OFFICER. There is no objection under the same conditions: When the Senator has completed, the Senator from Nevada will be recognized.

Mr. MCCAIN. I thank the Senator from Nevada.

Again, I thank the Senator from Massachusetts for getting this bill through the committee. I thank Senator GREGG from New Hampshire for his willingness to work with us, even though he has a couple of concerns that I think we could work out.

I urge my colleagues again, if the Medicare prescription drug issue is not resolved, to go back to the underlying bill, pass it, and perhaps we can give the American people at least some relief between now and next year.

This issue is not going away. Maybe after this year's elections we could try to address it in a more nonpartisan fashion.

On another issue, very briefly, in this morning's Washington Post there is an article by Mr. Andrew Grove, who is the chairman of the Intel Corporation.

I believe he is one of the most respected men in America. He makes a case that is very important. He outlines some of the changes he thinks need to be made in the area of increasing corporate responsibility. I think it is worthwhile to be included in the RECORD.

I ask unanimous consent that the article appearing in the Washington Post by Andrew S. Grove called ''Stigmatizing Business'' be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STIGMATIZING BUSINESS

(By Andrew S. Grove)

I grew up in Communist Hungary. Even though I graduated from high school with excellent grades, I had no chance of being admitted to college because I was labeled a ''class alien.'' What earned me this classification was the mere fact that my father had been a businessman. It's hard to describe the feelings of an 18-year-old as he grasps the nature of a social stigma directed at him. But never did I think that, nearly 50 years later and in a different country, I would feel some of the same emotions and face a similar stigma.

Over the past few weeks, in reaction to a series of corporate scandals, the pendulum of public feeling has swung from celebrating business executives as the architects of economic growth to condemning them as a group of untrustworthy, venal individuals.

I have been with Intel since its inception 34 years ago. During that time we have become the world's largest chip manufacturer and have grown to employ 50,000 workers in the United States, whose average pay is around $70,000 a year. Thousands of our employees have bought houses and put their children through college using money from stock options. A thousand dollars invested in the company when it went public in 1971 would be worth about $1 million today, so we have made many investors rich as well.

I am proud of what our company has achieved. I should also feel energized to deal with the challenges of today since we are in one of the deepest technology recessions ever. Instead, I'm having a hard time keeping my mind on our business. I feel hunted, suspect—a ''class alien'' again.

I know I'm not alone in feeling this way. Other honest, hard-working and capable business leaders feel similarly demoralized by a political climate that has declared open season on corporate executives and has let the faults, however egregious, of a few taint the public perception of all. This just at a time when their combined energy and concentration are what's needed to reinvigorate our economy. Moreover, I wonder if the reflexive reaction of focusing all energies on punishing executives will address the problems that have emerged over the past year.

Today's situation reminds me of an equally serious attack on American business, one that required an equally serious response. In the 1980s American manufacturers in industries ranging from automobiles to semiconductors to photocopiers were threatened by a flood of high-quality Japanese goods produced at lower cost. Competing with these products exposed the inherent weakness in the quality of our own products. It was a serious threat. At first, American manufacturers responded by inspecting their products more rigorously, putting ever-increasing pressure on their quality assurance organizations. I know this firsthand because this is what we did at Intel.

Eventually, however, we and other manufacturers realized that if the products were of inherently poor quality, no amount of inspection would turn them into high-quality goods. After much struggle—hand-wringing, finger-pointing, rationalizing and attempts at damage control—we finally concluded that the entire system of designing and manufacturing goods, as well as monitoring the production process, had to be changed. Quality could only be fixed by addressing the entire cycle, from design to shipment to the customer. This rebuilding from top to bottom led to the resurgence of U.S. manufacturing.

Corporate misdeeds, like poor quality, are a result of a systemic problem, and a systemic problem requires a systemic solution. I believe the solutions that are needed all fit under the banner of ''separation of powers.''

Let's start with the position of chairman of the board of directors. I think it is universally agreed that the principal function of the board is to supervise and, if need be, replace the CEO. Yet, in most American corporations, the board chairman is the CEO. This poses a built-in conflict. Reform should start with separating these two functions. (At various times in Intel's history we have combined the functions, but no longer). Furthermore stock exchanges should require that boards of directors be predominantly made up of independent members having no financial relationship with the company. Separation of the offices of chairman and CEO, and a board with something like a two-thirds majority of independent directors, should be a condition for listing on stock exchanges.

In addition, auditors should provide only one service: auditing. Many auditing firms rely on auxiliary services to make money, but if the major stock exchanges made auditing by ''pure'' firms a condition for listing, auditing would go from being a loss leader for these companies to a profitable undertaking. Would this drive the cost of auditing up? Beyond a doubt. That's a cost of reform.

Taking the principle a step further, financial analysts should be independent of the investment banks that do business with corporations, a condition that could do business with corporations, a condition that could and should be required and monitored by the Securities and Exchange Commission.

The point is this: The chairman, board of directors, CEO, CFO, accountants and analysts could each stop a debacle from developing. A systemic approach to ensuring the separation of powers would put them in a position where they would be free and motivated to take action.

I am not against prosecuting individuals responsible for financial chicanery and other bad behavior. In fact, this must be done. But tarring and feathering CEOs and CFOs as a class will not solve the underlying problem. Restructuring and strengthening the entire system of checks and balances of the institutions that make up and monitor the U.S. capital markets would serve us far better.

Reworking design, engineering and manufacturing processes to meet the quality challenge from the Japanese in the 1980s took five to 10 years. It was motivated by tremendous losses in market share and employment. Similarly, the tremendous loss of market value from the recent scandals provides a strong motivation for reform. But let us not kid ourselves. Effective reform will take years of painstaking reconstruction.

Our society faces huge problems. Many of our citizens have no access to health care; some of our essential infrastructure is deteriorating; the war on terror and our domestic security require additional resources. Attacking these problems requires a vital economy. Shouldn't we take time to think through how we can address the very real problems in our corporations without demonizing and demoralizing the managers whose entrepreneurial energy is needed to drive our economy?

Mr. MCCAIN. I will read the last paragraph of Mr. Grove's column. He said:

Our society faces huge problems. Many of our citizens have no access to health care; some of our essential infrastructure is deteriorating; the war on terror and our domestic security require additional resources. Attacking these problems requires a vital economy. Shouldn't we take time to think through how we can address the very real problems in our corporations without demonizing and demoralizing the managers whose entrepreneurial energy is needed to drive our economy?

I might point out that a number of the proposals Mr. Grove has made are not incorporated in the Sarbanes bill, and if we have to go back and revisit this issue, which I am afraid we might, I hope everyone will pay attention to some of his proposals.

As is well known to most of us, Mr. Grove grew up in Communist Hungary, escaped at a very early age. He wrote a marvelous book about it. It is a great American success story. I think he is one of the most respected men in America. He has been at Intel since its inception 34 years ago, and it has become the world's largest chip manufacturer and grown to employ 50,000 workers in the United States, whose average pay is around $70,000 a year.

So I hope we will pay attention to Mr. Grove's recommendations, as well as his statements of principle.

I thank my colleagues for allowing me to debate the bill, and I yield back the remainder of my time.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4299

(Purpose: To permit commercial importation of prescription drugs from Canada)

Mr. REID. Madam President, I send an amendment to the desk on behalf of Senators DORGAN, WELLSTONE, and STABENOW.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. DORGAN, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, and Mr. FEINGOLD, proposes an amendment numbered 4299.

Mr. REID. 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. REID. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered.

AMENDMENT NO. 4300 TO AMENDMENT NO. 4299

(Purpose: To provide a substitute for the amendment)

Mr. REID. 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. DORGAN, proposes an amendment numbered 4300 to amendment No. 4299.

Mr. REID. Madam 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. REID. Madam President, we appreciate the cooperation of the managers of this bill. At this point, we are now going to be in a posture to debate drug reimportation. We would hope we could have time agreements on this on whatever the minority wishes to offer.

Prior to that, I ask unanimous consent the Senator from Maine, Ms. SNOWE, be recognized for 20 minutes to speak on the bill, or whatever she chooses to speak on.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. SNOWE. Madam President, I rise today to begin a discussion on the prescription drug benefit and specifically the one that has been introduced by the tripartisan group including Senator GRASSLEY, Senator BREAUX, Senator JEFFORDS, Senator HATCH, and myself.

Before I proceed, I express my support for the amendment offered by Senator DORGAN regarding reimportation. I have long supported that initiative. Many of my seniors in the State of Maine have to travel across the border into Canada in order to get prescription drugs that are offered lower there than in the United States. It is a tragedy that compels seniors to be put in a situation where they have to cross the border in order to do that. I hope we can support that amendment so they can have the benefit of those lower priced prescription drugs in the United States. It is the only fair approach. It is one way of addressing the issue of controlling costs and making costs competitive so they can have the benefit of lower prices.

I am very pleased to talk about the tripartisan proposal. I regret we have not had the opportunity in the Senate Finance Committee to be able to consider competing proposals, certainly the one that has been introduced by the ranking member, Senator GRASSLEY, Senator BREAUX, Senator JEFFORDS, and Senator HATCH and myself, along with other proposals, that obviously has the support of other members of the committee.

We should do everything we can to have the opportunity to explore, to debate, to consider the various proposals. Obviously, that starts within the committee process. It is unfortunate at this point as we begin to debate the other issues in the underlying bill, which is an important piece of legislation, that we are not in a position of being able to consider a prescription drug benefit plan. That is not the way the process ought to work. If you look at what happened on the tax bill last year, no one knew what the vote would be in the committee, let alone on the floor, but we had the opportunity to address the issue within the Senate Finance Committee. It ultimately passed 14 to 6.

When it came to the floor, it had 53 votes and ultimately yielded a vote of 62 to 38. That is the way the process works. We did not write the ending first. The prologue begins in the committee.

In this case, one of the most significant social domestic issues facing this country today, prescription drug benefits, Medicare authorization, and we have not been able to have a markup in the committee of jurisdiction, the Senate Finance Committee, we are told, because it does not have 60 votes. How many bills that are marked up in the committee have 60 votes before they hit the floor of the Senate? How do we know? How do we know until we begin the process of debating, analyzing, considering various issues? That is what this process is all about.

I truly regret we have not had the chance to be able to consider this bill in the manner it deserves and in the manner it deserves for the seniors of this country who are dealing with the overwhelming burden of the high costs of prescriptions. Why are we allowing this to be politicized? Why are we allowing this to be a matter of partisanship?

We have come a long way just on the funding issue alone. I have been working on this issue in the Senate Budget Committee with then-Chairman DOMENICI, Senator WYDEN, Senator SMITH, and others, and we were able to develop a reserve fund. We started with $40 billion, which was more than then-President Clinton had proposed. We are up to $300 billion, and our tripartisan proposal is $370 billion, recognizing that as every year passes, the price goes up and up. We have come a long way in even understanding that we are going to have to spend more to provide a strong benefit to seniors, and we must start now.

Some people might just want the issue for the next election. Maybe that is what it is all about. Maybe some people want to see a headline that says: Senate fails to muster the 60 votes; the issue is put off for another year. I do not want to see that kind of headline. I do not think it is fair to the seniors in this country because I know this institution can do better, and that is why we put forward this tripartisan proposal because we did not want partisan differences, political differences, philosophical differences to impede our ability to address this most important issue to the seniors in this country.

That is why we undertook this effort more than a year ago in our tripartisan group to see what we could agree to that would provide a most substantial benefit to the seniors in this country. Seniors cannot put off their illnesses. We should not be putting off a solution, and we crossed the political divide to develop our tripartisan proposal.

We worked closely with the Congressional Budget Office to ascertain the precise cost of our proposal so we do not jeopardize the solvency of the Medicare Program for future generations. We developed a competitive, efficient model to yield the best results for seniors as well as for the Government.

I do not want partisanship to jeopardize our ability to send a bill to the President, Madam President. I want to break the logjam here and now. Seniors have heard the excuses. How can we do anything less than give this our full effort here and now, particularly for the one-third of the Medicare beneficiaries who have no coverage whatsoever?

The Medicare Program is outdated, given the fact that it does not include a prescription drug benefit first and foremost, and we need to bring Medicare into the 21st century. The best way we can do it is by adding a prescription drug benefit.

It is simply unconscionable in a country of our means and wealth that older Americans should ever have to choose between filling their cupboards and filling their prescriptions. That is not hyperbole; that is not exaggeration; that is the truth. It certainly is the truth in my State. People are forced to make those tragic choices, and we have within our means right here and now, Madam President, to make the difference so seniors are no longer forced to make that terrible choice.

That is why we have offered the plan that we have. That is why I do not want to bypass the committee, because I know that is our best opportunity to pass a prescription drug benefit when we complete the process that begins in the committee.

We should not have any political motivations or maneuvers to bypass the process. I have been told: We cannot consider a bill in the committee that does not have 60 votes. Since when has that been a precondition for any markup in the committee? Then I am told: We cannot have a bill that is not supported by the Democratic leadership. I never thought that prevented us from doing our job; that eventually we could reach results.

We are not saying our bill is written in concrete. We are saying this is a beginning. It is a basis for action. Henry Ford used to tell his Model T customers that they could have any color they wanted for a car as long as it was black. It sort of reminds me of the situation we are in today: We will consider a prescription drug bill as long as it is ours.

We are saying let's bring out the proposals in the committee, let's go through the committee process, and then let's report out a bill to the floor. The tripartisan bill has the support of 12 members of the committee as we speak—12 members of the 21. We have the support in the committee, but let's go through the committee process. Let's do what we need to do.

Refusing to have a markup in the Senate Finance Committee is hiding behind false pretenses that we should only act if we have 60 votes.

Madam President, I want to discuss the tripartisan proposal and what it is.

First and foremost, it is a plan that offers an affordable, comprehensive, and available prescription drug benefit to seniors. It maximizes the benefits for the low-income seniors, and finally, it is a fully funded, permanent part of the Medicare process. There will be no sunsets. Providing a sunset in legislation, as has been recommended by the other competing plan offered by the Senator from Florida, is really providing a false hope to seniors. How can we tell them: Oh, by the way, in 7 years your benefit will expire? I think that is doing a tremendous disservice to seniors in this country, saying we are only willing to give this benefit for 7 years, so you had better not have an illness because we are not going to be able to give you a benefit in 7 years.

Our plan is fully funded and a permanent part of Medicare. It has been scored and estimated for cost by the Congressional Budget Office. They have vetted every aspect of our proposal. It is right here in a major legislative initiative. It is right here for everybody to review and to evaluate.

The plan is universal. It is offered to every Medicare beneficiary. That was a major priority for us, and it was a major priority for the seniors in this country in all the discussions we had with seniors and AARP. They wanted a universal, at the lowest possible monthly premium, and that is exactly what our benefit provides. It is lower than any other proposal that has been offered: A monthly premium of $24.

It will be offered to seniors whether they live in urban areas or rural areas. They will have a choice of a minimum of two plans, no matter where they live in America. The plan is targeted for seniors between 135 percent and 150 percent of the poverty level. That is about $18,000 for an elderly couple. They will receive coverage for about $12 a month at 150 percent of the poverty level. Below 135 percent they will pay no premium, no deductible whatsoever.

The plan is comprehensive. They will have access to every drug, whether it is a generic drug or the most advanced innovative therapies. It also will provide relief from catastrophic costs from high annual prescription drug costs.

Most of all, the plan will save the seniors real money, anywhere from 33 percent to 98 percent in out-of-pocket expenses, with the average senior saving more than $1,600 every year, as my colleagues can see on this chart. The average spending for seniors without any drug benefit in 2005 will be $3,059 per year; more than a quarter of Medicare beneficiaries spend more than $4,000.

The average savings under our proposal for seniors above 150 percent of the poverty level will be more than 53 percent. For those below 135 percent, they will save 98 percent—98 percent—in their costs of prescription drugs. But no matter, the average savings to seniors will be at least one-half, more than $1,600.

Our plan eliminates the so-called donut for lower income seniors, the seniors hardest hit by high drug costs. There are 11.7 million Medicare beneficiaries who have incomes below 150 percent of the poverty level, and they are exempt from the $3,450 benefit limit. The enrollees between 135 percent and 150 percent of the poverty level will have a monthly premium based on a sliding scale that ranges from anywhere from zero to 24 percent.

The 10 million Medicare beneficiaries who have incomes below 135 percent of the poverty level will see, as I said, 98 percent of their prescription drug costs covered by this plan with no monthly premium. These seniors are exempt from the deductible and will pay an average coinsurance of anywhere from $1 to $2 for prescription drugs.

They also have the protection of catastrophic limits, which will be $3,700 under our legislation. That is where the catastrophic benefit limit will begin, at $3,700. And they will have full protection against all drug costs with no coinsurance.

All enrollees will have access to discounted prescription drugs after reaching the $3,450 benefit limit and before the $3,700 catastrophic benefit limit.

They will all still have access to discounted drugs between the $3,450 and the $3,700 catastrophic benefit. In fact, 80 percent—let me repeat, 80 percent—of the enrollees will never be affected by the benefit limit of $3,450.

As you can see from this chart, I want to repeat, it has the lowest premium of any of the comprehensive proposals that have been introduced, at $24. Ninety-nine percent of Medicare beneficiaries, according to CBO, will be participating under this program—99 percent. Let me repeat, 99 percent.

The coinsurance paid for the top 50 drugs is $21. I want to compare that to the proposal offered by the Senator from Florida, because under the nonpreferred drug plan, of the top 50 drugs, we provide a lower coinsurance on all but one. And for the top 50 drugs in the preferred drug list, we provide a lower coinsurance than the proposal offered by Senator GRAHAM of Florida on all but 11 of the 50 drugs on the top 50 list.

So we are not only more substantial when it comes to providing the coinsurance on all of these preferred and nonpreferred drugs—as you see listed on the chart are the preferred drugs. For all but 11 out of the 50 drugs, we are lower in our copays than the proposal offered by Senator GRAHAM of Florida. And for the nonpreferred drug list, we are lower for all but 1 out of the 50 drugs. In other words, for 49 out of the 50 we are lower. We provide a lower copay for these prescription drugs, not to mention the fact that we provide a lower monthly premium of $24 a month for those who are 150 percent above the poverty level. For those that are below 135 percent of the poverty level, they pay zero. And more importantly, our proposal is not sunsetted.

CBO estimated, as I said, that 99 percent of seniors will have coverage under this proposal—99 percent of seniors. I think it is important for everybody to understand that if we are going to offer a prescription drug benefit, and if we are serious about making sure it is part of the Medicare Program, then, clearly, it is important that we make sure that it never expires, that we do not resort to budget gimmicks or artificial sunset requirements that provide a false hope to seniors.

Seniors deserve better than a false hope of a drug benefit that expires after 7 years with no guarantee of further coverage. I think that would be regretable if we decided to take that approach.

That is why we initiated this effort more than a year ago, to provide a benefit that was generous, that would help the low incomes first and foremost, that was universal, that was affordable, that did not jeopardize the future financial stability of the Medicare Program—because, obviously, that has to be the foremost concern to all of us as well as to seniors—and that we had the maximum benefits possible for seniors against high annual drug costs.

So I hope we will have the opportunity to have an honest, thorough debate on a prescription drug benefit that can be included as a permanent part of the Medicare Program.

Seniors are struggling under the burden of high prescription drug costs. We cannot allow election year politics to overwhelm any chances, any possibilities of getting a Medicare drug benefit through the Senate this year. We must allow a full debate to occur on this issue both in the committee and on the floor.

The Finance Committee should be a part of this process. Each of us has a stake—individually and collectively—about the kind of process we are willing to embrace in the Senate.

It does make a difference as to whether or not we are going to choose to bypass the committees repeatedly and bring up significant legislation on the floor without having the benefit of the committee process and for those Members who serve on those respective committees to be part of that process.

So each of us has a responsibility to that process, and, most critically, when it comes to such an important issue to millions of Americans: Those who are struggling under the weight of

high prescription drug costs and those who can expect to face the same problem in the future.

I think each of us here knows that without a markup in the committee we are creating a predetermined train wreck. We are heading for a train wreck because we are creating a process designed for failure. It is designed for politics. It is not designed for creating a solution to a serious problem.

I think if we continue to resort to these ill-advised procedures and political maneuvers and charades, and if we continue to allow this political choreographing which sort of superficially addresses the issue but does not really because we do not really want to create a consensus and a compromise because we want the issue for this year's elections, then we have failed and this Senate has abrogated its responsibility to do what is right.

That is what it is all about. It is whether or not we choose to do what is right. I think we all know what is right. Those of us in our tripartisan group—I am not saying that our proposal, as I said earlier, is written in stone. It is not a finite product, but it is a serious product. It is one that has evolved for more than a year. It is one that has been evaluated by the Congressional Budget Office. And it is the only proposal that has been introduced that has bipartisan, tripartisan support, and the only one that has been scored by the Congressional Budget Office.

It is the only one that has the lowest monthly premium. And it is the one that is not sunsetted. It is a permanent part of Medicare.

Getting back to this chart, seniors pay less for the top 50 prescriptions under the tripartisan plan versus the Graham-Kennedy-Miller proposal. They pay less. So they pay less on their monthly premium, and they pay less in their copays for the top 50 prescriptions, either on the preferred drug list or on the nonpreferred drug list.

Those are the facts.

I just hope that we will have the opportunity to consider this legislation and other competing proposals—such as the one offered by the Senator from Florida, Senator GRAHAM—in committee; utilizing the committee process to amend, to debate and to vote on a final measure. My proposal, as it stands, has the votes in the committee.

But let us go through the committee process. We would be more than happy to evaluate other issues and other amendments of the members of the committee.

I just do not understand why we can't have a markup in the Senate Finance Committee. We are here to do our job. That is our responsibility. That is why we have the committee process. I want to be able to legislate the best solution to the problem. We have come up with a proposal. Others have other proposals. But let us have a competition of ideas and debate in the committee that allows for the best hope for getting a bill through on the floor of the Senate that will yield the 60 votes, that will go to conference, and the differences worked out with the House.

As others have said, let us get a bill to the President for his signature this year. I don't want another year to go by. That is what I have been hearing every year. I have been hearing it every year now. Four years ago, they said next year. Next year turns into 2 years, 4 years, 6 years. How long do we think seniors can wait for this prescription drug benefit? How long? How long is it going to take? Why is it that we have to have these political machinations? Our group—Senator GRASSLEY, Senator BREAUX, Senator JEFFORDS, Senator HATCH—has worked long and hard for more than a year. Why can't we have a markup in the committee on this issue?

I would like to have a reasonable answer to that question. But I don't think I am going to get a reasonable answer. There is nothing to justify precluding us from doing our jobs in the committee. There is nothing acceptable by what is happening here.

I am here to legislate. I don't expect everybody to agree with my thoughts or my ideas or my proposals. But I do expect that we will honor the process by which we have the ability to do our job. Otherwise, we have all failed.

I don't care if it is a day before the election. I don't care. The time is now. To be frank with all of you, I think that we should reach the limits of our frustration with this process. Why do we continue to say it is acceptable? The same machinations existed with the health care proposal back in 1994. It is exactly the process it took. It bypassed the committee process and came to the floor. Guess what. Nothing happened.

Here we are in the year 2002—2002. We don't have a bill. The same is going to happen with prescription drugs. People will say next year: We can't do it.

We are getting paid to do our jobs now—not next year. We were elected to do our job now. Senator GRASSLEY has worked long and hard.

Senator GRASSLEY, the ranking member of the Senate Finance Committee, has gone the extra mile to reach out to both sides, to the chairman, to other members of the committee, and to others here on the Senate floor across the aisle, and as he did in this tripartisan proposal. Senator BREAUX and Senator JEFFORDS have also worked with us. We have been working together because we know this is the only way we can accomplish this most important issue for the seniors of this country.

I hope we will do the right thing. Let's begin this process in the Finance Committee so that we can consider the proposals on the floor which will ultimately yield the best results, not only in terms of policy but for the seniors of this country.

I yield the floor.

The PRESIDING OFFICER (Mr. REED of Rhode Island). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I intend to speak for a very few moments, and then hopefully we will be on the amendment of the Senator from North Carolina.

First of all, I thank my good friend, the Senator from Maine, for her very eloquent and passionate speech and statement in favor of the strong prescription drug program. It was eloquent, indeed. There were parts of it that I agree with very much. There were some parts to which I take exception. But I welcome the opportunity to have the kind of discussion and debate that she eagerly awaits here in the Senate.

I agree with her that it is long overdue. I agree with her that the time is now. I agree certainly with her that we are going to have to find common ground. I hope very much that we can.

I respect those who have gone forward and supported the tripartisan proposal.

Let me offer a few quick facts. Virtually none of the senior groups are supporting the tripartisan program. That doesn't have to be the bottom-line test. But they believe it doesn't provide the kind of protections that are in the Graham-Miller legislation—I think that they believe this for a very good reason. The tripartisan proposal has an assets test that will exclude many of the neediest of our senior citizens. The assets test says that if you have assets worth more than $1,500, or a car worth more than $400, or personal property worth more than $4,000, you are not eligible. That would affect a great many of the people in my State.

I think it is also demeaning to seniors to have to go in and try to give an assessment of what these personal items really are. I think we will have a chance to debate that.

One of the very important aspects of the Graham bill is that it doesn't have that test.

Second, there has been a good deal of talk about the estimated premium of $24. That is just an estimate because this program is turned over to the insurance companies. There is virtually no guarantee that the premium is going to remain $24. It may be $34 or $44.

I find that senior citizens in my State want certainty, they want predictability, they want to know exactly what that premium is going to be now. That is something that we will have to debate.

Third, as the Congressional Budget Office indicated, it will mean that 3.5 million seniors who are covered by their employer will be dropped for a less adequate program because there is no reimbursement for the employers.

That is not a finding that I make. It is a finding that the Congressional Budget Office makes.

Finally, I want to make this point. The issue of prescription drugs has been before the Finance Committee for 5 years. For 4 of the last 5 years, the Finance Committee has been under Republican control, and we have had Republican leaders on the committee.

This is the first chance we have had to debate it.

I listened to the Senator talk about wanting an answer to why we are not having a markup. I question why we didn't have one over the last 4 years. Now, under a Democratic leader, we are going to debate and hopefully take action on the floor.

I don't think people in my State are wondering about the committee process and how we are going to give adequate time for the committees to work. They want the Senate to act. That is the commitment of our leader. That is what they want.

I look forward to having the opportunity to act.

As the leader has pointed out, we want to try to deal with some of the issues of accessibility and also cost containment. In that cost containment debate, we have had strong bipartisan support in our committee—now 16 to 5. We had five Republicans who worked very closely on this issue.

We are going to find that there will be substantial savings for seniors as a result. We are going to hopefully have the opportunity to consider other amendments on this that are going to help deal with the problems of the cost of prescription drugs. Then we will have an opportunity to debate the other provisions.

But, as always, the Senator from Maine is eloquent, she is passionate, and she is knowledgeable about these issues.

I am very hopeful that before the end of this debate we will be on the same side in terms of supporting a program that will be worthy of the people of Maine as well as Massachusetts.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, it is appropriate to address again the issue of why this bill should have been vetted—not this bill we are hearing about, the big bills that are coming at us, the drug bills for drug benefits under Medicare—why they should have been vetted by the Finance Committee.

The Senator from Massachusetts represents that it didn't happen the last 5 years. There was no bill reported out of the committee. So why should the committee have to take it up this year? Why not just write it in the office of the majority leader, which is what has happened here? We haven't seen the bill. It is ironic. We have had all the representations as to what the Democratic bill is. We haven't even seen the bill. It hasn't been scored. It doesn't exist, as far as we know. Yet there are people out here puffing its strengths.

The reason you have to take this to committee is that if you don't take it to committee, you guarantee, almost, that you will not pass a bill. You are certainly not going to pass a bill that was drafted in some back office around here. If the bill does not go through the Finance Committee, it requires 60 votes to pass this body. It is subject to a point of order under the Budget Act.

It appears that the reason Senator GRASSLEY, being ranking member on the Finance Committee, Senator BREAUX, Senator SNOWE, being members of the Finance Committee, and Senator HATCH is supportive of this bill and is a member of the committee—it appears within the Finance Committee there is a working majority to pass a bill out, specifically the tripartite bill. Senator JEFFORDS is a member of the committee who is on this bill. There is a working majority to pass the bill out of the committee right now. If that happens, when the bill comes to the floor, it only needs 51 votes to pass and you actually get a drug benefit for senior citizens.

The way this process has been set up by the Democratic leadership is to create a hurdle that makes it virtually impossible to get a bill off the floor of the Senate. That is the difference. That is why you need to go through committee. The difference is that simple.

If you want to pass a bill, you go through the committee so you only need 51 votes to pass it. If you don't want to pass a bill, don't take it through the committee, because then you create a hurdle of 60 votes, and it makes it virtually impossible to pass the bill.

This is a process which has been set up to fail, as has been mentioned by innumerable speakers. It has been set up to fail. It has been set up to create a political issue as we go into the August recess before the November elections.

That is unfortunate. It is cynical. The Senator from Maine has, in terms of considerable outrage, expressed her frustration with that type of process. She has worked conscientiously with the Senators from Iowa and Louisiana, and other Senators in this body, to develop what is a consensus piece of legislation which will give seniors who are in dire need of it a very significant benefit in the area of drugs, for purchasing the drugs they need to live a decent life. It is a bill which is fairly expensive. We are talking, I believe, about $400 billion. That is a lot of money. Maybe it is $350 billion over 10 years.

Whatever it is, it is a very expensive bill. We are talking about taking a large amount of money from working Americans out of their paycheck through taxes and using it to support a seniors drug benefit, a very reasonable approach. Because it is such a large amount of money, it is outside the budget which we presently have in place. We have a $300 billion number which we put in place as a Congress last year to try to address the drug issue to help seniors. The plan, bipartisanly reached, tripartisanly reached, exceeds that number, as does every other plan being proposed, except for the Hagel-Ensign plan which is below that number.

All the other plans, with the exception of Hagel-Ensign, are subject to a point of order and, thus, subject to 60 votes. And it is extremely unlikely, considering the nature of the Senate, that you will get 60 votes for a final package. There are three different competing packages on our side, and there is this phantom package on the other side being written in an office, or a cloakroom, or a closet somewhere, and which we will see someday.

In any event, we know it has not been adequately vetted and we know the number is very high, over $600 billion minimum, maybe as high as $1 trillion if it is honestly scored.

That is why you have to go through committee. The committee has the expertise on it. That is important. More importantly than that, the committee gives the imprimatur of budgetary action, and if a bill is reported out of the committee, it meets the budgetary guidelines; it is not subject to a point of order.

So the misrepresentation that if it didn't happen the last 4 years that the committee reported out a bill on this issue, why should the committee have to report now, is a bit of a red herring. The issue isn't that you didn't do it 4 years ago. The issue is, do you want to pass a drug benefit package today or do you want a political issue? If you want a political issue, don't run it through the committee, bring it out on the floor and guarantee it fails because it can't get 60 votes. If you want a drug benefit package, put it through committee, and the committee comes out with a package, which would probably be the package outlined by Senator SNOWE, and it gets 51 votes at least. I suspect it will get more than 51—in the midfifties, probably.

Then you have a package with which you can turn to your senior citizens and say: This will be a significant benefit to you as you deal with the issue of prescription drugs. That is the difference. That is why you need committee action on this bill. As long as there is no committee action, I suspect you are guaranteeing failure.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we will move on from here, but the fact is, as the Senator stated correctly, if it were less than $300 billion, then it would need 51 votes. But the Senator from Maine's proposal is $370 billion. So they are going to need 60 votes, too. Do we understand? I don't understand what the Senator from New Hampshire was talking about. They are going to need 60 votes for their proposal because they are going to violate the point of order.

When we are talking about the fact that the seniors are going to spend, over 10 years, $1.8 trillion. With $300 billion you are going to do very little to offset the kinds of challenges they are facing.

Finally, I have listened to our Republican leader, to my good friend from New Hampshire about following the committees and how important it is to follow the procedures. I am so thankful that we have a leader who is bringing this to the floor of the Senate at last.

Now we hear this is circumventing procedure.

In May of 2000, Republicans brought S. 2557 to the floor, an energy bill sponsored by Senator LOTT, without committee approval; that was the big energy bill. In March 2000, Republicans brought legislation to the floor to eliminate the earnings test for individuals without committee approval. I voted for that. I am glad they did it. In June of 1999, Republicans brought the Social Security lockbox to the floor without committee approval. In July 1996, Republicans brought the Taxpayer Bill of Rights.

It seems they were prepared to bring a lot of other things, but they didn't bring a prescription drug bill to the floor. This leader has said this is the priority and that is why we are having this debate today.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, the amendment we are now considering, a first- and second-degree amendment, I have offered for myself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Ms. SNOWE. It is a bipartisan amendment. It is a very important amendment—one that addresses a part of that which we are here to consider on the floor of the Senate on the issue of prescription drugs.

Let me describe what the problems are. One, we don't have a prescription drug benefit in the Medicare Program, and we need to change that. We need to add a prescription drug benefit to the Medicare Program. Why do we need to do that? Because when Medicare was created, many of the lifesaving miracle drugs that exist now that allow senior citizens to live a longer and healthier life did not exist. So Medicare was basically an opportunity to provide health insurance coverage for doctors and hospitals but no prescription drug coverage. That was back in the 1960s. Things have changed.

Were we to write a Medicare Program today, we would clearly include prescription drug coverage in that Medicare Program. I mentioned senior citizens especially because that is who benefits from the Medicare Program. They represent about 12 percent of the population of our country, and they consume one-third of all prescription drugs. It is not unusual at all to talk to a senior citizen who has a series of health issues, as they have reached the later stages of their lives, and they have to take 4, 5, 10, and in some cases 12 different prescription medicines every day in order to deal with their health issues.

The problem is, when senior citizens reach that time of their lives where they have retired and have a lower income, they have less ability to be able to afford those prescription drugs. With the cost and spending increasing substantially, senior citizens are finding all too often that the prescription drugs they need to take are simply out of reach.

Let me describe some of the consequences that result. I talked yesterday about the woman who came up to me—and all of us have had this experience—she grabbed me by the elbow and said: Senator DORGAN, can you help me?

I said: What is wrong?

She said: Well, I have very serious health problems and my doctor prescribed prescription drugs that I must take, but they are too expensive. I don't have the money to be able to afford them.

Her eyes welled up with tears and her chin began to quiver and she began to cry.

She said: Can you help me, please?

This happens all across the country every day. Let me just read some letters. This is from a North Dakotan who wrote me some while ago, about 2 months ago:

> DEAR SENATOR DORGAN: I just returned from a drug store, where I happened to witness a very pathetic situation that brought tears to my eyes. Standing in front of me at the counter was an elderly gentleman about 80 years of age. He handed 2 prescriptions to the pharmacist. He said, ''Before you fill these, can you tell me what the price is?'' The pharmacist checked the price through her computer and told the elderly man, ''The first prescription is $94.76. The next prescription is $49.88. Do you want me to fill them for you?'' The old man looked around and was deep in thought and said, ''No, I guess not. I haven't bought Christmas presents for my wife and grandchildren. I will just put up with the pain.'' Using his cane, he walked away.

''God bless America,'' she writes. ''I just thought,'' she said, ''you and your Senate colleagues who have reservations about the need for lower priced prescription drugs ought to understand that this is going on in our country.''

A North Dakotan wrote to me and said:

> I am 86 years old, so I cannot work.

Her first thought, of course, would be to work.

> I am 86 years old, so I cannot work. I am writing in regard to the medication I take. I get $303 in Social Security every month. I have never worked out of my home. I pay $400 a month for my medication. I have had heart surgery and have osteoporosis of the bones. The medicines are very high priced. We need help. We are using all of our savings. I am 86 years old, so I cannot work.

Another woman from my State says:

> I am a person with scleroderma, diagnosed at the Mayo 24 years ago. While this disease attacks different parts of my body, it's mainly my lungs. I have been on oxygen for 2 years now. A new medication is out named Tracleer. One pill a day is $3,600 a year. I called Medicare to see if there was an insurance I can buy for medications. I was told I could not do that. I am a farm wife, 74 years old, who drove a tractor until 2 years ago when I lost my husband and then my lungs got worse.

She goes on at some great length.

I recall a snowy North Dakota day in January, in a small van going to Canada with some senior citizens from my State. Among the people who traveled to a little one-room drugstore in Emerson, Canada, that snowy day was Silvia Miller, a 70-year-old Medicare beneficiary from Fargo, ND, with no prescription drug coverage. She has diabetes, heart problems, and emphysema. She takes 10 to 12 medications every day. In 1999, she spent more than $4,900 for her medications. Well, Silvia Miller, like a lot of others, struggles to try to make do and deal with very serious health problems and tries to catch an increased price every year—increased costs of prescription drugs. Of course, she cannot catch that. It is moving out of sight.

Last year, there was a 17- to 18-percent cost increase for prescription drugs. The year before that, it was about 16 percent. The year behalf that, it was about 17 percent. So year after year after year, there are relentless increases in the cost of prescription drugs. This trend continues. What can we do about it?

Well, the point we make with this amendment is this: We support fully putting a prescription drug benefit in the Medicare Program. That ought to be done. I hope it will be done. But if that is all we do—if we do nothing to try to dampen down prices, put some downward pressure on prescription drug prices, we will have done nothing but hook up a hose to the Federal trough and we will suck it dry.

The American taxpayer beware. If we don't do something to try to put some downward pressure on prescription drug prices, we cannot afford putting a prescription drug benefit in the Medicare Program. We must do both, in my judgment. Let's put the benefit in the Medicare Program, make it optional, make it good, and at the same time let's do some things that put downward pressure on prescription drug prices.

I mentioned that I went to Canada with a group of North Dakota senior citizens. More recently, the Alliance For Retired Americans arranged 16 bus trips to Canada between May and June of this year to highlight the enormous price differences that exist for the identical prescription drugs between the United States and Canada. Participants in those 16 trips saved $506,000, or $1,340 per person.

I think it is important that we talk about policy in theory in the U.S. Senate, but let me do something a bit more than that, if I can.

I ask unanimous consent to show some prescription drug bottles that describe the real problem.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DORGAN. Mr. President, if I might go through a few of these, it will be useful for people to understand what senior citizens are discovering with respect to pricing.

This prescription drug is Celebrex, quite a remarkable drug for pain. It is sold both in the United States and Canada bottles that are essentially identical. The U.S. consumer is charged

$2.22 per tablet. The Canadian consumer is charged 79 cents per tablet. Same drug, same bottle, made by the same company; the difference is the American consumer is charged dramatically more for the same prescription drug.

Mr. President, Paxil is a prescription drug used to treat depression. As you can see, these two pill bottles are identical. The cost is $2.22 per tablet to the U.S. consumer; for the Canadians, for the same drug, it is 97 cents. Again, it is $2.22 for the American purchaser and 97 cents for the Canadian purchaser.

One might ask, as you go through this—and I have a couple more examples—why the difference in pricing? Well, that is a good question. We have had hearings on this and it is not that there is a difference in the tablets in the bottles.

This is Zocor. A famous football coach talks about Zocor on television every day. He says he takes this prescription drug and recommends it to others who need it. Zocor is sold in the United States in this bottle. It is $3.33 cents per tablet in the United States, and it is $1.12 per tablet in Canada.

Finally, this is a prescription drug called Prevacid. As one can see, this prescription drug, like the others, is marketed in an identical bottle in the U.S. and Canada. This is used for ulcers. It has a label that is of a slightly different color, but the bottle is identical—same pill, same bottle, made by the same company. In the United States, a purchaser pays $3.58 per tablet; in Canada, it is $1.26 per tablet. I have more.

Mr. WELLSTONE. Will the Senator yield for a question?

Mr. DORGAN. I will be happy to yield.

Mr. WELLSTONE. What was the last drug?

Mr. DORGAN. Prevacid. It is used for ulcers.

Mr. WELLSTONE. May I add to the Senator's list two drugs? So much of this is personal. I am sure he hears from people in North Dakota what I hear from people in Minnesota, that this drives them crazy.

Permax is a drug to manage Parkinson's disease. The same bottle in the United States is $398.24, and the Canadian price is $189. I mention this because I ran into a teacher a couple months ago in my hometown who, when I met him—I have not seen him for a while—I said: How are you doing? We shook hands. I know Parkinson's. Both my parents had it. I know it in the palm of my hand. I felt the shake. I said: Are you taking Sinemet?

He said: Yes, but there is a better drug.

I said: Are you taking the other one?

He said: I cannot afford it.

This is by way of an example.

Did the Senator from North Dakota mention tamoxifen? It is a breast cancer drug. The United States price, same bottle, is $287; Canadian price, $24. I wanted to add two more examples to what my colleague mentioned.

Mr. DORGAN. Tamoxifen is a good example because it is priced at 10 times the Canadian price for those in this country who need it to deal with breast cancer. It is a good example.

This is a chart that shows other drugs, which I have not listed. It shows the substantial changes in prices between the United States and Canada.

Let me make a couple additional points.

I do not come here suggesting that the pharmaceutical manufacturing industry or the manufacturers themselves are bad. I do not suggest they are bad companies. In many cases, they do good work. They produce lifesaving miracle drugs. I might say, they could from time to time give more credit to the American taxpayer for some of that because a substantial amount of research also goes on through the National Institutes of Health that is federally funded, the benefits of which then are used by the pharmaceutical manufacturers.

It is not my intention to tarnish those manufacturers as somehow unworthy companies. It is my point to say that the pricing strategy employed by those manufacturers is wrong and it penalizes the American consumer.

They say: We must have this kind of pricing practice and pricing strategy by which the American consumer pays the highest prices by far because that is the way we get the money to do research and development.

It is interesting that a report I read says they do slightly more research and development in Europe than they do in the United States: 37 percent in Europe; 36 percent in the United States. And still in virtually every country in Europe, they charge a much lower price for the identical prescription drug they sell in the United States.

It is not the case that this is all about research and development. The legislation we have introduced, the Prescription Drug Price Parity for Americans Act, would allow U.S. consumers to benefit from the international price competition for prescription medicines.

We have changed this approach from the previous legislation that was enacted by the Congress because we make this apply only to the country of Canada. We would like licensed and registered pharmacists and distributors to be able to reimport into this country prescription drugs that are approved by the FDA. We are limiting that to Canada only. We will allow in this legislation pharmacists and distributors to access FDA-approved drugs from Canada and bring them into this country and pass the savings along to the American consumer.

This bill would become effective immediately. We have, as I said, passed this legislation before. It has not been implemented by two administrations because some have raised the question that this would pose risks for the consumer. However, we have included provisions in this legislation on page 9 addressing suspension of importation which will minimize those risks.

While I talk about that for a moment, let me describe why I think those risks are very minimal. Of course, we now have risks with respect to the shipment of prescription drugs across borders. We ship a substantial amount of United States manufactured drugs to Canada. In fact, the Congressional Research Service has a report quoting an information officer from Canada who says that most of the pharmaceuticals marketed and distributed in Canada originate from U.S. manufacturers.

The question we should ask, it seems to me, as policymakers, is, Why should an American citizen have to go to Canada to get a fair price on a prescription drug made in the United States? It is a rhetorical question but I suspect one without an answer in this Chamber.

In any event, a substantial amount of the prescription drugs sold in Canada are prescription drugs originating in the United States, and there is now a law on the books that says the United States consumer, through their pharmacists or through their licensed distributors, may not access those drugs even if they are less costly in Canada. In my judgment, that makes no sense at all.

Included in the legislation we have introduced is a provision that would allow the Secretary of Health and Human Services to suspend reimportation. Let me read the language we are including in the second-degree amendment:

> The Secretary shall require that importations of a specific prescription drug or importations by a specific importer under subsection (b) be immediately suspended on discovery of a pattern of importation of the prescription drugs or by the importer that is counterfeit or in violation of any requirement under this section or poses an additional risk to the public health until an investigation is completed and the Secretary determines that the public is adequately protected from counterfeit and violative prescription drugs being imported under subsection (b).

David Kessler, former head of the FDA, had this to say in a letter to us:

> The Senate bill which allows only the importation of FDA-approved drugs, manufactured in approved FDA facilities, for which the chain of custody has been maintained, addresses my fundamental concerns.

This is a larger description of his letter:

> Let me address your specific questions. I believe U.S. licensed pharmacists and wholesalers who know how drugs need to be stored and handled and would be importing them under the strict oversight of the FDA are well positioned to safely import quality products rather than having American consumers do this on their own.

The Congressional Research Service report I referred to a few moments ago is a report that I had asked they complete in which they should evaluate the chain of custody in Canada so we would understand whether there is a chain of custody issue.

If we manufacture a prescription drug, for example, in the United States and send it to end up on the shelf of a drugstore in Winnipeg, Canada, is there a chain of custody problem that would allow someone to say: You cannot have a pharmacist go to Winnipeg and buy that drug because that is inherently unsafe?

The answer is no, that is just sheer nonsense that there is any kind of a problem with that.

The CRS report says both countries have similar requirements and processes for reviewing and approving pharmaceuticals, including compliance with good manufacturing practices. We have similar rules for requiring labeling. The Canadian Federal Government inspects drug manufacturing facilities. Pharmacists and drug wholesalers have to be licensed. There is no chain of custody question.

I understand one thing about this. If I were a pharmaceutical manufacturer, I would want to kill this legislation. Why? Because the pharmaceutical industry confronts price controls in some other countries, and they do not like them. Those price controls allow them to charge their costs and add a profit to it, and that is the price they are able to exact.

There are no price controls in this country. So the pharmaceutical manufacturers make the point that, if you can reimport prescription drugs from somewhere else such as Canada, you are reimporting price controls from Canada.

We have price controls in this country really. It is just that the prescription drug manufacturers control the price, and they control the price by charging the U.S. consumer the highest prices in the world. Medicine after medicine, we find the U.S. consumers paying the highest prices in the world.

Lifesaving prescription drugs save no lives if you cannot afford to purchase them. Show me something else in the daily lives of the American people, or especially of senior citizens, that they need—that they don't have a choice on—that is increasing at 16, 17, 18 percent a year. Can anyone come up with anything that relates to those kinds of relentless increases? I do not think anyone can.

I want us to continue an aggressive search for miracle drugs and lifesaving medicines. That is why many of us in this Chamber have agreed to double the amount of funding at the National Institutes of Health. This is the fifth and final year to do that. We have gone from $12 billion to $24 billion. That was bipartisan. We did it. I want the drug manufacturers as well to also engage in robust research and development. I support research and development tax credits for that purpose, from which they benefit. But I do not want the pharmaceutical manufacturers to say to the American people: We have a scheme by which we will impose upon you the highest prices of any group of people in the world for our prescription drugs. We will have multitiered price policies, and you, American citizens, shall pay the highest. We want you to pay 10 times the cost for tamoxifen that our friends in Winnipeg, Canada, are charged. We want you to pay substantially higher prices for Zocor, Lipitor, Premarin, and Celebrex. It is simply not fair.

The point of this amendment is not to try to force anyone to go to Canada to buy prescription drugs. It is to try to force a repricing of prescription drugs in this country, for if our registered pharmacists and licensed distributors can access an FDA-approved drug in Canada and bring it back and pass the savings along, it will certainly force a repricing of prescription drugs in this country. That is my goal. That is our goal.

So what we have today is an amendment that will allow the reimportation, under very strict circumstances, of FDA approved prescription drugs from Canada to the United States only by licensed distributors and licensed pharmacists, and that will put downward pressure on prescription drug prices.

What we also have in this Chamber, I think, are those who want to kill this because the pharmaceutical industry does not like it. I understand that. If I were the pharmaceutical industry, I would not like it either. They have the best deal in the world in the United States, but it is unfair to American consumers. It is unfair to those in this country who need prescription drugs, who need lifesaving drugs, who need these miracle drugs, and cannot afford them.

So even while we put a prescription drug benefit in the Medicare plan, which I fully support, we must pass the underlying generic amendment, which also has the effect of putting downward pressure on prices.

We must pass this amendment, the reimportation amendment, which gives very careful consideration to the safety issues that others have raised, and we should not fear, and we should not shrink from, the pharmaceutical manufacturers' attacks that somehow this is bad public policy.

It is good public policy. They just do not like it. It is good public policy for the American consumer, and it is safe for the American consumer as well. My hope is that my colleagues will support this amendment and I strongly urge them to do so.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, during the fine presentation of the Senator from North Dakota, which is standard for the Senator from North Dakota, I have been speaking with the managers of the bill. The other side would accept his amendment by voice vote. I have not had a chance to speak to the Senator from North Dakota, but it is my understanding that he does want a recorded vote.

Mr. DORGAN. That is correct.

Mr. REID. May I ask the manager of the bill and Senator COCHRAN, who is heavily involved in this, if we could set a time—we would draw something up on paper—for a vote on this amendment at 2:30? I do not, frankly, know if all the time would be taken up on this amendment. This would give the Senator from Mississippi time, if he were so inclined, to talk about his amendment. Part of the deal would be that the next amendment in order would be the amendment of the Senator from Mississippi, which will, of course, occur if this passes, and it obviously is going to.

Mr. GREGG. As long as the position of the Senator from Mississippi is protected as being the next amendment offered, I certainly have no objection, but it is the call of the Senator from Mississippi.

Mr. COCHRAN. Mr. President, if the Senator will yield, I am happy to recommend that to our side of the aisle. The only Senators I know of who want to be heard on this amendment I will offer after the amendment of Senator from North Dakota are Senator BREAUX and Senator ROBERTS, both of whom have expressed an interest in this amendment. I would like the opportunity to see, though, if there are others who want to speak and make sure we can accommodate everybody. But I personally do not have any objection to a 2:30 vote.

Mr. REID. I say to my friend from Mississippi, I am sure his amendment will take a little bit of time because he has people who want to speak on it; the majority and others want to speak on it. We will not set a time for dealing with his amendment.

Mr. COCHRAN. Good.

Mr. REID. If it gets out of hand, we can always move to table, but I am sure the Senator from Mississippi, being one of the most experienced legislators we have, understands the rules. We will try to be fair and move this along as quickly as possible.

Mr. COCHRAN. Mr. President, I appreciate the assistance of the distinguished Senator from Nevada. We will be glad to try to work with him to accommodate that suggestion.

Mr. REID. What we will do is have the staffs prepare something on paper, but generally we all understand what it would be; there would be a vote on the Dorgan amendment at 2:30.

Mr. GREGG. With no intervening action?

Mr. REID. No intervening action. The person next to be recognized to offer an amendment would be the Senator from Mississippi.

Mr. GREGG. With the time equally divided.

Mr. WELLSTONE. Mr. President, if I could say to the Senator from Nevada, and I will relinquish the floor in a second, one of the things we need to do on our side—I know Senator STABENOW wants to speak on this. There are other Senators who also want to speak.

Mr. REID. That is why I set the time. We have until 2:30, and even though

there is a conference, people can step out of that and speak. So we will prepare something, and we should have it in the next few minutes.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Before there is any unanimous consent agreement propounded, I do want to make sure I state to my colleague from North Dakota we have quite a few Senators who have worked on this for some time and we want to make sure they do have a chance to come down.

I thank my colleague from North Dakota and my colleague from Michigan, and all the other Senators on both sides of the aisle, who support this legislation. I think this has been like about 5 years of work, as I think back to when some of us first started this journey.

One of the things I want to do right away is deal with one of the arguments that are made against this legislation. It is an argument by the pharmaceutical companies that, look, we have to charge American citizens a lot more because we need that money for the research. Senator STABENOW was there, Senator GRAHAM was there, as well as Senator MILLER.

One of the arguments we hear over and over again from the pharmaceutical companies, the drug companies, is they need to make this excessive amount of money, they need to have the very high priced drugs because this goes to research for the miracle drugs that help everyone.

When the President was in Minneapolis in my State last week, he adopted the pharmaceutical or the drug lobby's position and said that the high prices everyone sees are necessary to sustain the research and development.

One of the arguments made against this reimportation bill is, if you begin to do that and people start getting discounts and we cannot charge as much, we cannot put the money into the research. Families USA came out with a report they called ''Profiting From Pain.'' They looked at the drug company's recent submissions before the Securities and Exchange Commission about their activities in 2001. They looked at the nine publicly traded companies that market the top 50 drugs to seniors. I will go over their key findings.

The first finding is these large pharmaceutical companies spent $45.4 billion on marketing and advertising and administration—this is from their own SEC report—and $19 billion for research and development—2½ times more for marketing, advertising, and administration as for research and development.

The second finding for profits over the last 10 years, profits last year as percentage of revenue, was 18.5 percent, 5.5 times the median profit for the Fortune 500 companies.

The third key finding is these companies lavish huge compensation packages and even larger stock options—does this sound familiar to anyone—to the top drug executives. Mr. C.A. Heimbold, the former chairman at Bristol-Myers, had the following compensation package, not including unexercised stock options: Ready? $74.9 million; John R. Stafford, chairman of Wyeth, $44.5 million. The five highest paid executives received over $183 million last year.

Looking at the unexercised stock options, Mr. Raymond Gilmartin, president and CEO of Merck, $93.3 million; Mr. C.A. Heimbold, $76.1 million; two Pfizer executives, $60.2 million and 56.5 million.

I make the plea in the Senate because pharmaceutical companies do not want this bill. By the way, I said to my colleague from Michigan, who has worked so hard on this, one of the reasons I love this legislation, this helps all of our citizens, all our families. Pharmaceutical companies and wholesalers can meet every strict FDA safety rule, reimport back the prescription drugs and pass on the savings. That is what this is about.

The drug industry should stop scaring citizens in our country, seniors and others, with the false claim that if there is a discount and people are charged a reasonable price, this will prevent research in medicine. I thank Families USA for their excellent study. I make the point which they made today, in light of the huge industry profits, enormous executive compensation and big marketing budgets, these claims that we need to rip people off with the obsessive, obscene profits in order to do the research, are irresponsible and wrong.

The next point, by way of context of this amendment, it seems to me the drug companies in this country are making Viagra-like profits—you get the meaning of what I am saying—on the backs of American consumers, on the backs of Minnesota consumers. The thought that these companies, acting as a cartel, can make Viagra-like profits based on the misery and illness and sickness of people is obscene.

We are going to do something about it and we are going to make sure people in Minnesota and people around the country get a discount and they get the same fair price that people in Canada get so people can afford these prescriptions that are so important.

What does our amendment do? It allows for the reimportation of the drugs from Canada. Believe me, many citizens from Michigan and Minnesota and North Dakota know all too well what the differences are. People can save as much as 40 percent, if not more, for their prescription drugs. The amendment of Senator DORGAN, myself, Senator STABENOW, and others would allow pharmacists, drug wholesalers, and individuals to reimport safe and effective FDA-approved prescription drugs from Canada. These drugs, developed in the United States, are available in Canada for a fraction of the price of what we get charged. This would help not only senior citizens but other Minnesotans and other Americans as well.

Some examples to add to what my colleague from North Dakota mentioned: Coumadin, blood thinner, same bottle, $20.99 in the United States; Canadian price is $6.23. Zocor, a cholesterol drug, is $116.69 in the United States and $53.51 in Canada—same bottle, same prescription. Permax, for Parkinson's disease, which so important to people with that neurological disease, is $398.24 in the United States, $189 in Canada. Tamoxifen, a breast cancer drug, is $287 in the United States, $24.78 in Canada.

When I am traveling around Minnesota, people are asking me, more than anything else, can't we get a discount? Isn't there something to do to make the drugs affordable? A lot of Minnesotans ask why we can't have the same price as our neighbors to the north. This is the best of free trade and fair trade. Let our pharmacists and wholesalers meeting FDA guidelines reimport these drugs back and pass on the savings to the citizens we represent.

We have a provision for a suspension. If there is a problem with the drug, the Secretary can stop the batch of drugs coming into the United States until the investigation is completed.

Now we made it stronger, saying if there is any risk to public health, any kind of risk at all to people in this country who deals with public health where we have to worry about a batch of drugs that should not be in here, that violates safety standard, then the Secretary can stop the importation immediately. It is important to protect the health of people. We do that. This language assures that bad drugs are not going to reach patients in the United States and the Secretary at that point in time can suspend those drugs.

What we cannot do, and what I want every Senator to be aware of, we cannot let the pharmaceutical industry gut this amendment. We cannot say that the Secretary of Health and Human Services, be it Democrat or Republican, can set out conditions and certify those conditions have to be met before we have the reimportation. If that is the case, we will allow any Secretary of Health and Human Services in any administration to kill this.

Our citizens are tired of being ripped off. They are tired of the pharmaceutical companies running the show. Our people want a discount. We move forward with this. If, God forbid, there is any tampering with any drugs or any violation of public safety, then the Secretary of State can immediately suspend. But we do not want to have any kind of provision or any kind of amendment that passes that creates a huge loophole that enables the pharmaceutical industry to do all their behind the scenes lobbying and kill this legislation so that, in fact, the Secretary of Health and Human Services never ends

up implementing it. That is not what the people in Minnesota are asking. That is not what people in the country are asking.

Mr. REID. Mr. President, will my friend yield?

Mr. WELLSTONE. Yes.

Mr. REID. Mr. President, I ask unanimous consent that the time until 2:30 today be for debate on the pending amendments, with the time equally divided and controlled between Senators DORGAN and GREGG or their designees; that no intervening amendment be in order prior to the disposition of amendment No. 4300; that a vote on or in relation to amendment No. 4300 occur at 2:30 this afternoon, without further intervening action or debate; provided further, upon disposition of that amendment, Senator COCHRAN be recognized to offer an amendment on the issue of drug reimportation.

The PRESIDING OFFICER (Mrs. CARNAHAN). Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota is recognized.

Mr. WELLSTONE. Madam President, I will take 1 more minute. Other Senators want to speak. Senator STABENOW has been a leader on this legislation for a long time and has been coordinating the effort of all Democrats.

Let me just conclude this way: I know Senators do not want to be seen as opposing an amendment that would enable all of our seniors and all of our citizens to be able to get a reasonable price for prescription drugs. My fear is that we will have an amendment out here with fine-sounding language which will create a huge loophole and will basically kill this amendment by giving any Secretary of Health and Human Services the ability to stop this legislation before it is ever implemented. That is unacceptable. That is unacceptable. We cannot let the pharmaceutical industry kill this bill and kill this amendment.

I believe that people in Minnesota, people in Michigan, and people around the country look at this as simple. I have said it before. I will conclude it this way. I think this is a test case of whether we have a system of democracy for the few or a democracy for the many. If it is a democracy for the many, we will support this provision. If is democracy for a few of the pharmaceutical companies, the devil is in the details. They will be able to create a huge loophole, which will mean this will never be implemented and they will be able to kill it.

I urge all colleagues to support this Dorgan, Wellstone, Stabenow, et al, amendment and to resist any amendment to essentially gut this amendment and stop this piece of legislation from being implemented.

I yield the floor.

APPOINTMENT OF CONFEREES—H.R. 3763

The PRESIDING OFFICER. Under the authority of the order of July 15, the Chair appoints the following conferees on the part of the Senate on H.R. 3763.

The Presiding Officer appointed Mr. SARBANES, Mr. DODD, Mr. JOHNSON, Mr. REED of Rhode Island, Mr. LEAHY, Mr. GRAMM of Texas, Mr. SHELBY, Mr. BENNETT, and Mr. ENZI conferees on the part of the Senate.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Continued

The PRESIDING OFFICER. Who yields time?

The Senator from Michigan.

Mrs. STABENOW. I thank the Chair, I yield myself up to 15 minutes under the agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. Madam President, this is a very important second-degree amendment that not only will help our seniors be able to lower the prices they pay for prescription drugs, as my colleagues have said. I thank the Senator from Minnesota for his ongoing leadership on this issue and, of course, the Senator from North Dakota for his sponsorship and ongoing leadership and advocacy, as well as my other colleagues who are cosponsoring this amendment.

This not only affects our seniors, this affects everyone. It affects the president of Michigan State University, who called me about his health clinics and his college of medicine looking for ways to be able to lower prices so that he does not have to deal with possibly laying off more staff, which he had to do this year as a result of the dramatic increases in the health care costs at the university.

It addresses the big three automakers, small businesses, families, and everyone who is paying exorbitant prices for prescription drugs.

I want to start by quoting our President, President Bush, when he was a candidate for President. He indicated that he thought this idea was a good idea. He said:

> Allowing the new bill that was passed in the Congress made sense to allow for, you know, drugs that were sold overseas to come back and other countries to come back into the United States.

That was what then-candidate George W. Bush and now President Bush said makes sense. It does make sense. It made sense before. The problem before was that there was an amendment added which basically killed our ability to be able to do this. We know that same amendment which is supported by the pharmaceutical industry will be offered later. There will be an attempt to kill it again.

But we are hopeful that our colleagues will join with us in what is a very reasonable proposal that addresses any legitimate issues regarding safety and health and allow us to open the border to Canada and be able to provide the kind of competition we need to lower prices.

I think it is important also to reiterate that at a September 5, 2001, hearing before the Senate Commerce Committee's Subcommittee on Consumer Affairs, William Hubbard, FDA Senior Associate Commissioner, testified:

> I think as a potential patient, were I to be ill and purchase a drug from Canada, I would have a relatively high degree of confidence in Canadian drugs.

We know the Canadian system is similar to ours as it relates to the regulatory and safety system.

We feel very confident that this modest proposal of simply opening the border to Canada—and we know that Canada right now exchanges goods and services with us every single day. We have the largest port of entry in Detroit, MI, which I am proud to represent, with over $1 billion in goods going across. We trade every day with them.

We believe this proposal will allow one thing to be traded which is desperately needed by our citizens and is not now allowed to go back and forth across that port of entry. It makes sense. This is a reasonable, modest proposal.

Instead of opening all of our borders, some would argue that this does not go far enough; that we should open to Mexico, Europe, or other places around the world. But we are taking a modest step to begin to show that this kind of approach can work.

We want to simply start with Canada with a very modest approach that will allow us to be able to share with our neighbors to the north the ability to bring back to our citizens American-made prescription drugs which are sold in Canada.

I think this is an issue of fairness as well because we are talking about prescription drugs on which we helped to underwrite research. As I have said so many times, $23.5 billion this year alone was given by the taxpayers of this country. And I support that strongly. I support having that be a higher number. I think basic research into new potential treatments is absolutely critical and is a good investment. But we are making those investments. We are then giving that information to the drug companies, that pick up the information and then proceed to do their own research and development.

We allow tax writeoffs for that research and development, tax credits, and tax reductions. We subsidize them further. We allow up to 20-year patents so they can recover their costs because we know it costs a lot to research and develop new drugs. So we let them be able to recover those costs without competition for their name brand. So we highly subsidize—highly subsidize—this area; the most profitable industry in the world, highly subsidized by American taxpayers.

Then what do we get at the end of that process? The highest prices in the world. One of the reasons is we close the borders to competition. And we are subsidizing heavily all of the research and development of new medications that the Canadians enjoy, that people around the world enjoy, while we in fact pay the highest prices in the world.

I have had an opportunity to take a number of bus trips to Canada; the latest was on June 10 of this year. I will just share with you some of the differences. My colleagues have talked about that as well. But it is shocking to take a mere 5-minute bus trip across a bridge or through a tunnel and see the dramatic differences in prices.

I might add, I am not interested in continuing to put people on buses or in cars to have to go over to Canada to get those lower priced medications. What we want is the ability to bring them back, so that the neighborhood pharmacy can offer these same kinds of prices. That is what this is all about, to bring them back and place them in the local pharmacy.

But it is shocking when we look at the differences. Zoloft is an antidepressant drug. In Michigan, it costs $220.65 for a monthly supply; in Canada, $129.05. So it is $220 versus $129. That difference can buy food, pay the electric bill, pay the rent, it can be the difference between someone having a quality of life that makes sense and one that involves struggling every day to pay for their medications.

We also know one of the most dramatic differences is tamoxifen, which I have spoken about here before. Tamoxifen is a breast cancer treatment drug. When we went to Canada, we were able to get it for $15. And back in Michigan it is $136.50.

If you have breast cancer and you are struggling to pay for your medications to get the treatments you need to deal with all of the other issues in your life as well, the difference between $15 and $136 a month is a big deal. That is why this amendment is a big deal. I hope our colleagues will join overwhelmingly in our amendment—which is, in fact, a bipartisan amendment, a tripartisan amendment—to say: Yes, it is time to be fair to Americans.

This is about fairness for Americans. It is about competition. It is about opening the border in a way that maintains safety for our citizens.

I would like to speak to a couple of the arguments that I know we will hear from colleagues who are opposing this amendment and what the drug companies have said.

The drug companies have said that bringing those prescription drugs back from Canada is not safe. For the record, drugs are already frequently imported into this country, but predominantly by the companies themselves, by manufacturers.

I also note that individual consumers now are allowed to bring back up to a 90-day supply. Because of the concerns that have been raised, they have looked the other way at the FDA and allow people, for personal use, to bring back up to a 90-day supply.

In fact, according to the International Trade Commission, $14.7 billion in drugs were imported into the United States in the year 2000, and $2.2 billion in drugs sold in Canada were originally made in the United States.

So it is ironic that the drug makers are saying that drugs cannot safely move between the borders of the two countries. They do already. The issue is price. The issue is who controls them moving back and forth. When the companies want to move them back and forth, they think it is fine. When the pharmacists want to move them back and forth or individuals want to move them back and forth and get a lower price, it is not fine. They are the same medications. It is a question of who controls them.

In fact, in recent years the FDA has allowed thousands of American consumers to import from Canada medications for their personal use every year. The FDA Senior Associate Commissioner, as I said before, indicated that as a consumer he would have a relatively high degree of confidence in drugs purchased from Canada. So these arguments do not make sense. The arguments we will hear about safety do not make sense.

We will hear that safety standards in Canada are more lax than here in the United States. There was a September 2001 report by the nonpartisan Congressional Research Service—which we all use—which confirms that the United States and Canadian systems for drug approval, manufacturing, labeling, and distribution are similarly strong in all respects. Both countries have similar requirements and processing for reviewing and improving pharmaceuticals, including ensuring compliance with good manufacturing practices.

Both countries also maintain ''closed drug distribution systems'' under which wholesalers and pharmacists are licensed and inspected by Federal and/or local governments. All prescription drugs shipped in Canada must, by law, include the name and address of each company involved along with the chain of distribution.

Let me finally address one of the other myths I am sure we will hear more about today, and that is that somehow our bill will allow Canada to become a conduit for counterfeit or contaminated drugs into the United States.

On the contrary, this bill provides for safe protections, many of which are not in current law. We go beyond current law, which we all know needs to be done now as we look at so many areas of homeland security.

We have gone beyond what is currently in place. If implemented, this bill would have the potential to decrease, more than today, the possibility of allowing counterfeit drugs into the United States.

We would provide there be strict FDA oversight, proof of FDA approval of imported medicines. There must be a paper chain of custody, which is important. Only licensed pharmacists and wholesalers would be able to import medications for resale. They would have to meet requirements for handling as strict as those in place by the manufacturers—equally strict as what the manufacturers do today.

There will be lab testing to screen out counterfeits, registration with Canadian pharmacists and wholesalers by HHS. There will be lab testing to ensure purity, potency, and safety of medications.

We also say that the Secretary of Health and Human Services can immediately suspend this provision, immediately suspend the importation of prescription medicines that appear to be counterfeit or otherwise violate the law.

We have made it very clear that they can immediately suspend ''on discovery of a pattern of importation of the prescription drugs or by the importer that it is counterfeit or in violation of any requirement under this section or poses an additional risk to the public health''—they can immediately suspend.

This is a responsible provision. It is a moderate provision. It opens the border to a country that we trade with every day, whose system is similar to ours. It allows actions if in fact anything is found to create a threat to Americans in terms of our health and safety. It allows immediate action and suspension of this new provision.

I believe we have put into place something that is reasonable. It is logical. It is long overdue. I am hopeful that we will have a strong bipartisan vote.

If we want to lower the prices immediately, without much, if any, expenditure of taxpayers' dollars—if we want to do it immediately—all we have to do is drop the barrier at the border to Canada.

I urge my colleagues to join us.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I yield myself 5 minutes.

The Dorgan amendment before the Senate has enormous potential to make more prescription drugs more affordable for more people. The amendment is particularly important for our seniors, most of whom live on fixed incomes and constantly have to decide whether they can afford to fill those prescriptions.

We have a bizarre situation. We manufacture drugs in America, but they are sold at cheaper prices in other countries. Just a few examples: Brand name drugs cost an average of 31 percent less in the United Kingdom than they do in the United States; 35 percent less in Germany; 38 percent less in Canada; 45 percent less in France; 48 percent less in Italy. The General Accounting Office has studied 121 drugs

and found that on average prescription drugs in the United States are priced 34 percent higher than the exact same products in Canada.

I travel around Michigan, and I listen to the stories of citizens who are trying to pay for expensive prescriptions and wonder why their neighbors in Canada, just a few miles away, are able to buy the exact same drug, manufactured in America, often for half the price.

We conducted a survey this last February of two of the most commonly prescribed prescription drugs. In every case, the prescription in Canada cost significantly less than the same drug in Michigan. For example, we looked at a number of pharmacies on both sides of the border. A 1-month supply of Prilosec, a gastrointestinal drug, costs about $126 in Michigan but only $71 in Canada. Similarly, a 1-month supply of Lipitor, a cholesterol-lowering drug, costs $74 in Michigan but $41 in Canada.

As a result of these enormous price disparities, we have the spectacle of American citizens, mostly seniors, going into Canada by the busload to buy American-made prescription drugs at a fraction of what they have to pay here. It is absurd. It is unconscionable that we give pharmaceutical manufacturers tax breaks and direct grants to bring new drugs to the market, and then those drugs cost more in America, where they are made, than they do in other countries. We subsidize the drug costs for the rest of the planet, and that has to change.

The Dorgan amendment fixes this problem in two fundamental ways: First, the amendment allows U.S. licensed pharmacists and drug wholesalers to import FDA-approved medications from Canada. Second, the amendment would allow individuals to import prescription drugs from Canada as long as the medicine is for their own personal use, as evidenced by a prescription, and is a 90-day supply or less.

These provisions will allow American citizens, through the appropriate channels, to take advantage of lower prescription drug prices in Canada.

According to a Boston University School of Public Health study, drug reimportation, just from Canada, could have saved consumers $38 billion in the year 2001, an enormous sum.

In the year 2000, the Senate approved strikingly similar legislation by a strong bipartisan vote of 74 to 21. Unfortunately, a technical amendment blocked implementation of the legislation. Now the Senate can act again to bring lower priced prescription drugs to people who desperately need them. We can act to bring in some competition. We can act to bring in some free trade. American scientific know-how has led to the development of hundreds of lifesaving and life-enhancing prescription drugs.

Some of the newer prescription drugs are modern-day medical miracles which help millions of Americans lead healthy lives well into their golden years.

These drugs won't do any good if people can't afford them. It is that simple and that demanding.

I hope our colleagues will support the Dorgan amendment and allow for the reimportation of prescription drugs.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Tennessee.

Mr. FRIST. Madam President, I yield myself 20 minutes to speak in opposition to the amendment.

The PRESIDING OFFICER. From whose time?

Mr. COCHRAN. The time should be charged to that under the control of Senator GREGG. He has asked me, as his designee, to yield.

The PRESIDING OFFICER. The Senator is recognized.

Mr. FRIST. Madam President, I rise to address the issue introduced in the last hour and a half; that is, the issue of reimportation of drugs, especially as it affects the safety of the American people. They have been introduced by the proponents of this legislation as myths. By calling them myths, it is as if in some way we should say they are myths. They are not real, therefore, let's proceed down this path.

I want to give a little bit of historical perspective to these so-called myths and explain to my colleagues why I believe they are not myths but reality. The potential of such reality can result in direct harm as we look at public health and safety.

I look forward to the afternoon because the debate will continue. The debate ultimately will start with cost and buses running back and forth to Canada. Then Senators will say that this idea is appealing and critically important to pass so we can lower the cost of prescription drugs. We are all for lowering prescription drugs costs. Prescription drugs cost too much; they are out of reach today for too many people.

The focus is on cost. It is motivating and a driving force because it is something on which we all agree. Prescription drugs costs too much today—the rate of increase is too much. But to focus on cost without focusing on public health and safety is wrong and irresponsible.

If we look at the legislative history of the consideration of reimportation of drugs and pharmaceutical agents from other parts of the world outside of the borders of the United States to this country, we have a lot to learn. It is a rich history in terms of lessons learned.

I will not focus on the cost issue, but let me just dismiss the cost issue in terms of my comments now by saying there is no evidence that this amendment will guarantee price savings. For seniors, individuals with disabilities, or the American people who are listening today, there is no evidence to indicate this. It is pretty dramatic, holding up two bottles and saying one comes from another country and one from the here. The assumption is that it will reduce the cost of prescription drugs in the United States, however, that evidence is not there.

What I want to focus on—and I think it is even worse than not being able to make that assurance to the American people—is my concern with health.

From July 1985 to June 1987, nine hearings were held and three investigative reports issued regarding the issue of reimportation of pharmaceuticals. These efforts, over that time, led to the enactment of the Prescription Drug Marketing Act of 1987. That law was specifically designed to protect America's health and safety against the risks of drugs that in some way may have been altered or counterfeit imported medicines.

The act, a product of the debate at that time, found among other things, "a significant volume of pharmaceuticals are being reimported. These goods present a health and safety risk to American consumers because they may become subpotent or adulterated during foreign handling and shipping."

The overall purpose of the Prescription Drug Marketing Act of 1987 was to "to decrease the risk of counterfeit, adulterated, misbranded, subpotent or expired prescription drugs reaching the American public."

In the Committee report which accompanied the Prescription Drug Marketing Act, the Commerce Committee concluded:

> Reimported pharmaceuticals threaten the American public health in two ways. First, foreign counterfeits, falsely described as reimported U.S.-produced drugs, have entered the distribution system. Second, proper storage and handling of legitimate pharmaceuticals cannot be guaranteed by U.S. law once the drugs have left the boundaries of the United States.

I mentioned the history because it is incumbent upon us—as we look at this legislation and change, modify, defeat, pass, improve, strengthen this legislation—that we have to address the issues that were so prominently raised at that time. That was from 1985 to 1987. At that time, we did not have nearly as many cost concerns as we do today.

In 2000, as was mentioned on the floor, Congress revisited the issue and passed at that time the Medicine Equity and Drug Safety Act. This act allowed reimportation of prescription drugs if the Secretary of Health and Human Services could guarantee the safety and certify that cost savings would result. Safety and cost savings, again, are two issues that remain current today. We want to bring down the cost of prescription drugs, but we certainly do not want to do it if it is going to hurt the American people.

Since that time, two Secretaries of Health and Human Services—of two administrations—have stated that the Food and Drug Administration cannot guarantee the safety of reimported prescription drugs.

In fact, then-Secretary Shalala called it "impossible . . . to demonstrate that [reimportation] is safe

and cost effective.'' Let us jump to the next administration.

Secretary Thompson also concluded that reimportation would ''pose a greater public health risk than we face today and a loss of confidence by Americans in the safety of our drug supply.''

Those were Secretaries of Health and Human Services and their overall approach in reimportation.

Let us now turn to the Commissioners of the FDA. When FDA Deputy Commissioner Lester Crawford was asked to comment on ''whether reimportation (from Canada) now raises greater challenges than it did previously''—meaning prior to September 11—and ''what is your view as it relates to safety as it relates to drugs for the consuming Americans,'' Deputy Commissioner Lester Crawford replied, ''The problem would be if it becomes apparent to the rest of the world, including the world of terrorists that we are not interdicting shipments of drugs that come from Canada. . . . I think this is a signal to a would-be terrorist that this might be a way to enter the United States. . . . It also would be a signal to a community that it is not as dangerous as terrorists obviously, but to the transshippers and these would-be people in various countries that may not have a regulatory system or may not have a regulatory system for exported drugs. . . .

I think the important issue is that we are in a new world, compared even to 2 years ago, and that it is incumbent upon us to address this whole idea of having drugs produced or imported or reimported from outside our boundaries at the same time we are trying to strengthen our boundaries in terms of what comes into this country. How careful can we be, how assured can we be that a product is not counterfeit, has not been adulterated, or is not the product of somebody who has ill intent against America. At the same time, we are working to make the borders less porous and tightly overseen, we want to make our borders more porous when it comes to chemical and pharmaceutical agents.

Former FDA Commissioner, Dr. Jane Henney, expressed severe reservations regarding the importation of drugs. This is from a different administration than the current one. Dr. Henney said:

> The trackability of a drug is more than in question. Where did the bulk product come from? How is it manufactured? You're just putting yourself at increased risk when you don't know all of these things.

Let us go back to another FDA Commissioner. Remember, the FDA Commissioners are those people who we have, as a nation, given the responsibility of overseeing the public's health and safety of food and drugs. Dr. David Kessler, former head of FDA, stated:

> In my view, the dangers of allowing reimportation of prescription drugs may be even greater today than they were in 1986. For example, with the rise of Internet pharmacies, the opportunities of illicit distribution of adulterated and counterfeit products have grown well beyond those available in prior years.

That is David Kessler, former head of FDA. He continues:

> Repealing the prohibition on reimportation of drugs would remove one of the principal statutory tools for dealing with this growing issue.

Let us look back to an FDA Commissioner from the Carter administration, Dr. Jere Goyan, who said it best. This is FDA Commissioner Goyan:

> I respect the motivation of the Members of Congress who support this legislation. They are reading, as I am, stories about the high prescription drug prices and people which are unable to pay for the drugs they need. But the solution to this problem lies in better insurance coverage for people who need prescription drugs, not in threatening the quality of medicines for us all.

It is important because, again, in our urge to bring down the cost of prescription drugs and restrain that skyrocketing of costs, we do not want to put drugs out of the reach of the American people. We do not want to do that unintentionally.

Given the statements of the FDA Commissioners and the Secretaries of Health and Human Services, we do not want to open the door and increase the risk to the public health.

Last fall the FDA affirmed its concern about the safety of reimported drugs—even those from Canada, and I understand the underlying amendment is focusing on one country—stating they could not even provide safety assurances for those drugs entering the Nation over our northern border. The FDA further noted that reimported drugs ''pose considerable risks to consumers because they may be counterfeit, expired, superpotent, subpotent, simply tainted, or mislabeled.''

I point this out early in the debate and want to turn to other people and to the other side, who say: Yes, our amendments are written with more safeguards in the pieces of legislation that come forward. I think that needs to be debated. Ultimately, the safety issue is the key issue in addressing this legislation as we shape it and vote for or against it.

I fear that, in spite of the proponents' attempts in the underlying amendment to establish a mechanism to assure safety—and it is fairly elaborate—a lack of success, lack of assurance of having these safety mechanisms, at the end of the day, puts at risk the American people. This is all in the interest of bringing down the cost of prescription drugs, which is something that we agree with, but there are better and more direct mechanisms to deal with that issue of cost.

We see an elaborate set of safety mechanisms that I think are impossible to implement, which wholesalers and pharmacists are not equipped to handle and, more importantly, mechanisms that only ultimately add—and nobody talks about it—to the cost of prescription drugs. Regardless of whether a pharmaceutical is originally manufactured here in the United States, once a drug leaves this country and crosses borders, I believe it is impossible to ensure that it is properly handled. It is out of our reach and our vision. We can sort of pass the laws and pass regulations, but in truth, we are not going to see it.

It is impossible to guarantee how it is handled, stored, at what temperature it is stored, and whether it is safe for eventual use.

Most people know—we have talked about this in the Chamber of this body—it is very important how drugs are stored, at what temperature, and their potency. In fact, certain drugs that are used in a routine way, if improperly handled, can become lethal if mishandled in being brought back into this country.

Even more hazardous to the health of Americans is counterfeit medicines. I mentioned terrorism, and I do not want to overstate that, but again, we are currently working very hard to fight issues such as bioterrorism. We are working hard to make sure we are able to track and regulate contents of agents that can be used against us. I do not think we should be moving in the direction of opening those borders broadly when I contend it is impossible, or next to impossible, to guarantee their safety.

There is one interesting example. Gentamicin sulfate is a prescription medicine to treat people with resistant infections, abdominal infections, and people who are very ill. Several years ago, FDA reported that this drug resulted in 17 deaths and 202 serious reactions. This drug is a very powerful drug, a very good drug, and one of the best antibiotics out there when used in a targeted, specific way.

Ultimately, it was no surprise to later find that the medicines causing these 17 deaths were being imported from another country. It was not Canada. It happened to be China. Both the current and former leaders of the FDA have made it ultimately clear, really crystal clear, that they will have a tough time establishing mechanisms that are sufficiently elaborate, complex, and detailed enough to ensure pharmaceuticals coming into this country from foreign manufacturers are safe to use.

The underlying amendment purports to address drug safety by only allowing U.S.-approved drugs to be reimported and incorporating a drug testing requirement. Again, it sounds very good, but let me state up-front—and we can debate it as the day goes on—end product testing, after a drug has traveled and handled in certain ways, simply is not adequate. End product testing is not adequate to demonstrate that a drug was manufactured in accordance with U.S.-approved standard and quality requirements.

Also, testing at the moment of import, at the time it actually comes into the country, does not ensure the integrity of the drug throughout its shelf

life once it arrives here. Drugs are fluid agents. They are agents that can be adulterated. They can be changed, and, as I mentioned, their storage is critically important.

I will close mentioning this whole danger of counterfeiting drugs because, again, in this environment post-September 11, it is one we need to look at. We need to address this issue up-front. It is the new environment in which we are working. In that regard, I am hopeful we can address this amendment to make absolutely sure we have safe drugs for the American people. We need to make sure that we have not opened the door at the same time we are putting interest in lowering costs and reducing costs over time, opened the door, opened our borders, or made them more porous in a way that ultimately will hurt the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. How much time remains on each side?

The PRESIDING OFFICER. The Senator from North Dakota controls 21 minutes; and the Senator from Mississippi controls 25 minutes.

Mr. DORGAN. Madam President, I yield 8 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I thank the Senator from North Dakota for bringing this matter to the attention of the Senate. I am very hopeful it will be accepted in the Senate in a short time. There are some interesting underlying facts. What we are finding now has been referenced during the course of this debate. The United States and its taxpayers are subsidizing the world in terms of prescription drugs. That happens to be a fact.

The research for brand and generic drugs is basically now conducted in the United States. They have moved dramatically from Europe over the recent years. With the doubling of the NIH budget, much of that is funding basic research which is essential for the development of drugs. So the taxpayer is paying for the funding of the NIH and then paying the additional costs at home. Furthermore, these drugs are a good deal cheaper outside the United States.

We are doing for the rest of the world in the area of prescription drugs what we are doing for our national security. We keep the Straits of Malacca open, the Suez Canal open, and the Panama Canal open. The great choke points of the world are free because of the U.S. Navy and that is the way it is. We wish that it could be better. There are things that could be done and should be done in this area. Nonetheless, that is the case. That is one issue, if we are able to have prices that are reasonable for the American consumer, but we do not have that. One of the principal efforts of what we are discussing in the Senate is taking steps to assure those families who are in need of prescription drugs that they are going to have access to them.

We have an underlying bill that will make a very important difference. The Dorgan amendment, cosponsored by our Democrat and Republican colleagues, can make an important contribution to that as well, and we will have follow-on amendments.

Rightfully, it has been identified that safety is a key issue. However, we are talking about drugs that are FDA approved and produced in plants that have FDA inspections. Many of the safety issues raised in Secretary Shalala's letter some years ago in criticism of a much broader amendment by the Senator from North Dakota have been addressed in this legislation. The safety issues that have been addressed included the counterfeiting, the proliferation of handling, and a wide range of other issues. They have been addressed in a very serious and responsible way.

We are doing this against a background where we are free, thank goodness, of examples or incidents where there has been contamination of drugs imported from Canada. That has not been true in terms of Mexico and other countries, but it certainly has been true with Canada.

This is a very modest program, but it is an important one. It is a vital program certainly for millions of our citizens who live in or around the northern tier States. It has caught on because of the frustration of our fellow citizens. And it is a legitimate frustration because of the fact that we in the Congress have not taken steps to assure that the generic drugs or that brand-name drugs are going to be sold at a more reasonable cost. It is out of frustration for that.

I do not hear those supporting this proposal saying they are in strong support of the underlying proposal that will make the availability of drugs less expensive for the consumer, or other means as well. It is a question of the cumulative effect. This is targeted to Canada, where we have high regard and respect for their system of handling these ingredients.

I think the issues which have been outlined and detailed expressing reservations about this proposal, certainly with regard to Secretary Shalala, and to a significant extent Secretary Thompson, have been addressed by the Dorgan amendment. This will be a measured but very constructive and important step in assuring that some of our citizens get vitally needed drugs.

As the Senator from North Dakota has pointed out, the fact is that if people are not able to get drugs at all because they cannot afford them, they are willing to take some risks to be able to get them. That is what this is about. We cannot make the excellent the enemy of the good.

The opportunity for getting good quality drugs at reasonable prices will make a difference, as the Senator has pointed out with his examples of individuals with cancer who otherwise would not be able to afford any of the higher-priced drugs. So with all the inevitable health hazards that they are facing, it is either these drugs or no drugs.

This is a measured step. It is one that is eminently worthwhile. I commend my colleague for offering it, and hopefully it will be accepted.

The PRESIDING OFFICER. Who yields time?

Mr. DORGAN. Madam President, how much time remains?

The PRESIDING OFFICER. The Senator from North Dakota has 14½ minutes.

Mr. DORGAN. Do we know with respect to those who are yielding time to the opponents of this legislation, or at least yielding time on behalf of Senator GREGG, whether they will be using their time at this point?

The PRESIDING OFFICER. The Senator from Mississippi has 25 minutes.

Mr. COCHRAN. Madam President, we are happy to abide by the unanimous consent agreement which calls for a vote at 2:30. We have an indication that there are Senators who want to talk. I will speak on the subject. We already have had remarks by Senator FRIST on this subject.

Mr. DORGAN. Madam President, as the Senator who offered the amendment, I reserve some time to close debate.

I yield 5 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, I thank my colleague from North Dakota, who has worked so hard on this legislation and has done such a wonderful job of crafting what is a very reasonable and modest approach.

I did want to respond to comments that had been made a little while ago to emphasize again that this is a different proposal than was brought before the Congress before it was passed. It is limited to Canada where we know there is a very similar safety regulatory structure. We are trading back and forth. Our manufacturers of prescription drugs go back and forth across the border all the time. The only difference is they control the prices, as opposed to giving consumers the ability to have lower prices. So this is a different system. This is a system that sets up a number of protections, in fact more protections than we have in current law.

So this is actually strengthening, and given the current times that we are in, that makes sense. It makes sense to limit this to Canada as a way to begin this process and see how it works, and it makes sense to add all the safety provisions that are put in. It also makes sense to allow the Secretary of Health and Human Services to have the power to immediately stop reimportation if, in fact, there is a

problem. If there is a safety problem, if there is a health problem, if there is a concern at all about counterfeit drugs, then the Secretary has the ability, based on the evidence, to be able to stop this process.

So I believe we have built in a number of provisions that are very important, that are very responsible, and I believe this plan should go forward.

My colleague from Tennessee also said that there is no evidence we will see prices lowered or that we will see the lower prices passed on. First, I would absolutely say what we do know. There is great evidence that in fact our seniors—in fact everyone—are going to be paying higher prescription drug prices every year. We do know that. We do know in the last year, the brand name companies raised the prices over three times the rate of inflation. We do know that. We do know there is an explosion in advertising, two and a half times more in advertising, than research. We know there is in fact an explosion in prices going on in this country. We do know that our families are desperate, that our seniors are desperate, and many have drug bills that are higher than their incomes; families struggling to help mom and dad, grandma and grandpa.

We do know our small businesses are struggling to provide health care for themselves and their employees. We do know too many workers find themselves in a situation where their employer says: We have to have a pay freeze in order to be able to afford your health care benefits.

We know that is predominately because of the rising prices of prescription drugs.

So even if one thinks this is not the best proposal in the world, it is better than what is occurring today for American consumers, for American families, American seniors. I am very confident, in talking to pharmacists, community pharmacists, those who are on the front lines around this country, that they would welcome the ability to have a lower cost product brought into their pharmacies so they can offer it to American citizens.

They are on the front lines. They see the senior that walks up, gives the prescription for a 30-day supply of a drug, and then looks at the bill and comes back and says: Can I get one week's supply or I cannot get this at all. Or they take it home and they cut the pills in half. I have known couples who both needed the same heart medicine. They buy one and share it. We all know the stories.

I know that pharmacists in our neighborhood pharmacies are very much in support of efforts to bring in lower priced prescription drugs. One way to do that is by opening the border to Canada.

So I would simply rise to, again, voice strong support and my pleasure at being a cosponsor of this amendment, having worked on this issue for a number of years. I urge my colleagues to get beyond the scare tactics and to support us in this reasonable, moderate effort to add competition and lower prices for our citizens.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, as the designee of Senator GREGG, I yield myself such time as I may consume.

To refresh the memory of Senators on this subject and the fact that we have had this issue before the Senate on an earlier occasion, 2 years ago during the consideration of the annual appropriations bill for the Department of Agriculture and the Food and Drug Administration and related agencies, the Senator from Vermont, Mr. JEFFORDS, offered a similar amendment to allow drug reimportation. These were prescription drug reimportation rights.

Senator KOHL, who was the ranking Democrat at the time on the appropriations subcommittee, and I, serving as chairman, offered an amendment to that amendment which required a finding by the Secretary of Health and Human Services that the implementation of that amendment would not increase risk to public health and safety and that it would result in a reduction in the cost of products to consumers.

This language was modified slightly in conference with the House. The word ''demonstrate'' was substituted for the word ''certified,'' but in all other respects the amendment survived conference and was a part of the law.

Subsequent to that, Secretary Shalala, who was serving as the Secretary of Health and Human Services in the Clinton administration, wrote a letter to President Clinton describing her views about whether the Department could demonstrate, as required by the law, that the reimportation rights would not cause any failure of safety standards and that it would reduce the costs of prescription drugs to those who reimported them.

Her letter suggested that she could not make such a demonstration; she could not meet the requirements of the law and certify that.

Then at some point Senator KOHL became chairman of the subcommittee, and we thought we would be confronted in the next Congress with the same amendment. So we had a meeting in his office with FDA officials, Department of HHS officials, and others, to discuss the views of the administration on this subject. We had a new administration come to town. Secretary Thompson was in the meeting.

I was impressed and surprised at how much counterfeiting of drugs goes on; that countries manufacture and label and package drugs all over the world to look exactly like the drugs, some of which are off-the-shelf medications in our drugstores throughout our country; others are prescription drugs you can buy only if you have a prescription from a physician. They showed us parcel after parcel, illustration after illustration, of how much of this is going on around the world. They cautioned we should be very careful about accepting any language that would make it easier for the counterfeiters and for those who would want to do harm and bring such drugs into the country because there is no guarantee of their safety or efficacy, or that the strength stated on the package is really what is on the inside.

By looking at the drugs or the medical devices, one could not tell the difference. I could not tell the difference. No one could tell the difference to decide whether this was safe or without a chemical analysis.

The point of the story was, we were prepared to insist upon the same language in the appropriations bill that we had gotten the Senate to approve unanimously the year before, 96 to 0. They voted on the language that would make sure we would not be doing anything that would affect safety and that we really would be doing something to help reduce the cost of prescription drugs to America. But no amendment was offered.

I say that now by way of background and also to suggest to the Senate, after we vote on the Dorgan amendment, which says if you are going to permit reimportation and you find there is counterfeiting going on, you can suspend it. That is what this amendment says. OK, that is harmless enough. Let's approve that when we vote at 2:30 on a regular vote. We agreed to accept this amendment by voice vote, but there will be a recorded vote. I will vote for it. Sure, they ought to be able to suspend reimportation if they find it to be counterfeit. But guess what. There is counterfeiting and they will find it. It is no big secret.

This amendment is meaningless. What we will need to do after we adopt the Dorgan amendment at 2:30, under the agreement I will offer the same amendment. We will say that the Secretary of Health and Human Services must be able to certify that this will not adversely affect safety or be a threat to U.S. consumers, and it will result in cost savings. I want the Senator to know we will have an opportunity at that time to consider another amendment to this proposal which I hope the Senate will also adopt, as it has in the past, by unanimous vote.

I yield to the distinguished Senator from Utah.

Mr. HATCH. I thank my colleague.

Almost 2 years ago today, we visited the issue of whether to allow importation of prescription drugs from other countries. The Senate has before it today The Prescription Drug Price Parity for Americans Act, designed to permit the commercial importation of prescription drugs from Canada and to permit personal importation of prescription drugs from any country.

S. 2244 is intended to modify the Medicine Equity and Drug Safety Act of 2000, MEDSA, attempts both to address the safety concerns voiced by FDA, DEA, U.S. Customs, Secretary of HHS,

and others and also expand the personal importation exemption contained in current law.

As I will explain, reimportation was not a good idea then, and it is an absolutely terrible idea today, especially after 9/11.

The high cost of pharmaceuticals in indeed one of the most difficult matters facing our society today. We face a harsh reality: At a time when scientists are able to offer an unbelievable new array of medication, diagnostics, and vaccines, many Americans are encountering difficulties in affording these state-of-the-art and often cost therapeutics.

We have all heard stories of Americans going across the borders to Mexico and Canada to purchase cheaper drugs. This type of activity is also increasing over the Internet.

It may appear that the solution is simply to allow the importation of prescription drugs into our country. While I do not question the good intentions of those who believe this is the correct solution, we all must be aware of the disturbing, lasting unintended and negative consequences this proposal would have.

It have not possible to assure safety of reimported pharmaceuticals 2 years ago. Sadly, it is even more difficult to do so today.

We are facing an unprecedented time in history. I need not point out to my colleagues the challenges this country is already facing in our war on terrorism. Allowing drug reimportation is only going to further threaten our safety and inundate our law enforcement and regulatory agencies.

As always, there are many issues at play in this debate. But, the number one fundamental issue at stake here is the safety of the American people.

Assuring the American public that these imported drugs are safe and effective and unadulterated is next to impossible, especially now, in the midst of a war on terror. I worry that a day will come when either an underpotent or over-potent or adulterated, either intentionally or unintentionally, batch of imported drugs will cause injury and even death.

Yes, we can have certifications and regulations and foreign inspections and every other policing mechanism you can think of, but the fact remains we cannot police everyone around the world.

With this bill, we are opening a door that Congress prudently closed in 1988 when it enacted the Prescription Drug Marketing Act.

Let me give you a little background regarding the history of drug importation law.

During the 1980s, the House Energy and Commerce Committee conducted a lengthy investigation into the foreign drug market that ultimately led to enactment of the Prescription Drug Marketing Act legislation—PDMA.

This bill was enacted after our nation experienced a series of serious adverse events due to improperly stored, handled, and transported imported drugs. There were serious threats to public health and safety. That investigation discovered, among other things, that permitting reimportation of American drugs ''prevents effective control or even routine knowledge of the true sources of merchandise in a significant number of cases.'' As a result, the House Committee found that ''pharmaceuticals which have been mislabeled, misbranded, improperly stored or shipped, have exceeded their expiration dates, or are bald counterfeits, are injected into the national distribution system for ultimate sale to consumers''. It was determined that we could not prevent the introduction of substandard, ineffective, or even counterfeit pharmaceuticals.

The PDMA was necessary to eliminate health and safety problems before serious injury to consumers could occur. the Committee report was clear on why the PDMA was needed:

''[R]eimported pharmaceuticals threaten the public health in two ways. First, foreign counterfeits, falsely described as reimported U.S. produced drugs, have entered the distribution system. Second, proper storage and handling of legitimate pharmaceuticals cannot be guaranteed by U.S. law once the drugs have left the boundaries of the United States.''

Now we place a high premium on our citizens receiving safe and effective products, free from adulteration and misbranding. The Dorgan bill, could unravel the protection that the PDMA provides us.

Dating from the 1906 Pure Food and Drugs Act, through the 1938 Federal Food, Drug and Cosmetic Act, the 1962 efficacy amendments written by the Senate Judiciary committee, and the 1988 Prescription Drug Marketing Act, our Nation has devised a regulatory system that painstakingly ensures drug products will be carefully controlled and monitored all the way from the manufacturer to the patient's bedside.

Under the current Federal Food, Drug, and Cosmetic Act, FDCA, it is unlawful for anyone to introduce into interstate commerce a new drug that is not covered by an approved New Drug Application, NDA, or Abbreviated New Drug Application, ANDA. When a product is introduced into interstate commerce that does not comply with an approved application, it is considered an unapproved new drug in violation of section 505 of the FDCA. It is also misbranded under section 502. These basic rules cover importations, since importing is a form of introducing a drug into interstate commerce. Under FDCA, a drug that is manufactured in the US pursuant to an approved NDA and shipped to another country may not be reimported into the US by anyone other than the original manufacturer.

The provision restricting the right to reimport US drugs to the original manufacturer was designed to ensure that only the party that can truly vouch for the purity of the drug is allowed to bring that medicine back into the country. The prohibition on reimportation of products previously manufactured in the US and exported abroad was added to the law in 1988 to guard against the entry of counterfeit and adulterated products into this country.

On the issue of importing drugs for personal use, FDA has had a ''personal importation'' policy since the mid 1980s, which permits the importation of an unapproved new drug for personal use, meaning the individual may import no more than a 90 day supply, in certain situations.

It was intended solely to allow unapproved medications into the US for compassionate use. But over the years, there has been a tremendous increase in volume and FDA has recently taken the position that the personal importation policy has outgrown its usefulness and now presents a threat to public health.

In a letter to Congress, FDA reported that the personal importation policy ''is difficult to implement . . . due in part to the enormous volume of drugs being imported for personal use and the difficulty faced by FDA inspectors, or even health practitioners, in identifying a medicine by its appearance''. FDA lacks the ability to adequately monitory the enormous volume of mail-order pharmaceuticals.

The FDA has therefore proposed to the Department of Health and Human Services that it eliminate its personal use policy for mail imports. The Dorgan bill proposes to expand personal importation at a time when the FDA is telling us that it can't handle this and wants us to stop this policy.

In 2002, Medicine Equity and Drug Safety Act—MEDSA—included a provision that allowed an importer or wholesaler—in addition to the original manufacturer—to reimport US-manufactured drugs into the United States. But this provision would become effective only if the Secretary of HHS demonstrated to Congress that its implementation would impose no additional risk to the public's health and safety and that it would result in a significant reduction to the cost of covered products to the American consumer.

In December 2000, HHS Secretary Donna Shalala said she could not make this determination, citing flaws in the legislation that could ''undermine the potential for cost savings associate with'' prescription drug reimportation and that prescription drug reimportation ''could pose unnecessary public health risks''.

In July 2001, HHS Secretary Tommy Thompson also declined to make this demonstration on the premise that the safety of prescription drugs could not be adequately guaranteed if reimportation were permitted under its provisions.

So we have certifications by the top health officials of both the Clinton and

Bush administrations that reimportation is inherently unsafe. Are we willing to say, that it is safer today to import drugs by mail and other avenues and that we can do a better job ensuring the safety of these imported drugs? Especially after the tragic events we have been through?

The Dorgan bill, S. 2244, is a modified version of MEDSA. A review of S. 2244 will show that the new language is not significantly different from the MEDSA provisions that Secretary Shalala and Secretary Thompson rejected. Senator DORGAN, the sponsor of the bill, has stated that it is very similar to MEDSA.

Although the modifications in S. 2244 are intended to address original concerns inherent in MEDSA, they fall short of providing these safeguards—safeguards which are nearly impossible to implement. The new bill suffers from the same flaws as did MEDSA.

For example, S. 2244 is limited ostensibly to drugs imported from Canada. In fact, however, a drug could be imported from anywhere in the world under this bill, as long as it entered the U.S. through Canada.

There is no effective way under this bill to prevent the transshipment of drugs—legitimate or not—from other countries into Canada and then into the U.S. This would permit the entry of drugs that have been manufactured, stored, shipped, and handled anywhere in the world—in unsanitary conditions, unregulated conditions—and drugs that have become adulterated and even toxic.

At a September 2001 hearing before the Senate Consumer Affairs, Foreign Commerce, and Tourism Subcommittee, FDA's Senior Associate Commissioner for Policy, Planning, and Legislation, Bill Hubbard, warned of this very risk. Mr. Hubbard stated, ''Even if the Canadian system is every bit as good as ours, and I don't know whether it is or not . . . the Canadian system is open to vulnerabilities by people who will try to enter the U.S. market again because that's where the money is.''

To give another example, S. 2244 differs from MEDSA insofar as it would require manufacturers to allow importers to use their FDA-approved U.S. labeling free of charge. This could lead to an influx of misbranded products into the U.S., as importers paste FDA-approved labeling onto products from other parts of the world.

These drugs would be seen as an FDA-approved product manufactured and sold by a U.S. manufacturer—but could easily be a different product—a drug that could have deteriorated, or been contained, subpotent, or toxic. The products would be indistinguishable to a consumer in a local pharmacy, to a health professional, and even to the FDA. Consumers would be deceived by this practice, thinking the U.S. manufacturer had vouched for the purity, safety, and effectiveness of the product when in fact the manufacturer could not and had not.

Our top health care financing official has concerns as well. In March 2002, the Administrator of the Centers for Medicare and Medicaid Services—CMS—told the Senate Finance Committee that CMS opposes the reimportation of prescription drugs into the U.S. ''We have opposed it,'' he stated. ''There is no way for FDA to monitor and regulate drugs coming in from Canada, Mexico, or other countries.''

The Dorgan bill also permits a significantly lower standard for personally imported drugs than applies to domestic drugs. The Dorgan bill could also open up a loophole in the FDCA for unscrupulous commercial importers. It permits FDA to issue regulations permitting individuals to reimport prescriptions not only in their personal luggage but also through the mail or other delivery services.

We all know there is no way for FDA to limit mail order shipments to personal use. A commercial importer could simply divide its shipments into 90-day quantities and mail them separately, taking advantage of the personal use policy to introduce counterfeit products into the stream of U.S. commerce. This would overwhelm the ability of FDA and Customs to process the millions of incoming packages. Many of the criticisms of MEDSA—voiced by FDA, DEA, and others—apply equally to the new Dorgan Bill.

Many senior officials in various agencies, including FDA, U.S. Customs Service, the DEA, the Secretary of HHS warned of the difficulty in ensuring the purity and safety of reimported drugs.

Let's hear again what the experts have to say about reimportation.

William Hubbard, FDA Senior Associate Commissioner for Policy, Planning and Legislation, June 7, 2001:

> We are very concerned that a system, if designed to be a different system than the current system, poses risks and we cannot be assured that we could successfully implement such a system and bring in safe drugs because we do not have the same level of confidence about where it was manufactured, and how it was manufactured, and by whom it was manufactured, that we have under the current system.

Elizabeth Durant, Executive Director, Trade Programs, U.S. Customs Service, June 7, 2001:

> You can see the kinds of drugs that come through the mail. They are not even in bottles many times, just loose in paper. We have counterfeit drugs. We have gray-market drugs. We have prohibited drugs and we have unapproved drugs. And this is a situation that is pretty much replicated around the country.

We live in a very different world now after 9/11—a more dangerous, less certain world. We must question the safety of reimportation of prescription drugs even more than ever.

As Secretary Thompson cautioned on June 9, 2002:

> Opening our borders to reimported drugs potentially could increase the flow of counterfeit drugs, cheap foreign copies of FDA-approved drugs, expired and contaminated drugs, and drugs stored under inappropriate and unsafe conditions. In light of the anthrax attacks of last fall, that's a risk we simply cannot take.

That's the Secretary of Health and Human Services warning us.

Here's another quote from William Hubbard, FDA Senior Associate Commissioner for Policy, Planning and Legislation, July 9, 2002:

> The cheaper drugs are there. We just have no way to say to a given consumer, ''You have gotten a product that will help—will save your life,'' and we fear that many people will get a bad product that will hurt them.

We invest lots of money and resources in the United States to ensure that medications and other therapeutics are made and distributed at the highest quality and standards. Our agencies, while not perfect, have a remarkable record of protecting the public from contaminated, ineffective, and unsafe drugs.

We cannot guarantee an acceptable level of quality and safety with re-imported drugs. We can't sacrifice quality and safety in the hopes of getting cheaper medications. What's the use of cheap drugs if they can potentially do a great deal of harm and threaten the public's safety?

Reestablishing a system where wholesalers and pharmacists may import prescription pharmaceuticals through Canada to the U.S. would recreate the public health risk of counterfeit, unsafe, and adulterated drugs that Congress sought to eliminate in the late 1980s with the Prescription Drug Marketing Act.

Even if we put aside these very real safety concerns, the idea that the Dorgan bill can achieve the goal of bringing cheaper drug products to US consumers is unlikely.

This bill requires drug manufacturers to disseminate their drug formulations to potentially thousands of pharmacies and wholesalers. This information, currently protected under patent laws, could be worth millions of dollars per drug, on the black market. Unscrupulous individuals could obtain drug formulations and learn how to make their fake drugs look real and survive chemical analysis.

Allowing individuals to pirate the hard work and innovation of American drug companies to produce so called ''gray market'' products, counterfeit products, is no way to ensure that Americans have access to the latest pharmaceuticals in the long-run because they simply will not exist if we do not protect the work of our private sector companies.

While there is a clear and obvious health danger in a contaminated, pirated product, there is also great detriment to the American public if the unscrupulous are allowed to reimport America's inventions back into America without compensating the inventor. Few will be willing to invest the upfront capital—hundreds of millions of dollars—to develop a drug if another

party can make and sell the drug while it is under patent protection.

It takes an average of 15 years and a half a billion dollars to create one of the blockbuster drugs. So we have to be careful. We must be able to continue to attract the private sector investment into committing to the research and development that has made the American drug development pipeline so successful. We jeopardize this with reimportation of drugs.

We can't just do what appears on the surface to be good but, in essence, could kill people and undermine our fundamental system of encouraging innovation and rewarding hard work.

How successful is pharmaceutical innovation in Canada? They have price controls, and nobody is going to invest the money into developing these lifesaving and cost-saving drugs over the long run in those countries with price controls.

This is another step toward price controls that will weaken one of the most important industries in America at a time when we just mapped the human genome, and we are at the point where we can actually create more lifesaving medicines.

When the value of American inventions is stolen, it is American inventors and American consumers who suffer. The United States cannot and should not allow free riders around the world essentially to force the American public to underwrite a disproportionate amount of the research and development that results in the next breakthrough product. On the surface it seems there's no harm if drugs obtained from outside the United States at prices lower than U.S. prices can be resold in the U.S.; presumably this could lower prevailing U.S. prices. But great harm can come from this. I can say that where nations impose price controls, the research and development we count on to bring us miracle cures is jeopardized.

How can we guarantee that foreign government price controllers will not set an artificially low price on some new badly-needed Alzheimer's or Parkinson's or Lupus drug? We can be sure that this will have the unintended, but real, effect of convincing company officials to forgo research on this new class of drugs for fear that, in conjunction with the new liberal re-import policy, they will not be able to recoup their investment?

Let's stop the free riders and cheap riders overseas while American citizens are paying the full freight of R&D. Look, I understand the appeal of bringing goods sold cheaper abroad back to the United States at presumable savings to U.S. citizens. Yet, the amendment provides no guarantee that those wholesalers and pharmacists importing the products would pass their savings on to the consumer. And so, at best, with this bill we could be trading public safety for middleman profits.

We would also incur far more costs policing this endeavor. The cost of implementing the Dorgan bill would require very substantial resources at a time when we are stretching our funding to HHS and other federal departments to prevent future terrorist incidents.

We have to find a way around this drug access problem in this country without creating a public health hazard and ''gray market''.

We will be importing not just drugs but some other government's questionable safety standards and price controls into U.S. market dynamics.

In our valid and justified quest to help make drugs more affordable to the American public, we would be mindful not to unwittingly impede innovation.

Even the Dean of the House, Representative JOHN DINGELL of Michigan did not support similar legislation in the past when the House Energy and Commerce Committee issued a report that concluded that ''the very existence of a market for reimported goods provides the perfect cover for foreign counterfeits.''

The concerns are relevant to the Dorgan bill that we are considering today.

In our haste to bring cheaper drugs to seniors and other needy Americans—an important and laudable goal—we risk making changes to key health and safety laws and changes in our innovative pharmaceutical industry that no one can afford. We must bring safe, effective drugs to Americans, and particularly seniors, through avenues such as the Tripartisan Medicare Bill.

We need to focus our efforts on passing a Medicare prescription drug benefit bill. We should not pass another feel-good drug reimportation bill before the election that we already know today will not and cannot be implemented after the election.

UNANIMOUS-CONSENT AGREEMENT

Mr. REID. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, following consultation with the Republican leader, the Senate may proceed to the consideration of Calendar No. 486, H.R. 5011, the Military Construction Appropriations bill; and that it be considered under the following limitations; that immediately after the bill is reported all after the enacting clause be stricken and the text of Calendar No. 479, S. 2709, the Senate committee-reported bill be inserted in lieu thereof; that debate time on the bill and substitute amendment be limited to a total of 45 minutes; with an additional 20 minutes under the control of Senator MCCAIN; that the only other amendment in order be an amendment offered by Senators FEINSTEIN-HUTCHISON, which is at the desk; with debate limited to 10 minutes on the Feinstein-Hutchison amendment; that upon the use or yielding back of time on the amendment, without further intervening action or debate, the Senate proceed to vote on adoption of the amendment; that all debate time, not already identified in this agreement, be equally divided and controlled between the chair and ranking member of the subcommittee or their designee; that upon disposition of the Feinstein-Hutchison amendment, and the use or yielding back of all time, the substitute amendment, as amended, be 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 passage of the bill; the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses; and that the chair be authorized to appoint conferees on the part of the Senate, without further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Continued

The PRESIDING OFFICER (Mr. CARPER). The Senator from Mississippi.

Mr. COCHRAN. Mr. President, under the designation of the Senator from New Hampshire, I yield to the distinguished Senator from Louisiana, Mr. BREAUX.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. Thank you very much.

I thank the distinguished Senator from Mississippi who I think is preparing an amendment which will be offered later on in the debate on the whole question of importation of drugs, which in essence is the same amendment that 97 Senators voted for the last time we addressed this issue on the question of importation of drugs.

Let me mention, to start with, that I think the topic of the debate on how we can provide prescription drugs for all of our Nation's seniors is really the challenge that is before the Senate. We can get waylaid, or delayed, or sidetracked by saying we are going to fix the problem by opening our borders to imported drugs coming from foreign countries or from Canada. That is something we need to discuss. But it is certainly not, by any stretch of the imagination, going to solve the problem of prescription drugs for seniors until we come up with a comprehensive, across-the-board Medicare package that can guarantee insurance coverage for prescription drugs just as every Member of the Senate has when we buy prescription drugs. That is the type of plan we have. People compete for the right to sell us those drugs. We have a choice between the plans that best can serve our families' needs at the best possible price.

That is the type of system on which I think we should be working and, in fact, on which we are spending a great deal of time.

With regard to the specific issue before this body at the current time—the

question of importation of prescription drugs from our neighbors to the north in the country of Canada—the concern I have with that is guaranteeing, before you allow these drugs to come into this country, that they are going to be just as safe and just as real as the drugs we buy in this country which are certified by the FDA and tracked from the manufacturer all the way to the pharmacist and to the customer.

We had hearings just a week ago in the Senate Aging Committee where we discussed the issue of counterfeit drugs. We had U.S. Customs come in, we had the FDA Administrator come in, and give us information from their perspective about imported drugs coming from Canada or from other foreign countries. Here are some statements from the FDA about the issue of imported drugs.

It is not just a question of whether they are cheaper. Of course, they could be cheaper. I can get open heart surgery in Juarez, Mexico, a lot cheaper than I can get it at the Houston Medical Center. The question is, Is that the type of open heart surgery I want? The answer, from my perspective—and I think most Americans—is that it is not. I want it to be not just the cheapest price, I also want the best service.

The issue is not where you can get the cheapest drugs but where you can get drugs that are also affordable and are also the real thing.

It is estimated that about 8 percent of the drugs coming into the United States right now are counterfeit, and the projection is, if you open up the borders, that amount will increase greatly.

Here is what the FDA said when testifying before the Senate Aging Committee:

> For those who buy drugs overseas, we have been consistently saying that you are really taking a great risk. You certainly risk your pocketbook, but you may be risking your health, and you may even be risking your life.

FDA also said:

> Unapproved drugs and reimported approved medications may be contaminated, subpotent, superpotent, or counterfeit.

The final thing they said, which I think is significant because the argument is this is from Canada, and they are our friend, they are a democracy and not a third-world country, and it is all right to do it from Canada; we are not going to let you do it from Bangladesh, they said in our hearing:

> Throwing the door open to drugs purchased by individuals directly from Canadian sellers will encourage unscrupulous individuals to devise schemes using Canada as a transshipment point for dangerous products from all points around the globe.

It is not just going to be drugs manufactured in Canada that can penetrate our border under an importation policy but drugs manufactured in Colombia, manufactured in Bangladesh, and manufactured in some very unsettled parts of the world that can be transshipped through Canada and come into the United States.

Here is an example. I have a lot of examples. Some of our colleagues have held up two bottles and said: This bottle cost $350 in America, and this bottle of the same stuff cost $20 in Canada. That is fine, if it is the same stuff. The problem is when it is not the same stuff.

Here is an example of a product that is supposed to be an anti-inflammatory drug. This is great. This is a prescription drug. In this particular case, they took a white powder. They stamped the name of the product into the little bitty pills. You can't tell the difference in the pills. They put it in a blister pack and sold it as the drug Ponstan. The only problem is that it sure looks like Ponstan. The package looks like Ponstan. It has every word on it that the real thing has, and the dosage is the same in fine print. The pill is exactly the same. It has the name Ponstan stamped into it.

Here is what is really in it. When you analyze it, the yellow powder which they put in it, instead of being the real thing, ended up being stuff that could do grave damage. This happens to be boric acid, floor wax, and yellow, leaded highway paint. That is a heck of a thing to be able to do. Is this cheaper than the real stuff? Oh, yes, it is a lot cheaper. But I don't want to take a pill that says it is the real thing but is yellow, leaded highway paint which they pressed into these packages and sold.

Can they sell it a lot cheaper? Yes. I can sell it for 2 cents a pill. I don't care what I sell it for because it does not cost much to make yellow, leaded highway paint and sell it as a pill and take it across the border.

It is my understanding, in reading the legislation and amendment before this body, that you can immediately suspend importation, but after the fact, after they have exhibited a pattern of importation of drugs ''that is counterfeit or in violation of [these] requirement[s] . . . or poses an additional risk to the public health.'' After we determine that it is being done, then you can stop it from being done.

Isn't it better to have to have that certification up front before we allow them to start bringing things over the border that may be real or may not be real; may be half real and half not real? Shouldn't we establish what the rules are before we let them in?

The Senate has discussed and debated that issue. And by a unanimous vote, every single one of us who voted on this issue before supported the Cochran amendment, 97 to 0, that said, before we can allow it to start coming in, we have to have a system in place that is guaranteed by our Food and Drug Administration that it is coming in and it is not counterfeited; it is safe; we have tracked the manufacturer and we know how they make it, what they are doing, and what is in the little packets of pills.

The legislation before the committee, I fear, now says that only after our Government determines that there is a pattern of counterfeiting or a pattern of bringing in drugs that pose a risk to the human health—then, and only then, can we suspend their operations.

Don't do it after the horse is already out of the barn. You have to stop it before it starts. How many people are going to have to take yellow, leaded highway paint before they can show there is a pattern of doing this in order to come in with a suspension of these importations? Do we have to have five people—to create a pattern—get sick from taking yellow, leaded highway paint? Do we have to have 100? I would not want to be 1 of the 100, if that is the establishment of what we have to do before we can suspend their operations.

It is far superior to take the approach: Yes, we will let you bring in imported drugs from Canada, but only if there is established, prior to the time it starts, a guarantee that these drugs can be brought in and are not counterfeit and are not harmful to your human health and are, in fact, not yellow, leaded highway paint.

Mr. DURBIN. Will the Senator yield for a question?

Mr. BREAUX. I am happy to.

Mr. DURBIN. Can the Senator tell me, in this particular instance, was this drug imported from Canada?

Mr. BREAUX. I am not sure where it was from.

The point I make is, Canada is our good friend, a civilized society, with high-quality manufacturers. But what Food and Drug says about Canada is the following:

> Throwing the door open to drugs purchased by individuals directly from Canadian sellers will encourage unscrupulous individuals to devise schemes using Canada as a transshipment point for dangerous products from all points around the globe.

The PRESIDING OFFICER. The time of the Senator from Mississippi has expired.

Ms. COLLINS. Mr. President, I rise in support of the amendment offered by my colleague from North Dakota, Senator DORGAN, to allow for the reimportation of prescription drugs from Canada by pharmacists and wholesalers.

The United States leads the world in the discovery, development and manufacture of cutting-edge pharmaceuticals. Yet too many citizens who live in Maine and elsewhere must travel over the broader to Canada to buy the prescription drugs that they need to stay healthy for much lower prices than they would pay at their neighborhood drug store.

It is well documented that the average price of prescription drugs is much lower in Canada than in the United States, with the price of some drugs in Maine being twice that of the same drugs that are available only a few miles away in a Canadian drug store.

It simply does not seem fair that American consumers are footing the

bill for the remarkable, yet costly, advancements in pharmaceutical research and development, while our neighbors across the border receive these medications at substantially lower prices.

That is why I cosponsored legislation in the last Congress, the Medicine Equity and Drug Safety Act, to allow American consumers to benefit from international price competition on prescription drugs by permitting FDA-approved medicines made in FDA-approved facilities to be re-imported into this country. A modified version of that bill was signed into law last October, and I am extremely disappointed that the Department of Health and Human Services continues to refuse to implement the law.

I am therefore pleased to cosponsor this amendment, which will allow American consumers to benefit from international price competition in two ways:

First, it allows U.S. licensed pharmacists and drug wholesalers to import FDA-approved medications from Canada, which has a drug approval and distribution system comparable to ours.

Second, the amendment codifies existing U.S. Customs' practices that allow Americans to bring limited supplies of prescription drugs into this country from Canada for their personal use. That way, consumers who follow the rules won't have to worry that their medicines will be confiscated at the border.

While this amendment is a step in the right direction, it is not the solution to the prescription drug problem in the United States. I believe that our top priority should be to strengthen Medicare and include a prescription drug benefit, and I look forward to working on a bipartisan basis with my colleagues to give all Americans better access to affordable prescription drugs.

Mr. DORGAN. Mr. President, how much time remains for both sides.

The PRESIDING OFFICER. The Senator from North Dakota controls 7½ minutes.

Mr. DORGAN. Is that total time?

The PRESIDING OFFICER. Total time.

Mr. DORGAN. I yield 3 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. JEFFORDS. Mr. President, it is not often I disagree with my good friend from Louisiana, but when you come from a northern State such as Vermont, and when you see what is happening, and you are buying a drug from a drugstore, which is certified under Canadian law, which is just as strong as ours, and you can pay half the price for it—to say you cannot go across the border to do that just does not make any common sense.

The real threat as far as drugs coming into this country, because of the disproportionate pricing, is the utilization of the Internet. That is where the problems are. On the Internet there is no checking, and you can order your drugs over the Internet. That is where you ought to look to try to prevent sales coming into this country. And that is wide open now.

When I was chairman of the committee that put together the pharmaceutical bill, we worked carefully with the FDA to make sure that when this bill passed, it gave them authority for sales across the border, and that they would have full authority to make sure that any sales are stopped that should not be allowed under the law. So I think the statements that are being made now just do not fit the reality of the situation.

To deny our people the ability to purchase these drugs, under a safely designed plan, which the FDA has the authority to approve, to make sure there is no counterfeiting or unlawful sales—it is just without merit to say that we need the protection there. It is there. We did that before. We passed it by a large vote, I believe, and put it into law. But the Secretary had authority not to let it go forward. And under the previous administration, that happened.

So what we should do now is pass this bill to allow our people the opportunity to get good pharmaceuticals that are not overpriced, which are safe and available. I think all the comments to the contrary are missing the point and missing the bill.

This amendment will allow pharmacists and wholesalers to import safe, U.S.-made, FDA-approved lower-cost prescription drugs from our neighbor to the north—Canada. This amendment will do nothing to undermine the gold standard of safety in this country because our northern friends have virtually the same standards. What this amendment will do is rein in the platinum standard we have for prices we pay for our medicines.

Prescription drugs have revolutionized the treatment of certain diseases, but they are only effective if patients have access to the medicines that their doctors prescribe. The best medicines in the world will not help a person who cannot afford them.

Americans pay by far the highest prices in the world for prescription drugs, and for many the prices is just too high. What's worse is that those Americans who can least afford it are the ones paying the highest prices. Americans who don't have health insurance that covers drugs are forced to pay the ''sticker price'' off the pharmacist's shelf.

It is sad that during a time when the United States is experiencing economic problems and higher unemployment it is becoming more common to hear of patients who cut pills in half, or skip dosages in order to make prescriptions last longer, because they can't afford the refill.

This is not about the Medicare benefit that we will also have an opportunity to debate later. But this too is a tripartisan effort. And, it is equally important because this will effect all Americans—not just our Medicare seniors. The question that we must ask is, can we put politics aside and work in a nonpartisan manner to deal with this national crisis? I say we must. And I am hopeful that today we can.

This amendment is based on legislation I introduced in the last Congress, the Medicine Equity and Drug Safety Act. Then, as now, we were joined by my friends Senators DORGAN, SNOWE, WELLSTONE, and COLLINS. I am also glad to see that this year our group has been joined by Senator STABENOW and Senator LEVIN. That measure passed on an overwhelming vote of 74 yeas to 21 nays. It is time for us to take that vote again, and again pass this legislation.

This amendment has been substantially revised to address the concerns over safety that have been raised.

Two key elements. First, the FDA approved drugs can only be brought in from Canada. These are the same drugs that are currently being brought in under existing FDA policy. There have been no reports of adverse events, poisonings or counterfeit by the senior citizens taking buses to Canada. In addition, it gives the Secretary the authority to suspend this program should these safety issues arise.

I would also point out to my colleagues that this amendment specifically authorizes FDA to incorporate any other safeguard that it believes is necessary to ensure the protection of the public health of patients in the United States.

It is important to remember—these are exactly the same drugs that have been approved by the FDA except they are sold for far less.

Why is it that Canada and the rest of the developed world pays less for drugs than the U.S. It is because drugs are somehow exempt from the laws of the open market and free trade. And for that reason we have been subsidizing the rest of the world, in spite of the fact that we have U.S. citizens going without health care and without the medicines they need.

Why should Americans pay the highest prices in the world for prescription drugs? All this amendment does is allow international competition to bring rational pricing practices to the prescription drug industry. It introduces competition which is the hallmark of our success in this Nation.

I want the record to clearly reflect that I still feel strongly that Vermonters should not be in violation of Federal law if they go a few miles across the border into Canada to get deep discounts on prescriptions. We do nothing in here to indicate they should not be allowed to do so.

This amendment will provide equitable treatment of Americans, particularly those who do not have insurance, or access to big discounts for large purchases like HMOs. This is not the only solution. I strongly believe we need a good competitive prescription drug benefit in the Medicare program. And I

look forward to working with all of my colleagues to develop a balanced, generous prescription drug benefit that can be supported by Members from both sides of the aisle.

But right now, this is a commonsense measure that we can enact now to ease the burden of expensive prescription drugs on our people, for those on the borders, and all Americans.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President it is unusual we have a real debate on the floor of the Senate. I think it is interesting to do so. It is also interesting to listen to the debate and see the tactics we have heard about terrorists, terrorism, heart surgery in Tijuana, everything but poppy seeds from Afghanistan—yellow highway paint from somewhere around the world. He is not sure where it comes from.

Well, he just won a debate no one is having. It is the easiest debate in the world to win. Congratulations.

The real subject, however, is vastly different than the presentation you just heard. This is about FDA-approved drugs, only FDA-approved drugs produced in FDA-approved manufacturing plants, moved across the border by licensed pharmacists and licensed distributors, and only those.

Apparently—obviously—the pharmaceutical industry does not like what we are doing here. I understand that. And I understand why people stand up and say the pharmaceutical industry does not want this to happen.

But what they are saying is, it is OK for the manufacturers to move prescription drugs back and forth across the border—and they do; they do a lot of it every day—but it is not appropriate for licensed pharmacists or distributors to do so.

Why is it we trust the manufacturers so much more than the Main Street pharmacists? Tell me about that, if you will. Why is one trustworthy and the other untrustworthy. And is it not the case that there might be a price differential, I say to my colleague from Louisiana, between the United States and Canada?

It is a fact that there is a very substantial price differential, and that the American consumer is charged the highest prices in the world for the identical prescription drug.

There is a lot of fog in this debate and very little light. We are talking about something very simple. We are not talking about counterfeit drugs or adulterated drugs. We are not talking about terrorism. We are talking about very careful circumstances under which a licensed pharmacist or distributor goes to Canada, which has a chain of custody that is similar to ours, accesses the identical prescription drugs that are FDA approved, brings them back across the border, and passes the savings along to the American consumer.

Why don't the pharmaceutical companies like that? Because it will force them to reprice their drugs in this country. It will force down drug prices to the U.S. consumer. That is why they do not like that.

I renew the question I have asked time and time again, for which no one in this Chamber has an answer—no one. Why should American citizens have to go to Canada to get a fair price on a prescription drug that was manufactured in the United States?

There is no answer to that in this Chamber. No one has attempted an answer. What we have seen is a discussion about——

Mr. SANTORUM Will the Senator from North Dakota yield for an answer?

Mr. DORGAN. I have very limited time. I am sorry.

Mr. SANTORUM. I would be happy to answer at some point.

Mr. DORGAN. The Senator will have ample time to answer the question. I will inquire when he does so.

In the minute or so I have remaining, let me say this: This is life or death for a lot of people, this issue of prescription drug pricing. Yes, we need to put a prescription drug benefit in the Medicare Program. I support that strongly. But if we do not do something to put downward pressure on prescription drug prices, we will simply break the bank, in my judgment.

That is why we need reimportation. And we need the generic amendment—the base bill. We need to do both of these things. I am not interested in compromising safety under any condition or any circumstance. This amendment is very simple. It says, in part, that the Secretary of Health and Human Services can suspend and will suspend and shall suspend the implementation of this reimportation if, in fact, there is a counterfeiting problem, or other problems such as terrorism.

The issue of counterfeit drugs that had been raised, the issue of terrorism, has nothing at all to do with this amendment. We are talking about licensed pharmacists, licensed distributors, FDA-approved drugs, FDA-approved plants—a system in which those from the U.S. who are licensed to do so can get the exact same prescription drug safely from Canada at much cheaper prices and pass those savings along to customers.

I understand we will have another amendment following the vote on this amendment. That amendment will have the effect of essentially making this provision unworkable. We will have to debate that at that time.

How much time remains?

The PRESIDING OFFICER. Twenty seconds.

Mr. DORGAN. I yield back my time.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to amendment No. 4300 offered by the Senator from Nevada for the Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is 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 69, nays 30, as follows:

[Rollcall Vote No. 179 Leg.]

YEAS—69

Akaka	Dorgan	Lugar
Allard	Durbin	McCain
Baucus	Edwards	McConnell
Biden	Feingold	Mikulski
Bingaman	Feinstein	Miller
Bond	Fitzgerald	Murkowski
Boxer	Graham	Murray
Brownback	Grassley	Nelson (FL)
Burns	Gregg	Nelson (NE)
Byrd	Harkin	Reed
Cantwell	Hollings	Reid
Carnahan	Inouye	Rockefeller
Chafee	Jeffords	Sarbanes
Cleland	Johnson	Schumer
Clinton	Kennedy	Sessions
Cochran	Kerry	Smith (NH)
Collins	Kohl	Smith (OR)
Conrad	Landrieu	Snowe
Craig	Leahy	Specter
Crapo	Levin	Stabenow
Daschle	Lieberman	Stevens
Dayton	Lincoln	Wellstone
Dodd	Lott	Wyden

NAYS—30

Allen	Ensign	Nickles
Bayh	Enzi	Roberts
Bennett	Frist	Santorum
Breaux	Gramm	Shelby
Bunning	Hagel	Thomas
Campbell	Hatch	Thompson
Carper	Hutchinson	Thurmond
Corzine	Hutchison	Torricelli
DeWine	Inhofe	Voinovich
Domenici	Kyl	Warner

NOT VOTING—1

Helms

The amendment (No. 4300) was agreed to.

The PRESIDING OFFICER. Under the previous order the Senator from Mississippi is to be recognized to offer an amendment.

The Senator from Mississippi.

AMENDMENT NO. 4301 TO AMENDMENT NO. 4299

(Purpose: To protect the health and safety of Americans)

Mr. COCHRAN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for himself and Mr. BREAUX, proposes an amendment numbered 4301 to amendment No. 4299.

On page 15, line 17, strike ''section.''. and insert ''section,'' and insert the following new subsection:

''(2) CONDITIONS.—This section shall become effective only if the Secretary of Health and Human Services certifies to the Congress that the implementation of this section will—

''(A) pose no additional risk to the public's health and safety, and

''(B) result in a significant reduction in the cost of covered products to the American consumer.''.''

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I support the effort to make prescription drugs more affordable for all Americans. However, I am concerned that creating new opportunities to bring counterfeit or dangerous drugs into the United States from foreign countries is not the way to do it.

The amendment I have sent to the desk on behalf of myself and the Senator from Louisiana, Mr. BREAUX, will provide an opportunity for the Secretary of Health and Human Services to make a certification that the reimportation of drugs from Canada will not jeopardize human safety, the consuming public who buys these drugs, and it will, in fact, lower the cost of prescription drugs for Americans.

I have also been asked to state that other Senators who want to be added as cosponsors to this bill are Senator ROBERTS of Kansas and Senator SANTORUM of Pennsylvania. I make that request.

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, the amendment of the Senator from North Dakota could very well make it easier to avoid U.S. standards and inspections at a time when we are increasing border surveillance and trying to prevent acts of terrorism.

Two years ago, a similar amendment was added to the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act for Fiscal Year 2001. However, the Senate-approved language that I offered at that time required the Secretary of Health and Human Services to certify that implementation of the amendment would pose no additional risk to the public's health and safety and would result in a significant reduction in prescription drug costs for U.S. consumers.

Secretary of HHS Donna Shalala was not able to make such a demonstration as required by that law.

I ask unanimous consent that a copy of her letter to President Clinton dated December 26, 2000, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, December 6, 2000.

Hon. WILLIAM J. CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The annual appropriations bill for the Food and Drug Administration (FDA) (P.L. 106–387), signed into law earlier this year, included a provision to allow prescription drugs to be reimported from certain countries for sale in the United States. The law requires that, prior to implementation, the Secretary of Health and Human Services demonstrate that this reimportation poses no additional risk to the public's health and safety and that it will result in a significant reduction in the cost of covered products to the American consumer.

I am writing to advise you that I cannot make the demonstration called for in the statute because of serious flaws and loopholes in the design of the new drug reimportation system. As such, I will not request the $23 million that was conditionally appropriated for FDA implementation costs for the drug reimportation system included in the FY 2001 appropriations bill.

As you know, Administration officials worked for months with members of Congress and staff to help them design safe and workable drug reimportation legislation. Unfortunately, our most significant concerns about this proposal were not addressed. These flaws, outlined below, undermine the potential for cost savings associated with prescription drug reimportation and could pose unnecessary public health risks.

First, the provision allows drug manufacturers to deny U.S. importers legal access to the FDA approved labeling that is required for reimportation. In fact, the provision explicitly states that any labeling information provided by manufacturers may be used only for testing product authenticity. This is a major loophole that Administration officials discussed with congressional staff but was not closed in the final legislation.

Second, the drug reimportation provision fails to prevent drug manufacturers from discriminating against foreign distributors that import drugs to the U.S. While the law prevents contracts or agreements that explicitly prohibit drug importation, it does not prohibit drug manufacturers from requiring distributors to charge higher prices, limit supply, or otherwise treat U.S. importers less favorably than foreign purchasers.

Third, the reimportation system has both authorization and funding limitations. The law requires that the system end five years after it goes into effect. This ''sunset'' provision will likely have a chilling effect on private-sector investment in the required testing and distribution systems because of the uncertainty of long-term financial returns. In addition, the public benefits of the new system are diminished since the significant investment of taxpayer funds to establish the new safety monitoring and enforcement functions will not be offset by long-term savings to consumers from lower priced drugs. Finally, Congress appropriated the $23 million necessary for first year implementation costs of the program but did so without funding core and priority activities in FDA, such as enforcement of standards for internet drug purchase and post-market surveillance activities. In addition, while FDA's responsibilities last five years, its funding authorization is only for one year. Without a stable funding base, FDA will not be able implement the new program in a way that protects the public health.

As you and I have discussed, we in the Administration and the Congress have a strong obligation to communicate clearly to the American people the shortcomings in policies that purport to offer relief from the high cost of prescription drugs. For this reason, I feel compelled to inform you that the flaws and loopholes contained in the reimportation provision make it impossible for me to demonstrate that it is safe and cost effective. As such, I cannot sanction the allocation of taxpayer dollars to implement such a system.

Mr. President, the changes to the reimportation legislation that we have proposed can and should be enacted by the Congress next year. At the same time, I know you share my view that an importation provision—no matter how well crafted—cannot be a substitute for a voluntary prescription drug benefit provided through the Medicare program. Nor is the solution a low-income, state-based prescription drug program that would exclude millions of beneficiaries and takes years to implement in all states. What is needed is a real Medicare prescription drug option that is affordable and accessible to all beneficiaries regardless of where they live. It is my strong hope that, when Congress and the next Administration evaluate the policy options before them, they will come together on this approach and, at long last, make prescription drug coverage an integral part of Medicare.

Sincerely,

DONNA E. SHALALA.

Mr. COCHRAN. More recently, on July 9, 2001, a letter from the current Secretary of Health and Human Services, Tommy Thompson, indicated that based on an analysis by the Food and Drug Administration on the safety issues and analysis by his planning office on the cost issues, he could not make the required determinations, and he stated his view that we should not sacrifice public safety for uncertain speculative cost savings.

Secretary Thompson also indicated that prescription drug safety could not be adequately guaranteed if drug reimportation were allowed and that costs associated with documentation, sampling, and testing of imported drugs would make it difficult for consumers to get any significant price savings.

I ask unanimous consent that Secretary Thompson's letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC July 9, 2001.

Hon. JAMES JEFFORDS,
U.S. Senate,
Washington, DC.

DEAR SENATOR JEFFORDS: I am writing to follow up on my earlier response to your letter of January 31, 2001, co-signed by fifteen of your colleagues, regarding the Medicine Equity and Drug Safety Act of 2000 (MEDS Act).

You and other Senators and Representatives asked that I reconsider former Secretary Shalala's decision and make the determination necessary to implement the MEDS Act. As I mentioned in my prior communication, I asked the Food and Drug Administration (FDA) to carefully reexamine the law to evaluate whether this new system poses additional health risks to U.S. consumers, and the Office of the Assistant Secretary for Planning and Evaluation (OASPE) to examine whether the new law will result in a significant cost savings to the American public.

I believe very strongly that seniors should have access to affordable prescription drugs. I applaud your leadership in this area, and agree that helping seniors obtain affordable medicines should be a priority. However, as my earlier response stated, I do not believe we should sacrifice public safety for uncertain and speculative cost savings.

SAFETY CONCERNS

After a thorough review of the law, FDA has concluded that it would be impossible to ensure that the MEDS Act would result in no loss of protection for the drugs supplied to the American people. As you know, the drug system as it exists today is a closed system. Most retail stores, hospitals, and other outlets obtain drugs either directly from the drug manufacturer or from a small number

of large wholesalers. FDA and the states exercise oversight of every step within the chain of commercial distribution, generating a high degree of product potency, purity, and quality. In order to ensure safety and compliance with current law, only the original drug manufacturer is allowed to reimport FDA-approved drugs.

Under the MEDS Act, this system of distribution would be opened to allow any pharmacist or wholesaler to reimport drugs from abroad; this could result in significant growth in imported commercial drug shipments. As you know, the FDA and the states do not have oversight of the drug distribution chain outside the U.S. Yet, opening our borders as required under this program would increase the likelihood that the shelves of pharmacies in towns and communities across the nation would include counterfeit drugs, cheap foreign copies of FDA-approved drugs, expired drugs, contaminated drugs, and drugs stored under inappropriate and unsafe conditions.

While the MEDS Act requires chain of custody documentation and sampling and testing of imported drugs, these requirements cannot substitute for the strong protections of the current distribution system. Counterfeit or adulterated and misbranded drugs will be difficult to detect, and the sampling and testing proposed under this program can not possibly identify these unsafe products entering our country in large commercial shipments.

I can only conclude that the provisions in the MEDS Act will pose a greater public health risk than we face today and a loss of confidence by Americans in the safety of our drug supply. Although I support the goal of reducing the cost of prescription drugs in this country, no one in this country should be exposed to the potential public health threat identified by the FDA in their analysis. Further, the expenditure of time and resources in maintaining such a complex regulatory system as proposed by the MEDS Act would be of questionable public health value and could drain resources from other beneficial public health program.

COST SAVINGS

The clear intent of the MEDS Act is to reduce the price differentials between the U.S. and foreign countries. The review of the Office of the Assistant Secretary for Planning and Evaluation (OASPE) concludes there are significant disincentives for reimportation under the MEDS Act, including the costs associated with documenting, sampling and testing, the potential relabeling requirements and related costs and risk associated with such requirements, the overall risk of increased legal liability, the costs associated with the management of inventories by wholesalers and pharmacists, and the risk to existing and future contractual relationships between all parties involved. Moreover, there are a number of reasons (including potential responses by foreign governments) why lower foreign prices may not translate into lower prices for U.S. consumers. Insufficient information exists for me to demonstrate that implementation of the law will result in significant reduction in the cost of drug products to the American consumer.

CONCLUSION

Since I am unable to make the determination on the safety and cost savings in the affirmative, as required under the law, I cannot implement the MEDS Act. Please find attached to this letter a more detailed analysis of the factors influencing the public-safety and cost-savings questions. If you need further clarification of my position on these issues, please do not hesitate to contact me.

Thank you for your leadership in health care. I look forward to working with you on new initiatives for making medicine more affordable to our citizens, and on other health issues of importance to our Nation.

Sincerely,

TOMMY G. THOMPSON.

Mr. COCHRAN. Even though the amendment being offered by the Senator from North Dakota, Mr. DORGAN, would apply under its terms only to drugs exported to and reimported from Canada, it would seem prudent that the safeguards we adopted 2 years ago by a vote of 96 to 0 should also be applied to this reimportation proposal. That is why I am offering this amendment.

We should be certain that any change we make results in no less protection in terms of the safety of the drugs supplied to the American people and will indeed make prescription drugs more affordable. Liberalization of protections that are designed to keep unsafe drugs out of this country, especially following the terrorist threats we face now, should occur only if the necessary safeguards are in place. This amendment will ensure that the concerns of the last two administrations regarding the safety and cost-effectiveness are addressed prior to the implementation of this proposal.

Currently, under the Federal Food, Drug, and Cosmetic Act, it is unlawful for anyone to introduce into interstate commerce a new drug that is not covered by an approved new drug application or an abbreviated new drug application. Approval must be sought on a manufacturer and product-by-product basis. A product that does not comply with an approved application, including an imported drug not approved by FDA for marketing in the United States, may not be imported, even if approved for sale by that country.

A product introduced into interstate commerce that does not comply with an approved application is considered an unapproved new drug in violation of the Food, Drug, and Cosmetic Act, as well as ''misbranded'' under the section of that act.

Under section 801 of the act, a drug that is manufactured in the United States pursuant to an approved new drug application and shipped to another country may not be reimported into the United States by anyone other than the original manufacturer. This prohibition on reimportation of products previously manufactured in the United States and then exported was added in 1988 to prevent the entry into this country of counterfeit and adulterated products.

Section 801 was enacted not to protect the corporate interests of pharmaceutical companies but to protect the safety of American consumers. Counterfeit drugs are a very real threat and can be deadly. Any liberalization of drug reimportation laws must assure safety from this threat. Limiting reimportation of drugs from Canada does not necessarily solve that problem.

During testimony before the Senate Finance Committee on March 7 of this year, the administrator of the Centers for Medicare and Medicaid Services, Tom Scully, was asked whether the administration opposes or supports the importation of prescription drugs into the United States. He said, and I quote:

> We have opposed it . . . there is no way for FDA to monitor and regulate drugs coming in from Canada, Mexico or other countries.

Others have told us there is no effective way to prevent transshipment of drugs from other countries into Canada and then into the United States. Limiting reimportation to Canada will only make Canada a port of entry for counterfeit and substandard drugs into the United States.

William Hubbard, who is FDA's Senior Associate Commissioner for Policy Planning and Legislation, told us at a September 5, 2001, hearing, before the Senate Consumer Affairs Foreign Commerce and Tourism Subcommittee, the following:

> Even if the Canadian system is every bit as good as ours, the Canadian system is open to vulnerabilities by people who will try to enter the U.S. market because, again, that is where the money is.

Last year, U.S. Customs and Drug Enforcement Administration officials testified before the House Energy and Commerce Committee that thousands of counterfeit and illegal drugs are already coming across our borders and through the mail from other countries. Far from supporting the reimportation proposals before Congress, these agencies recommended tightening our current regulations on reimportation of pharmaceuticals.

In a July 11, 2001, letter to the Energy and Commerce chairman and ranking member, William Simpkins, Acting Administrator of the Department of Justice Drug Enforcement Administration, who was referring to reimportation amendments, said the following:

> (W)e oppose . . . these amendments because they would hinder the ability of law enforcement officials to ensure that drugs are imported into the United States in compliance with long-standing Federal laws designed to protect the public health and safety.

On March 5 of this year, the New York Times in some articles explained that the illegal production in the United States of popular stimulants such as methamphetamine reflects lax regulation in Canada for the chemical ingredients. As a result, Canada has become the leading supply route for the raw ingredient into the United States where the substances are more tightly controlled. In the last 11 months, the U.S. Customs Service has seized more than 110 million tablets of decongestants that contain the primary ingredient for making methamphetamines, or speed, as smugglers attempt to bring shipments across the border in everything from furniture to glassware.

The article notes:

> An alliance of diverse organized crime groups, stretching from Mexico to Iraq to Jordan, have found Canada an easy entry point into a growing American market for synthetic drugs.

The Canadian Government concedes that they have relatively loose control on the powder used to make methamphetamine, which criminal elements have easily circumvented. According to an intelligence report by DEA and the Royal Canadian Mounted Police in January:

The diversion of pseudoephedrine from Canadian suppliers to the illicit market is reaching a critical level.

The FBI and DEA officials have tracked the profit trail to the Middle East where they are probing to see if it is being used to fund terrorist networks.

This amendment would also permit personal importation of drugs from any country. It is illegal to import unapproved drugs into the United States, but the FDA has for years, in the exercise of its enforcement discretion, allowed U.S. citizens to bring a 90-day supply of prescription drugs for their personal use. The reason for this policy is one of compassionate use. It was to allow patients with life-threatening or serious diseases to have access to non-FDA-approved therapies that are available in other countries. Under this policy, the patient affirms it is for his or her own use and provides the name and address of the U.S.-licensed doctor responsible for treatment.

The FDA has not officially permitted the importation of foreign versions of U.S.-approved medications because it has been unable to assure these products are safe or effective. In testimony before the Subcommittee on Oversight and Investigation in the House Committee on Energy and Commerce, in June 2001, William Hubbard of FDA indicated:

Under the FD&C Act, unapproved, misbranded, and adulterated drugs are prohibited from importation into the U.S., including foreign versions of U.S.-approved medications, as is reimportation of approved drugs made in the U.S. In general, all drugs imported by individuals fall into one of these prohibited categories. From a public health standpoint, importing prescription drugs for personal use is a potentially dangerous practice. FDA and the public do not have any assurance that unapproved products are effective or safe, or have been produced under U.S. good manufacturing practices. U.S.-made drugs that are reimported may not have been stored under proper conditions, or may not be the real product, because the U.S. does not regulate foreign distributors or pharmacies. Therefore, unapproved drugs and reimported approved medications may be contaminated, subpotent, superpotent, or counterfeit. In addition, some foreign web site offer to prescribe medicines without a physical examination, bypassing the traditional doctor-patient relationship. As a result, patients may receive inappropriate medications because of misdiagnosis, or fail or receive appropriate medications or other medical care, or take a product that could be harmful or fatal, if taken in combination with other medicines they might be taking.

The importation of personal use amounts by mail continues to increase according to FDA. A 5-week survey of mail in Carson City, California, conducted by Customs and the FDA in 2001 found serious public health risks associated with drugs intercepted. These included drugs that could not be identified because they had no labeling, drugs once approved by the FDA but withdrawn from the market due to safety concerns, and drugs that should only be used under the supervision of a doctor licensed to administer the drug.

In a letter to Congress last July, Mr. Hubbard indicated that the personal importation policy ''is difficult to implement'' partly ''due to the enormous volume of drugs being imported for personal use and the difficulty faced by FDA inspectors, or even health care practitioners, in identifying a medicine by its appearance.''

When I was discussing the amendment of the Senator from North Dakota, Mr. DORGAN, which we just approved, I told the story of how Senator KOHL and I had a meeting in Senator KOHL's office. We were anticipating a second amendment to the appropriations bill last year to find out more about the dangers and the difficulties our inspectors have at the border when dealing with imported prescription drugs. The Internet and mail resources, buying drugs here and there by mail, were another example of bypassing the inspections and bypassing the enforcement of a lot of U.S. regulations.

It is amazing the number of drugs that are now on the shelves in drugstores in America that are counterfeit and no one knows about it. These are difficulties that we now face. The proposal of this amendment by the Senator from North Dakota will further relax our capability to find illegal drugs, to find those drugs that are dangerous that are being brought into this country. It will create a new opportunity for transshipping drugs all over the world into our country which will be a great danger to the citizens of our country.

The conditions contained in my amendment, which would be added to the legislative proposal before the body, are the same as those previously adopted by this Senate and included in the 2001 Agriculture appropriations bill. They were adopted at that time by a unanimous vote of the Senate during our consideration of that appropriations bill. I ask my colleagues to again support this amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I compliment Senator COCHRAN for his amendment. I ask unanimous consent to be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Senator COCHRAN alluded to 2 years ago when we passed this amendment unanimously. He said if we are going to do it, let's make sure it does not impose significant additional risk on consumers, thereby saving money. I don't know why anyone would vote against that amendment. I hope no one will vote against this amendment. It is a very important amendment.

Let me make a couple of comments. Someone will ask, didn't we already do that in the Dorgan amendment which passed by a nice vote? The Dorgan amendment is full of loopholes. It says it would be suspended upon the discovery of a pattern of importation of prescriptions by the importer that is counterfeit or in violation of any requirement in this section. If this is the case, how many people will have to die before we realize there is a pattern? How many will realize those yellow tablets that Senator BREAUX was holding up are actually paint instead of maybe a lifesaving drug? How many patterns have to exist before we realize this really didn't work?

We have the FDA where we spend millions and millions of dollars inspecting, trying to make sure we have quality drugs for our citizens. We are just going to open up a gigantic loophole for unscrupulous manufacturers. I wish that were not the case, but if anyone travels anywhere in the world, they know it happens often. When you talk with our State Department about counterfeit drugs or copyright violations on software, they will tell you that it happens lots of time. Unfortunately, it should not happen. But we have a pretty closed system right now where FDA goes to great lengths to ensure the drugs coming into the United States are safe.

Last year, Senator DORGAN said, let's have it basically open ended coming from Canada and Mexico. Now we are just saying Canada. How safe is that?

My staff did some homework. Canada has a provision under the Canadian Food and Drug Act, section 37. It reads:

This Act does not apply to any packaged food, drug, cosmetic or device, not manufactured for consumption in Canada and not sold for consumption in Canada, If the package is marked in distinct overprinting with the word ''Export'' or ''Exportation'' and a certificate that the package and its contents do not contravene any known requirement of the law of the country to which it is or is about to be consigned has been issued in respect of the package and its contents in prescribed form and manner.

In other words, the Canadian Food and Drug Act does not apply to drugs brought in strictly for export. Canada can import drugs from Sudan and export them to the United States and they are not covered by Canadian Food and Drug regulations.

Yet Senator DORGAN's amendment says: Bring them on, bring them on. Our FDA people, our leaders, both past administrations as well as present administration, say we cannot do that safely.

Here is a letter that was addressed to Senator COCHRAN. It is an extensive letter that is critical of Senator DORGAN's approach. I will just read one paragraph:

The bill would actually create an incentive for unscrupulous individuals to find ways to sell unsafe or counterfeit drugs that, while

purporting to be from Canada, may actually originate from any part of the world. Canada could become a transshipment point for legitimate or nonlegitimate manufacturing concerns throughout the world, and in many cases we would not be able to determine the true country of origin. For all these reasons we find this provision would greatly erode the ability of the FDA to ensure the safety and efficacy of the drug supply and protect public health.

I could go on.

If Canada says we are not going to regulate drugs that are brought into Canada for export only, and we are saying wait a minute, Canada, we want to be able to import your drugs.

I listened to a lot of the debate. Almost every example that was given was of United States-manufactured drugs sent to Canada that are a lot cheaper in Canada than they are in the United States. There is nothing in Senator DORGAN's amendment that says these drugs have to be manufactured in Canada or the United States. These drugs could come from Sudan.

There was a pharmaceutical plant in Sudan that was bombed a few years ago. There are pharmaceutical plants all around the world. Some of them may have great quality controls, some of them may not. Some of them may be in terrorist states. Yet we are leaving ourselves wide open.

So I urge my colleagues——

Mr. SANTORUM. Will the Senator yield for a question?

Mr. NICKLES. I will be happy to, but I tell my colleagues I hope and pray the Cochran amendment will pass. If it does not pass, I will have an amendment that says the drugs that are covered should be of American or Canadian origin, manufacture, or control. American drugs are controlled. Even the drugs that we import, if they have FDA approval, we send FDA inspectors over to those plants to certify them. We have what is called a pedigree requirement to follow those drugs, to know where they are manufactured, know where they are distributed, before FDA puts their approval on them.

So we try to and do protect safety. We do not have that for all drugs that would be coming from Canada.

I would just mention there is a fatal flaw, in my opinion, in the Dorgan amendment we just adopted. One of those is that there has to be a pattern. If you look at the language of the amendment we just adopted, there has to be a pattern of importation from each importer.

That is too late when there are people who have already died, are already sick, when there are people who did not get cured because we waited for a pattern, we waited for evidence, we waited for unfortunate results—not to mention, there is no telling how many people would have been cheated out of money, and so on.

So I think the amendment we just adopted is probably not worth the paper it was written on.

I also find it kind of clever to think we had the original Dorgan amendment, then they had a second degree. They left out one paragraph, and then the second-degree was reinstating that one paragraph. I am guessing it was saying we will use this as a substitute for the Cochran amendment. That is a false and faulty substitute. It is not a satisfactory substitute.

The Cochran amendment—and I urge my colleagues to read it, and I cannot imagine anyone would oppose it—says:

This section shall become effective only if the Secretary of Health and Human Services certifies to Congress that the implementation of this section (A) will pose no additional risk to public health and safety.

How could anybody oppose that?

And, second:

. . . result in a significant reduction of cost of covered products to the American consumer.

We are all in favor of that. I compliment the Senator from Mississippi for his leadership on it this year and 2 years ago. As a result of the amendment of the Senator from Mississippi, we have saved lives and eliminated a lot of fraud and counterfeiting and abuse that would have transpired had he not been so vigilant for the last couple of years. I compliment him and urge all my colleagues to support the Cochran amendment, and I am happy to yield.

The PRESIDING OFFICER. Is the Senator yielding the floor?

Mr. NICKLES. I yield to the Senator for a question.

Mr. SANTORUM. I have a question. Listening to your comments, are you suggesting that a product made in Iraq or Yemen or Iran or some other country that may have terrorists in their country, they could actually send a drug through Canada into the United States, without anybody inspecting it, and have it show up here not marked as from what country it came, and be sold here in America, under the Dorgan amendment?

Mr. NICKLES. Under Canadian law, which I just read—this is section 37 of the Canadian Food and Drug Act—it said any item, whether it be packaged food, drug, cosmetic, or other devices—and if that item is imported and exported, not to be consumed or utilized in Canada, then it is not under their regulatory scheme.

Mr. SANTORUM. So it would come in here under the Dorgan amendment, reimportation, not being reviewed by the FDA before it came here? Only if we found out the terrorist attack was successful through this scheme would we then find out that we have a problem?

Mr. NICKLES. That would be too late.

Mr. SANTORUM. That would be far too late.

Mr. NICKLES. That would be under the category of the pattern of action.

Mr. DORGAN. Will the Senator yield for a question?

Mr. NICKLES. I am happy to yield for a question.

Mr. DORGAN. I appreciate the courtesy. The amendment deals with FDA drugs, so the condition under which that drug from Canada would come into this country would be it was purchased at a Canadian-licensed pharmacy or distributer by a licensed facility or distributor in this country, and therefore it must be FDA approved and produced in an FDA-approved plant. Is that not the case?

Mr. NICKLES. I am reading a letter from the FDA, and they said absolutely. I ask unanimous consent to have printed in the RECORD a letter dated July 17, from the Department of Health and Human Services addressed to Senator COCHRAN.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF
HEALTH & HUMAN SERVICES,
Rockville, MD, July 17, 2002.

Hon. THAD COCHRAN,
U.S. Senate, Washington, DC.

DEAR SENATOR COCHRAN. We take this opportunity to provide the views of the Food and Drug Administration (FDA) on S. 2244, the Prescription Drug Price Parity for Americans Act, introduced by Senator Byron Dorgan on April 24, 2002.

The Administration is sympathetic to the goal of making prescription drugs more affordable for American citizens, including senior citizens. However, FDA is concerned about the negative impact on public health of a proposal such as S. 2244 that aims to open the nation's drug regulation system and allow drugs from outside that system into U.S. commerce and our citizens' medicine cabinets. We therefore must oppose enactment of this legislation.

S. 2244 would allow wholesales, pharmacists and individuals to import drugs from Canada under certain specified conditions. The bill would create a new section 804 of the Food, Drug, and Cosmetic Act (the Act), replacing the current provisions of section 804, which are the drug re-importation provisions enacted in 1999 (the MEDS Act).

Currently, drugs marketed in the United States must be approved by FDA based on demonstrated safety and efficacy; they must be produced in manufacturing plants inspected and approved by FDA; and their shipment and storage must be properly documented. This ''closed'' regulatory system has been very successful in preventing unapproved, adulterated or misbranded drug products from entering the U.S. stream of commerce. Legislation that would establish other distribution routes for drug products, particularly where those routes routinely transverse a U.S. border, creates a wide inlet for counterfeit drugs and other dangerous products that are potentially injurious to the public health and a threat to the security of our nation's drug supply.

S. 2444 would establish two new routes for introducing drugs from Canada into U.S. commerce. First, new section 804(b) would require the Secretary of Health and Human Services (the Secretary) to promulgate regulations to permit pharmacists and wholesalers to import prescription drugs from Canada into the U.S. The bill purports to safeguard the domestic drug supply by requiring, in new section 804(c), that these drugs comply with sections 505, 501 and 502 of the Act, and that importers comply with detailed recordkeeping and testing requirements.

As a practical matter, meeting these requirements would be an enormous undertaking, and the testing required under the bill would be costly and time consuming,

both for the government and importers. Moreover, some of the testing requirements cannot even be met, as there is no testing that can ensure that a shipment of drugs does not contain counterfeits. Since counterfeits can easily be commingled with authentic product, either by the case, by the bottle, or by the pill, there is no sampling or testing protocol sufficient to protect against the grave public harm they pose. No random sampling plan will be able to detect and protect such criminal conduct since the threat does not depend upon the nature of the reimported product, but upon the integrity of those handling it. Furthermore, the legislation fails to require reporting of any counterfeits that may be found by testing, so even if counterfeits are discovered, FDA may never learn of them.

It is unlikely that Canadian sellers and U.S. importers would be willing to endure these new requirements, but even if they were, it is likely that the intended cost savings for consumers would be absorbed by fees charged by exporters, pharmacists, wholesalers, and testing labs. Because the bill requires that the drugs comply with sections 501, 502 and 505 of the Act, it may be found, in practice, that for the bill to have its intended effect U.S. manufacturers would have to sell drug products manufactured, labeled and intended for the U.S. market to Canadian distributors specifically for re-sale to the U.S. Even if they were willing to do so, these sales may represent illegal shipments to the Canadian market under Canadian law. All of these concerns make the proposed program for importation by pharmacies and wholeasalers both impractical and unworkable.

The second route proposed by S. 2244 for importing drugs into the United States is by allowing individual consumers to import drugs on their own from Canadian pharmacies. New section 804(k)(2) would compel the Secretary to promulgate guidance to allow consumers to directly import drugs and medical devices from Canada. This represents an enormous intrusion on the Department's enforcement discretion, and it would over-ride existing statutory provisions that allow FDA to refuse personal importation of prescription drugs from Canada if they are believed to be unsafe, ineffective, adulterated, radioactive, or contaminated.

In surveys conducted by FDA over the past several years, we have found that a wide variety of dangerous drug products have been imported by individuals from outside the United States, both by mail and by traveling to other countries. The bill would actually create an incentive for unscrupulous individuals to find ways to sell unsafe or counterfeit drugs that, while purported to be from Canada, may actually originate in any part of the world. Canada could become a transshipment point for legitimate or non-legitimate manufacturing concerns throughout the world, and in many cases we would not be able to determine the true country of origin. For all of these reasons, we find that this provision would greatly erode the ability of FDA to ensure the safety and efficacy of the drug supply, and protect the public health.

FDA has numerous other specific concerns that S. 2244 may undermine current law regarding drug labeling, record keeping, testing, and enforcement, and we have laid out these concerns in an attachment to this letter.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

LESTER M. CRAWFORD, D.V.M., PH.D.
Deputy Commissioner.

Mr. NICKLES. This is the quote from FDA. I might say this is the position that is consistent, not only with this administration but the previous administration. They state:

The bill would actually create an incentive for unscrupulous individuals to find ways to sell unsafe or counterfeit drugs that, while purporting to be from Canada, may actually originate in any part of the world. Canada could become the transshipment point for legitimate or nonlegitimate manufacturing concerns throughout the world, and in many cases we would not be able to determine the true country of origin. For all these reasons we find this provision would greatly erode the ability of FDA to ensure the safety and efficacy of the drug supply and protect the public health.

Mr. DORGAN. If the Senator will yield for one additional question, the Senator is aware, I am sure, that today pharmaceutical manufacturers reimport a substantial amount of prescription drugs from Canada. What is to prevent the circumstance you just described from occurring now, with respect to current law?

Mr. NICKLES. Current law requires FDA, for their certification—for FDA to give their certification, you have a pedigree requirement. The pedigree requirement means we have FDA inspectors go visit the plants in Canada to certify that yes, these are FDA-approved drugs. They do the sampling. They make sure the packages are safe. Inspections are done at great expense. That is already done for FDA, for drugs that are manufactured in the United States or reimported into the United States. It would not be done under any drug in Canada or under the Canadian law, which basically says if these drugs are purchased strictly for export purposes, they do not fall under Canadian regulation.

Mr. DORGAN. But is it not then the case that they are not FDA-approved drugs and therefore our amendment deals with that?

Mr. NICKLES. Mr. President, I will reclaim the floor. That is not correct.

Mr. DORGAN. It is correct.

Mr. NICKLES. Again, I am reading to my colleague. I have a statement from the past FDA Administrator as well that says they can't guarantee the safety of these drugs. They do not have the regulators. The Senator's amendment did not have the pedigree requirement for drugs that would be imported into the country. That is a possible amendment that I am considering offering.

If the Cochran amendment doesn't pass, we are going to be on this bill for a while because I am going to offer an amendment—I will tell my colleague, and maybe you will accept it—I am going to offer amendment that says all the drugs covered by this act shall be manufactured in the United States or Canada, because that has been implied but it is not factual under the bill.

Ms. STABENOW. Will my friend from Oklahoma yield for a question?

Mr. NICKLES. Let me finish. I am also going to offer an amendment that will replace language under the Dorgan amendment that says there is a pattern of importation of drugs, counterfeit and so on. That would be replaced by ''any instance.'' So we are not going to wait for a pattern if this amendment is adopted. Again, I hope my colleague from North Dakota would agree, with this amendment, that it could be suspended if there were an instance of counterfeit drugs, if there is an intent of abuse of the system. Then they can be suspended and not wait for a pattern.

I think both of those amendments are very acceptable. I hope my colleagues will agree to consider them favorably.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I think the Senator from Oklahoma has made a vitally important point. We have gone through I can't tell you the number of steps to try to stop terrorism.

The Senator from Kansas has just come to the floor. He has been a leader in the area of bioterrorism and agriterrorism.

Under this provision that we are debating right now—the underlying Dorgan bill—you are creating an incredible loophole for terrorist attacks and bioterrorist attacks in this country. We are creating a loophole that allows any foreign country to go through Canada to import drugs into the United States. And the Canadian Government doesn't even inspect it and does not even open it. It can come right in here.

Ms. STABENOW. Mr. President, will the Senator yield for a question?

Mr. SANTORUM. Yes. I am happy to yield for a question.

Ms. STABENOW. The trading of drugs is probably more highly regulated than any kind of trade. I am wondering if my friend would also object to all the food that comes into the United States from Canada and other countries. We have foods and vegetables coming in every day. We have bottled water and alcoholic beverages coming in. We have all kinds of things that go back and forth across the border from a lot of countries that are not regulated nearly as much as prescription drugs. I am wondering if the Senator is also concerned about or would object to that kind of trade as well.

Mr. SANTORUM. That is why we have Customs inspectors and FDA inspectors, who do, in fact, monitor things coming into this country for purposes that are fundamentally different. When you are talking about pharmaceutical products, that is a fundamentally different area.

All I am suggesting is that what is being created in the Dorgan amendment is an opportunity. As the amendment says, you have to have a pattern of problems with these drugs before you can do anything.

I think that creates a loophole that is in today's world of terrorism, one

that would be certainly filled by any number of terrorist organizations that want to hit the United States with some sort of bioterrorism.

I want to get back to what the Senator from North Dakota said prior to the vote on the last amendment. He said he would like to have someone come here and explain to him why drugs in Canada are so much less expensive than they are here in the United States, why we pay such premiums for those drugs here in the United States, and why Canada can sell them so much less expensively than they do here. There are a lot of reasons. Let me give you a few.

No. 1, the Canadian health care system is a single-payer system. It is a government-run health care system. It is run through the provinces and the territories.

This government-run health care system negotiates prices. Not all drugs that are made available in the United States are available in Canada. Why? Because the Canadian Government has a formulary. There may be four arthritis drugs that may be very effective in dealing with different forms of arthritis. The Canadian Government basically negotiates with companies, plays one against the other, and gets the cheapest price. They make one available. That one available may be the right particular drug for this group of arthritis sufferers. But it may not be the best drug for the whole class. That is why there is probably four of them. They have different little initiatives that make their drug more effective on certain people in certain circumstances. But in Canada, you get one. Maybe you get two in a general class. They negotiate it based on the best price they can get.

That is one thing.

In Canada, people don't get access to the variety of different drugs that may be the best therapy available. They negotiate a price because they are a big purchaser. They purchase for the entire 35 million people in Canada. They purchase drugs, and they compete it so they get one company getting the entire market, in many cases. So they can get a much reduced price as a result of the volume discount which they give.

Again, they limit the access to a variety of different drugs to the people of Canada. It is a balancing act for the drug company that wants to compete in Canada to get access to that market.

I am sure the Senator from North Dakota and the Senator from Michigan are familiar with this.

The second thing is there is a provision in the Canadian law called ''compulsory licensing.'' Most Senators on the other side of the aisle know what compulsory licensing is. But just in case they don't, let me explain to Members what the impact of compulsory licensing has on drug prices.

Compulsory licensing is the ability for the Canadian Government, if they do not get a satisfactory negotiation for a drug they believe is necessary to be offered in Canada, and if they aren't happy with the price the pharmaceutical company is willing to sell that drug at, they can basically, in a word, steal the patent.

Let me repeat that.

If Merck, which happens to be a big pharmaceutical company in my State, wants to sell a particular drug that is effective for arthritis—maybe it is a very new drug, an important drug, one on which they have spent a lot of money, and it has tremendous results and they want to sell it in Canada—said: We will sell it for $2 a pill here in the United States. Canadian says: That is nice. We are not going to pay $2. We want a volume discount. Merck says: OK. We will negotiate some sort of volume discount. We will sell it to you for $1.50 a pill. Canada says: That is nice. We will pay you 50 cents. Merck says: That is not a fair price. So they negotiate back and forth.

OK. Fine. We believe this is an important drug for our people. If you want to sell it to us for 50 cents, you lose your patent. We will license it to someone here in Canada. They will make the drug, and you get nothing.

Most people would say that doesn't seem particularly fair. No. It is not fair. But under Canadian law, I would suggest to you that not just Canada but in most countries around the world, unfortunately, that is a fact of life for many drug companies. If you point to Brazil, to South Africa, or to France, or to some other country, and ask, How can they get these drugs? It is because if they do not sell the drug at the price the national government wants the drug sold at, they steal the patent, they compulsory license it.

You are now looking at a drug company that says: Wait a minute. We want to sell this drug for $2. It cost us 25 cents extra to make the pill. They say: Wait a minute. Why do you want to sell if for $2? It took us $800 million to bring this thing to market. We have a few research costs involved in getting this drug formulated, approved, and all the things that are necessary to make sure it is safe and effective. It cost us a lot of money. Yes, but making the pill doesn't cost a lot. But to get to where we can make the pill, it costs an enormous amount of money. We would like to recoup that. Because they are in business, they would like to make a profit. The Canadian Government says: Look, it only cost you a quarter to make this pill, but we are giving you 50 cents. You are making money. It is better than making no money. If you don't sell it to us for 50 cents, you make no money.

So the drug company has to make this decision. Do I sell the drug at 50 cents and make some money, or do I choose not to sell the drug?

They may have it be made somewhere else. Even if they don't compulsory license it—even if they say, no, they are not going to compulsory license it, they are not going to sell it, put aside compulsory licensing. They say: We want to sell the drug. It is 50 cents. You don't have access to our market.

So the drug company has to make a decision. Do I sell the drug at 50 cents and make a small profit to help underwrite the cost of the research that was done on this drug, or do I choose not to sell?

You can make the argument that they shouldn't sell. You can make the argument that they should try to negotiate a better deal. But there is one negotiator, the Government of Canada, and they set the price. If you do not like the price, you either don't sell, and no drug is made available in Canada, which is no skin off the back of Canadian Government because in most cases, most drugs are not available in Canada. It is just another drug that is not available.

If they really want your drug, and if they really believe it is important to get your drug, they simply license it to someone in Canada, and they make the drug, which they buy. They can make the drug in such sufficient quantities that they can actually import that drug into the United States. So they can steal your patent. And under this bill, a stolen patent can be imported.

I understand it is very, very popular to be beat up on pharmaceutical companies. They make money. We do not like anybody that makes money around here. So they make some money. They do some things that are cutting edge. For some reason this is a problem.

It is very popular to go out and beat up on pharmaceutical companies for charging all this money for products that people need. But let me remind you, the Senator from Massachusetts said this bill will save $60 billion. If I am wrong on that, that is what I thought I heard yesterday. The Senator from Massachusetts said this will save $60 billion for the American consumer.

My question is, save it from whom? Who is it going to cost? It comes from somewhere. The obvious answer is, it is going to save it from the pharmaceutical industry.

Let's look at the pharmaceutical industry in this country, the much maligned pharmaceutical industry. What did this pharmaceutical industry do to deserve this treatment? What it did to deserve this treatment is invest more as an industry in research and development than any other industry in America.

Let me repeat that. What have they done to incur the wrath of the U.S. Senate today? What they have done is invest more money in research and development than any other industry in America. As a result, they have come up with breakthrough drugs, which cost a lot of money but, by the way, save lives and improve the quality of life for millions in America.

So what are we doing to thank them, to congratulate them, for being one of

the leading exporters in this country, for improving our balance of payments in this country, for employing people in high-priced jobs in this country, for moving scientific research in this country, for curing diseases in this country, for improving the quality of life in this country, for extending lives in this country?

We say we are going to whack off $60 billion out of your bottom line, which means, of course, the research will stop or be dramatically reduced.

So understand what we are doing. We are all beating our chests saying: We are going to get the big, bad pharmaceutical companies that are pillaging the American public with outrageous drug prices, and we are going to cut those prices by 30 to 50 percent.

Understand the consequences. Less money in research. Less money in research means fewer new drugs. Fewer new drugs mean people will die who would otherwise be saved by those innovations. That is what the consequences are.

All I am suggesting is, if that is the tradeoff, if 30 percent less on your pharmaceutical price is a good tradeoff for not having the next generation of lifesaving drugs or quality-improving drugs, that is fine. That is a worthy debate in the Senate. It is one that we should have, but it is not one that we are having.

The debate we are having is, corporate greed versus poor senior citizen. That is the debate here: These horrible pharmaceutical companies that are raping and pillaging the people of America while making these enormous profits.

Look at their profit lines, look at the prices for their stock, and I will assure you, they are not showing those enormous profits.

What is going to happen—if this were successful and we did take $60 billion out of this industry—and that is where it is coming from. It is not coming from anywhere else. It is not being drawn out of whole cloth. It is coming out this industry, which means $60 billion less of research.

We run around this country, and we are very proud in the Senate talking about how we are increasing the budget for the National Institutes of Health and how we care deeply about improving the quality of health in this country and how we are going to put more and more taxpayers' dollars into solving diseases, into fighting problems that perplex us, into finding out more about how our bodies work. Wonderful. Wonderful. That is great basic research. It is important to do. It is great scientific discovery. But where does all this stuff lead? Where does this lead?

In many, many cases it leads to research then being handed off to a private-sector organization that goes ahead and develops that lifesaving cure, that pharmaceutical product that, in the end, saves lives.

Mr. FRIST. Mr. President, will the Senator yield for a question?

Mr. SANTORUM. I am happy to yield for a question.

Mr. FRIST. Mr. President, I will be very brief. The Senator from Pennsylvania addresses a very important point, which forces us to look to the future in terms of future cures, whether it is for HIV/AIDS, emphysema or heart disease.

He hit the point very directly, in a way that I have not heard on this floor, in response to one of the main reasons why drug prices are higher in the United States than in Canada.

I would like to ask the Senator the following question. Typically, in the United States an individual company will set prices in such a way to cover research. They will look at supply, demand, and the efficacy and efficiency with which the goal of cure or prevention is carried out.

In order for the prices of medicine to be sustained over time, you must allow some recoupment of that investment in research. We all know that, on average, only 3 out of 10 medicines that are eventually approved in this country actually generate enough revenue to pay for that investment over time in the United States.

Mr. SANTORUM. Not to mention all the hundreds or thousands of compounds that were even tried to be researched, and they ended up where they decided: No, we are not even producing a drug that could be sought for approval.

Mr. FRIST. That is correct. That is the United States.

The real question goes to the following: In Canada they have a very different system. Everybody looks to Canada's system as if it is similar to or in some ways better than ours. In Canada, not the United States—this is what you essentially said—is it not correct that each company is denied the freedom to set prices for its own innovative medicines?

Mr. SANTORUM. Let me explain to you exactly how that process works. It is not a free market. They cannot set their prices. They have to negotiate with a board, and it is called the Patented Medicines Price Review Board. That board sets the prices in Canada.

They do so in the following way. The statute mandates that the price of most new patented medicines may not exceed the price of the most expensive drug marketed in Canada that treats the same disease.

So let's take HIV/AIDS. You have a regiment of drugs that are out there to treat it. Someone comes on the market with a brand new AIDS drug that may cure AIDS or may substantially improve the quality of life for someone with AIDS.

In Canada, they cannot, under the statute, charge more than what the highest priced drug already in the market is, which may have an improving effect on the quality of AIDS but may not be one of those transformational drugs.

So, No. 1, statutorily they are limited. No. 2, the price in Canada of a drug constituting a breakthrough drug, in therapy, may not exceed the median of its price in seven countries.

Let me tell you, all of those specified countries, with the exception of the U.S.—that is one of the seven—the other six, interestingly enough, are all price-controlled countries where the government sets the prices.

So it is a spiraling-down effect. One refers to the other country as a way to set the price, and so they each keep setting lower and lower prices, and they rachet the price down by having all these price control countries as the reference point for Canada.

Ms. STABENOW. Will my friend from Pennsylvania yield?

Mr. SANTORUM. I will as soon as I finish the question from the Senator from Tennessee.

Mr. FRIST. Just a quick followup question.

Based on what you have said, the only choice a manufacturer has is to set it at the price that Canada allows or to not sell it.

If a manufacturer decided not to sell a medicine at a price the government allowed, then is it correct that the government would authorize a Canadian company to copy and sell the drug, even without the patent holder's permission, which, it would seem to me, throws out the meaning of patents?

If we throw out the meaning of patents when it comes to pharmaceuticals and drugs, what are the implications for us in this country or the person listening today who has heart disease or HIV/AIDS, as they look with hope for that cure?

Mr. SANTORUM. There are enormous implications if we allow the Canadian Government to deny and basically say to the company: Either take it at this price or we will go ahead and manufacture it ourselves.

By the way, once they license it in Canada, the Canadian manufacturer can appeal to the government and say: Look, yes, we are manufacturing it here, but for us to make a profit, we have to export some because we have to make it in sufficient quantities. And if that is approved, they can send the drug back here to the United States.

Our companies could do all the research, expend all the money, and then be forced not to be able to sell the drug. In that case, the Canadian Government will say, it is not important enough. If you don't give it to us at the price we want, you lose the competition between three other drugs that may be similarly situated. You just don't sell the drug in Canada. Or, if we think it is important enough, if we think it is vital to our national health and you don't want to sell it to us at a price we believe is reasonable, we will have compulsory licensing. They simply license it to another.

That is not some far off concept. Right after the anthrax scare in the Senate, the Canadian health minister said that if they cannot get enough quantities of Cipro, they were going to

revoke the patent of Bayer and produce it in Canada.

So just understand, this is not a theoretical concept. This is a real concept. Even if it is not done routinely, which it is not, it is certainly a hammer that the government uses to get prices at a level that they want, not that the manufacturer believes is fair for their product.

Ms. STABENOW. Will my friend yield?

Mr. SANTORUM. I yield for a question.

Ms. STABENOW. I appreciate the ability for us to debate this important issue. I am wondering, as a result of what you have described, and I appreciate the sympathies for drug companies, if you then support the fact that the average pharmaceutical drug for Americans is going up three times the rate of inflation?

Mr. SANTORUM. That is important because another provision of the Canadian system is that the price may not increase more than the consumer price index. They fix prices even after they have set them in place.

The prices of drugs are going up. The research involved in discovering new drugs and the complications of doing so is driving up drug prices. That is a problem. I think we do need to do something.

But the issue is not price control. It is access to insurance. That is the key. What we need to do is to provide, for the private-sector American, the Medicare-eligible American, an opportunity to get insurance to reduce the cost of drugs to them. That is vitally important.

Ms. STABENOW. I am wondering if my friend might also respond then to the well-known practice now that the companies are spending 2½ times more on advertising than they are on research and development, and how you might feel about that.

Mr. SANTORUM. I must respectfully disagree with my colleague's assertion on that point, for it is factually incorrect, although a commonly cited myth. According to recent findings by NDC Health, a health care information company, the pharmaceutical industry spends significantly more on research and development than it does on advertising. For 2001, $2.8 billion was spent on direct-to-consumer advertising. This is less than one-tenth of the $30.3 billion America's pharmaceutical industry spent on research and development. Moreover, I am someone who believes that a company is entitled to advertise and sell their product. Certainly, I don't know of any business that makes a product that doesn't tell anybody what their product is. If you look at the research and development cost of every other industry compared to their advertising cost, the pharmaceutical industry would probably stack up better than any other industry. You could say they are spending a lot on advertising. I would hope they are spending money to try to tell people what their products are about.

Are you telling me they shouldn't be able to spend money to tell American consumers or physicians or hospitals what their product is and how it can be used? Of course, they should. They have an obligation to.

Mr. FRIST. Would the Senator yield for another brief question?

Mr. SANTORUM. Yes.

Mr. FRIST. Mr. President, clearly the United States does subsidize the world in terms of research and development. For better or worse, many other countries do have strict price controls. Those price controls ultimately translate pretty uniformly across the world into less investment in terms of research and development and investigation and experimentation for future cures of a broad range of diseases that we globally suffer with today.

The hope out there—whether it is Parkinson's disease, emphysema, heart disease, or lung disease—comes in the development of new drugs.

My question to the Senator is to verify the data that at least has been made available to me. In the United States our pharmaceutical industry—and I will phrase this as a question—spends about how much? The answer is the United States spends around $30 billion for research and development in the private sector coming from private investment in this country. In Canada, the cost for all research and development in pharmaceutical agents is not $30 billion; it is $1 billion.

I mention that because people glorify the Canadian system and how inexpensive it is. We need to be very sensitive to the fact that the United States is doing the world's research and development in the pharmaceutical arena which gives us the hope. Canada does not. The system described does not.

Would the Senator agree with that?

Mr. SANTORUM. That is absolutely right. The initial comment the Senator made is right. This is the fundamental issue we need to debate. Should the American public, through its pricing system, free market pricing system of drugs, continue to subsidize the rest of the world in pharmaceutical research? If the answer is no, we need to state that. If the answer is, no, we don't want that to continue, we should come out in front and say: We are not going to let the United States consumer bear the brunt of researching new drugs. If that is what we want to do, we need to be very upfront about that.

That may be a very legitimate position to take. I don't share that view. I don't believe that is the right thing for us to do. I don't think that moves this country forward. I don't think that keeps us on the cutting edge of an industry that is a world leader.

If that is what this body wants, then we are going to make the short-term trade, and the underlying bill on generics is exactly in this direction. We are going to make the short-term trade. We will have to charge our consumers less, allow more generic drugs, allow reimportation of drugs, all of which will undermine and cut into the revenues and intellectual property of the pharmaceutical industry, which will subsequently reduce their ability to do research on drugs for the short-term gain of having cheaper prices on the drugs available today.

The exchange is, lower prices on the existing pot of drugs available today versus a cure for heart disease or cancer or emphysema or Parkinson's or you name it down the road. That is the tradeoff.

Let's be honest. Of the drugs available today, many of them are very good, but some of them are not as accessible. You could make the argument, it is more important to get those drugs to people today than it is to get that next generation of cures tomorrow. Maybe we will have to wait. Instead of getting them next year or 2 years from now, we will have to make it 5 or 10 years. That is a tradeoff.

Let's have a debate about that. But let's understand that all this other talk is just glossing over the broader issue. That is the fundamental issue.

I haven't seen any polls on this issue. There may be Americans who believe that is the way to go. There may be others who feel strongly the other way. We have to understand that is the debate.

With that, understand the bottom line: Lower prices, either on generic drugs or reimported drugs, versus cures tomorrow and the next. That is the debate. We must make a choice.

The PRESIDING OFFICER. The Senator from Nevada has sought the floor.

In my capacity as Chair, I might say to colleagues, I will try to switch back and forth on positions so I will recognize the Senator from North Dakota next.

Mr. REID. I say to my friend, you should recognize who asks, not back and forth. Unless there is some agreement, I respectfully suggest that the Chair should not do that.

The PRESIDING OFFICER. The Chair apologizes.

Mr. REID. Mr. President, if I could have the attention of the minority, I have talked to Senator COCHRAN, and he tentatively agreed to this schedule. We would have a vote at approximately 5:40 today; that the time between now and then would be equally divided, even though that perhaps is unfair. The Senator from Pennsylvania has spoken for such an extensive time, but I don't think we need to worry much about that.

So I would like to propound a unanimous consent agreement that we would have a vote on the Cochran amendment at 5:40; that following the vote, we would proceed to the Stabenow amendment, which would be in the form of a second-degree amendment to the underlying amendment; then following that, tonight, as soon as that amendment is laid down, we would go to the MILCON bill—which we got consent on earlier today, and I appreciate that—and we would complete that debate tonight and vote on that in the morning.

In the morning, we will start off with the Stabenow amendment, which will be debatable.

Mr. GREGG. Mr. President, if the Senator will yield, at this time we cannot agree to such an understanding. As the Senator has noted, this amendment has generated a very significant interest. Debate has been, obviously, substantive and there is still a fair amount of debate that has to flow under the bridge before we can close the game, if I can mix metaphors.

Mr. REID. I understand the statement of the Senator from New Hampshire, even though I do not agree. We have agreed to accept the amendment tentatively—unless something has changed in the interim. I think there would be an agreement that we could accept this amendment.

All I say to my friend is, if that is the case—and I think it is—again, we are legislating by virtue of slow-walking. As I say, we have tried—and if they would like to tango, we will play music; if they want to rumba, we will do that. But we need to move this legislation. We have a lot of things to do. We are constantly told by the President there are things he would like done. We do our best to meet what the administration wants. For example, if we are going to be able to get to the bill where he is talking about consolidating different agencies, we are going to have to do that. We have to finish this first. Here it is Wednesday at 4 o'clock at night. We have had one vote today—that is all I remember—and we are not able to go ahead with anything else. As I indicated, the homeland security issue is something the President believes we should do. The majority leader wants to do it. We cannot do it like this. Now we want to get to the military construction bill tonight.

I don't understand what we can do to be more cooperative and move things along. It is not as if we are asking the impossible. I am going to propound this request. I will yield to the Senator from Oklahoma for a question.

(Mr. DAYTON assumed the Chair.)

Mr. NICKLES. Will the Senator withhold propounding the request for a few moments until we have a little more time to look at it?

Mr. REID. I will be happy to do that. I say this respectfully, and I know the Senator from Pennsylvania has been talking and has not had an opportunity to look at this. We have been floating this for an hour or 2. Another few minutes will not matter.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. The Senator from Pennsylvania was speaking about advertising costs and so on. Toward the end of his speech, I know the Senator from Michigan wanted to be yielded to. I yield to her for a question at this point.

Ms. STABENOW. Mr. President, if I might share this for the RECORD for my colleagues and ask my friend from North Dakota to respond, I did want to put into the RECORD, as we were talking about advertising versus research and so on, that, in fact, today two and a half times more is spent on advertising and marketing of a product than is spent on research and development. What is more startling is the fact that according to a report released today by Family USA, we have companies that are having two or three times more in profits than they spend on research and development. This is no longer a research and development driven industry—which it needs to be. It has become much more about sales, marketing, and ''me too'' drugs rather than new breakthrough drugs.

Today, Family USA showed us in a report that, for instance, America, last year—in 2001—had a profit, a net income, that was three times more than what they spent on R&D. Pfizerpen's was one and a half times more. Bristol-Myers was two times more in profit.

What is also disturbing is that, while I appreciate the sympathies for the drug companies, it is really quite shocking when we look at where the money goes as opposed to R&D. This chart shows the five highest-paid drug company executives. I won't say them by name, but the CEO of Bristol-Myers gets $74 million, not counting unexercised stock options. Wyeth's gets $40 million, not counting stock options. If you include the stock options, you are looking at another $93 million for one company, $76 million for another, $60 million, and so on.

So I appreciate the concern about the drug companies and the different system in Canada. But if our concern is about research and development—which we should be concerned about because not enough is being done now—we have a lot of money going in a lot of other places that I think would be of concern to the average senior who is trying to figure out tonight at supper time whether they eat or get their medication. I appreciate the time.

The PRESIDING OFFICER. The Senator from North Dakota has the floor.

Mr. DORGAN. Mr. President, I have heard a generous and interesting presentation for 45 minutes or so—in fact, I think it was the most effective discourse I have heard for some while on behalf of the pharmaceutical industry and their pricing policies. Of course, I disagree with it very strongly. Nonetheless, I think it was a good representation of what the pharmaceutical industry believes about pricing strategies.

As I listened to the back and forth, it reminded me of a small grease fire in a small restaurant; a lot is going on, but nothing real urgent. Let me react to some of the statements made recently.

Statement: ''Some people in the Senate don't like anybody who makes any money.'' That is absurd, but obviously in the Senate we can say those things, I guess. I would like to see one Member stand up and say: All right, here is what I stand for. I stand for a pricing strategy by which the American consumer is charged the highest prices for prescription drugs of anybody in the world. I want to see one Senator stand and say that I stand with the pharmaceutical industry and the pricing strategy, and I want the American consumer to pay the highest prices in the world.

Nobody will stand and say that. Instead, they will use metaphors that mean something different. We are told, for example, the problem is that, if we don't pay those high prices, we don't get the R&D. The information that was used was, of course, incorrect. Actually, more money is spent in Europe on R&D than in the United States 37% versus 36%—not a lot more, but more—and in every country in Europe their consumers pay far lower prices for prescription drugs. How does that figure add up?

We just heard our colleague say to us that if you don't pay the highest prices for prescription drugs, you don't get the R&D. Tell us about the Europeans.

Mr. SANTORUM. Will the Senator yield for a question?

Mr. DORGAN. If the Senator will let me finish my statement first—I listened for 45 minutes to the great case the Senator made on behalf of the pharmaceutical industry—I will be happy to yield when I finish.

The point is this: We are told that the pricing strategy by which Americans are charged the highest prices is fair and is necessary—fair because it is the only way we will get the R&D, and it is necessary because nobody else will pay those prices. So we need to accumulate that cash from the American consumer in order to pay for the R&D.

There are a couple things wrong with that. One, we spend a substantial amount of taxpayers' money at the National Institutes of Health. We have gone from $12 billion to $24 billion. I supported that. It was bipartisan in the Senate. We doubled the amount of money for the National Institutes of Health for health and research, and the pharmaceutical industry benefits from that as well because they take that accumulated research and use it to create new and miracle medicine. Yes, they do research as well, and I commend them for that.

My point is, we do a lot in public policy, such as research at the NIH. We passed a tax credit—I assume my colleague from Pennsylvania supports that, as I do—to say we will give you a tax credit for research and development. This country gives a very substantial tax credit for research and development, and I support that. I voted for it for two dozen years. I bet my colleague did as well.

This is not about research and development, it is about a pricing policy, that says that we will do more research in Europe and charge them lower prices then the American consumer, and, oh, by the way, when someone wants to raise questions about that, we will say: No, you cannot raise questions about

that; this is a pricing strategy that is fair to the American people.

Not where I come from, and I come from a much smaller town, I am sure, than some others here, a town of 400 people. We had a drugstore. We had a fellow who came to my town when he was just out of medical school. His name was Doc Hill. He was the doctor and ran the drugstore in town. He knew everything about everything. There was not anything he could not treat or any diagnosis he could not make. He was just a wonderful guy.

I grew up with that kind of medicine in a small town. In my small town, if someone said: We have a little deal here in the county—we have three towns—Mott, Regent, and New England. Regent is mine, by the way. We have a policy. What we would like to do is charge you folks in Regent 10 times as much for tamoxifen. If you women have breast cancer and are using tamoxifen, we are going to charge you 10 times as much as we are going to charge the people in New England and Mott.

Do you know what the people in Regent would say about that? Are you nuts? Are you stark raving mad? For God's sake, what kind of a pricing policy is that? It is fundamentally unfair, they would say.

Let's take that globally. We are told this is a global economy, after all, and just as it would be for my county, we are told by the pharmaceutical manufacturers that with tamoxifen, Premarin, Zocor, Lipitor, or dozens of other medicines, we should ask the American consumer to pay much more than others.

I understood there are people here who represent the interests of those who want higher prices. That is not the President's position, by the way. This is the President's position. The third Presidential debate in St. Louis, from George W. Bush, now President Bush:

> Allowing the new bill passed in Congress, you know, for drugs that were sold overseas to come back into the United States, that makes sense.

That is President George W. Bush. That is called reimportation. That is President George W. Bush in 2000 saying it makes sense. Sure, it makes sense. It does not make sense to the pharmaceutical industry, and I understand why. They have price controls. They control the price. People say we do not have price controls in America. Yes, we do; of course, we have price controls. The pharmaceutical industry controls the price. With respect to this global economy, it is interesting, my colleague said: In effect, you are going to import price controls from Canada. Canada has price controls on prescription drugs. Yes, that is true. Canada has price controls on prescription drugs. So do many other countries. We reimport a lot of products from other countries. That is one of the factors that makes the global economy interesting. If my friend the Senator from Pennsylvania has a necktie that is made in China today—and I do not know if he does or not, but there is a pretty good likelihood many of us are wearing neckties made in China—then one might make the case that the price of that necktie supports the salary of the leader of a Communist government.

Does that make it tighter around our necks? I do not think so. It is the global economy. Do I like to buy something from a country that perhaps supports a Communist government? No, no, no, but a global economy means we move products back and forth, and sometimes we inherit policies we may not like. But inheriting the capability through reimportation to allow the American consumer to pay less for prescription drugs than they would otherwise pay is good public policy and makes good sense for our citizens.

The Capitol is full of people who care a lot about drug prices, and they are very concerned about this—they are lobbying this issue on behalf of the pharmaceutical industry. They have every right to do that. I talked about a woman named Elizabeth earlier. I know there was some chiding about that, the teary stories about individuals. But I am wondering if Elizabeth has anyone who is going to grab somebody by the arm before they vote and say: You know, it is very important that you cast your vote the right way.

Remember, Elizabeth is a farm wife who is 74 years old who drove a tractor until 2 years ago when she lost her husband and her lungs got worse.

She has scleroderma and was diagnosed at Mayo. She talks about how she has been on oxygen for 2 years. She talks about the one new pill that would cost $3,600 or more a year. She cannot afford it. But I ask: If there is anybody in the Capitol Building today who is representing Elizabeth today? There are plenty who represent those who want to keep the current pricing strategy.

Or Velma:

> I am 86 years old. I can't work.

That is pretty reasonable. She is 86 years old and says: I can't work.

> I get $303 in Social Security each month, and I pay $400 a month for medicines.

She has had heart surgery and osteoporosis.

Sylvia Miller, 70 years old, diabetes, heart problems, emphysema. She went with me to Emerson, Canada, to buy prescription drugs. In recent years, she has spent $4,900 on her medicines. It was up $1,000 from the previous year.

The point is, this is a very important issue. This is a tripartisan bill that is supported by Senator JEFFORDS and many on both sides of the aisle. There is no one advocating reimportation who wants in any way ever to diminish the safety standards that exist that allow the American people to access a safe supply of prescription drugs.

An important point is this: Prescription drugs are lifesaving and miracle drugs only to those who can afford them when they need them. They save no lives when those who need drugs cannot have access to them. These prices are unfair, and reimportation will help put downward pressure on prices.

I say to those who oppose reimportation, what approach do you have to put downward pressure on prescription drugs prices, or is it simply Katie bar the door? Is there another approach? I am willing to embrace almost any approach that attempts to put downward pressure on drug prices.

The Cochran amendment is offered, I know, to try to effectively scuttle the issue of reimportation because it was effective in doing so to the bill we passed 2 years ago. At the time we did not know it would scuttle that legislation, but it did, with two Secretaries.

I think those who bank on the Cochran amendment effectively killing this legislation this time are wrong. We have changed the reimportation amendment this year. Our legislation now does not permit reimportation of medicines from Mexico. It does not allow for the reimportation of medicine from Bangladesh. It does not allow for the reimportation of medicines from China or Taiwan or South Korea. It allows for the reimportation of medicines from one country, Canada, a country that has a nearly identical chain of supply to this country.

It will be, in my judgment, nearly impossible for a secretary to assert that there is additional risk by allowing the reimportation of prescription drugs from a country that has a nearly identical chain of supply, a country that is our nearest neighbor, a country that is our largest trading partner.

I do not believe the Cochran amendment is effectively going to kill reimportation. I know some believe this is a great way on behalf of the pharmaceutical industry to do that, but I do not think so. As a matter of fact, I think the Cochran amendment will not have the impact it had 2 years ago because the bill 2 years ago was not country specific. This bill is limited and deals only with the country of Canada.

The Senator from Pennsylvania answered a question I did not ask, so let me ask the real question and then answer that. I was asked a question: Why are prices higher here than in Canada? That is not the question I asked. I asked the question I have asked a dozen times, which is: Who here believes that an American citizen ought to have to go to Canada to get a fair price on prescription drugs made in the United States? That is the question I asked. That still has not been answered, and I do not believe it will be answered.

If I were to try to answer the question the Senator has asked—why are prescription drugs higher priced in the United States than in Canada?—the answer is fairly simple on two fronts. One, it is true that Canada does have price controls and we do not. Second, I have held a couple of hearing on this subject, and the answer as to why drug

costs in the U.S. are so high for prescription drugs is because the charges are set in this country at whatever the consumer will bear. That was essentially what the pharmaceutical manufacturers told us.

My feeling is that it is not a fair pricing system, and on behalf of a lot of Americans, not just senior citizens who have to find a way to access these prescription drugs to deal with their serious medical problems, I think we need to find ways to put downward pressure on prescription drug prices.

I do not want people going to Canada to access prescription drugs. That is not the goal of this amendment. Our goal is to allow pharmacists and distributors to bring them back, pass the savings along, and that will force the pharmaceutical industry to reprice those prescription drugs in this country. That is our goal.

I finish with this point. It is interesting to me that some on the other side say those of us who want reimportation are saying the pharmaceutical industry is a big, bad industry; shame on them for making profits. I have heard none of that rhetoric today. I certainly have not taken part in that myself. I have said repeatedly, the pharmaceutical industry is a big industry, a profitable industry. It has done some terrific things. I commend it. I want them to do well. I wish them well. Their pricing strategy is wrong, and I want them to change it.

They will not change it voluntarily, and I fully understand that. If that is the industry I worked for, I would not change it voluntarily, I suppose, because their responsibility to the stockholders is to maximize profits. Since they have the ability to control prices in this country and maximize profits for their stockholders, that is exactly what they do. But if we are going to put a prescription drug benefit in the Medicare program and if we are going to care about the needs of all Americans, not just senior citizens, who can't afford prescription drugs, then we have to do more.

We have to employ ways to put downward pressure on prescription drug prices. We have to do that. Failing to do so means we will break the bank, and I am not prepared to allow that to happen.

So that is why we offer this, not to tarnish the prescription drug industry and the pharmaceutical manufacturers. I trust the Main Street pharmacists. I trust those distributors. I trust the Canadian system which is nearly identical to ours.

I have heard this bizarre argument about counterterrorism and counterfeit drugs. In fact, one of my colleagues brought some yellow paint, I guess yellow cement paint, and some other devices, none of which came from Canada. Isn't that interesting? Maybe I could have brought some kangaroos to the floor of the Senate and watched them jump. Wouldn't that be interesting? Sure, it is all interesting, but it has no relevance to the discussion. So we can be interesting but maybe what we should do is care a little more about pricing of pharmaceuticals in this country in a manner that is fair to the American people. That is all we are trying to do with this amendment.

We are not trying to tarnish anybody. We are saying, give the American people a fair break. If 10 cents is going to be charged for a breast cancer drug in Canada, then do not charge a dollar for it to a woman with breast cancer in the United States. Do not do that. It is not fair to the American consumer. That is all we are saying.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I rise today in support of the Breaux-Cochran amendment to the Dorgan amendment on this subject of reimportation of prescription drugs from Canada. It is not my intent to stand here as an expert in regards to how much money the pharmaceutical companies of the United States should spend on advertising, how much money they should spend on R&D or to talk about the global imports where we have price controls in various countries, or even as to where my tie came from.

I think the Senator from North Dakota indicated that we have a lot of imports. My tie is from Italy, by the way. It is a gift from my daughter. But the thing I want to talk about is safety, and this tie which came from Italy is safe, at least to the best of my knowledge it is, unless somebody gets ahold of me and yanks on the tie.

It is not my desire to talk about the hometown druggist whether it be in North Dakota or in Kansas, where I grew up, or whether you trust the druggist. I do want to talk about safety, and I do want to talk about the fact that Senator SANTORUM was kind enough to mention that I serve on the Intelligence Committee, used to be chairman of the Subcommittee on Emerging Threats on the Armed Services Committee. I am now the ranking member with Senator LANDRIEU, who is doing an excellent job as chairman.

I am a little worried about this in regards to the language—I am not a little worried, but I am concerned about the language of the Dorgan amendment which passed and the safety issue that is raised by the Cochran amendment, which I think is the better approach.

Basically, this amendment, for which I am a cosponsor, would require the Secretary of Health and Human Services to certify that prescription drugs that are reimported from Canada are indeed safe before—and that is the keyword, ''before,'' not after. You survey and you have some sort of a panel discussion and determine that at some date later we have a situation where some drug was imported from Canada and it indeed was unsafe. I would hate to think what would happen before we would take notice of that, even in terms of lives being lost. So the key word is ''before'' we allow my constituents in Kansas or the constituents of the distinguished Senator from North Dakota or the distinguished Senator from Michigan and others throughout the United States to receive them.

As I have indicated, as a member of the Select Committee on Intelligence, ranking member on the Subcommittee on Emerging Threats, I see reimportation as another way—I would not have thought of it before 9/11, but today I see it as another way for a terrorist organization to cause many human lives to be put at risk without the proper security measures in place.

One might say: Now, Senator ROBERTS, come on. Prescription drugs from Canada—this really represents a threat?

Well, we asked all the experts in the Emerging Threats Subcommittee some time ago, prior to 9/11, what keeps you up at night in this unsafe world? Bioterrorism came in No. 1, and I won't go into the rest of them. We could probably list 100 different threats and the terrorists in their own inimical way would say we are going to do 101. It is an asymmetrical approach. How easy would it be to reenact the Tylenol scare that happened some years ago in regard to some kind of a terrorist threat?

We have seen the situation at the Capitol of the United States in regards to anthrax. Dr. FRIST, the distinguished Senator from Tennessee, can give us about an hour lecture on that, what we saw then and what we see now in regard to what we have to do in terms of safeguards.

I remember Operation Dark Winter, which was done about 2 years ago, about the possibility of using a strain of smallpox from the former Soviet Union in Oklahoma City. Do you know how they distributed that? They did it by basically walking through shopping centers and spraying plants. How easy would it be to use imported drugs from Canada?

So this year and years past, during the reimportation debate, Members of both the House and Senate have received statements from people who ought to know in regard to the fact, is there a safety issue? That is from former FDA commissioners, the current and former heads of the Department of Health and Human Services. The statement was made about this administration, past administration—their testimony was exactly the same—and officials of the Food and Drug Administration.

They state they cannot assure the American people that reimported drugs are safe. Cheaper, yes. I understand that. I understand the compassion and the caring and the difference between drugs in regard to border States and Canada or, for that matter, any State and Canada. I hope we can bring the prices down.

However, are they safe? They have even recently given testimony, all the people I just talked about, as of July 9,

about a week or so ago, before the Select Committee on Aging. Why the Select Committee on Aging? Obviously, every letter read by the distinguished Senator from North Dakota was a senior citizen who desperately needs drugs. There is a quote by the Senator from Michigan indicating that Mr. Hubbard said, on balance, he would say it would be OK for somebody who is suffering from some malady to use a Canadian drug.

I suppose if I were not in your home State and I were in Canada and sick and I didn't have much of a choice, I would say: OK, Mr. Hubbard, I think that is OK. I think I will take my chances. He is the senior associate commissioner for policy, planning, and legislation at the Food and Drug Administration.

But he also testified, as the statement demonstrated by the distinguished Senator from Michigan:

> FDA cannot assure the public that reimported drugs made in the U.S. have been stored under proper conditions or that they are even the real product because the agency does not regulate foreign distributors or pharmacists. Therefore, unapproved drugs and reimported approved medications may be contaminated, subpotent, superpotent, or counterfeit.

I don't know how the supporters of the underlying amendment can read these statements by these experts and possibly indicate we are trying to scuttle the bill. I don't want to scuttle the bill. I want to put in the proper safeguards. I don't want to put lives at risk without assurance to the safety of the American consumer.

The question is, Are we, the Members of the Senate, willing to put a new burden of proof on an agency or agencies having to deal with a new set of priorities since September 11? We know in terms of trying to put together a new Homeland Security Agency, it is like pushing a rope; that we will get it done, hopefully by September 11. Here we have yet another large-scale security undertaking that they, the Customs Service, in coordination with other departments and agencies, will have to administer without the resources, without the manpower and training available to them to stop the counterfeit drugs that will put human lives, or could put human lives, at risk.

An example from Mr. Hubbard's testimony outlines exact fears we should have in allowing reimportation without the safety guarantee. On May 14 of this year, the Ontario College of Pharmacists, which is a Canadian Government agency, filed charges under the Ontario law against the Canadian Drugstore, Ink. for unlawfully operating an unlicensed pharmacy and using an unregistered pharmacist in filling prescriptions for United States residents. The college also filed charges against a licensed pharmacy and physician in Ontario for helping to facilitate the delivery of prescription and nonprescription drugs to U.S. residents. A drug wholesaler was charged with supplying medications to a nonlicensed pharmacy.

Here is the key of the whole debate. As noted by Elizabeth Durant, the executive director of Trade Promotions for the U.S. Customs Service, at the same hearing on the Select Committee on Aging, Customs is working with the Food and Drug Administration to better identify adulterated or misbranded drugs entering our borders. However, she said, at this time they clearly do not have the manpower nor the infrastructure in place to ensure adequately and screen all of the prescriptions that would enter our borders.

As an example given in Ms. Durant's testimony, we have a program. Nothing has been said about this program during this entire debate, or at least I am not aware of it, and Customs has really initiated a program called Operation Safe Guard. During a recent phase of this program that took place at two international mail branches, 31 parcels containing 52 types of questionable pharmaceuticals underwent intensive analysis. The analysis shows that eight of the so-called pharmaceutical drugs—and, yes, they were less expensive—or 15 percent contained no identifiable active ingredient. They were phony. And 18 contained a substance that is regulated under the Federal Controlled Substances Act.

There is example after example of unscrupulous practices by individuals looking to take advantage of consumers desperately trying to find a more affordable way to get the prescriptions they must have. Yes, we need to provide relief to Kansas seniors, to Minnesota seniors, to West Virginia seniors, to Massachusetts seniors, to Michigan seniors, North Dakota seniors, Oklahoma seniors, and Tennessee seniors. But I cannot in good conscience support a measure that is a public health safety and security risk.

Instead of looking to our neighbors to the north for pricing relief and instead of relying on unsure and unsafe practices without the proper personnel and training in place to roll out a plan such as this, we need to focus on passing meaningful prescription drug legislation. Until I can assure my constituents in Kansas that the drugs they are receiving are indeed what is labeled on the package, or an FDA-approved package, I do not think the underlying amendment can be supported. This is why I urge my colleagues to support the Cochran-Breaux amendment.

The key word is ''before''; before a drug gets here, it is determined safe. That is what this argument is all about. That is what the debate is all about.

Mr. FRIST. Will the Senator yield?

Mr. ROBERTS. I am happy to yield.

Mr. FRIST. Mr. President, the Senator made the point which is important and I tried to introduce earlier today. In this environment where we do have a lower threshold for worrying about terrorism and worrying about what comes across our borders, he made the linkage, based on his experience dealing in the field of bioterrorism and the agriterrorism arena and the field of intelligence, that we are moving in one direction of bioterrorism to close our borders to the potential for counterfeit agents, potential bioterror agents coming in. I made the point earlier that we need to look at it in this new environment.

My question is, Does he agree with a recent op-ed published on July 16 in the Washington Times by a former FBI agent linking bioterrorism and prescription drugs and reimportation? The agent states:

> During my 3 decades with the FBI, however, I worked with other Federal agencies whose main goal was preventing illegal narcotics from crossing our borders. When going after prescription drug shipments it usually was large quantities, mostly acting on tips. Neither we nor the 3 Federal agencies we cooperated with on such efforts—the U.S. Food and Drug Administration, the Drug Enforcement Administration, and the Customs Service—had enough personnel to go after prescription drug smuggling at the time. With the massive new threat of terrorism, we have even less resources to devote to such activities. Terrorists easily could use the cover of counterfeit drug smuggling to sneak lethal prescription drugs or worse, biological and nuclear weapons, into our country.

Do you agree with the thrust of the FBI's statement?

Mr. ROBERTS. In the Emerging Threat Subcommittee we heard from the Bremmer commission, the Gilmore commission, the Hart-Rudman commission, the Center for Strategic and International Studies Group, and the Rumsfeld commission. In virtually every one of those commissions, they indicated the need for greater border security with all of the threats you have mentioned.

We just had a hearing before the Senate Agriculture Committee, and Director Ridge just came before the committee. Secretary Ann Veneman of the Department of Agriculture came before the committee. It is another one of those cases where, as we try to reorganize the Department of Homeland Security, people get a little worried about their turf. People get a little worried about past practices. People say: Wait a minute; do we need to transfer that whole agency over to the superagency?

There is an agency within the Department of Agriculture called the Animal and Plant Health Inspection Service. As you know, in working with the bioterrorism bill, I had an agriterrorism section. We tried to ramp up the funding for our basic research universities: Athens, GA, for salmonella; Ames, IA, for the livestock industry; Plum Island, where you don't want to open up any refrigerator doors under any circumstance because of the pathogens that are there. We found now that we can use 3,200 of these employees who have the capability to take a closer look and provide the kind of security the Senator is mentioning, to the Department of Homeland Security, keep the rest of the employees so if a farmer from Kansas or, for that matter, North Dakota says, ''Hey, I

have wheat rust,'' he doesn't have to pick up the phone and call Tom Ridge. Or if he is going to try to enforce the Animal Welfare Act, there is no need to do that. But 3,200 more people are needed just to prevent some kind of problem with security and danger or agriterrorism and food security and how easy it would be for the terrorist to use the pharmaceutical that you are talking about to come in and do great damage in our country.

The issue is safety, and the higher bar that we must have, now, to guarantee it.

The whole thing is, we used to talk about we have to detect, we have to deter, and then, in the worst case scenario, we have to get into consequence management. Are we ready? The answer to that is no.

The new paradigm is we have to detect and preempt. We have to go on the offensive and then deter and then get into consequence management.

What the Senator from Mississippi has done is simply said to the Department of Health and Human Services, please guarantee the safety of these products before they come in, not afterwards; not after we see some evidence that something will happen. It is a before-and-after question. Sure, that senior citizen before may get a drug that is more inexpensive. He may die. That is a dramatic kind of statement, but it could happen.

That is how I would answer the Senator.

The PRESIDING OFFICER. The Senator yielded the floor. The Chair recognized the Senator from West Virginia. The Chair permitted a question. The question has been answered. The floor belongs to the Senator from West Virginia.

Mr. ROBERTS. I think the Senator already asked the question.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. We had an interesting and important discussion this afternoon for quite some time. I want to add a little bit to the discussion.

The PRESIDING OFFICER. The Senate will be in order. Senators will take conversations off the floor so the Senator can be heard, and others will be recognized thereafter.

The Senator from West Virginia.

Mr. ROCKEFELLER. I say to the Presiding Officer, I would like to put a little perspective in what I see at least as the prescription drug aspect of all this, which permeates part of this discussion, although it is not immediately apparent in the debate of this afternoon.

We have this historic opportunity to do something real in prescription drugs. We also have the historic opportunity to fail to do it or we have the historic opportunity to do it in such a way that it will make us feel good but will not do anything to help seniors. In other words, that we would pass something which we could say we passed when we went home in August but would not in fact really help seniors in ways that are meaningful, something that I will not have anything to do with, that kind of strategy.

I say to the Presiding Officer, who is my good friend over many years, that nowhere is the problem more visible with respect to prescription drugs, and therefore creating a sensible plan that will address the problem of prescription drugs, than in the State I represent where 30 percent of the seniors have no drug coverage at all and 19 percent have very little drug coverage; therefore, basically half are more or less untouched entirely or to a great degree.

About a third of rural seniors as opposed to about a fourth of urban seniors—this is a 10 percent difference, but it makes a difference—pay more than $500 out of pocket each year. So my first overriding concern is the 336,000 seniors in the State of West Virginia. I will yield or sit down to nobody in fighting for them and for a plan which works for them in one of the poorest States in the Nation.

The question is, seniors know there are no easy solutions. We talk as if there are, but there are not. We have to be honest with our constituents about that. I know there is an election coming up. So what. A prescription drug bill that passes is a prescription drug bill that lasts for a substantial period of time. We have to do it right. There are a variety of alternative plans. I am not going to be referring to any of them individually, but some of them are a whole lot better than others and people better start thinking about some of the issues involved. I am going to try to raise some of those issues.

Providing a real drug benefit to all seniors, a benefit that covers all seniors all the time for all drugs at a price they can afford, that is what we need to do. At the end of the day, to be quite honest with you, seniors are not really enormously moved and do not care tremendously about whether it is a Democratic bill or whether it is a Republican bill, whether it is a White House bill. That may have some short-term advantage, but in terms of the way it affects their lives, which is what I care about, which is why I am here in this body, it doesn't make any difference to them. They don't want to be promised something we cannot actually deliver. There is a lot of talk about that kind of stuff.

As seniors consider all the competing prescription drug bills, they need to ask a number of very basic questions. One of the matters which I think people need to focus on is that the most important issue in all this is the delivery mechanism. People say: What is that? It is the core of the whole argument. It needs to be explained. It is a question of, really, who takes the risk?

One of the plans we are looking at—that is the way I am going to refer to it, one, then another, et cetera—says that the insurance companies will take the risk. Chip Kahn was President of the Health Insurance Association of America. He says that is like insuring against haircuts. An insurance company is not in the business of taking risk. They can't, and they particularly can't where people are older, sicker, and frailer and are less likely to be able to afford either to join them or to pay what it is that they charge.

On the other hand, you can also have a system where you use what you call a government/private partnership, PPMs. That is in another plan. I happen to favor that. They don't have to make a profit. They can set the price on the medicine which is best for the senior. But the business of who takes the risk is really important in all of this.

You say: How can you prove that? I will prove it indirectly. Since we do not have this before us, in West Virginia we have one plan on Medicare+Choice. We have Medicare and we have Medicare+Choice. We have Medicare, but we only have one plan that affects one part of the State involved with one university and some counties right around it. It covers 2 percent of the people in the State of West Virginia. That means it does not cover 98 percent. That means 98 percent of the people in West Virginia are not covered at all. They have a cap in their plan of $500 on their drug benefit.

That means if you use up your $500, you have a catastrophic something or other, by February, March, April, or May that is it—there is nothing you can do. There is no more expended. You have to pay for it yourself.

One good thing, though, that can be said about Medicare+Choice is that, if the plan pulls out, the senior, the Medicare beneficiary, has the option of a fallback position. That is to go back to fee-for-service medicine. That is not included in any of the other plans. I use the word ''other'' in the prescription drug plans that are before us. It is included in one, but it is not included in the others. It is not included in the one from the House. It is not included in one of the several that are wandering around the Senate Finance Committee.

If you do not have a fallback position, you can't do anything. That means you are just out of it. The plan decides to pull out and you get nothing. If it is Medicare+Choice, and the plan decides to pull out because they can't make money, because you are poor, you have a lot of people using services, and at least, therefore, you have the fallback position and that is, you can go back to fee-for-service medicine. It is an extremely important aspect of all of this.

So the question that seniors ought to ask and we ought to ask ourselves is, first, does the final plan that we vote on cover all seniors? Does it cover all seniors? Medicare does; not prescription drugs but in other things it does.

Does it cover all seniors, as prescription drugs should? All seniors need to know that they won't be left out of the prescription drug bill just because they

come from a State that has a lot of rural area where the cost of providing services is much higher. The plan I support covers all seniors in every State.

Seniors can get their drugs through their local pharmacy, just as they do now. There is no difference. The government and the private sector would be working together to make sure all seniors are covered just like Medicare today. That makes sense to me. The other plans say that every senior is ''eligible'' for coverage. But, in fact, many seniors won't get any benefit at all under these other plans. That is because those plans leave up to private insurers the decision where and when and to whom they will offer coverage.

The experience of rural areas—and certainly in my State—is the plans and insurance companies have said they want to have nothing to do with ensuring prescription drug benefits. They made it very plain. The other plans pretend they haven't said that and go ahead and include them.

Private insurers are focused on profits. ''Profits'' is not a dirty word. But it becomes an important word when you are talking about the distribution and accessibility and the affordability of prescription drugs.

We know from experience that the insurance companies will simply not voluntarily ensure seniors in parts of the State of Minnesota. They will in others but they won't in other parts. Or insurance companies will have the ability to have certain kinds of benefits in these kinds of areas, and other kinds of benefits in other kinds of areas. In other words, nothing is defined, and nothing is consistent that people can really count on. That is really wrong in prescription drugs. If we pass a bill that does that, that is wrong. That is the wrong thing to do to seniors.

We need to think about that. Seniors need to be on the alert for exactly that kind of behavior.

Second, does the final plan cover all seniors all the time?

Seniors need a benefit that is universal. They do not know when they are going to get sick or have a catastrophic incident. They have to know that it is going to be there for them all the time. They need benefits that help them 365 days a year.

The plan I support covers all seniors, all year, without a gap in benefits, and with no gaps in coverage. Other plans stop after a senior's drug costs exceed $2,000, and even if it happens to be in the first month of the year, or gives seniors no coverage at all for costs between $2,000 and $3,700. That is called a doughnut. It is a very serious problem, and a very real problem.

When you say people do not know what you are talking about necessarily out there, even in here a doughnut is a bad thing to do. When you say that you are stop-loss at $2,000 through $3,700, you have to pay everything in between, that is a wrong policy. Some of the other plans have it. The House plans have that. One of the plans floating around in the Senate Finance Committee has that. It is wrong.

Third, does the final plan cover all seniors all the time for all drugs?

That is the third question seniors need to ask us and that we need to be asking ourselves as we evaluate what we are going to do, if we are going to do something.

Seniors want to make decisions about which drugs are taken on advice of their doctor. They don't want to have it done on the advice of their insurance companies. We have heard about that for years—doctors having to dial insurance companies to get permission to do something which they know they have to do. They resent it. They are denied. Nobody can do anything about it. Doctors and patients should make key health decisions. I think that is a moral compass for how we look at a prescription drug bill.

Under the plan I support, seniors have a guaranteed benefit. Seniors and their doctors will decide which medicines are best for them to take, and they will take those medicines.

The other plans, as I say, talk about a standard benefit—the beauty of words in the Congress. But the fact is they too often leave it up to the insurance companies to decide which drugs will be covered. And that is not a guaranteed benefit for all drugs.

We went through this in the Medicare Commission for a year. It was a question about do you have a defined benefit? Do you have an actuarial? People ask, What does actuarial mean? The point is that in one you get a benefit for all seniors all across America, and in others you get a certain amount of money. When the money runs out, you are on your own.

It is cruel. It is cruel. It is wrong. But it is in two of the three main plans that we are considering on prescription drugs, and people need to know about it.

Four, does the final plan cover all seniors all the time for all drugs at a price which they can afford?

None of these questions strike me as unreasonable, if we are doing something as stark as this.

We have been talking about this for 5 years. I have sat for the last 4 years in sometimes up to three meetings a day in Finance Committee meetings and with staff trying to discuss all of these things, and here we are again. That is fine, if we produce a decent product. I don't care. The senior Senator from Massachusetts has a theory that sometimes things take 10 or 12 years to pass. If you have to do that for prescription drugs, that is a bad thing because, in the meantime, a lot of people are dying and suffering needlessly. But the plan I support on this matter of affordability is the only one with the guaranteed affordable premium for every senior in the country of just $25 a month—not 50 percent; for every senior, therefore, in the country, just $25 a month, and no large, upfront deductible.

Seniors would pay $10 for any generic drug up to $40 for more expensive brand name drugs. That is fair. After $4,000 in total dollars in out-of-pocket spending, all drug costs would be covered by—guess what—the Federal Government. Yes, medicine is expensive. Seniors are important. They are growing in size and in frailty. We are involved in their lives.

Just as under Medicare, seniors pay the same amount regardless of where they live or how much their income is each year. Some people dispute that. It is the moral principle of a social contract.

The other plans, again, as I say, in the spirit of not being unkind, mostly provide what they call ''estimates,'' or ''averages,'' like the word ''actuarially.'' It is one of those good words that makes you believe that everything is in good hands, except when the time comes for this to work it just doesn't quite work. Rather than real costs, seniors can compare. They talk about ''estimates,'' or ''averages.'' But if you look at the details, it is clear that every one of those plans has a higher premium, and large, upfront deductibles and higher copayments. That is a fact.

For example, the premium under the House-passed bill is ''estimated'' at $33 a month. But the insurance companies can set it higher. Why? Because they are establishing the risk. They are setting the price. If they don't like the risk, the price goes up. If they are out in Westchester County, the price goes down. If they go to West Virginia, the price goes out of sight. So they don't come to West Virginia because they can't make any money.

We are not blaming them for it. It is a fact of the way the free enterprise system works. Should West Virginia seniors, if anybody is interested, pay more than those in other States?

The House bill also has a suggested $250 upfront deductible that seniors have to pay every year, although that could be set higher by these same insurance companies for the same reasons.

Again, it is the benefit of how you do the mechanism which sends these benefits out. If you do it through the insurance company, they do not like risk. They don't like old, frail people. For those eligible to do it through the PBM, they do not have to make money, and they look at it differently.

So, again, for costs between $2,000 and $3,700, seniors get nothing. That is a big gap in coverage. It means millions of seniors will pay thousands more under the House bill.

I am about to conclude.

Seniors have been waiting for more than a decade while we in Congress fight about all this. I want to repeat what I said when I started by saying some of my colleagues have suggested—my colleagues on my side of the aisle—that if we cannot achieve a fair and comprehensive benefit, then we should accept a weak and watered-down bill. And what is it that is getting us all worried?

We all know we are going to have to get 60 votes. We are going to have to get 60 votes. None of the plans has enough votes right now, so we have to get 60 votes.

So that is what leads you to a watered-down plan, just so we can go home in August and say that we have done something.

We all get good benefits. Seniors all across America being left with the results of a watered-down prescription drug bill is not something that I am going to be a part of, I say to the Presiding Officer.

We have a once-in-a-lifetime chance to do something extraordinarily meaningful for every senior and every American family. Anything else is, and should be, unacceptable to every single one of us.

In the end, I want to enact a bill that guarantees West Virginians the same access to lifesaving and life-enhancing prescription drugs as people in other States. But the bill has to be right, it has to be fair, and it has to cover the right aspects. If it does not, we should not do it.

I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, we are now at a point where the Republican leader signed off on our being able to have a vote. We wanted to do that at 5:40. The last vote was at 2:30. We have been on this amendment, we have basically agreed to, now for 2½ hours.

My point is, I know Senator ENSIGN is in the Chamber and wishes to speak.

I ask my colleague how long he would like to speak.

Mr. ENSIGN. About 15 minutes.

Mr. REID. OK. Senator DURBIN, 10 minutes; Senator WELLSTONE—

Mr. WELLSTONE. Ten minutes.

Mr. REID. And 5 minutes for Senator KENNEDY. So that is 40 minutes, I think. Does anyone else on the Republican side wish to speak?

Mr. ENSIGN. I understand Senator BUNNING would like 15 minutes, and Senator ENZI would like 10 minutes.

Mr. REID. OK. If I could have someone add up that time, that is an hour and 5 minutes. I wonder if we could work that out to save a few minutes. We need to get to military construction tonight. So rather than an hour and 5 minutes, let's do an hour.

Do you think Senator BUNNING could go for 14 minutes? I bet he could. He is a good guy. Senator BUNNING for 14 minutes—I say to my friends in the minority, they have had most of the time this afternoon. I think if we can just cut a few minutes, and if I could stop talking, it would help a little bit, too.

So I am wondering if we could ask unanimous consent that the vote will occur at 6 o'clock, with the time proportionately taken from every speaker that has requested time—30 seconds, something like that, from every speaker. I think we can work that out. The vote would be on or in relation to the amendment, No. 4301, and the time is as indicated.

Mr. ENSIGN. If the Senator would yield, I will keep mine under 10 minutes.

Mr. REID. That will take care of the problem.

I say to my friend from Nevada, thank you very much.

So I ask unanimous consent that the vote occur at 6:05, as per the agreement, with no intervening amendment in order prior to disposition of the Cochran amendment.

The PRESIDING OFFICER (Ms. CANTWELL). Is there objection?

Mr. WELLSTONE. Madam President, I will not object. But I ask the Senator, you locked in time?

Mr. REID. Everybody has the time except Senator ENSIGN. He graciously took 5 minutes off his time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Nevada.

Mr. ENSIGN. Madam President, while I support the underlying amendment, I want to talk about a prescription drug proposal that I believe, and the other authors of this bill believe, could be the answer that seniors are looking for around the country.

Senator HAGEL and Senator GRAMM and Senator LUGAR and myself have been working on a proposal that I have worked on for a couple years along with Senator HAGEL.

This proposal, to keep it very brief, has two major components. The first component of our proposal allows every senior to participate on a voluntary basis. They sign up for a $25 fee. This takes care of just the administrative costs. This $25 fee allows them to get a prescription drug discount card.

We use the private sector. The private sector will set up what are called pharmaceutical benefit managers. These managers will offer certain drug plans. Seniors can choose between those drug plans. The better the drug plan, the better chance they have of attracting seniors.

It is estimated there will be somewhere between 25 to 40 percent savings for seniors using this prescription drug discount card. The reason they will save money is, very simply, that they are taking advantage of volume buying.

We see volume buying all the time. HMOs buy in volume, in bulk. So seniors will get the advantage of this volume buying when they are on Medicare and they sign up for this card.

The second part of our plan caps out-of-pocket expenses.

The biggest thing that we hear from seniors these days is that they are afraid they are going to be bankrupt. We had an e-mail in our office that came in a little after 11 o'clock Pacific Coast Time last week. It was from a person who said that many seniors have to choose between rent and prescription drugs. So they were saying: Will you step up to the plate, the ''moral plate,'' as this person called it, and do something that seniors really need?

Our plan actually does something that seniors really need. It provides them the prescription drug coverage by capping out-of-pocket expenses.

Let me give a couple illustrations.

For a senior citizen who has now signed up for the plan, let's say they make anything less than 200 percent of poverty—which is, for an individual $17,700 per year; for a couple it is almost $24,000 a year—if they are below 200 percent of poverty, our bill caps their out-of-pocket expenses at $1,500, so basically $120 a month.

So let's take, for instance, somebody who has diabetes or somebody who is a cardiac patient or a cancer patient, and they have $4,000, $5,000, $6,000 a year in drug expenses. This is what they are going to pay. Those are the seniors who need it the most.

The nice thing about our plan is—we are hearing about cost estimates of the, quote, ''tripartisan'' bill as being somewhere around $370 billion over the next 10 years. Other plans are floating around out there, and that may be $650 billion-plus.

Our plan looks like it is going to come in at an estimate of about $150 billion over 10 years. The other plans, in the next 10 years, really skyrocket. Ours goes up, like every plan does, but it does not go up significantly.

This is something for which the next generation can afford to pay; the other plans that are being talked about, the next generation cannot.

The reason our bill costs so much less money is a simple fact: If you keep the senior citizen, who is going to be getting these prescription drugs—the Medicare recipient—in the accountability loop, that means when they are paying the first dollars out of pocket—up to, for the lower income seniors, $1,500 per year—they will be cost conscious. That means they will go out and shop. They will make sure those plans have the drugs they need at a price they can afford. So we will have seniors all across the country shopping for their prescription drugs.

If we just give them a plan and say we will cover everything, the seniors quit shopping. The market forces then don't keep the competition where it needs to be. Because about half the seniors in America have less than $1,200 per year in prescription drug costs, that is where the huge savings comes to the taxpayer in our plan. We are looking out for the senior with our plan, but we are also looking out for the taxpayer. For the future of the next generation and the generation after that, we cannot afford to ignore the taxpayer because somebody has to pay for this prescription drug benefit.

All of us want to take care of our parents and our grandparents, and we want to be taken care of someday. Especially for those who really cannot afford it and are having to choose between sometimes what they are eating

and whether they are taking their medicines or whether they are able to pay rent that month and whether they are going to be able to take their medicine, it is a real problem. But we have to do it in a way that is fiscally responsible. We think our bill does that.

I have a real life example—we have received some numbers—of a senior citizen who is around 68 years of age. This is a profile of a real senior, but we won't release any names because of privacy. This patient makes around $17,000, is being treated for diabetes, has no prescription drug coverage today, and pays a total of about $5,700 currently per year. Under the Democrat proposal, at least the parts we can tell from it, this person would pay around $2,100 a year, saving about $3,900 a year. Under the tripartisan proposal, the person would pay about $2,300, saving about $3,700 a year. Under our proposal, this person would pay about $1,900 a year, saving around $3,800 a year.

So for the person who really needs it, who has serious disease and has a lot of prescription drug costs, our bill actually saves that person more, by a couple hundred dollars at least, than either the Democrat proposal or the tripartisan proposal. Yet it does this in a way that is responsible to the taxpayer because our bill is literally hundreds of billions of dollars less than the competing proposals.

I am urging my colleagues to take a look at this plan. This plan would go into effect at least a year earlier than any of the other competing plans. It can go into effect on January 1 of 2004. The other plans don't go into effect until January 1, 2005. Our plan is permanent as well. One of the other plans is sunsetted.

Our plan is easy to understand. If you take a look at it, it doesn't sound that easy to understand except when compared to the other plans which are much more complicated. It is much easier to understand for the senior. It provides the benefit and most of the benefit to those who truly need it.

I reiterate—and this must be reiterated time and time and time again—it is responsible to the next generation. We cannot afford to pay for seniors today and forget about the next generation. We all want to take care of the seniors today, but we must do it in a fiscally responsible way.

To sum up, a $25 fee, you get into the plan. You get a prescription drug discount card which saves you 25 to 40 percent. Then, depending on income, we cap your out-of-pocket expenses. For those 200 percent of poverty and below, their cap will be $1,500. For those 200 or 400 percent of poverty, they are capped at $3,500 out-of-pocket expenses for the year. For those at 400 to 600 percent, they are capped at $5,500. And for the wealthiest, they can still participate. But for the Ross Perots of the world, they have to pay 20 percent of their income in prescription drug costs before they benefit. So the Ross Perots of the world, those people who do not need the coverage like that, will not get the coverage.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Madam President, there are other Senators on the floor. I had spoken earlier. I think I can probably cover the ground in 3 or 4 minutes.

I think it is best to be as concrete as possible. Coumadin is a blood thinner widely used in the United States. A bottle is $20.99. For the same bottle, dosage, the Canadian price is $6.23. Zocor, which is a cholesterol drug, in the United States: $116.69; our neighbor Canada, $5.51; Permax, to manage Parkinson's disease, $398.24; Canadian price, $189.26; tamoxifen, breast cancer drug, $287.16; the Canadian price, U.S. dollars, 24.78.

That is what this amendment is about that Senator DORGAN and I, Senator STABENOW, and others have supported. Our amendment passed overwhelmingly.

I have heard so much said in the last couple hours. That is why it is hard to get started, because if you get started, it goes on and on.

Families USA came out with a study today that makes it pretty clear that by a 2-to-1 margin, pharmaceutical companies spend the money on advertising and marketing as opposed to research, with profits beyond belief—what I have described as Viagra-like profits—based upon the misery, sickness, and illness of elderly people.

The pharmaceutical industry hates this amendment that has passed. They don't want to see people in Minnesota or Illinois or anywhere in the country get this discount, and they don't want to see downward pressure on prices. They don't want this to happen. The industry would be happy for us to pump in as much money as possible, as long as we give them a blank check and they can fill it in.

The amendment we have before us, the Cochran amendment, basically says that this amendment we just passed, this legislation, only becomes effective if the Secretary of Health and Human Services certifies to the Congress that implementation of this section will ''pose no additional risk to the public health and safety and will result in a significant reduction in cost of covered products.''

I don't know about the ''reduction.'' I think it is pretty clear it is going to be a significant reduction.

I have two views about this. The first is, we have had two prior Secretaries of Health and Human Services—it creates such a loophole that they have refused to provide the certification. The pharmaceutical industry, which is so powerful and has always gotten its way, it gives them the perfect opportunity to lobby against it and stop it—no question about that.

This amendment may have passed with all of our votes, although I must say I will vote for it with very mixed feelings because I believe in my heart of hearts that this Secretary of Health and Human Services will do everything to block implementation of the legislation we passed earlier today.

However, there are at least two or three things that are different, and now the optimist in me will conclude. One is that we are only talking about Canada. Anybody who really looks at this with any kind of rigor will realize it is hard to argue when you don't have the same stringent health and safety guidelines, and all of this has to be FDA guidelines in any case, No. 1.

Second of all, expectations are up. If you don't think this isn't a big deal to people—to have a dramatic reduction in the price of prescription drugs so they can afford it—you are wrong.

Therefore, I believe what has happened today—this amendment will pass overwhelmingly, close to a 100-percent vote. It has raised people's expectations. I don't mind that. I would rather have expectations raised than lowered around the country. And it is not just senior citizens; it is all citizens who benefit from this.

My final message to the Senior Federation of Minnesota and the other citizens groups who have been fighting so hard is that we should have an overwhelming vote for prescription drug reimportation, and then a strong vote for the Cochran amendment. I think we have more to deal with on health and safety issues, but we have to do it this way. But if this Secretary of Health and Human Services should block this in perpetuity—and it is clear he has no intention of certifying this—or any Secretary of Health and Human Services, representing either party—as a couple colleagues on the other side of the aisle give me that look—I say to the seniors of Minnesota, and all other citizens, all those buses you have been taking to Canada, take them right here to Washington, DC. Come right to the office of the Secretary of Health and Human Services and demand that he or she not block this in the future.

We are expecting Secretary Thompson to move on this. We are not expecting him to use the Cochran amendment as a gigantic loophole to block the legislation we passed today that would provide a serious discount and would provide many more affordable prescription drugs to people.

As a Senator from Minnesota, I will join the buses if we need to go down to the office of the Secretary of Health and Human Services. Let's hope we don't need to go.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, I rise today to talk for a few minutes about adding a prescription drug benefit to the Medicare Program.

Over the next few weeks, the Senate will debate one of the most important issues we will consider this year whether to provide a medicare prescription drug benefit to seniors.

But I am afraid that if we do not get our act together and start really working together it will all be a huge waste of time.

I think we can all agree that something needs to be done. The cost of drugs is going up and up. It is the fastest rising medical expense that seniors and many other Americans face.

And it is clear that medicare now is not set up to deal with this problem.

Medicare is still basically a 1965 program that is struggling to keep up with health care in the year 2002.

Health care has changed dramatically in the last three and a half decades.

When Medicare was first set up, prescription drug costs were low. People were more concerned about being able to afford hospital stays.

Now because of medical advances and the amazing things we can do with these medicines, the relative costs of hospital stays are less important. But the cost of prescriptions are rising.

However, the medicare fee structure is not flexible enough to adapt to this change.

It must change.

In a perfect world, we would be debating a broader Medicare reform bill now along with a prescription drug benefit.

It would be the most effective way to go, and it is something I hope we can address before too long.

But for today, we are talking about a drug benefit. We are all for it. The question is: How do we set it up and how do we pay for it?

Before I get into the substance of this issue, I think we need to first talk about process.

The Senate is built on procedure. Here we still follow precedents and rules that were handed down over two centuries ago.

It is important, and it makes a big difference when it comes to passing legislation.

In the case of the bill before us today, that process has not worked very well.

In fact, it hasn't worked at all.

I hope we have a long, thorough debate to make sure that members have time to closely examine the base bill.

After all, it doesn't even have a committee report attached to it to allow Members and staff to fully examine and assess what is in the legislation.

It was rushed through the help committee and to the floor for this debate because the committee of jurisdiction—the finance committee—couldn't agree on its own Medicare proposal.

Finance has had problems because this is a tricky, complicated issue. And the only way the majority could start today's debate was by bringing up the generic bill instead.

In my book, that is putting the cart before the horse. This is too important an issue not to get right.

We have to be careful.

Procedurally, we got off on the wrong foot, and while it might not seem that important on the surface, little twists and turns like this can make a difference when it comes to the fine print of the legislation.

We all know this is going to end up really being a debate about a prescription drug benefit. Generics are part of that, and I have no objection to considering this issue in the Senate.

That is why we are here—to legislate and make the tough calls.

But when the bill before us today is brought to the floor in such a backwards way it makes me nervous.

The fact is that we are doing the body a disservice by not letting the finance committee finish its work.

They have the most expertise in this area.

They have been wrestling with this the longest. I sure hope the majority does not try to rush them, and the full Senate, anymore into writing a bad bill.

This is a pattern we have seen before, and the results have been bad.

Virtually the same thing happened with the energy bill.

In that case, the majority leadership didn't like how things were going in the energy committee, so they brought their own separate bill to the floor and bypassed the committee.

In the end we passed legislation, but I know that it was not as good a bill as we could have passed if the committee of jurisdiction had been able to finish working its will.

We have seen this happen again and again—on the farm bill, the economic stimulus bill, the railroad retirement bill, and the patients' bill of rights.

In each case, we passed something. But we as a body didn't do our best work.

It is just as important to get things right than to get them done fast.

In the case of Medicare and prescription drugs, the majority is pushing us and pushing aside the only bipartisan prescription drug bill.

That should tell you something. And it can make a big difference when it comes to the substance.

We all know that many older Americans are faced with making some tough choices when deciding how to pay for their prescription drugs.

We have all heard of the sacrifices seniors make to afford their prescription drugs.

Some cut their pills in half to make their medication last longer or cut back on their grocery purchases to have enough money left over for another month's supply of their medication.

Many seniors can't get their doctor's prescriptions filled because they simply cannot afford them.

These are decisions that no American living in the year 2002 should have to make, and we in Congress have a moral obligation to pass a prescription drug bill this year, and get it to the President to sign.

I support the tripartisan plan that has been put together by several members of the Finance Committee.

In a nutshell, this proposal establishes a new voluntary prescription drug benefit in the Medicare Program, along with making some changes to the Medicare+Choice program to make it more competitive.

Monthly premiums are relatively low—$24. There is an affordable deductible of $250 per year.

Those who need the most help—those seniors living 150 percent below poverty receive extra assistance with costs.

And there is extra protection when out-of-pocket costs skyrocket too high.

It is a sensible proposal that means real relief to all seniors.

It is these seniors who benefit the most from this bill, and we have a responsibility to help them today—not tomorrow or the day after. But now.

Because of the way this issue is being handled on the Senate floor, we could very easily end up at the end of this prescription drug debate with no bill at all.

Because it has been rushed to the floor—because the Finance Committee is still working on a number of competing proposals—there is no real consensus about what to pass.

This could mean that no one bill gets a majority of the votes and nothing passes.

If that happens, we'll be back exactly where we started—with no relief for American seniors.

Congress can pass a prescription drug bill this year, and we can start helping seniors with their prescription costs in the near future.

We have been talking about it for years. Now we have a chance to do it.

But it is going to take real dedication by all Members of this Chamber to actually pass a bill.

And it is going to take more respect for the process, for the time and chance to make thoughtful, deliberative decisions.

Personally, I hope we don't succumb to playing politics with what is literally a life or death issue for many older Americans.

While the process we are working under looks like it has been set up to fail, I still think and hope we can come up with some sort of proposal.

Madam President, I thank you for the time, and I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, all here today have the same goal in mind, and that same goal is to be sure we have the lowest priced, best, and most available prescription drugs in the world. We do want to make sure the cost is as low as possible. How we get there we have some disagreement over, and I would like to take a moment to address the first-degree amendment that is before us right now, which I hope will be corrected with the second-degree amendment.

The first-degree amendment would allow for pharmacies and pharmaceutical distributors to reimport drugs

from Canada. I continue to have two major concerns about the amendment.

First, as my colleague from Mississippi has articulated, there is no way to assure the safety of drugs reimported from Canada. Experts, including two Secretaries of Health and Human Services, said it cannot be safely implemented for consumers. That is probably even more true since September 11 and the anthrax attack. Safety is the reason we do not have it right now.

I believe we are presently operating under the Prescription Drug Marketing Act of 1987, which expressly bans the reimportation of drugs to protect the public health and the integrity of the distribution market in the United States. It passed the Senate unanimously. That means everybody who was here on March 31, 1988, agreed for it to go through.

Former Senator Al Gore was a cosponsor, and on the House side it was implemented and backed by such outstanding conservatives as Representative JOHN DINGELL and Representative HENRY WAXMAN. They were the key House sponsors of the legislation. The finding in the bill as passed did focus on the risk of reimportation to consumers.

I ask unanimous consent that the findings from that bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEC. 2. FINDINGS.

The Congress finds the following—

(1) American consumers cannot purchase prescription drugs with the certainty that the products are safe and effective.

(2) The integrity of the distribution system for prescription drugs is insufficient to prevent the introduction and eventual retail sale of substandard, ineffective, or even counterfeit drugs.

(3) The existence and operation of a wholesale submarket, commonly known as the ''diversion market'', prevents effective control over or even routine knowledge of the true sources of prescription drugs in a significant number of cases.

(4) Large amounts of drugs are being reimported to the United States as American goods returned. These imports are a health and safety risk to American consumers because they may have become subpotent or adulterated during foreign handling and shipping.

(5) The ready market for prescription drug reimports has been the catalyst for a continuing series of frauds against American manufacturers and has provided the cover for the importation of foreign counterfeit drugs.

(6) The existing system providing drug samples to physicians through manufacturer's representatives has been abused for decades and has resulted in the sale to consumers of misbranded, expired, and adulterated pharmaceuticals.

(7) The bulk resale of below wholesale priced prescription drugs by health care entities, for ultimate sale at retail, helps fuel the diversion market and is an unfair form of competition to wholesalers and retailers that must pay otherwise prevailing market prices.

(8) The effect of these several practices and conditions is to create an unacceptable risk that counterfeit, adulterated, misbranded, subpotent, or expired drugs will be sold to American consumers.

Mr. ENZI. Madam President, I will read a couple:

(1) American consumers cannot purchase prescription drugs with the certainty that the products are safe and effective.

(2) The integrity of the distribution system for prescription drugs is insufficient to prevent the introduction and eventual retail sale of substandard, ineffective, or even counterfeit drugs.

(5) The ready market for prescription drug reimports has been the catalyst for a continuing series of frauds against American manufacturers and has provided the cover for importation of foreign counterfeit drugs.

It is interesting; some of the people who debated in favor of doing that—and, as I mentioned, it passed unanimously—we are having that same debate right now, and the same arguments are valid for why that would not provide a good solution for consumers.

I also mention S. 2244 would create a second route for transporting drugs into the United States outside the existing regulatory system. The bill would allow pharmacists and wholesalers to purchase drugs from Canadian sellers over which the United States authority, the FDA, and others have no jurisdiction or control. It provides the threat of counterfeits and does not depend on the integrity of the product itself but on the integrity of those handling the product.

Even worse, the bill would require drug manufacturers to disseminate their drug formulations and chemical fingerprints to potentially thousands of pharmacies and wholesalers. This information, currently protected as a trade secret, could be worth millions of dollars per drug on the black market.

Counterfeiters could obtain drug formulations and learn how to make their fake drugs look real and survive chemical analysis. Notwithstanding these very real safety concerns, it is unlikely the bill would achieve the goal of bringing cheaper drug products to U.S. consumers.

The cost savings we talk about might be obtained but more likely would be absorbed by the fees that would be charged by the exporters, the wholesalers, the pharmacists, and the testing labs.

The bill also requires Canadian sellers to register with the FDA. However, because the FDA has no authority to inspect foreign facilities, the agency will have no way of knowing whether these registered firms are legitimate, whether they handle and store drugs properly, or whether the drugs were manufactured under current good manufacturing practices. That is the first reason.

I hope our colleagues who support the amendment and have been on the floor today urging us to support the amendment so seniors can have access to the drug pricing structure that Canada has imposed on drug companies will look a little bit at Canada. Canada, which operates a socialized national medical system, has imposed price controls on prescription drugs. Canada has also imposed rationing in other health care services, such as dialysis for elderly patients suffering from kidney failure. But we probably do not want to import that policy.

I know a lot of people from Canada who come down to the United States to get their health care because they cannot get all of the choices the United States has, and even when they can get the choices, have to wait in line for it. I think it has already been covered a little bit by my colleague from Pennsylvania that in Canada they bid for the drugs.

You do not get all of the drugs. You get the one drug that will handle that general practice, and the country gets competition by bidding among the several people who try to handle that particular ailment. By bidding on it, they are able to drive some of the prices down. They also eliminate choices for doctors and for consumers, ultimately the consumers.

If what we are trying to do is price controls, we can do price controls, too. We probably ought to be debating them as price controls, legislate them, affirmative approval, and setting U.S. price controls. I hope we do not do that. I am not serious at all in suggesting that because when my wife and I first went into the shoe business, it was at the time that Nixon was in office and they talked about price controls. As soon as they talked about price controls, the companies that were supplying us with shoes did a 30-percent increase in the price of the shoes. Then, as soon as price controls went into effect, they did the 20-percent increase that they were allowed to do.

People were paying 50 percent more for shoes than they should have been just because the companies were worried about how they were going to be able to continue their profits. I can say that each and every year on the date they were allowed to raise their prices, they raised their prices. It had nothing to do with what the cost of the shoes were, but it affected the consumer dramatically.

Passing the Dorgan amendment is not only having Canada legislate for America, it is denying Congress and the American people the opportunity to fairly debate the matter. I do not think we are ready to do that yet. We all want to have the lowest priced pharmaceuticals we possibly can, but we do want to have the safety factor, and I do not think we want to have price controls or the Canada method of doing health care.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, if I understand the unanimous consent, I am entitled to 10 minutes; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. Madam President, this debate about prescription drugs really comes down to a very fundamental issue. It is an issue about whether or not the pharmaceutical companies will prevail and continue to charge the highest prices in the world to American consumers or whether the consumers of America, the families and the small businesses, will prevail and finally bring to this marketplace some competition, some form of oversight, that gives them a fighting chance.

America believes in its drug industry. We understand the miracles that have occurred because of research and hard work within that drug industry. Look at the money we pump every year into the National Institutes of Health, taxpayer dollars spent by this Congress at the National Institutes of Health, to find new cures for diseases—last year, $23.5 billion. I supported it. I will support it again this year; it is money well spent to find cures for diseases that plague Americans and the world.

Look at what we do as well: We say to these pharmaceutical companies we will give them a tax credit for research and development. We give them a tax break to continue to find new cures, and then we say we will give them a tax break for advertising and other costs of business.

Our Government is friendly, supportive, and encouraging of the drug industry, as it should be. What do we get in return? Well, American consumers get the highest drug prices in the world. That is right. Our taxpayers invest more money in this industry and pay more back to it than any other country in the world.

Take a look at this chart. It was prepared by the House Committee on Government Reform. They said, if Americans pay an average of $1 for a pharmaceutical product, how much would that same product cost in other countries around the world? In other words, the American pill that we have paid the research money on and the tax credits for, that cost us $1, well, what does it cost in the other countries around the world?

In France, it is 55 cents; Italy, 52 cents; Germany, 65 cents; England, 69 cents; in Canada, 62 cents.

What is wrong with this picture, Americans? We are the ones subsidizing this industry, and we are paying the highest prices. Our thanks to PhRMA for giving them all of this assistance, all of this encouragement, and in return being asked to pay the highest prices in the world. Why? Because, frankly, we as a government have never stood up and said we have had it.

The Canadians have. I heard an allusion earlier to the socialism of Canada. Well, I do not consider them to be lockstep Fabian Socialists. This is a country which decided a long time ago that when it came to the health of Canadian citizens, they were going to do everything they could to make it affordable and available, and one of the first things they did was to say to the American drug companies: If you want to sell the same pills that you are charging so much for in America, if you want to sell them in Canada, you are going to have to face price restrictions. We will not let you sell them at those inflated prices that you charge your own American citizens.

As a result, the same drugs made by the same companies, subject to the same inspection, cost a fraction in Canada of what they do in the United States.

When you take a look at some of these drugs, for example—and you will recognize these names, incidentally, because they are all over your television screen, they are in every magazine you pick up now, newspapers, every single day.

Paxil: Feel a little anxious this morning? Take your Paxil. If you take it, it is $2.62 in the United States. Go to Canada, and it costs $1.69. It is a beautiful ad they have on television. Americans, you are paying for that ad. You are paying for it about a dollar more a pill.

Zocor, $3.75 in the United States, $2.32 in Canada; Prevacid, $3.91 in the United States, $2.24 in Canada, because the Canadian Government said: We are not going to let you rip off Canadians. You can rip off Americans. They will pay for it, no questions asked. Do you know why? Because PhRMA, this lobby, has a death grip on Congress. Congress is not going to rock the boat. It is not going to pass a law to protect American consumers as the Canadian Parliament did, no way. That is what this debate is all about.

The Dorgan amendment basically says we are so despondent, we have reached the point of despair where we are going to allow people to bring in drugs from Canada, the cheap drugs from Canada, because we cannot hold the American pharmaceutical companies to a standard of charging Americans a fair price. Boy, have we really reached that point, where we have to rely on the Canadians' bargaining authority to give American consumers a fighting chance? It appears we do. But that amendment passed 69 to 30. It shows you the desperation of the Senate, that we will not pass a law demanding fair prices for Americans; we are going to piggyback on the Canadians who have the political courage to do it.

Now comes the Cochran amendment. Senator COCHRAN of Mississippi is my friend. He is an honorable man. There are two ways to look at this amendment. Let me look first at the positive side. He has said the Secretary of Health and Human Services has to be able to certify that if these drugs come in from Canada, they are going to be safe for American consumers. Well, I hope so. Most of them are exactly the same drugs we sent to pharmacies all around our country.

The second thing is that if we import them from Canada, there is a significant reduction in price for the consumer.

I think both of those tests would be met, and if that is the case, it is hard to vote against Senator COCHRAN. I am going to support him. I think it is a good standard. I sincerely hope this is not part of an agenda by the pharmaceutical companies that believe if they cannot win a vote on the Senate floor and they cannot win a vote on the House floor, they may be able to persuade one member of the President's Cabinet to put an end to the reimportation of drugs from Canada.

Think about that for a second. This one person, man or woman, serving as Health and Human Services Secretary, will have the power to stop the discounted drugs from coming from Canada into the United States. It is a considerable amount of authority.

We have had statements from Dr. Kessler at the FDA, and from people currently at the FDA, who say the Canadian drugs are safe, there is going to be no problem. And we know they are cheaper. This should not be anything other than a formal decision saying the approach of the Dorgan amendment—which I am proud to cosponsor—is an approach which is good for America.

Step back for a minute and look at this debate. Look at the fact that this Congress and this President cannot pass a law that gives the American consumer a fighting chance when it comes to the cost of prescription drugs.

We are going to rely on the political courage of the Canadians to stand up to the same companies and hope we can bring in discounted Canadian drugs into the United States. Is this upside down or what?

I hope we go further than this underlying bill on generic drugs, than the Dorgan amendment on Canadian reimportation, and actually put in place something we can be proud of, something that says to every American, rich or poor, they are not going to die, they are not going to be forced into the hospital because they have to choose between food and medicine. Is that a radical, socialist notion? I don't think so. It sounds like an American notion that we believe in this land of compassion, that we can find the resources and the wherewithal to help our people.

I have seen them. I have met them. Every Senator in this Chamber has met them. They are men and women who have worked hard all of their lives, have retired in their little homes with their savings accounts, and want to live in happiness, follow the sports page and tend to their garden and enjoy their retirement. Then comes an illness—unexpected, perhaps. The doctor tells that person—your mother, grandmother, father or grandfather—this pill will keep you out of the hospital. They go to the local drugstore and realize they cannot afford to take the medicine that keeps them out of the hospital.

That is a fact of life in America.

Meanwhile the drug companies—there will not be any tag days for the drug companies—are making a lot of

money. They are in business for a profit and deserve a profit. Look at this chart showing the profitability of Fortune 500 companies in the last 10 years: The drug industry, 18.5 percent; the median for other Fortune 500 companies, 3.3 percent.

Drug companies are doing extremely well. They say: We need to make a lot of money because we have to put the money into research for new drugs.

But look at this chart which shows how much they are spending on marketing and how much on research. The blue line is research; the yellow line is marketing. Look at the disparity in companies such as Merck, Pfizer, Bristol-Myers Squibb, Abbott, Wyeth, Pharmacia, Eli Lilly, and Schering-Plough. They make Claritin. You have seen that. They have switched over to the brand new drug called Clarinex. They used to show on television the people skipping through a field of wildflowers: I am taking Claritin and will never sneeze again.

Schering-Plough spent more advertising Claritin than PepsiCo spent on Pepsi-Cola.

Let us hold them to a standard in which we believe. The drugs are safe and will save the American consumer money.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I say to the Senator from Illinois, half the money in advertising for drug companies is for free samples, samples to physicians that end up going to patients for free medication. Just understand half of that money, roughly half, is for free samples given out to hospitals and doctors. That is a way many people who do not have prescription coverage end up getting some medication.

I find it remarkable the Senator says that PhRMA has the Congress in a death grip, and then says somehow the bill that passed last year over PhRMA's objection will pass this year both in the House and the Senate. He says PhRMA has us in a death grip, but at the same time they are passing legislation willy-nilly. I find that inconsistent.

I also find it inconsistent when the Senator says somehow or another we are relying on the courage of the Canadians—that is an often used term—to stand up to the drug companies. What courage is he talking about? He is talking about price controls. He was very forthright in saying we do not have the courage in the Congress to do price controls, so this is the next best thing. We all know how successful price controls are in America. They are an abject failure. We tried that in the 1970s. We have not tried it since because of the horrible disasters that occurred in our economy because of it.

What we are doing here is trying to impose price controls. On whom? We are trying to impose price controls on an industry that invests more on saving lives and preserving the quality and quantity of people's lives than any other industry in America. How are we doing that? We are doing it by reimporting drugs. And the safety issue is clear.

I encourage everyone to vote for the Cochran amendment. That is not going to be enough. Under this measure, the Dorgan proposal, drugs from all over the world—from terrorist countries—can come through Canada into this country without anybody inspecting them in Canada, no one. The law in Canada says they do not have to inspect it. As long as it is not to be used in Canada, all they have to do is mark it Canadian and ship it to the United States, and God knows what will be in the drugs. It could be terrorists, but it could be just phony drugs. We have no ability to check.

This is a huge safety issue. While the Cochran amendment gets at it, it is very important we need to do other things on this legislation to ensure that we are not opening up another avenue for terrorism, another avenue for people to die. The Dorgan amendment says we are not going to do anything to stop the reimportation of drugs until we have a pattern of people dying. So if one person dies, we will keep going until we see three, four, or five? This is remarkable. For what? So we can get lower prices on pharmaceuticals.

Understand what that means. The Senator from Illinois held up a picture of all the countries that have low prices for drugs. Every one of them have price controls, every one of them. They have price controls. They say to the company: Sell at the price we want you to sell it at or you cannot sell it.

In Canada, yes, you pay a lower price. If the company does not take the lower price, No. 1, they cannot sell their drug in Canada. No. 2, if they do not take the lower price, Canada can go ahead and license someone in Canada to make it and infringe on their patent.

What choice does the drugmaker have? None. He is absolutely correct. We in America subsidize that. He is absolutely right on that. There is no bone of contention. The question is, If we don't, what are the consequences? The consequences are very clear. There will be a dramatic reduction in the amount of research that is done. There will be less new drugs coming to market. There will be less cures. There will be less improvement of the quality of people's lives. That is a tradeoff.

But to sit up here and say this is somehow the big bad drug companies against poor patients who cannot get their drugs because of the expense of the drugs here, we have to go to Canada to get them, is a false choice. The choice is, giving that drug at a lower price, yes; putting price controls in it. If that is what the Senator from Illinois wants, he ought to offer an amendment. The choice is less research and less cures in the future.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, in just a few moments we will take a vote on the Cochran amendment. I intend to support the Cochran amendment.

I thought it might be useful to sum up where we are on the issue of trying to get a handle on the costs of drugs in the United States and also on the availability and the accessibility of drugs for our population.

There has been prescription drug legislation before the Senate for 5 years. Four years of this 5 years we were under the Republican control of the Senate, both in terms of the Finance Committee and the floor of the Senate. During that period of time, the Republican leadership found all kinds of ways to circumvent various committees to prioritize issues they wanted to do, but they never did it with regard to the availability of prescription drugs.

And now our Republican friends have been complaining all afternoon. We just heard another complaint.

This debate is about is how we are going to reduce the cost of prescription drugs, and hopefully on how we will increase the availability and the accessibility of prescription drugs.

The underlying amendment is the Dorgan amendment. It will mean many billions in terms of savings for consumers.

Mr. CORZINE. Mr. President, I rise in strong support of the Cochran amendment to allow reimportation of drugs from Canada with important safety protections, and in opposition to the Dorgan amendment, which would allow such reimportation without these important precautions.

As so many of my constituents, I am very concerned about increasing drug costs. Spiraling costs have a real impact on not just seniors but all Americans and health care costs generally.

That is why we need to find ways to contain costs. And Congress needs to enact a Medicare prescription drug benefit that will ensure that all seniors have access to the medicines they need.

Reimportation would allow American consumers to benefit from lower priced drugs available in Canada. It would provide much needed relief for seniors, and it would also provide assistance for the 39 million Americans who have no health care coverage at all.

Reimportation is not without risks, however. I feel strongly that opening our borders without ensuring that adequate protections are in place puts in danger our national security and the health and safety of our citizens. That is why I supported the Cochran amendment, which would enable the Secretary of Health and Human Services to fully assess and determine the safety of drug reimportation before allowing it to go into effect.

I opposed the Dorgan amendment because it lacked these safety precautions and could result in Canada becoming the portal for dangerous counterfeit drugs. In fact, this concern is only heightened now that we face bioterrorist threats, which we witnessed firsthand in New Jersey, where we found ourselves on the front lines of the anthrax attack.

The bottom line is that without a prescription drug benefit seniors will continue to struggle to afford all of their drugs—be they brand name, generics, or reimported drugs. Before us now, we have the opportunity to pass a prescription drug benefit that ensures the safety of our pharmaceuticals and provides access to affordable medicines for our seniors.

For those who are watching this debate, let me share some figures. I want to tell the cancer patients who are watching this debate that, as a result of the pharmaceutical companies abusing the Hatch-Waxman Act and what is called the evergreening of payments, we have seen a 19 month delay of the generic drug Taxol at a cost to consumers of $1.2 billion. Families watching and those affected with breast cancer should know they paid $1.2 billion, because the pharmaceutical companies abused the Hatch-Waxman bill.

For those families affected with epilepsy, the 30 month delay of Neurontin has cost them $1.4 billion. For patients with depression, six evergreened patents have delayed the generic drug Wellbutrin for 31 months, at a cost to consumers of $1.3 billion. For the many seniors with high blood pressure, collusive agreements have delayed generics for months, costing them hundreds of millions of dollars.

For Americans who are watching now, let me say that we are going to do something about it. That is, the underlying bill will do something about it. And we are committed to doing something about it, in spite of all the opposition we have heard this afternoon from those on the other side.

We have the Dorgan amendment, which will make a difference for all the reasons that have been outlined by Senator DORGAN, Senator DURBIN, and others. It will help to put pressure on the drug companies.

Now we are anticipating that, after this vote we will consider the Stabenow amendment. The Stabenow amendment will permit States to bargain with drug companies in order to make available to low-income, uninsured seniors and needy people, necessary drugs at the lowest possible prices.

With all these measures we are trying to give some assurance to the American people that we will make every possible effort to see a damping down on the high costs of prescription drugs.

There are other amendments which we will have an opportunity to debate through tomorrow and into Friday. Hopefully, next week we will have the opportunity to ensure the American people that they are going to have access to prescription drugs that will be dependable and affordable.

I was here in the Senate when we passed the Medicare bill in 1965. I was here in 1964 when it failed by 16, 18 votes, and about 8 months later it passed with 4 or 5 votes to spare. There was a switch of 22 votes in the Senate.

In 1965, the Senate went on record. What we did was to give an assurance to the American people that, if they played by the rules and paid their share, that when they turned 65 they would have health security. We have provided that in terms of hospitalization and physician care.

Prescription drugs are just as important as hospitalization and physician care. Can anyone believe that if we had left out physician care or hospitalization and instead included prescription drugs in 1965, that we would not be debating including hospitalization or physician care tonight in the Medicare system? Of course we would.

When we achieve it, people will say: Why did it take so long? What was the big deal about it? It is absolutely essential to our senior citizens.

Finally, I think this is also a moral issue. When we find that we have prescription drugs that can be life sustaining for our fellow citizens—the elderly and the sick, the men and women who fought in World War II and lifted this country out of a depression and sacrificed for their children—and they can't afford them, that we must act. We have the ability to help improve their quality of life and to reduce their suffering, and we are talking about sending bills to subcommittees and committees? And it is out of order?

It is about time we address this issue. That is what the American people want us to do. That is what they are challenging us to do. That is what the Democratic leader pledged we will do. And we will continue to battle and fight in the days ahead.

I believe our time has expired and under the previous order a roll call vote has been ordered.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from Pennsylvania.

Mr. SANTORUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 4301. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 180 Leg.]

YEAS—99

Akaka	Bunning	Conrad
Allard	Burns	Corzine
Allen	Byrd	Craig
Baucus	Campbell	Crapo
Bayh	Cantwell	Daschle
Bennett	Carnahan	Dayton
Biden	Carper	DeWine
Bingaman	Chafee	Dodd
Bond	Cleland	Domenici
Boxer	Clinton	Dorgan
Breaux	Cochran	Durbin
Brownback	Collins	Edwards
Ensign	Kohl	Santorum
Enzi	Kyl	Sarbanes
Feingold	Landrieu	Schumer
Feinstein	Leahy	Sessions
Fitzgerald	Levin	Shelby
Frist	Lieberman	Smith (NH)
Graham	Lincoln	Smith (OR)
Gramm	Lott	Snowe
Grassley	Lugar	Specter
Gregg	McCain	Stabenow
Hagel	McConnell	Stevens
Harkin	Mikulski	Thomas
Hatch	Miller	Thompson
Hollings	Murkowski	Thurmond
Hutchinson	Murray	Torricelli
Hutchison	Nelson (FL)	Voinovich
Inhofe	Nelson (NE)	Warner
Inouye	Nickles	Wellstone
Jeffords	Reed	Wyden
Johnson	Reid	
Kennedy	Roberts	
Kerry	Rockefeller	

NOT VOTING—1

Helms

The amendment (No. 4301) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4305

Mr. REID. Mr. President, I send an amendment to the desk on behalf of Senator STABENOW.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Ms. STABENOW, proposes an amendment numbered 4305.

Mr. REID. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: to clarify that section 1927 of the Social Security Act does not prohibit a State from entering into drug rebate agreements in order to make outpatient prescription drugs accessible and affordable for residents of the State who are not otherwise eligible for medical assistance under the medicaid program)

At the end, add the following:

SEC. . CLARIFICATION OF STATE AUTHORITY RELATING TO MEDICAID DRUG REBATE AGREEMENTS.

Section 1927 of the Social Security Act (42 U.S.C. 1396r–8) is amended by adding at the end the following:

''(1) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State from—

''(1) directly entering into rebate agreements that are similar to a rebate agreement described in subsection (b) with a manufacturer for purposes of ensuring the affordability of outpatient prescription drugs in order to provide access to such drugs by residents of a State who are not otherwise eligible for medical assistance under this title; or

''(2) making prior authorization (that satisfies the requirements of subsection (d) and that does not violate any requirements of this title that are designed to ensure access to medically necessary prescribed drugs for individuals enrolled in the State program under this title) a condition of not participating in such a similar rebate agreement.''.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2003

Mr. REID. Mr. President, on behalf of the majority leader, pursuant to the unanimous consent agreement previously entered into, and after having consulted with the Republican leader, I ask unanimous consent that Calendar No. 486, H.R. 5011, the military construction bill, be called before the Senate.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5011) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes.

Mr. REID. Mr. President, before the Senators start discussing this bill, Senator MCCAIN has asked for 5 minutes in the morning rather than having his 20 minutes now.

I ask unanimous consent that when the Senate resumes consideration of H.R. 5011 on Thursday, there be 15 minutes of debate time with the time divided as follows: 5 minutes each for Senators FEINSTEIN, HUTCHISON, and MCCAIN; that upon the use of that time, without further intervening action or debate, the Senate proceed to vote on passage of the bill, with all other provisions of the previous order remaining in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I thank the Chair.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken and the text of S. 2709 is inserted in lieu thereof.

The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I am pleased to join with my ranking member, Senator HUTCHISON of Texas, to bring the Fiscal Year 2003 Military Construction Appropriations bill to the Senate for consideration. This is a balanced, bipartisan bill intended to meet some of the most pressing infrastructure requirements of our military forces.

This bill provides $10.6 billion in new budget authority. It represents an increase of less than one tenth of one percent over last year's $10.5 billion military construction bill. But it is nearly 10 percent more than the President's 2003 budget request.

The 2003 budget request submitted by the President severely underfunded the Guard and Reserves. The request was 52 percent below last year's request. Congress is left to make up the shortfall. As all Members know, the Defense Emergency Response Fund funded all projects identified by the President as necessary for the war on terror. While it may be tempting to blame the decrease in military construction funding on the costs of fighting a war on terror, the fact is that the war on terror is fully funded through the Defense Emergency Response Fund.

This bill was coordinated carefully with the Armed Services Committee, and each project in this bill is included in the National Defense Authorization Act passed by the Senate. All of the projects in this bill meet the stringent standards for military construction funding set by the Senate. Every project we funded is in the Services' Future Years Defense Plans, and every project is a top priority of the installation commanders.

Mr. President, the bill was unanimously reported out of the Appropriations Committee on June 27. The package before the Senate today includes technical and conforming changes in the bill and report, as authorized by the full Committee. These changes include clarification of report language as needed and, in one instance, a correction in the tables to delete an unauthorized project that was inadvertently included in the committee print.

The bill provides $5.6 billion—53 percent of the total—for military construction for active and reserve components. Included in this funding is $1.1 billion for barracks; $26 million for child development centers; $137 million for hospital and medical facilities; $159 million for the Chemical Demilitarization Program; and $610 million for the Guard and Reserve components.

An additional $4.23 billion, or 40 percent of the total bill, goes to family housing. This includes $1.33 billion for new family housing units and improvements to existing units; and $2.9 billion for operation and maintenance of existing units.

This bill also includes two new military construction initiatives. The first is the Army and Air Force Transformation Initiative, which sets aside funding for the Army and the Air Force to be used for infrastructure requirements.

For the Army, the funding is allocated for construction related to the Interim Brigade Combat Teams. The Interim Brigades, which were just recently renamed Stryker Brigades, are essential to the Army's effort to become a lighter, more mobile, more effective fighting force. Army officials testified before the Defense Appropriations Subcommittee earlier this year that current levels of military construction funding are not adequate to meet the Army's time line for these brigades.

Likewise, the Air Force is in need of additional funding to move forward quickly with the beddown of aircraft associated with its Air Mobility Modernization Program. The Air Force is facing a serious shortfall in airlift capability. The Air Mobility Modernization Program, which encompasses the acquisition and upgrading of C–17s, C–5s, and C–130s, is urgently needed.

Simply put, the timetables for Army and Air Force transformation that were in place prior to September 11 are no longer adequate. The war on terror has placed pressing new demands, not only on personnel and equipment, but also on infrastructure. The large increase in defense funding that has occurred since September 11 reflects those demands. Under the transformation initiative, the committee has made $100 million available each for the Army and Air Force to be used for infrastructure requirements of the Stryker Brigades and C–17 Air Mobility programs, as determined by the Services.

The second major initiative in this bill is the BRAC Environmental Cleanup Acceleration Initiative. This initiative provides an extra $100 million above the fiscal year 2003 budget request to accelerate the cleanup of dangerous contaminants at military bases that have been closed or realigned as part of the BRAC process. Until the environmental cleanup process is completed, these closed bases are the equivalent of giant white elephants. The services no longer need them, but the communities cannot complete the conversion of them to productive use. In some cases, the lengthy cleanup process presents a problem far worse than just an economic drain on the Services and the communities—in some cases, the contaminants polluting the soil of closed military bases present a serious hazard to human health and the environment.

In my home state of California, for example, plutonium contamination at McClellan Air Force Base continues to present a hazard to the community and to impede progress towards profitable reuse of the property. In Texas, toxic groundwater that has migrated to nearby neighborhoods from the former Kelly Air Force Base has raised fears among residents that the pollution could be causing health problems. These are only two of many examples. The fact is, we have a responsibility to the American people to clean up the buried ordnance and hazardous wastes that contaminate many of our closed or realigned military installations. And I believe that we have a responsibility to act expeditiously. Although the President requested only $545 million for BRAC environmental cleanup, the Services, at the request of the Committee, identified another $237 million in environmental cleanup requirements that could be executed in 2003 if funding were made available. We could not provide the full $237 million needed, but the extra $100 million we recommended will help to speed the cleanup process. Simple common sense indicates that the military should finish the cleanup from the first four rounds of BRAC before diverting scarce resources and creating additional cleanup costs in another round of base closures.

I want to point out that all the projects added to military construction authorization and appropriations bills that are not part of the President's budget request are carefully screened and vetted by the Services. They are the priorities of the men and women who live and work on military installations throughout the country, and sometimes those priorities differ from the priorities of the Pentagon. Installation commanders are uniquely attuned to the needs of their bases, whereas the budget officers at the Pentagon and the Office of Management and Budget are focused on the corporate needs of the Defense Department as a whole. In some cases, a child care center or a barracks may be essential to the well-being of a base, but may not score high enough at the Pentagon to make it into the President's budget. In other cases, a worthy project may be programmed for funding down the road when it is urgently needed now.

Mr. President, this bill meets many military construction needs—all of the projects are authorized, are in the military's Future Year's Defense Plan, and are the base commander's priority. I urge my colleagues to support it. I would like to thank my ranking member for her support in developing this bill. It is a privilege and a pleasure to work with Senator HUTCHISON. I also thank Chairman BYRD, Senator STEVENS, and Senator INOUYE for their guidance and support in developing this package. And I thank the staff of the subcommittee for their dedication and hard work in putting this package together.

I thank my ranking member for her support in developing this bill. I also thank Chairman BYRD, Senator STEVENS, and Senator INOUYE for their guidance and support in developing this package.

I also thank the staff, specifically Christina Evans, B.G. Wright, and Matt Miller on the Democratic side, and Sid Ashworth, Alycia Farrell, and Michael Ralsky on the Republican side.

I reserve the remainder of my time and yield to the ranking member, Senator HUTCHISON from Texas.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Texas.

Mrs. HUTCHISON. I thank the Chair.

Mr. President, I thank the Senator from California, the chairman of the committee. We certainly have worked together on this bill, and Senator FEINSTEIN outlined some of the problems we faced in trying to make up for some of the shortfalls in the budget that we had before, particularly in the environmental cleanup and Guard and Reserve accounts.

We have been able to address the major issues for the Department of Defense and also try to stay on the course that we set to improve the quality of life for our military personnel.

In 2001, when President Bush took the oath of office, he made a promise to America that we would see a transformation of our military. He wanted to take a 25-year look at what our military needs would be, and he appointed Secretary of Defense Donald Rumsfeld, who has the most experience of any Secretary of Defense, having been Secretary of Defense before, to do that very job.

After 9/11, of course, our priorities immediately changed because we then became immediately involved in a crisis, a war on terrorism. Now we are prosecuting a war on terrorism at the same time that we still are trying to look to the future needs of our national defense.

Our bill for military construction attempts to address the top priorities of the Department of Defense. It is a balanced bill and is quite bipartisan.

I am particularly pleased to see that we are going to put a large part of this bill, $1.17 billion, in barracks and dormitories for our military quality of life; $4.23 billion for family housing. We are asking so much of our military today. Our military personnel on active duty know that they may well be deployed overseas and perhaps on dangerous missions. So we want them to have a quality of life for themselves and for their families that will allow them to serve, knowing that their families will be taken care of in good housing and with good health care. Our part is housing, and we are fully funding the new barracks, dormitories, and family housing.

In recent years, we have made real progress in improving housing for single servicemembers and for families. We are also trying to improve workplaces. We have funding in this bill for the upgrading of the work facilities, the battalion headquarters, and the units where they are working. It is my hope that in future budgets we will see sufficient resources to continue this effort to modernize, renovate, and improve our aging defense facilities and infrastructure.

The effects of sustained inattention by the Department and the military services to basic infrastructure are certainly apparent on nearly every military installation in our country. This will continue to have long-term implications as facilities continue to age disproportionately without sustained investment in maintenance and repair.

This bill also provides $599 million for the Reserve components, which is a substantial increase over the President's budget request primarily because of the increased use of the Guard and Reserve since September 11. These are important increases that signal a renewed commitment to upgrading and rebuilding the infrastructure that is truly the backbone of our Nation's military, which has so long been neglected.

Guard and Reserve members have stepped up to the plate for our country, even before 9/11, but more so after. These are men and women with full-time civilian jobs. They answer the call when our country asks, and their employers sacrifice, too. We are asking a lot, and they always come through. That is why we are trying to upgrade the facilities and the equipment they need to do their jobs well.

The bill also addresses several key Department of Defense initiatives. First are the Army and Air Force transformation initiatives. We have provided $100 million for critical infrastructure needed to support the Army's interim brigade combat teams and $100 million for the Air Force's aircraft mobility programs.

Senator FEINSTEIN discussed those programs earlier. These programs are essential to ensuring that the Army and Air Force have the infrastructure in place to move forward with the transformation efforts over the next several years. Without this assistance, they would not be able to meet their established milestones.

The committee report also includes a $100 million increase over the President's budget request for environmental cleanup at military installations that have been closed as a part of the base realignment and closure effort. This additional funding is necessary to enable the military to accelerate the cleanup of dangerous contaminants at closed and realigned bases throughout the Nation.

Senator FEINSTEIN mentioned my home State of Texas where Kelly Air Force Base is one of those that were closed and where there are very significant reported health problems that many believe—and there is evidence to support—are caused by environmental contaminants at that closed base. Certainly California is experiencing similar problems. We are going to try to do what we said we would do for the people in the communities where we have closed bases.

I support this bill. It is exactly what we need to address the infrastructure problems that will support our military and Department of Defense budget.

I thank the chairman of the subcommittee, Senator FEINSTEIN, for her leadership in crafting this bill. She and her staff—Christina Evans and B.G. Wright—have done an excellent job in putting together a bipartisan bill.

I also thank my staff—Sid Ashworth, Alycia Farrell and Michael Ralsky—for their invaluable work on our Committee on Appropriations every year. Michael Ralsky has done a wonderful job for me and will soon be going over to the Pentagon where we know he will contribute his expertise, gained from working in the Senate for so many years.

Their support has been really terrific, and we appreciate that. I appreciate that Senator FEINSTEIN also thanked Senator INOUYE and Senator STEVENS for their work. They do the Department of Defense budgets, and we certainly dovetail with them in our military construction budgets. I cannot think of any two people who are more committed to our strong military than TED STEVENS and DANNY INOUYE,

two veterans who have served our country in the military and who would never, ever walk away from our responsibility to take care of our military personnel. They have been so supportive of this military construction effort that Senator FEINSTEIN and I have put together.

I support the bill and urge my colleagues to support it when we vote tomorrow.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Again, I thank my ranking member. It was great to work with her, and I think she knows that. I think we have a very good bill.

AMENDMENT NO. 4306

Mrs. FEINSTEIN. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mrs. HUTCHISON, Mr. THURMOND, Mr. DOMENICI, Mr. BINGAMAN, Mr. BIDEN, Mr. CARPER, Mr. WYDEN, Mr. SMITH of Oregon, Mr. FRIST, and Mr. THOMPSON proposes an amendment numbered 4306.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. Of the amount appropriated in this Act under the heading ''Military Construction, Army'', $8,000,000 may be provided for a parking garage at Walter Reed Army Medical Center, District of Columbia.

SEC. Of the amount appropriated in this Act under the heading ''Military Construction, Army'', $3,000,000 may be provided for a Anechoic Chamber at White Sands Missile Range, New Mexico.

SEC. Of the amount appropriated in this Act under the heading ''Military Construction, Air Force'', $7,500,000 may be provided for a control tower at Dover Air Force Base, Delaware.

SEC. Of the amount appropriated in this Act under the heading ''Military Construction, Army National Guard'', $9,000,000 may be provided for a Joint Readiness Center at Eugene, Oregon.

SEC. Of the amount appropriated in this Act under the heading ''Military Construction, Air National Guard'', $8,400,000 may be provided for a Composite Maintenance Complex, Phase II in Nashville, Tennessee.

Mrs. FEINSTEIN. Mr. President, Senator HUTCHISON and I authored this amendment on behalf of Senators THURMOND, DOMENICI, BINGAMAN, BIDEN, CARPER, WYDEN, GORDON SMITH, FRIST, and THOMPSON. The amendment would include in the military construction bill five projects that were authorized by the Senate during consideration of the National Defense Authorization Act. These projects include a parking garage at Walter Reed Medical Center in the District of Columbia; an Anechoic testing chamber at White Sands Missile Range in New Mexico; a control tower at Dover Air Force base in Delaware; a Joint Readiness Center at Eugene, OR; and a composite maintenance complex in Nashville, TN.

All of these projects have been authorized. They meet all the requirements of the military construction program, and I urge my colleagues to adopt the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 4306.

The amendment (No. 4306) was agreed to.

Mrs. FEINSTEIN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SCHUMER. Mr. President, I would like to take a moment to thank Senator FEINSTEIN for her stewardship of the Military Construction Appropriations Act for Fiscal Year 2003. Her work on this bill will provide billions of dollars in funding to support our Nation's defense efforts, and I support those efforts wholeheartedly.

My colleague from New York, Senator CLINTON, and I would like to take a moment to engage our colleague in a colloquy.

Mrs. FEINSTEIN. I thank my colleague for his kind words and would be happy to engage in a colloquy with the Senators from New York.

Mr. SCHUMER. Last month, Senator CLINTON and I had the special honor of joining in the welcome-home celebration of the men and women of the 10th Mountain Division at Fort Drum. From fighting in Afghanistan to peacekeeping in Kosovo, our troops help make the world safe for people who cherish freedom. These soldiers were prepared for whatever obstacles came their way in Afghanistan precisely because of the training they received at Fort Drum. As we look to transform our nation's military to fit the needs of 21st century warfare, Fort Drum-trained soldiers are exactly the kind of troops we need.

Mr. CLINTON. In April, I had the privilege of visiting the Walter Reed Army Medical Center, where other soldiers from the 10th Mountain Division were recuperating from wounds suffered in battle in Afghanistan. I know that all American feel the same pride for these distinguished service men and women as Senator SCHUMER and myself. It is no coincidence that when the initial troops were called into Afghanistan, soldiers from the 10th Mountain Division were among the first ones in. As one of the most frequently deployed missions in the U.S. Army, these flexible, mobile forces are a powerful weapon.

Mr. SCHUMER. Mr. President, it is my under standing that contained in the House version of the Military Construction Appropriations Act for fiscal year 2003 is an additional $18.3 million in military construction funding that will support the construction of two projects vital to the continued functioning of Fort Drum, located in upstate New York.

Mrs. CLINTON. The first of the two projects is a parallel taxiway at Wheeler-Sack Army Airfield, WSAAF at Fort Drum. This project will construct a new concrete taxiway parallel to the main runway to support operations at the airfield. The taxiway is required to enhance the capability, safety, and efficiency in the deployment of troops and equipment for the 10th Mountain Division, LI, and other fully functional units ready for combat from the installation. Fort Drum has experienced an increase in the number of air training missions and deployment operations in support of training, contingency, and NATO support missions. This construction project is necessary to keep the fort operating.

Mr. SCHUMER. The second project is the one- plus-one DIVARTY barracks expansion. This project consists of construction of a two-story barracks building with a 100-room unaccompanied enlisted personnel housing facility to include a built-in soldier community building. The project will upgrade the current barracks to meet the new Department of Defense enlisted personnel housing standards. The project is required to support the DIVARTY housing facilities for personnel in grades E1 through E6 to meet the one-plus standard. My colleague and I feel that this project is vital to New York as well as a number of States in the Northeast.

Mrs. CLINTON. Now more than ever, we must remain resolute in our defense of America's values, interests and security. Our safety at home, as well as abroad rests on the strength of our military response, and Fort Drum is an absolutely essential component. Senator SCHUMER and I plan to work with my colleagues to ensure that Fort Drum and the 10th Mountain Division continue to play a large role in defending our Nation.

Mr. SCHUMER. We are aware that there are many priorities that the Senate is considering, but would just like to bring to our distinguished colleague's attention that these projects would not be included in the Senate Bill because they were not authorized in accordance with Senate authorization criteria. This same criteria is not applicable in the House. We trust that the chairman looks favorably upon these construction projects and is willing to take the steps necessary to support the House's appropriation allocation.

Mrs. FEINSTEIN. I appreciate the remarks of the Senators of New York and assure them that we will do our best to retain these projects in conference.

Mr. CONRAD. Mr. President, I rise to offer for the RECORD the Budget Committee's official scoring for S. 2709, the Military Construction Appropriations Act for Fiscal Year 2003.

The Senate bill provides $10.622 billion in discretionary budget authority,

all classified as defense spending, which will result in new outlays in 2003 of $2.771 billion. When outlays from prior-year budget authority are taken into account, discretionary outlays for the Senate bill total $10.12 billion in 2003.

Despite the bipartisan support of 59 Senators, the Senate was blocked on procedural grounds last month from approving a 302(a) allocation for the Appropriations Committee. Consequently, the Appropriations Committee voted 20–0 on June 27 to adopt a set of non-binding sub-allocations for its 13 subcommittees totaling $768.1 billion in budget authority and $793.1 billion in outlays. While the committee's subcommittee's allocations are consistent with both the amendment supported by 59 Senators last month and with the President's request for total discretionary budget authority for fiscal year 2003, they are not enforceable under either Senate budget rules or the Balanced Budget and Emergency Deficit Control Act.

For the Military Construction subcommittee, the full committee allocated $10.622 billion in budget authority and $10.122 billion in total outlays for 2003. The bill reported by the full committee on June 27 is fully consistent with that allocation. In addition, S. 2709 does not include any emergency designations or advance appropriations.

I ask unanimous consent that a table displaying the budget committee scoring of this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2709, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2003

[Spending comparisons—Senate-reported bill (in millions of dollars)]

	Defense	Mandatory	Total
Senate-reported bill:			
Budget Authority	10,622		10,622
Outlays	10,120		10,120
Senate committee allocation: [1]			
Budget Authority	10,622		10,622
Outlays	10,122		10,122
House-passed: [2]			
Budget Authority	10,083		10,083
Outlays	10,052		10,052
President's request: [2]			
Budget Authority	9,663		9,663
Outlays	9,996		9,996
SENATE-REPORTED BILL COMPARED TO:			
Senate committee allocation: [1]			
Budget Authority			
Outlays	(2)		(2)
House-passed:			
Budget Authority	539		539
Outlays	68		68
President's request:			
Budget Authority	959		959
Outlays	124		124

[1] The Senate has not adopted a 302(a) allocation for the Appropriations Committee. The committee has set non-enforceable sub-allocations to its 13 subcomittees. The table compares the committee-reported bill with the committee's allocation to the Military Construction Subcommittee for informational purposes only.

[2] The cost of the House-reported bill does not include $6 million in 2003 outlays estimated by CBO to occur as a result of the House-passed 2002 supplemental. Outlays from the 2002 supplemental will be added after completion of the conference on that bill.

[3] The President requested total discretionary budget authority for 2003 of $768.1 billion, including a proposal to change how the budget records the accrual cost of future pension and health retiree benefits earned by current federal employees. Because the Congress has not acted on that proposal, for comparability, the numbers of the table exclude the effects of the President's accrual proposal.

Notes: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions. Prepared by SBC Majority Staff, 7–16–01.

Mrs. FEINSTEIN. I believe that completes the military construction bill.

Mr. President, I yield back all my time. It is my understanding the vote will be tomorrow at 10:30.

The PRESIDING OFFICER. Under the previous order, the substitute amendment, as amended, is agreed to.

The amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mrs. FEINSTEIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Ohio.

A BUDGET DEFICIT REALITY CHECK

Mr. VOINOVICH. I rise today to discuss an issue that I have been known to have some thoughts about from time to time, and that is our Nation's fiscal situation and this body's approach to its budget responsibilities, something the President and I have talked about on many occasions.

The country's finances are in dire condition. We face a sea of red ink as far as the eye can see, and perhaps the worst thing about it is that few people in this body appear to recognize or acknowledge how bad that predicament is. The Federal Government is running a deficit and will for the foreseeable future, when just last year we had an on-budget surplus. Despite this, Congress continues to spend money like drunken sailors, refusing to prioritize and make the tough choices necessary to stop the bleeding and get us back on track.

In the rush to spend, we are not asking the basic question: Is this the best use of our limited funds at this point in time?

I want to emphasize to my colleagues how critical our budget situation has become. Over the past year, the budget outlook has worsened dramatically. Last year, the Congressional Budget Office predicted a unified budget surplus of $313 billion. That is for fiscal year 2002. That means the Social Security surplus and the on-budget surplus together equals $313 billion. We all thought everything was going great, and I was extremely pleased because Congress believed that we might be able to once again use the entire Social Security surplus to reduce the national debt, after all, we did it in 1999 and 2000. As a matter of fact, during that period of time we reduced the national debt $365 billion, the first time that had happened in almost 30 years. Unfortunately, it is not turning out that way. Instead of reducing the debt, we are going to add to it. Seven months ago CBO released budget projections that showed the Federal Government is in much worse fiscal condition than we all thought. These new projections show that the Federal Government will spend the entire Social Security surplus in both the current fiscal year and in fiscal year 2003.

Today, our fiscal condition continues to deteriorate. Figures from the Senate Budget Committee show that we will likely suffer a budget deficit of $152 billion this year. That means that this year we will borrow and spend the entire $157 billion Social Security surplus and on top of that we are going to have to borrow another $152 billion through the issuance of new debt. Put another way, the Federal Government will borrow a total of $310 billion this year. This is new debt on top of the staggering $6 trillion national debt we already owe.

It is no wonder that our constituents have such a hard time grasping the magnitude of the national debt when it is counted in unfathomable terms like trillions of dollars.

Unfortunately, next year it gets even worse. For fiscal year 2003, which begins October 1, if we maintain our current course of spending we will borrow and spend the entire $176 billion Social Security surplus and issue $194 billion in debt on top of that. Already, next year's budget deficit totals $370 billion, and that is before any supplemental spending, which we all know is inevitable.

If anyone believes these discouraging numbers can be turned around by a growing economy, I think they ought to understand that these projections for 2003 are based on a healthy inflation-adjusted economic growth rate of 3.4 percent.

I would like to draw everyone's eyes to this chart that I am talking about for fiscal year 2002 and fiscal year 2003. This year, fiscal year 2002, we were projected to have a $313 billion surplus, but instead we are going to take the Social Security surplus that the President and I talked about using to pay down debt and spend that to operate the government. Then on top of that we are going to borrow another $152 billion. So we are going to borrow nearly $310 billion.

Next year, the Social Security surplus will be $175 billion. Instead of using that money to pay down debt, we are going to spend it to run the Government, and then we are going to add another almost $200 billion of additional debt.

When people come to see me in my office and want something from the Federal Government, I ask the question of them: Is it so worthwhile that we should borrow the money? Does it justify spending the Social Security surplus or causing the Treasury to issue new debt?

We are filling the gap today in the only way we know; that is, we are putting the Treasury back in the business of auctioning new debt to raise the billions of dollars needed to pay for the Government's operations this year.

What I find very telling about the Treasury auctions is the duration of some of the new bonds. They mature in roughly 10 years. What that tells me is the U.S. Treasury recognizes the Federal Government will need to borrow money for a long time. This speaks volumes about our long-term budget predicament. We better take notice.

What we really need is a fiscal reality check. We are sinking deeper and deeper into deficits. But most disturbing of all, I don't hear any outcry. No one seems to be paying any attention. What I do hear are constant calls for more Government programs and for more Government spending.

The fact that our Nation faces several serious challenges right now, including a serious national security challenge, does not exempt us from the basic rules of fiscal policy. In fact, I believe the national security crisis we now face demands of us an even more vigilant look at what we are doing with our spending to make sure the needed funds go to the most pressing priorities.

Spending without check, wrapping every pork project in the flag and calling it a national security priority, saying yes to every major interest group, and playing politics with the public's purse are all irresponsible behaviors that will sentence us to another long term of deficit spending and increased national debt.

We recently passed a farm bill that even leading farm legislators decried as too expensive. Besides returning to the failed farm policies of the past, this legislation increased agricultural spending by $80 billion over the next 10 years. We have also just finished a Defense authorization bill that contains huge increases. The Senate-passed bill authorizes $393.4 billion in spending. That is an increase of $42 billion or about 12.2 percent over last year. We cannot have it all.

The White House is calling for a $45 billion increase in defense spending and a big increase in spending on homeland security. These are serious needs and deserve our attention. They require making some tradeoffs to meet them. We do need to increase defense spending, but let's examine whether $45 billion is the right number. I was heartened to learn that the House of Representatives acted to move about $2.3 billion in funding from defense allocations to other programs. The Senate should do the same, and then some, instead of forever increasing funding by adding additional spending to the total. We need to make some tough decisions to make tradeoffs and shift funding within given budget totals.

At the same time, the record growth of domestic spending over the past several years has been nothing short of meteoric. Given the huge increases many agencies and programs have had, do we really need to continue feeding them at these huge levels? If anything, I think agencies need a breather to spend the money Congress has been shoveling their way over the past several years. Anyone looking for the location of the recently departed surplus, need look no further than the huge increases in discretionary spending for fiscal years 1998 to 2002.

This is the chart that shows it: Agriculture, the average growth was 5.2 percent; total growth was 21 percent from 1998 to 2002; Commerce, 51 percent; Defense, 24 percent; Education, 60 percent; Energy, 23 percent; Health and Human Services, 50 percent; HUD, 44 percent.

These are unbelievable increases in spending. That is a lot of money in the pipeline. The fact is, at this stage of the game, we need to look at the spending we have already done during the last several years and scrutinize our domestic priorities to make sure our most pressing needs receive our limited budget dollars. This means making tough choices, telling some people no, and having the guts to stand up to groups that are considered untouchables and say we cannot afford them right now.

I am talking about lots of other requests we will be getting. For example, we are talking about Medicare and what we are going to do about that. What we have to understand is we just cannot rack up huge bills today that will come due tomorrow because tomorrow's bills will be even bigger than today's. I am talking about Social Security and Medicare. These two critical programs are headed toward serious financial trouble and will require huge infusions of cash to keep them going. On top of that, there is widespread agreement, myself included, that we need to provide a prescription drug benefit to seniors. And it is not going to be cheap. This is the issue now before the Senate.

We face a situation in a couple of decades in which spending on Social Security, Medicare, and other entitlements will equal what we spend today on the entire Federal Government. In a few short years, the percentage of overall spending that is left for defense and other domestic needs will be very little. To their credit, David Walker, the Comptroller General, and CBO Director, Dan Crippen, have made this point over and over again, before committee after committee, but no one seems to be listening.

Make no mistake, we will meet these obligations. The trillions of dollars in special issue Treasury bonds held by the Social Security trustees are going to be redeemed and made good by the Treasury. Some beltway pundits might dispute the reality of the Social Security trust fund, but they are dead wrong. The liabilities in the trust fund are real. The day will come, in 2015 or 2016, when the money coming into Social Security will not be enough to cover all the payments, and we will have to reach into that Social Security trust fund and begin redeeming those IOUs. To pay those IOUs we either have to borrow more money or raise taxes.

The fact is the day of reckoning is rapidly approaching. We need to start being concerned about it. Remember the money that was supposed to be kept in the lockbox to pay down the debt? I remember the lockbox. I was going to bring my lockbox from my office to demonstrate my point. We will not see the money in that lockbox paying down debt for probably a decade. We won't see an on-budget surplus for at least 10 years at the rate we are going.

Mr. President, I want my colleagues to recognize that the surpluses we refer to are on a unified basis. The public is being told we might go back to that unified budget. But I hope they understand that the unified budget includes the Social Security surplus. When we talk about a surplus, the surplus we are talking about includes the Social Security surplus. In my book that is not a true surplus because it requires raiding the Social Security surplus. The people that know, understand we will be using that Social Security surplus for a long time; not to pay down debt but to pay for the regular operation of the Federal Government.

When the day arrives in 2015 or 2016 and that Social Security surplus disappears, we will have to find additional money to pay for Social Security and Medicare.

Our budget process is broken and needs to be fixed. This year, the Senate is increasingly resigned to the fact that we will not adopt a budget resolution. I say, shame on the majority. This is the first time since 1974 that the Senate has not passed a budget resolution. What it tells us about the State of the budget process is this: It is a critical document that we need to manage our money, and we did not even write one. In its current form, the budget process is weak and meaningless and does nothing to control the endless congressional urge to splurge.

When the Budget Enforcement Act expires in September, Katy bar the door on the floor of the Senate when the spending rampage begins.

I fully support my colleagues efforts to extend the discretionary spending caps and extend the pay-go rules. These are important steps in reestablishing fiscal discipline. The problem is, these safeguards are not enough. These good rules have been circumvented repeatedly in the past, so we know that rules to enforce fiscal discipline can be ignored unless there is a broad-based sense of urgency that we must address our budgetary crisis. Until we change our thinking and recognize we must live within our means, we will continue to face a mounting deficit despite the rules.

In the absence of an enforceable budget document this year, one key

step for enforcing budgetary discipline in Congress would be to adhere to the aggregate discretionary spending total of $759 billion proposed in the President's budget and in the budget resolution that passed in the House of Representatives.

Many of my colleagues say it is not possible to limit spending to that amount. I disagree, and I applaud my colleagues in the House who understand that we have to make those hard choices. Drawing a line in the sand at $759 billion is a way to do that.

A few weeks ago my friend from Kentucky, Senator BUNNING, and I sent a letter to the President with 34 signatures from Members of the Senate pledging to back him up if he vetoes excessive spending bills. I hope the President will exercise his veto authority for any bills that would likely increase spending beyond $759 billion.

But the President has to understand that if he vetoes any spending over $759 billion, we cannot hold to that figure unless we shift money from the defense budget.

What I am suggesting is that we shift some of the money from the defense budget to the domestic side, rethink some of the large increases in domestic spending that are in the 2003 budget, and spread that money around to meet our other domestic needs. That means taking on things such as NIH, that we all love. That has almost increased 50 percent during the last several years.

The President knows, as a former State Governor, that when you have a financial problem, what you do is reconsider your spending plans. If you have some peaks in spending, you have to reduce those so you can make more money available to stay within your budget. This administration has to understand if they receive every dime they want for defense spending and do not do anything about the peaks they have on the domestic side of the budget, we are going to have a catastrophe at the end of this year. They will get their money for defense, the domestic money will be forthcoming, and we will go far beyond the $759 billion.

We will do the same thing that happened in the 1980s when I was mayor of the city of Cleveland and watched what was happening here in Washington. The President got his defense money, others got their domestic spending, and this terrible debt that we have, the $6 trillion debt we are paying for today is a result of that fiscal irresponsibility. We have to make sure it doesn't happen again.

As I said, these are the kinds of hard choices I had to make as a mayor and Governor. I did not have the option of just borrowing the money from our pension funds. I could not do that. If I told the people of Ohio, for example, when I was Governor, I was going to use the Public Employees Retirement Funds to run the State of Ohio, they would have run me out of office. But here in the Federal government it apparently is OK for Congress to use the Social Security money. It is unbelievable to me. We should be doing what cities are doing in this country today, what States are doing in this country today, and what families are doing. There are a lot of families in this country today who are reallocating their resources because the money is just not coming in. They are changing their priorities, and we should do the same thing. We are no better than America's families.

If people around here could not borrow the money or use pension funds, I can tell you things would be different. That is why we ought to have a balanced budget amendment, so we have the same kind of fiscal restraint we had as Governors and mayors and county officials.

This year is an anomaly, however, and I hope not to see it repeated. I hope that next year we will have in place an invigorated budget process that helps Congress resist its worst urges and control spending in a responsible way.

Yesterday, Federal Reserve Chairman Alan Greenspan said:

> . . . that the underlying disciplinary mechanisms that form the framework for Federal budget decisions over most of the past 15 years have eroded. The administration and Congress can make a valuable contribution to the prospects for the growth of the economy by taking measures to restore this discipline and return the Federal budget over time to a posture that is supportive of long-term economic growth.

If we do not get things under control, we are not going to have the economic growth necessary to take care of all our needs. That is why I have been developing a budget process reform bill with Senator FEINGOLD. This bill will extend important aspects of the existing budget process, such as the spending caps and PAYGO.

In addition, the bill contains several provisions aimed at providing more information on the true state of the budget so people understand what is going on around here. It is not hocus-pocus.

The bill requires accrual accounting for Federal insurance programs. It requires CBO and the Joint Tax Committee to report how legislation changes interest costs. It requires the GAO to issue an annual report on the magnitude of liabilities facing the Federal Government. And it convenes another budget concepts commission, which last met in 1967, to assess whether the fundamental measures for the Federal budget are the right ones.

With some tough new guidelines to rework the budget process, a willingness to accept the fact that future expenses are as real and as important as today's, and the guts to make the tough choices necessary to prioritize our spending, we might just have a shot at achieving sound fiscal health.

Today, the Federal budget deficits are not as big as those we faced in the 1980s compared to the economy as a whole. But we are headed quickly in that direction. Given the rampant spending proclivities of Congress, it will not be long before our situation becomes just as bad as it was in the 1980s. I implore my colleagues to understand that we are on the edge of an abyss. We must stop before we commit fiscal suicide.

A lot of people will say that the 1980s were pretty great, but it is also part of the reason, as I mentioned, that we have the enormous debt we have today. I remind my colleagues that we spend 11 percent of the annual Federal budget to pay for our fiscal irresponsibility of the past; i.e., we were not willing to either pay for or do without things. We borrowed the money, used the Social Security surplus, and that is why we have the debt we have today.

We are now engaged in the war against terrorism at home and abroad, and we have some very pressing domestic needs. We have to understand that we cannot get the job done by practicing business as usual. We have to understand that. We just cannot do that anymore.

The decisions we make this year are going to have enormous impact on the United States of America, our ability to maintain a competitive position in the world, and on the quality of life of our children and grandchildren. Our country and their future are in our hands.

Let history record that we had the courage to prioritize our Nation's needs within the framework of fiscal responsibility—to make tough choices and exercise tough love today, for our children's and grandchildren's tomorrows.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

TERRORISM INSURANCE

Mr. REID. Mr. President, I am not going to formally ask this UC because there is no one here to object, but I want to again offer the UC regarding terrorism insurance. I will just lay on the record that when we initially offered this, we wanted a ratio of three Democrats to two Republicans, which is fairly standard. We were told by the minority they would rather have four and three. Remember, this is terrorism insurance. So we said: Fine, four-three. And now they won't agree to that. It is too bad.

The country needs this legislation. We can't do it until we go to conference. This is only appointing conferees.

I hope we are able to get this cleared in the immediate future. I ran into one of the President's lobbyists out here. The President has three or four people who cover the Senate. One of them told

me—I will not embarrass that person; I don't want to get him in trouble with anyone—he said: Keep pushing this. This is something we need.

We know that. But he should not be talking to me, although I am happy to talk to him anytime. He should be talking to whoever is holding this up.

WOMEN IN THE SENATE

Mr. REID. Mr. President, we were finally able to get the military construction appropriations bill completed. We will vote on it in the morning, but basically it is completed. That is our first appropriations bill. We will vote on that tomorrow. We will have 12 to go. I hope we can make good progress in the next couple of weeks and get more of those done. But before we leave the military construction appropriations bill, I want to make a few comments.

I had the good fortune of being able to chair that subcommittee for some time. I was ranking member after that. It was a great experience. It is a wonderful bill, to work on programs that directly affect military personnel. It affects them all over the world.

Construction takes place in Nevada at Nellis Air Force Base, Fallon Naval Air Station. Indian Springs, that used to be a full-fledged air base and now it is a base that deals principally with the drones, unmanned vehicles. It is not only a bill that is for Nevada, it is good for every State in the Union. As I indicated, construction takes place around the world.

The reason I wanted to comment on this is, I know this bill very well. I have to say Senators FEINSTEIN and HUTCHISON have done a remarkably good job.

I talked to Senator FEINSTEIN after she completed debate. I said: DIANNE, I just think you have done such a good job on this, you and Senator HUTCHISON. I don't want to say anything that is wrong, that will be untoward, but I think it speaks volumes that two women are handling the legislation dealing with the military personnel of our country.

She said to me that she recognized that.

And I said: Would you be offended in any way if I talk about that a little bit, the fact that here we have this multibillion-dollar bill that has been handled as well as any bill could be handled, and I think the American public should understand the great contribution made by these two female Senators.

I have seen the Senate change since I came here. Twenty percent of the Democratic caucus now are women. The Senate is a better place because of women serving here. Things have been accomplished that would not have been accomplished but for them.

I go back to something that really struck home with me. I was touring a ranch in northern Nevada. The ranch was run by the Glaser brothers. I know them well. One of them I served with in the State legislature for many years. He had retired at the time. He is now deceased.

We were out looking at this bird sanctuary he had created on his own with no Federal help, no State help, in the middle of this vast, beautiful ranch of his. We were talking about how much farm equipment costs.

Farm equipment is very expensive. But he said something to me I have never forgotten. He said: You know, Harry, any time that I can hire women to run these big pieces of heavy equipment, I do so.

I said: Norm, why is that?

He said: Because they take better care of it. I have found over the years that they are more gentle with the equipment. They don't do things to hurt the equipment. Any chance I get that I can hire women to run these big pieces of equipment, I do, because they do a better job than the men.

Well, I don't want to concede anything at this time, that these two Senators did a better job than has been done in the past. But I will have to tell you, it wouldn't take much to convince the rest of the Senate that they probably did a better job than has ever been done before.

I say the Senate and the country are better for having these women in the Senate. I hope that as the years go by there will be more women elected to the Senate. There are a lot of women around the country running for the Senate this year. In the years to come, there will certainly be more than 20 percent of the Democratic caucus that are women.

U.S.-CHINA SECURITY REVIEW COMMISSION ANNUAL REPORT

Mr. BYRD. Mr. President, the U.S.-China Security Review Commission on Monday released its first annual report, as directed by the Congress in its authorizing statute, P.L. 106–398, October 30, 2000. It is a broad-ranging analysis, with major recommendations for consideration. I will ask unanimous consent that the Executive Summary be printed in the RECORD at the conclusion of my remarks.

The report is extensive, thorough, and disturbing in many respects. It paints a detailed portrait of a China determined to: acquire a vast array of high technology; broaden and deepen its industrial base; expand its research and development capabilities; and attract substantial amounts of American and other foreign investment. China is on the move. But, it is worthwhile to note that China pays for much of its progress through a highly imbalanced trade relationship with the U.S. Last year the U.S. trade deficit with China exceeded $80 billion U.S. dollars.

One could simply say that the Chinese are intent on entering the modern era, and on building a strong nation state, financed by aggressively exporting goods to the U.S. But, Mr. President, there are some very troubling aspects of the U.S./Chinese relationship.

The Commission found that U.S. policy toward China has been and is alarmingly fragmented. It lacks consistency and depth. U.S. policy toward China has often been driven solely by commercial interests, specific human rights issues, or by a particular military crisis, rather than by a comprehensive examination of all the issues which impact upon this relationship. Furthermore, over the last 30 years U.S. policy toward China has been dominated by strong Executive branch personalities and compulsive secrecy. There seems to be little sustainable consensus on the long-term national interests of the U.S. vis a vis China.

The Report makes numerous recommendations designed to elicit a more comprehensive understanding of China by U.S. policy makers and by the general public. These include rebuilding the Library of Congress' China collection, new language and area studies programs, new efforts at open source collection by the intelligence community, and an upgrading of the Federal Broadcast Information Service. The fact is that we as a nation know far too little about China, and we need a better level of effort in this regard.

There is new information and analysis in the Commission's report regarding Chinese access to U.S. capital markets, and a renewed call for more effective consultations and consensus-building between the President and Congress on Taiwan policy. The report also recommends new tools which should be employed to encourage the Chinese to comply with their commitments—in proliferation practices, prison labor agreements, intellectual property agreements enforcement, and most importantly, with their far-reaching obligations under the WTO.

The report calls for increased scrutiny of corporate activities in China, and a new corporate reporting system to reveal what investment, R&D and technology is being sent to China. Transparency, disclosure and corporate accountability should be required of U.S. firms' operations in China, and are certainly of much interest to American shareholders and investors.

I am pleased that the Report is a strong bipartisan effort, a broad consensus of nearly all the Commissioners, who approved it by a vote of 11–1. It is both an educational report and an action document. Each chapter highlights findings and makes recommendations for action which flow from those findings. The executive summery gives the key 21 recommendations, but additional valuable proposals are found at the end of each chapter.

Some of the Report's key findings about the U.S.-China relationship include:

The U.S.-China bilateral relationship is poorly coordinated and lacks a sustainable consensus among elected officials in Congress and the Executive branch;

China's leaders see the United States as a declining power with important military vulnerabilities that can be exploited;

There are serious differences in perceptions each country holds of the other and a potential for misunderstandings that are compounded by the lack of bilateral institutions for confidence-building and crisis-management;

There is plausible evidence that the burgeoning trade deficit with China will worsen despite China's entry into the World Trade Organization (WTO);

The U.S. may be developing a reliance on Chinese imports that could in time undermine the U.S. defense industrial base;

The U.S. lacks adequate institutional mechanisms to monitor national security concerns involving Chinese and other foreign entities seeking to raise capital in the U.S. debt and equity markets;

China provides technology and components for weapons of mass destruction and their delivery systems to terrorist sponsoring states, presenting an increasing threat to U.S. security interests, in the Middle East and Asia in particular.

Radical changes in China's economic fortunes have been fueled by U.S. investors and multinational firms, and have come with severe sacrifices in the form of lost American manufacturing jobs.

Mr. President, there is much to recommend in this Report, and many recommendations which may be of interest to my colleagues.

I congratulate the Chairman and all of the commissioners who authored this fine report, as well as the staff members of the Commission who worked tirelessly on this important endeavor.

Mr. President, I ask unanimous consent that the executive summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE SUMMARY

Relations between the United States and China during the last half-century have not always been smooth. The two countries have sharply contrasting worldviews, competing geo-strategic interests, and opposing political systems. More recently, bilateral ties have centered on rapidly growing economic interactions that have muted political differences. For the moment, these relations have not softened China's egregious behavior on human rights nor changed its strategic perceptions that the U.S. is its principal obstacle to growing regional influence. No one can reliably predict whether relations between the U.S. and China will remain contentious or grow into a cooperative relationship molded by either converging ideologies or respect for ideological differences, compatible regional interests, and a mutually beneficial economic relationship.

However the relationship develops, it will have a profound impact on the course of the twenty-first century. The policies pursued today by both China and the United States will affect future relations. The Congress created the U.S.-China Security Review Commission to assess ''the national security implications and impact of the bilateral trade and economic relationship between the United States and the People's Republic of China'' and to report its conclusions annually to the Congress. It specifically directed the Commission to focus on our deepening economic, trade, and financial linkages with China. The Congress wanted the Commission to evaluate whether our economic policies with China harm or help United States national security and, based on that assessment, to make recommendations in those areas that will improve our nation's interests.

National security has come to include military, economic and political relationships. At any time, one of these concerns may dominate. They interact with one another and affect our overall security and well-being. Neglect of any one element will diminish our overall security as a nation. The United States must be attentive to the strength and readiness of our military forces, the health of our economy, and the vibrancy of our political relationships.

The Congress also asked the Commission to include in its Report ''a full analysis, along with conclusions and recommendations for legislative and administrative actions.'' This is the Commission's first Report. In keeping with the Congressional mandate, this Report provides a comprehensive analysis of the Commission's year-long review of U.S.-China relations, the principal findings that emerged from that investigation, and the recommendations or measures the Commission believes should be implemented to help safeguard our national security in the years ahead. This initial Report provides a baseline against which to measure and assess year-to-year changes in the relationship.

MAIN THEMES

Our relationship with China is one of the most important bilateral relationships for our nation. If if is not handled properly, it can cause significant economic and security problems for our country. China is emerging as a global economic and military power, and the United States has played, and continues to play a major role in China's development.

China's foreign trade has skyrocketed over the past twenty years (from approximately $20 billion in the late 1970s to $475 billion in 2000). Our trade deficit with China has grown at a sharp rate, from $11.5 billion in 1990 to $85 billion in 2000. Foreign investment—with America a leading investor—grew apace. This trade and investment has helped to strengthen China both economically and militarily.

America's policy of economic engagement with China rests on a belief that the transition to a free market economy and the development of the rule of law in China's business sector would likely lead to more political and social openness and even democracy. This belief, along with the desire to expand American commercial interests, drove U.S. support for China's entry into the World Trade Organization (WTO). Many also believe that a more prosperous China will be a more peaceful country, especially if it is fully integrated into the Pacific and world economies.

But these are hypotheses, and many leading experts are convinced that certain aspects of our policy of engagement have been a mistake. They argue that the PRC faces enormous economic and social problems, that its leaders are intractably antidemocratic, that they are hostile to the U.S. and its prominent role in Asia, and that we are strengthening a country that could challenge us economically, politically and military.

The Commission does not believe that anyone can confidently forecast the future of China and the U.S.-China relationship, and contends that while we may work and hope for the best, our policymakers should prepare for all contingencies.

Over the past twenty years, China has created a more market-based economy and allowed more social and economic freedom. Chinese participation in international security and economic regimes has grown. On the other hand, China has made little progress toward granting its citizens political and religious freedom, and protecting human and labor rights. In fact, the government has notably increased its repression of some religious practices, including its brutal campaign against the Alum Gong.

Chinese leaders have repeatedly stressed to their Communist Party support and the Chinese people that they have no desire to repeat in China the political and economic collapse that took place in the former Soviet Union. They seek to maintain and strengthen the Communist Party's political and social control while permitting freer economic activity. They consistently limit the freedom of the Chinese people to obtain and exchange information, practice their religious faith, to publicly express their convictions, and to join freely organized labor unions. Chinese leaders frequently use nationalistic themes to rally support for their actions, including crack downs on dissenters.

China is thus embarked on a highly questionable effort—to open its economy but not its political system—the outcome of which will influence the destinies of many countries, including our own. If the economy fails, or if the Chinese people demand full freedom instead of merely a taste of it, then the leaders will have to choose between reasserting central control and granting greater political and social freedom, with a consequent weakening of their own authority. On the other hand, if China becomes rich but not free, the United States may face a wealthy, powerful nation that could be hostile toward our democratic values, to us, and in direct competition with us for influence in Asia and beyond.

American policymakers must take these scenarios seriously, and to that end the Commission has established benchmarks against which to measure future change. There are important areas in which Chinese policy runs directly counter to U.S. national security interests, such as not controlling exports that contribute to the proliferation of weapons of mass destruction, its close relations with terrorist-sponsoring states like Iran, Iraq, Syria, Libya, Sudan and North Korea, its expanding long-range missile forces, its threatening policies toward Taiwan, and its pursuit of both asymmetric warfare capabilities and modern military technology that could menace American military forces.

China's leaders view the United States as a partner of convenience, useful for its capital technology, know-how and market. They often describe the United States as China's long-term competitor for regional and global military and economic influence. Much rhetoric and a considerable volume of official writings support this hypothesis. The recent empirical study of Chinese newspapers' coverage of the U.S., conducted by University of Maryland scholars for the Commission, found a divided perspective: articles in these newspapers, which we believe generally represent the views of the leadership, are consistently positive on trade and investment matters and applaud Sino-U.S. cooperation in these areas. In contrast, their coverage of U.S. foreign policy is largely negative and frequently depicts the U.S., as hegemonic and unilateralist.

In time we will learn whether China is to become a responsible world power or an aggressive, wealthy dictatorship, and whether the Communist Party maintains its monopoly of political power or shares it with the Chinese people. We will also learn whether the Chinese economy flourishes or stumbles and collapses under the burden of state-owned industries, a weak banking system, enormous debt, wide-scale corruption, social dislocation, and the new challenges of international competition brought about by its WTO entry.

Current U.S. policies and laws fail to adequately monitor the transfers of economic resources and security-related technologies to China, considering the substantial uncertainties and challenges to U.S. national interests in this relationship. This Report attempts to begin to address these uncertainties, trends, and challenges in a systematic manner. It proceeds on the premise that far more prudence must be displayed and far better understanding developed on the part of the Congress on the full extent of this relationship and its impact on U.S. interests. In addition, too little attention has been devoted to the adverse impact of recent Chinese economic strength on our Asian allies and friends. The Commission believes the U.S. must develop a better understanding of the vulnerabilities and needs of our Asian allies and friends, and must carefully construct policies to protect and nurture those relationships.

SUMMARY OF RECOMMENDATIONS

The Commission has identified its key findings and recommendations with each chapter in this Report. The Commission developed more than forty recommendations that are listed with each of the ten chapters. We have prepared a separate classified report providing additional details and recommendations. Here, we highlight and summarize those recommendations we believe are the highest priority and which we recommend for immediate action. A more extended analysis is contained in each of the Report's ten chapters.

CONFLICTING NATIONAL PERSPECTIVES

The United States Government is poorly organized to manage our increasingly complex relationship with China. We are not adequately informed about developments within China and about their leaders' perceptions of the U.S., and we dedicate insufficient resources to understand China. Because Chinese strategic thinking and analysis of military planning differ markedly from our own, our incomplete understanding enhances the possibilities for miscalculation, misunderstanding, and potential conflict.

Recommendation 1: The U.S. Government should expand its collection, translation and analysis of open source Chinese-language materials, and make them available to the larger community. Despite two studies advocating an improved collection of Chinese materials at the Library of Congress, its collection is nearly unusable and shameful. Congress should provide funds to implement recommendations already submitted by the two previous studies. In addition, the Commission recommends increased funding for Chinese language training and area studies programs, similar to the program in the National Defense Education Act of 1958, and incentives for post-secondary graduates to participate in government services. The relevant executive branch agencies should report annually to the Congress on steps taken to rectify this situation.

Recommendation 2: The U.S. should develop a comprehensive inventory of official government-to-government and U.S. Government-funded programs with China. The President should designate an executive branch agency to coordinate the compilation of a database of all such cooperative programs. The database should include a full description of each program, its achievements to date, and the benefits to the U.S. and should be prepared annually in both classified and unclassified forms. The Commission further recommends that the executive branch prepare a biannual report, beginning in 2004, on the cooperative Science and Technology (S&T) programs with China patterned on the report submitted to Congress in May 2002 at the request of Senator Robert C. Byrd. The President should establish a working group to set standards for S&T transfers, monitor the programs, and coordinate with the intelligence agencies.

Recommendation 3: The Commission recommends that Congress encourage the Department of Defense to renew efforts to develop military-to-military confidence building measures (CBMs) within the context of a strategic dialogue with China and based strictly on the principles of reciprocity, transparency, consistency, and mutual benefit.

MANAGING U.S.-CHINA ECONOMIC RELATIONS (TRADE AND INVESTMENT)

The United States has played a major role in China's rise as an economic power. We are China's largest export market and a key investor in its economy. Fueled by China's virtually inexhaustible supply of low-cost labor and large inflows of foreign direct investment (FDI), the U.S. trade deficit with China has grown at a furious pace—from $11.5 billion in 1990 to $85 billion in 2000. The U.S. trade deficit with China is not only our largest deficit in absolute terms but also the most unbalanced trading relationship the U.S. maintains. U.S. trade with China is only 5 percent of total U.S. trade with the world but our trade deficit with China is 19 percent of the total U.S. trade deficit. U.S. exports to China are only 2 percent of total U.S. exports to the world, while we import over 40 percent of China's exports.

Foreign direct investment has helped China leapfrog forward both economically and technologically. These developments have provided China with large dollar reserves, advanced technologies, and greater R&D capacity, each of which has helped make China an important world manufacturing center and a growing center of R&D, which are contributing to its military-industrial modernization. U.S. companies have difficulty competing with Chinese based companies, in large part, because the cost of labor in China is depressed through low wages and denial of worker rights. Essentially, Chinese workers do not have the ability to negotiate their wages. Attracted in part by the low wages in China, a growing number of U.S. manufacturers are now operating in China, many of whom are utilizing China as an ''export platform'' to compete in U.S. and global markets.

China's large trade surplus with the United States, the inflow of U.S. private investment into China, and China's access to U.S. capital markets each contributes, directly or indirectly, to China's economic growth and military modernization.

Recommendation 4: The Commission recommends the creation of a federally mandated corporate reporting system that would gather appropriate data to provide a more comprehensive understanding of the U.S. trade and investment relationship with China. The reporting system should include reports from U.S. companies doing business in China on their initial investment, any transfers of technology, offset or R&D cooperation associated with any investment, and the impact on job relocation and production capacity from the United States or U.S. firms overseas resulting from any investment in China.

Recommendation 5: The Commission recommends that the U.S. make full and active use of various trade tools including special safeguards provisions in the WTO to gain full compliance by China with its World Trade Organization (WTO) accession agreement.

CHINA'S WTO MEMBERSHIP: CONFLICTING GOALS

The U.S. and China hold differing goals for China's membership in the WTO. (The Chinese saying for this situation is: ''same bed, different dreams''). China's leadership sought WTO membership to further the nation's economic reform and growth through export production and the accumulation of foreign investment, capital, and technology in order to become a world power. U.S. support for China's WTO membership was intended to enhance market access for U.S. goods and services, and also to promote internal economic, political and civil reforms, including a more open society.

China has instituted legal reforms to supervise foreign direct investment (FDI), financial markets and private businesses in order to stimulate trade and investment and fulfill the country's WTO commitments. The development of a commercial rule of law in China faces numerous obstacles, including the lack of an independent judiciary and trained judges, local protectionism, and widespread corruption. Despite some advances in commercial legal reforms, China remains grossly deficient in granting its citizens civil and political freedoms, and makes widespread use of prison labor.

Recommendation 6: The Commission recommends that Congress renew the Super 301 provision of U.S. trade law and request the Administration to identify and report on other tools that would be most effective in opening China's market to U.S. exports if China fails to comply with its WTO commitments. In examining these tools, priority should be given to those industry sectors where China expects rapid economic growth in exports to the U.S. market.

Recommendation 7: Congress should authorize and appropriate additional funds to strengthen the Commerce Department's support for commercial rule of law reform in China, including intellectual property rights and WTO implementation assistance, and to strengthen the Department of State's promotion of capacity-building programs in the rule of law, administrative reform, judicial reform and related areas.

Recommendation 8: The U.S. should improve enforcement against imports of Chinese goods made from prison labor by shifting the burden of proof to U.S. importers and by more stringent requirements relating to visits to Chines facilities suspected of producing and exporting prison-made goods to the United States. (Note: The Commission made recommendations to Congress on this issue in a May 2002 letter).

Recommendation 9: The Commission recommends that Congress request the annual Trade Promotion Coordination Committee (TPCC) report prepared by the Department of Commerce include an assessment of China's progress in compliance with its WTO commitments, recommendations on initiatives to facilitate compliance, and a survey of market access attained by key U.S. industry sectors in China, including agriculture. The report should include comparisons of U.S. market access in those key industry sectors with those gained by the European union and Japan.

Recommendation 10: The Commission recommends that Congress urge the U.S. Trade Representative (USTR) to request WTO consultations on China's noncompliance with its obligations under the Trade-related Aspects

of Intellectual Property Rights (TRIPS) Agreement, particularly its inadequate enforcement, to deter China's counterfeiting and piracy of motion pictures and other video products. If China fails to respond, Congress should encourage the USTR to request a WTO dispute settlement panel be convened on the matter.

Recommendation 11: Congress mandated the Commission to evaluate and make recommendations on invoking Article XXI of the General Agreement on Tariffs and Trade (GATT), relating to security exceptions from GATT obligations. The Commission believes that the steel industry is a possible candidate for using Article XXI. If the Administration's current safeguard measures prove ineffective, the Commission recommends that Congress consider using Article XXI to ensure the survival of the U.S. steel industry.

ACCESSING U.S. CAPITAL MARKETS

Chinese firms raising capital or trading their securities in U.S. markets have almost exclusively been large state-owned enterprises, some of which have ties to China's military and intelligence services. There is a growing concern that some of these firms may be assisting in the proliferation of weapons of mass destruction of ballistic missile delivery systems. The U.S. lacks adequate institutional mechanisms to monitor national security concerns raised by certain Chinese and other foreign entities accessing the U.S. debt and equity markets. We also lack sufficient disclosure requirements to inform the investing public of the potential risks associated with investing in such entities.

Recommendation 12: The Commission recommends that foreign entities seeking to raise capital or trade their securities in U.S. markets be required to disclose information to investors regarding their business activities in countries subject to U.S. economic sanctions.

Recommendation 13: The Commission recommends that the Treasury Department, in coordination with other relevant agencies, assess whether China or any other country associated with the proliferation of weapons of mass destruction or ballistic-missile delivery systems are accessing U.S. capital markets and make this information available to the Securities Exchange Commission (SEC). state public pension plans, and U.S. investors. Entities sanctioned by the Department of State for such activities should be denied access to U.S. markets.

PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

China fails to control the export of dual-use items that contribute to the proliferation of weapons of mass destruction and their delivery systems. China is a leading international source of missile-related technologies. Its proliferation activities with terrorist-sponsoring and other states, despite commitments to the U.S. to ease such activities, present serious problems for U.S. national security interests, particularly in the Middle East and Asia.

Recommendation 14: The Commission recommends that the President be provided an extensive range of options to penalize foreign countries for violating commitments or agreements on proliferation involving weapons of mass destruction and technologies and delivery systems relating to them. All current statutes dealing with proliferation should be amended to include a separate authorization for the President to implement economic and other sanctions against offending countries, including quantitative and qualitative export and import restrictions, restricting access to U.S. capital markets, controlling technology transfers, and limiting U.S. direct investment.

Recommendation 15: The United States should work with the United Nations Security Council and other appropriate inter-governmental organizations to formulate a framework for effective multilateral action to counter proliferation of weapons of mass destruction and their delivery systems. Member states found in violation of the agreed framework should be subject to international sanctions.

Recommendation 16: The United States should continue to prohibit satellite launch cooperation with China until it puts into place an effective export-control system consistent with its November 2000 commitment to the U.S. to restrict proliferation of weapons of mass destruction and associated technologies to other countries and entities.

CROSS-STRAIT AND REGIONAL RELATIONS

Cross-strait relations are a major potential flashpoint in U.S.-China relations. Economic and people-to-people interactions between Taiwan and the Mainland have increased dramatically in recent years, raising prospects that such interactions could help ameliorate cross-strait political tensions. At the same time, China is enhancing its capability to carry out an attack across the Taiwan Strait with special operations, air, navy and missile forces. It continues to deploy short- and intermediate-range missiles opposite Taiwan and although the threat of an immediate attack appears to be low, this buildup appears designed to forestall pro-independence political movements in Taiwan and help bring about an eventual end to the Island's continued separate status.

China's economic integration with its neighbors in East Asia raises the prospects of an Asian economic area dominated or significantly influenced by China. The U.S. has an interest in China's integration in Asia if it gives all parties a stake in avoiding hostilities. Nonetheless, U.S. influence in the area could wane to a degree, particularly on economic and trade matters.

Recommendation 17: The Commission recommends that the Department of Defense continue its substantive military dialogue with Taiwan and conduct exchanges on issues ranging from threat analysis, doctrine, and force planning.

Recommendation 18: The Commission recommends making permanent those provisions in the fiscal years 2001 and 2002 Foreign Operations Appropriations Acts providing for executive branch briefings to the Congress on regular discussions between the administration and the government on Taiwan pertaining to U.S. arms sales to Taiwan.

Recommendation 19: The Commission believes that the Congress should encourage the Administration to initiate consultations with other Asian countries to assess and make recommendations on the impact of the ''hollowing out'' phenomenon with respect to China on regional economies and on U.S. economic relations with the region.

CHINA'S MILITARY ECONOMY

China's official defense spending has expanded by more than one-third in the past two years. The Commission estimates that China's official defense budget represents about one-third of its actual spending level. Its ability to increase defense spending in the face of competing priorities is supported by its rapid economic growth. China has the largest standing army in the world and ranks second in actual aggregate spending. The military's role in China's economy has been reduced in recent years, but the military derives extensive financial and technological benefits from the growth and modernization of the domestic economy, which is designed to serve it.

Recommendation 20: The Commission recommends that the Secretary of Defense prepare a biannual report on critical elements of the U.S. defense industrial base that are becoming dependent on Chinese imports or Chinese-owned companies. The Department of Defense should also update its acquisition guidelines and develop information from defense contractors on any dependency for critical parts of essential U.S. weapons systems.

TECHNOLOGY TRANSFERS AND MILITARY ACQUISITIONS

China has a well-established policy and program to acquire advanced technologies for its industrial development, military capabilities and intelligence services. Over the next ten years, China intends to acquire an industrial capability to build advanced conventional and strategic weapons systems. Current U.S. policies do not adequately consider the impact of the transfers of commercial and security-related technologies to China.

Recommendation 21: The Commission recommends that the Department of Defense and the FBI jointly assess China's targeting of sensitive U.S. weapons-related technologies, the means employed to gain access to these technologies and the steps that have been and should be taken to deny access and acquisition. This assessment should include an annual report on Chinese companies and Chinese PLA-affiliated companies operating in the United States. Such reports are mandated by statute but have never been provided to Congress.

The Commission cannot forecast with certainty the future course of U.S.-China relations. Nor can we predict with any confidence how China and Chinese society will develop in the next ten to twenty years. We do know that China now ranks among our most important and most troubling bilateral relationships and believe that China's importance to the United States will increase in the years ahead. As its economy and military grow and its influence expands, China's actions will carry increased importance for the American people and for our national interests.

For this reason, the Commission believes that there is a pressing need to fully understand the increasingly complex economic, political and military challenges posed by China's drive toward modernity. To gain such comprehension will require the allocation of more resources and the elevation of China in our foreign and national security priorities. The Commission hopes that U.S.-China relations will develop in a positive direction but we must urge that this outcome, though preferred, may not happen. The U.S. must, therefore, be prepared for all possible contingencies.

THE SILK ROAD: CONNECTING CULTURES, CREATING TRUSTS

Mr. KENNEDY. Mr. President, I welcome this opportunity to commend the Smithsonian Institution and Yo-Yo Ma for this year's extraordinary Folklife Festival, ''The Silk Road: Connecting Cultures, Creating Trusts.'' The festival, which was held from June 26 through July 7 on The Mall, enabled hundreds of thousands to experience the art of 375 musicians, dancers, cooks and storytellers from the nations along the famous Silk Road trade routes through central Asia centuries ago.

In the aftermath of September 11, it is more important than ever to expand our understanding of those cultures. Yo-Yo Ma, with broad support from Secretary of State Colin Powell, the

Aga Khan, and the Congressional Silk Road Caucus, and many others, helped us to embark on a journey of understanding and appreciation by bringing an incredible diversity of products and ideas that have emerged from central Asia to our Nation's front lawn—the Smithsonian Mall.

Yo-Yo Ma deserves special recognition for his unique ability to engage us all in an educational process that celebrates cultural differences. He is one of our Nation's preeminent musical artists. He is also an extraordinary cultural leader who has won the hearts of millions throughout the world with his outreach and education programs. He has used his incomparable talents to inspire us to learn about diverse peoples and cultures.

I commend all those who worked so effectively to make this year's Folklife Festival such an unequivocal success. It is a privilege to pay tribute to their efforts. I ask unanimous consent to include remarks at the opening ceremony of the Smithsonian Silk Road Project in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SILK ROAD: CONNECTING CULTURES, CREATING TRUST—SMITHSONIAN FOLKLIFE FESTIVAL OPENING CEREMONY, WASHINGTON, D.C., REMARKS BY SMITHSONIAN INSTITUTION SECRETARY, LAWRENCE M. SMALL

To all our distinguished guests, welcome to the Nation's Capital, welcome to the national mall, and the opening of the 36th annual Smithsonian Folklife Festival, The Silk Road: Connecting Cultures, Creating Trust.

We have assembled some 400 musicians, artists, and storytellers from more than 25 countries around the globe to 20 acres here on the mall, the nation's front yard.

And I must mention Kubla and Gobi who come from Texas, the two Bactrian camels, who have two humps. They have been specially trained to respond to commands in both English and Kazakh, which means you can now see the only double-humped, bilingual camels in the world.

The Smithsonian had plenty of help this year. This was truly an international effort, with many countries cooperating across borders for a common goal. As you look around, it's clear the goal has been accomplished. My congratulations to all involved, many are here today, many are in their home countries, we thank them all wherever they are.

The State Department has provided valuable assistance, and we have a special guest who will be here soon to officially open the Festival, the Honorable Colin Powell, Secretary of State.

The Smithsonian could not carry out its mission without the generous support of Congress, and we are always grateful for that. We thank Senator Brownback and Senator Biden, honorary co-chairs of the Folklife Festival. You'll hear from Senator Brownback soon.

We're very grateful for the help of Senator Kennedy; you'll hear from him in a moment. And thanks also to Congressman Pitts from the 16th district of Pennsylvania, and all the members of the Congressional Silk Road Caucus.

We also are grateful for the support of His Highness the Aga Khan, a true humanitarian whose caring and concern span the globe. We welcome the Honorable Fran Mainella, Director of the National Park Service.

A special thanks to Rajeev Sethi, the Festival scenographer, and head of the Asian Heritage Foundation, who collaborated closely with the Smithsonian in the design and the production of the Festival. And whose many wonders you see here on the mall. And, we would not be here without the incredibly generous contribution of time, talent, and resources of Yo Yo Ma. We're honored to be working with him and the organization he founded, the Silk Road Project. We're very thankful for their support. You will hear from Yo Yo Ma and the Silk Road Ensemble very soon.

Centuries ago, had you been a traveler on the storied trade route from Japan to Italy, you would have seen traders carrying textiles, tea, spices, silk, and much more from the Pacific to the Mediterranean. Perhaps most importantly, these traders carried art, music, literature, ideas, a way of life, a culture, from one land to the next. As a result, all the cultures were changed—and the change continues to this day.

The Silk Road lives not in the past but the present—influencing our lives every day.

This Festival will make abundantly clear why it is so important to continue open cultural exchange between diverse peoples and societies. Especially now.

I want to thank Richard Kurin, Richard Kennedy, Diana Parker, and all the staff at the Smithsonian Center for Folklife and Cultural Heritage for all their hard work in putting this together. This year, the Freer and Sackler galleries, The Smithsonian Associates, the Hirshhorn Museum and Sculpture Garden, the National Museum of Natural History, the National Museum of African Art, and the Smithsonian Magazine, have all picked up the Silk Road theme in their activities. Thanks to them also.

Later on in the program, Richard Kurin will tell you more about this remarkable event, including how many silk worms are needed to make one pound of silk, when is a 5-ton truck not a painting, what ''bushkazi'' is, and where polo comes from and when the polo matches start on the mall. Yes, I said polo.

REMARKS BY HIS HIGHNESS THE AGA KHAN AT THE OPENING OF THE SMITHSONIAN FOLKLIFE FESTIVAL—WASHINGTON D.C.

I am here to speak briefly about Central Asia. I wanted to share with you some of the reasons why the theme of the Smithsonian Folklife Festival this year is so important. As you know, Central Asia has been an area of considerable concern and instability for the world. Over the past decade, Central Asian countries have come into existence in difficult circumstances. Frontiers have been changed, ethnic groups have been divided, old traditions have been modified by the Soviet presence, and all this has caused considerable difficulty in looking ahead in that part of the world.

The period of deep change at the national and regional levels has prompted a search for new forces of stability. One that seems particularly important, I think, to the United States and to all of us, is the validation and vigorous promotion of human and cultural pluralism. Historically the Silk Route was a link that interconnected diverse aspects of human society and culture from the Far East to Europe, and did so on the basis of mutual interest. This suggests that for the new countries of Central Asia, the inherent pluralism of their societies can be regarded as an asset rather than a liability. In the wider sense, it can be a means of enlarging the frontiers of global pluralism. This is a goal with which we all can and should associate.

The remarkable work of Yo-Yo Ma has enthralled audiences, from all the countries of the Silk Route and beyond. By his leadership and imagination he has proved that the force of cultural pluralism to bind people is as necessary, powerful and achievable today as was the Silk Route in history.

It is my privilege and honor to be associated with the founder of the modern Silk Route, a cultural journey that inspires people to unity and joy through art.

REMARKS BY YO-YO MA AT THE OPENING OF THE SMITHSONIAN FOLKLIFE FESTIVAL

Your Highness, thank you for your kind words. The Silk road Project and I admire you for many reasons. In your cultural work you have created the Aga Khan Prize for Architecture, you have supported and founded Universities around the world, and you are doing important restoration work in cities like Cairo and now Kabul. We are honored to be working with you and the Aga Khan Trust for Culture on this year's Smithsonian Folklife Festival.

I would also like to single out someone who is both a friend of mine and of the Silk Road Project, the Senator from my home state of Massachusetts, Ted Kennedy. Senator Kennedy, thank you for your tireless work for arts organizations.

Secretary Powell, Senator Kennedy, Senator Brownback, Secretary Small, Your Highness, distinguished guests, welcome to the sights, sounds and scents familiar to over half the world's population. In the past, to experience all these elements you would need to travel by camel, by foot, by boat, and now, by plane. Today and for the next two weeks here on the National Mall we're providing the camels, the painted truck from Pakistan, and the rik-shaws, so all you need are your eyes, ears and imagination.

During twenty-five years of travel, I have been introduced to some of these sights, sounds and scents, and the many stories that accompany them.

Often the music you hear when I play the cello comes from these very stories. During this year's Smithsonian Folklife Festival, you can hear these stories for yourselves in encounters with four hundred artists from twenty-four countries.

Most of these artists will be strangers to you. Many of these artists are strangers to each other. We all meet strangers all the time. When the Silk Road Ensemble musicians and I first started playing together two years ago we had to find ways to trust each other onstage even though we had only just

met. To me, the best way to create this trust is to share something precious—a personal story or belief. In music, this process of sharing deepens the harmonies, but more broadly this process starts a true dialogue and strengthens our common world heritage. This festival is about that dialogue.

In the end, the goal of the Smithsonian Center for Folklife and Cultural Heritage, the Aga Khan Trust for Culture, and the Silk Road Project is the same: to draw on the wisdom of all of our cultures to enrich our world one encounter at a time.

REMARKS OF SENATOR EDWARD KENNEDY OPENING CEREMONY—FOLKLIFE FESTIVAL

Thank you, Mr. Kurin, for that generous introduction. It is an honor to be here this morning with all the exceptionally talented artists and the visionary sponsors of the Silk Road Project—the cornerstone of this year's Folklife Festival. The Folklife Festival is one of our capital city's most beloved traditions. Each year, it brings the customs and cultures of a unique region or ethnic population alive with music and dance, craft and culinary wonders.

I commend Lawrence Small, Secretary of the Smithsonian Institution. He is a dynamic leader of the Smithsonian, and I commend him for the success of this inspiring project.

It is a privilege to be here with Secretary of State, Colin Powell who is an effective advocate for the United States in these difficult times. He is skillful in the pursuit of peace across the world and I commend him for all he continues to do.

I also join in welcoming His Highness the Aga Khan who was an early supporter of the Silk Road Project. He is an impressive leader for our time and I commend all that he has done, especially in the field of education and cultural exchange. Now, more than ever, his voice is one that needs to be acknowledged and understood. We are honored to have him with us today.

It is especially important that the Smithsonian has embarked on this remarkable celebration of the cultural richness and diversity of the Silk Road countries. Centuries ago, the Silk Road trade routes gave birth to an unprecedented and extraordinary exchange of cultural and economic traditions. Today, more than ever, it is essential to remember the incredible diversity of products and ideas that have emerged from Central Asia.

The Mall is truly the Main Street of our nation's capital city. Today, it brings us exhibits and cultural performances representing the Silk Road countries, from Italy to India, Mongolia and Japan. There is something here for everyone to enjoy. And that is, after all, what the Folklife Festival is about. It is a starting point for exploration and education, and it is always about entertainment.

The Silk Road's artistic demonstrations and musical performances will bring the Mall to new life over the next several weeks.

We are especially privileged to have with us one of our nation's most preeminent artists. Yo-yo Ma is a musician who has won both critical and popular acclaim for his virtuosity. He has also won the hearts and minds of millions of people throughout the world, with his outreach and education projects.

From Sesame Street to Carnegie Hall, he has brought music to life, and life to music. He is the tireless and seemingly unstoppable energy behind youth orchestras across the country, and projects as musically diverse as the memorable ''Crouching Tiger, Hidden Dragon'' and his energetic Appalachian strings recordings.

He starred on David Letterman two nights ago, and today he is with us—on America's Main Street—to celebrate the beginning of the Folklife Festival. He inspires each of us to do all we can to embrace and celebrate diverse peoples and cultures through education and understanding.

After the tragic events of September 11th, it is more important than ever for each of us to understand and embrace new ideas and cultures. Today, we continue this journey of understanding with Yo-Yo Ma.

He has used his magnificent genius to bring the entire world closer together. He inspires people everywhere to seek peace and reconciliation, and he has done it all with his magical cello.

He is here with the performers of the Silk Road Ensemble and I am honored to introduce them now.

REMARKS AT THE OPENING OF THE SILK ROAD FESTIVAL—SECRETARY COLIN L. POWELL, SMITHSONIAN FOLKLIFE FESTIVAL ON THE MALL, WASHINGTON, DC

Secretary Powell: Thank you very much, ladies and gentlemen. Thank you so very much, Richard, for that kind introduction, and my congratulations to the Smithsonian for putting on this 36th Annual Folklife Festival. With each year's Folklife Festival, the Mall becomes a living cultural exhibition, not only for the citizens of this city, but for the citizens of the world who come to Washington, D.C. In the words of former Smithsonian Secretary S. Dillon Ripley, ''The Festival brings the museum out of its glass case and into real life.''

I want to thank you also, Yo-Yo Ma and your Silk Road Project, to the Aga Khan for his Trust for Culture, to Lawrence Small of the Smithsonian, for all the wonderful work they have done to make this such an exciting and important event. And I am very proud that the State Department had such a role to play in it, and some of my leaders from the Department who had a role to play are here. Under Secretary of State Charlotte Beers and Assistant Secretary of State Beth Jones, and I think Assistant Secretary of State Pat Harrison are here, and they also are deserving of your recognition.

In fact, we did have some diplomatic challenges in making this happen. The two yurts that are here, tents that you will see in due course, they had to be custom made to conform to American laws for access to the handicapped. And so our embassy in Kazakhstan worked closely with the Kazakh Government to make sure they were up to standard—and then helped ship them here in time for this Festival. So we are not only culturally pure, we are OSHA-pure as well. I want you to know that.

We have seen so many talented people this morning, and we have had such wonderful speakers. And I, as always, enjoyed Yo-Yo Ma. But Yo-Yo, I have to say the throat singers might have had a slight edge on you. It was marvelous, and I haven't heard throat singing like that since my last congressional appearance. And it was before the Senate, not the House.

But what these artists have done for you this morning so far is they have painted a marvelous picture of the old Silk Road and the central place that the Silk Road played in our own history, our own culture, and in our own civilization.

Listening to this morning's speakers, you can almost see Marco Polo trekking eastward toward lands unknown to Europeans, or hear the sounds of a merchant caravan heading west with its cargo of silks and spices.

The Silk Road of old was the main link between the civilizations of the east, Central Asia, and Europe. From Europe, the products and ideas of Central and East Asia then spread to the New World of the Americas. All of our peoples were enriched by the exchange of goods, the exchange of ideas, and the exchange of cultures.

But the Silk Road is more than a subject for magazines and museums. It is more than an image of past glories. The nations of Central Asia are once again joining the nations at either end of the Silk Road on a path to a better future for all. There is far to go, and the region's security, stability, and prosperity depend on critical economic and political reforms. But the Silk Road is once again a living reality, as the over 350 artists and craftspeople from 20 nations here testify.

Now, in our new age of globalization, we are restoring the linkages and the interchanges that once made the Silk Road so rich and so vital. We have been making up for lost time. Our political, economic, diplomatic, and security contacts have increased with all the nations along the central part of the Silk Road, boosted by our cooperation especially as we came together in the campaign against terrorism following 9/11 last year.

But even more important, our cultural and institutional ties have also grown. We are once again exchanging ideas and learning about cultures with all of the countries and peoples along the Silk Road.

The links between our peoples are the most vital and enduring elements of our ties. Festivals like the Smithsonian Silk Road Festival play a major role in helping us get reacquainted and start learning from each other once again. As the theme of this exhibition reminds us, it's all about ''Connecting cultures and creating trust.''

This Festival, like the future, stretches ahead before us. So without further delay, and with sincere thanks for your patience, let me now light the lamp that will allow us to embark on our journey along the Silk Road. Thank you very, very much.

Mr. CRAPO. Mr. President, I was unavailable to vote on the afternoon of July 10, and all of July 11, 12, 15 and 16 due to the death of my mother. Had I been able I would have voted as follows: Rollcall No. 169—''yea''; Rollcall No. 170—''yea''; Rollcall No. 171—''yea''; Rollcall No. 172—''yea''; Rollcall No. 173—''yea''; Rollcall No. 174—''yea''; Rollcall No. 175—''yea''; Rollcall No. 176—''yea''; Rollcall No. 177—''yea''.

STOCK OPTIONS

Mr. CLELAND. Mr. President, in this time of seemingly endless stories of corporate fraud and mismanagement, I would like to take the opportunity to salute a bold step recently taken by one of the world's most respected corporations. As you know, the Coca-Cola Company's world headquarters is located in Atlanta, GA.

The Coca-Cola Company announced on Sunday that it would expense the cost of all stock options the company grants, beginning with options to be granted in the fourth quarter of 2002.

I commend CEO Douglas Daft and the leadership of the Coca-Cola Company on their decision. Stock options are indeed a form of employee compensation and their characterization as a balance sheet expense will provide investors with a clearer picture of Coca-Cola's fiscal health.

Sunday's announcement is indicative of Coca-Cola's ongoing commitment to economic integrity and fairness. With this new policy, the company will be able to design whatever kind of options it believes will both best motivate employees and more align their interests with those of share owners, without regard for the options' accounting effects.

While Coca-Cola is the first company of its size to take this important step, I predict it will not be the last. As other corporations follow Coke's lead, investor confidence in our markets will grow once again.

NOMINATION OF DR. RICHARD CARMONA FOR SURGEON GENERAL

Mr. FRIST. Mr. President, this morning the members of the Senate Committee on Health, Education, Labor, and Pensions, HELP, voted to support the nomination of Dr. Richard Carmona for the position of U.S. Surgeon General. While the Surgeon General has played a major role on health care matters for more than one hundred years, the unique challenges confronting our Nation at the beginning of the 21st century require an elevated level of leadership.

The threat of bioterrorism is real—a fact made clear in the last year as anthrax attacks killed five people, infected 22, and exposed hundreds. These attacks highlighted the inadequacy of our Nation's public health infrastructure to prevent, detect, and respond to an infectious disease outbreak, whether such an outbreak is intentionally or naturally caused.

Since that time, much has taken place. We in Congress have passed, and the President has signed into law, the Public Health Security and Bioterrorism Preparedness and Response Act. We have significantly increased the Federal commitment to upgrading capacity in State and local health departments and we are now considering how a new Department of Homeland Security could enhance our efforts to prevent and respond to bioterrorism.

Despite these steps, we are still not fully prepared to meet the threat of bioterrorism and much work remains to be done to bolster our public health system. This will be one of the most important tasks facing the country and facing the incoming Surgeon General. Dr. Carmona's experience and expertise prepares him well for this effort.

As we strengthen the public health system's capabilities, we are also challenged by a growing epidemic of chronic disease that significantly impacts our Nation's health. Take, for example, obesity. Sixty-one percent of American adults and 13 percent of children and adolescents are overweight or obese, and these rates are increasing among all age groups. In my home State of Tennessee, the rate of obesity has grown from 12 percent to 22 percent over the past decade. An estimated 300,000 deaths each year in the United States are linked to being overweight or obese. Those who are obese have a 50- to 100-percent increased risk of premature death. This problem is now one of the most serious public health challenges facing the country. Next week, Senator BINGAMAN, Senator DODD, Senator STEVENS, and I will be introducing the Improved Physical Activity and Nutrition Act to help address this problem. I look forward to working with Dr. Carmona to address this issue.

Additionally, youth smoking and substance abuse are a significant concern. Twenty-five percent of adults smoke—with even higher rates among young adults. Tobacco use is the leading cause of preventable death in this country, and alcohol misuse contributes to one-third of motor vehicle crash related deaths. Over one-half of 10th graders have smoked tobacco. Sixteen percent of 8th graders have been drunk at least once in the past year. Twenty-five percent of high school seniors have used an illicit drug in the past 30 days.

There are a number of approaches we can take to these problems as legislators. Last Congress, we reauthorized the Substance Abuse and Mental Health Services Administration, in which we included a special emphasis on youth drug abuse. But the Surgeon General bears a special responsibility to help educate the Nation about the dangers of such behavior, and I am pleased that this will be a priority for Dr. Carmona as Surgeon General.

During the Health, Education, Labor, and Pensions Committee hearing on his nomination, Dr. Carmona emphasized that his priority will be prevention: to prevent unnecessary illness, disability and death. Many of the major health problems facing the country can be improved with a focus on prevention, and Dr. Carmona's focus on these issues will benefit the country as he serves us as Surgeon General.

Before the hearing on Dr. Carmona's nomination, there were concerns raised regarding some aspects of his professional background. The committee appropriately inquired about these issues during the hearing. Dr. Carmona's responses were forthright and direct, and I believe he has addressed concerns about his ability to perform the duties of the Surgeon General. His background and experience as a trauma surgeon, as a director of a county health system, and as an expert in emergency medical systems, along with her personal drive and commitment to improving the health of all Americans, will serve the country well. Mr. President, I intend to support Dr. Carmona's nomination. I urge my colleagues to support him as well.

CONFIRMATION OF LAVENSKI SMITH TO THE U.S. COURT OF APPEALS FOR THE EIGHTH CIRCUIT

Mr. WELLSTONE. Mr. President, this week I voted not to confirm Lavenski Smith to the U.S. Court of Appeals for the Eighth Circuit, which includes my State of Minnesota. While I have supported the vast majority of administration appointments that have come to the floor to date, I voted against this nominee because I am concerned about his lack of experience and qualifications, as well as about what I consider to be an excessively ideological approach to important issues, such as women's reproductive rights, in his legal work so far.

Our district needs and deserves the best judges, especially because they receive lifetime appointments. I regret that the President did not nominate a person with a more distinguished record to this important position.

Mr. Smith has just 7 years' experience practicing law, in which time he has gained minimal Federal experience and minimal appellate experience. He has no experience arguing cases before the Eighth Circuit, the court to which he has now been confirmed.

In addition to his lack of experience, Mr. Smith has advocated ideologically tendentious legal positions that I believe may cast doubt on his ability to adjudicate cases fairly. In the one appellate case in which Mr. Smith took a lead role, his argument in relation to reproductive rights was unanimously rejected by the Arkansas Supreme Court. The court's decision observed that Mr. Smith disregarded both judicial precedent and the plain meaning of the Arkansas Constitution in making his case.

The circuit court of appeals is one step from the Supreme Court. Yet the Arkansas Times wrote of this nominee: ''Lavenski Smith of Little Rock is not the best qualified Arkansan President Bush could have chosen for the U.S. Eighth Circuit Court of Appeals, nor even close.'' Whatever State a nominee might come from, Minnesota and the Eighth Circuit deserve better.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred February 6, 1995, in West Hollywood, CA. A gay man was punched and kicked by several youths who made anti-gay remarks. The assailants, three teens, were charged with battery and interference with civil rights.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and

changing current law, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

AN ESSAY BY SANFORD WEILL ON ACCOUNTING REFORMS

• Mr. HOLLINGS. Mr. President, I want to share with my colleagues an excellent essay by the best of the best, Sandy Weill. As the article points out, most corporate executives, like Sandy Weill, are honest and already enacting changes in their companies to provide better accounting disclosure policies.

As the message comes from someone who has distinguished himself as a business leader, it is a message I hope all American business executives not only hear, but heed.

I ask to print the essay in the RECORD.

The essay follows:

CORE VALUES START AT THE TOP

America has long had a financial system to be proud of and it is therefore critical—particularly at a time of danger and uncertainty—that both industry and government enact changes to address the recent corporate scandals that have shaken faith in the system and its corporate executives.

The country will come through this period stronger than ever, but only with the hard work of legislators, regulators and, most important chief executive officers. George W. Bush's call for a new ethic of corporate responsibility comes at the right time, with its emphasis on holding corporate officers more accountable, protecting small investors, moving accounting out of the shadows and providing better disclosure along with a stronger and more independent corporate audit system.

The president's proposal that corporate officers lose compensation they may receive by manipulating their accounting statements, and efforts by Harvey Pitt, chairman of the Securities and Exchange Commission, to make CEOs more individually accountable for their companies' financial disclosures should be welcomed.

Used correctly, option grants should not only reward good performance but encourage a long-term perspective. Many companies use them for this purpose: more should. I have long been a proponent of ''buy-and-hold'' investing, and at Citigroup, our senior managers and board abide by a rigorous stock ownership commitment. Every one of us makes a pledge—a ''blood oath''—to hold three-quarters of any stock or options we receive as long as we remain with the company, which reinforces our consistent focus on the long term. Also, we have never repriced stock options for our senior executives, and we never will. When companies do this, an alarm should sound that the long-term alignment of shareholder and management interests is not in place.

To ensure that everyone in a company is focused on appropriate long-term objectives, stock ownership should go as deep as possible within an organization. To encourage this, and to respond to concerns regarding excess compensation, I suggest that options be expended for the top five officers identified in the proxy, and that tax treatment be enhanced for options given to the rank and file earning less than $100,000 by allowing options to be included in 401(k) pension plans. Proposals to change the accounting or tax treatment of stock options should not hinder these programs—they should encourage other companies to adopt them.

In the wake of recent scandals, all CEOs should examine their governance principles. They must push for strong, independent boards and focus on full disclosure. Bulletproof audit processes, with exhaustive internal and external checks and balances must be in place, reporting to an independent committee of the board whose involvement goes beyond quarterly meetings.

Audit partners should be rotated regularly and outside auditors should be used for audit and tax purposes only. Companies must also get back to basic accounting, based on Generally Accepted Accounting Principles, and be required to account for all revenues and expenses rather than producing pro forma or ebitda as their primary income measure.

One of the most distressing fall-outs of the current crisis is the public's reduced confidence in audited financial statements, for decades the very underpinning of America's financial system. We cannot make auditors out of lawyers, boards, rating agencies, research analysts or bankers. We need auditors to do their jobs and be accountable to one group alone: the shareholders.

I therefore applaud efforts by Senator Paul Sarbanes, Congressman Michael Oxley and the US Congressional leadership towards comprehensive accounting reform legislation. Just as concern over corporate disclosure during the Great Depression led to the creation of the SEC, a strong independent authority must be established to set accounting standards and oversee auditor conduct. In effect, we need an SEC for the accounting industry.

Eliot Spitzer, New York's attorney-general, has identified serious issues in the way investment banks and research analysts interact. Citigroup's Salomon Smith Barney was the first to adopt voluntarily the research reforms put forward by Mr. Spitzer. These, along with proposals from the SEC and the New York Stock Exchange, are setting higher standards for the industry.

Even so, we must do more. I believe the entire industry should be subject to additional rules that make research independent from investment banking. Analysts should be barred from attending any meeting with investment bankers soliciting business from public companies and from participating in any ''roadshow'' presentation to investors. Investment bankers should be barred from having any input in determining the compensation of research analysts and from previewing any research reports prior to publication.

The current crisis is an opportunity to recapture core values. But this will only be possible if CEOs accept the responsibility that comes with their rank. It is up to use to lead the way.•

DR. WILLIS HAVILAND CARRIER

• Mrs. CLINTON. Mr. President, I rise today to honor the accomplishments of a great New Yorker, Dr. Willis Haviland Carrier, who invented air-conditioning 100 years ago today.

Dr. Carrier was a man of humble background. Born in 1876 in Angola, NY, he delayed his education for 2 years to work on the family farm during the Depression of the mid-1890s. After finishing high school in Buffalo, he won a scholarship to attend Cornell University in Ithaca. While at Cornell, he founded a cooperative student laundry agency, the first of its kind. He graduated in 1901 with a degree in electrical and mechanical engineering, and went to work for the Buffalo Forge Company.

When the Sackett-Wilhelms Lithographing and Publishing Company of Brooklyn was looking for a solution to the problem of paper expansion due to heat and humidity, Carrier was assigned to the task. On July 17, 1902, he presented his design for a system to control temperature, humidity, air quality, circulation, and ventilation. The modern era of air conditioning was born.

Dr. Carrier had the business acumen to make his invention a success, and in 1915 he founded the Carrier Corporation in Syracuse. Movie theaters were among the first adopters of the new technology, soon to be followed by department stores, airplanes, and cars. Air conditioning came to the House of Representatives in 1928 and here to the Senate in 1929. After World War II, air conditioning became affordable for private homes, forever changing the American lifestyle.

Dr. Carrier held 80 patents at the time of his death in 1950. His company has continued his tradition of innovation, with the introduction in the 1950s of rooftop systems for skyscrapers eliminating the need for large and costly basement rooms. Today, Carrier Corporation is an industry leader in environmental responsibility, with chlorine-free alternative refrigerants in use across its entire product line.

Dr. Willis H. Carrier used his creativity and entrepreneurship to change the way we live and the way we work. We are fortunate to benefit from the contributions of this great New Yorker.•

CONGRATULATIONS TO THE WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION PARTICIPANTS FROM WYOMING

• Mr. ENZI. Mr. President, on May 4–6, 2002, more than 1,200 students from across the United States visited Washington, DC, to compete in the national finals of the We the People . . . The Citizen and the Constitution program, the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights.

I am proud to report that the class from Green River High School from Green River represented the State of Wyoming in this national event. These young scholars worked diligently to reach the national finals and through their experience have gained a deep knowledge and understanding of the fundamental principles and values of our constitutional democracy.

The fine students from Wyoming who were chosen to participate include: Jamie Adams, Ashley Andersen, Melissa Bassett, Kimberly Bucheit, Michelle Edwards, Christina Gipson, Aaron Hayes, Daniel Johnson, Christopher Legerski, Michael Merkley, Nathaniel Steinhoff, Eric Stewart, Julia Stuble, and Katherine Tolliver. I would also like to recognize their teacher, Dennis Johnson, who deserves much of the credit for their success.

The 3-day national competition is modeled after hearings in the Congress. The hearings consist of oral presentations by high school students before a panel of adult judges on constitutional topics. The students' testimony is followed by a period of questioning by the judges who probe their depth of understanding and ability to apply their constitutional knowledge.

Administered by the Center for Civic Education, the We the People . . . program has provided curricular materials at upper elementary, middle, and high school levels for more than 26.5 million students nationwide. The program provides students with a working knowledge of our Constitution, Bill of Rights, and the principles of democratic government. Members of Congress and their staff enhance the program by discussing current constitutional issues with students and teachers and by participating in other educational activities.

It is inspiring to see these young people advocate the fundamental ideals of principles of our Government in the aftermath of the tragedy on September 11. These are ideas that identify us as a people and bind us together as a nation. It is important for our next generation to understand these values and principles which we hold as standards in our endeavor to preserve and realize the promise of our constitutional democracy.

I would once again like to congratulate Dennis Johnson and the fine students from Green River High School.●

TRIBUTE TO WARD F. CORRELL

● Mr. BUNNING. Mr. President, I rise today to pay tribute to one of Kentucky's leading citizens, Mr. Ward F. Correll. On the 27th day of this month, Mr. Correll will be presented with the 2002 Kentuckian Award by the A.B. ''Happy'' Chandler Foundation for his commitment to family, God, country, and the Commonwealth of Kentucky. Fellow recipients of this award include such greats as University of Kentucky basketball announcer Cawood Ledford and country music legend Loretta Lynn.

Born to a poverty-stricken family in Wayne County, KY, Ward Correll grew up as 1 of 13 children. As you can surely imagine, basic living necessities were quite scarce at times. After graduating from high school, Ward decided to hitchhike, with only $2.67 in his pockets, to Detroit, where he would begin what would become a memorable journey.

While living in Detroit, Ward Correll mowed lawns to make ends meet until he could find a more permanent and stable job opportunity. But before this could happen, our Nation went to war in Korea. Throughout the war, Ward served his country in the U.S. Army as part of an intelligence unit. After his time in the service came to an end, Ward packed up his bags and headed back to his old Kentucky home. Once back in Kentucky, he met his future bride-to-be and soulmate, Regina Tarter.

After discovering the woman of his dreams, Ward decided it was time to begin his life as a businessman. Ward let the words from the prayer by GEN Douglas MacArthur be his compass-''Lord, give me a son who will not let his wishbone take the place of his backbone.'' With a lot of hard work, a little luck, and the occasional helping hand, Ward Correll turned that $2.67 into a business empire.

Today, his many business enterprises include Cumberland Shell Oil, Inc. and Trade and Wind and Trade Way shopping centers in Somerset and Monticello. He is one of the top 10 jobbers in the Nation for Shell Oil. Furthermore, he is a major stockholder in First Southern National Banks, where his son Jesse is the CEO. You often hear people talk about living the American dream. Ward Correll skipped the talking part and moved straight to the living.

Besides his unwavering dedication to country and capitalism, Ward Correll has exemplified what it means to be a good Christian. He tithed the first penny he ever made as a child and has continued this practice even to this very day. He firmly believes God has blessed him financially and that he has a moral obligation to those less fortunate individuals whose pockets are as shallow as his once were. Throughout his lifetime, Ward Correll has assisted the needy, providing them with clothes, shoes, dishes and flatware—items that he and his family once struggled to possess.

Mr. President, I ask now that my fellow colleagues join me in praising Mr. Ward F. Correll for all that he has accomplished with his life. He is a devoted father and husband, a veteran and patriot, and a truly righteous man. He has worked tirelessly to make Kentucky and the United States of America a better place for us all to live. He is a tribute to the American spirit.

Finally, I would like to share with you, Mr. President, and my fellow Senators Mr. Correll's recipe for success. ''Apply the wisdom of what wise people have taught you during childhood to all you do; seek the advice of wise people, especially those who have experienced failure and picked themselves up to become successful again; always do more than what you are paid to do; empower yourself to be positive and say every day 'I feel happy, healthy and terrific and I can do all things through Christ who strengthens me.' ''●

IN MEMORY OF COLONEL RUBY BRADLEY, ARMY NURSE

● Mr. ROCKEFELLER. Mr. President, on July 2, 2002, a modern American hero was buried in Arlington National Cemetery. Her name is Ruby Bradley, and she is the most decorated woman ever to serve in the U.S. military.

Ruby was an Army nurse stationed in Manila. On September 23, 1943, she was captured by the Japanese Army. During her 3-year imprisonment, she was known as a member of the Angels in Fatigues. This small group of nurses took it upon themselves to care for those within the camp. Ruby assisted in 230 operations and delivered 13 babies while dropping to a weight of just over 80 pounds. She starved herself so the imprisoned children could eat, trusting that she would be able to cling to her own life.

On February 3, 1945, her faith paid off in the form of what she described as ''the best Saturday night performance I'll ever see in my life.'' American troops freed those who were being held captive, and Ruby returned to her home in Spencer, WV, to a hero's parade. But Ruby's military journey was not over.

Her sacrifice, generosity, and compassion took her to the Korean war, where she again found herself in the midst of grave danger. The Army sent a plane to retrieve Ruby, but she was the last person to board that plane. After running from her ambulance just before it was blown up by enemy bombs, she loaded the sick and wounded. Once again, she returned to Spencer as the honoree of a hero's parade.

In 1963, Ruby retired from the Army, having earned 34 medals and citations, including the Legion of Merit and the Bronze Star, in honor of her tenacious devotion to this Nation and all that we stand for.

I had the privilege of visiting Ruby in her home 3 years ago and presented her with replacement medals that had been lost over the years. In this short time, it was obvious to me what an inspiration she was to her family and community, and it was obvious why she was honored with the rank of colonel by the Army. Ruby Bradley was a woman whose soul knew no limits. Her heart had room for everyone, and she was not reluctant to assist those around her, no matter their age, race, or condition.

Ruby once said, ''I just want to be remembered as an Army nurse.'' Her family can rest assured that she will be remembered as an Army nurse, one of the best this Nation has seen and will ever see. Her courage in the midst of conflict serves as a shining example to those around her and will continue to be a beacon for bravery in the future for West Virginia and for America.●

LETTER DECLARING THE TEMPORARY TRANSFER OF POWER TO THE VICE PRESIDENT OF THE UNITED STATES—PM 103

Under the authority of the order of the Senate of January 3, 2001, the Secretary of the Senate, on June 29, 2002, during the adjournment of the Senate, received the following message from the President of the United States, together with accompanying papers; which was ordered to lie on the table:

Pursuant to the provisions of the 25th Amendment to the Constitution of the United States, the President of the

United States, on June 29, 2002, transmitted the following message to the President pro tempore of the Senate [Mr. BYRD].

THE WHITE HOUSE,
Washington, June 29, 2002.

Hon. ROBERT C. BYRD,
President pro tempore of the Senate, Washington, DC.

DEAR MR. PRESIDENT: As my staff has previously communicated to you, I will undergo this morning a routine medical procedure requiring sedation. In view of present circumstances, I have determined to transfer temporarily my Constitutional powers and duties to the Vice President during the brief period of the procedure and recovery.

Accordingly, in accordance with the provisions of Section 3 of the Twenty-Fifth Amendment to the United States Constitution, this letter shall constitute my written declaration that I am unable to discharge the Constitutional powers and duties of the office of President of the United States. Pursuant to Section 3, the Vice President shall discharge those powers and duties as Acting President until I transmit to you a written declaration that I am able to resume the discharge of those powers and duties.

Sincerely,

GEORGE W. BUSH.

LETTER DECLARING THE RESUMPTION OF DUTIES AS PRESIDENT OF THE UNITED STATES—PM 104

Under the authority of the order of the Senate of January 3, 2001, the Secretary of the Senate, on June 29, 2002, during the adjournment of the Senate, received the following message from the President of the United States, together with accompanying papers; which was ordered to lie on the table:

Pursuant to the provisions of the 25th Amendment to the Constitution of the United States, the President of the United States, on June 29, 2002, transmitted the following message to the President pro tempore of the Senate [Mr. BYRD].

THE WHITE HOUSE,
Washington, June 29, 2002.

Hon. ROBERT C. BYRD,
President pro tempore of the Senate, Washington, DC.

DEAR MR. PRESIDENT: In accordance with the provisions of Section 3 of the Twenty-Fifth Amendment to the United States Constitution, this letter shall constitute my written declaration that I am presently able to resume the discharge of the Constitutional powers and duties of the office of President of the United States. With the transmittal of this letter, I am resuming those powers and duties effective immediately.

Sincerely,

GEORGE W. BUSH.

MESSAGE FROM THE HOUSE

At 1:08 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 bill, in which it requests the concurrence of the Senate:

H.R. 5118. An act to provide for enhanced penalties for accounting and auditing improprieties at publicly traded companies, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 395. Concurrent resolution celebrating the 50th anniversary of the Constitution of the Commonwealth of Puerto Rico.

MEASURES REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 395. Concurrent resolution celebrating the 50th anniversary of the Constitution of the Commonwealth of Puerto Rico; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–7979. A communication from the Vice Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Luxembourg; to the Committee on Banking, Housing, and Urban Affairs.

EC–7980. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the OMB Cost Estimate for Pay-As-You-Go Calculations for Report Number 579; to the Committee on the Budget.

EC–7981. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the OMB Cost Estimate for Pay-As-You-Go Calculations for Report Number 580; to the Committee on the Budget.

EC–7982. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Change in Disease Status of Austria Because of BSE'' (Doc. No. 02–004–2) received on July 11, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7983. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Change in Disease Status of Austria Because of BSE'' (Doc. No . 02–004–2) received on July 11, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7984. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Methoxychlor; Tolerance Revocations'' (FRL7184–4) received on July 11, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7985. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Indoxacarb; Pesticide Tolerance'' (FRL7186–2) received on July 11, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7986. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Cethodim; Pesticide Tolerance'' (FRL7185–7) received on July 11, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7987. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Benomyl; Tolerance Revocations'' (FRL7177–7) received on July 11, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7988. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Atrazine, Bensulide, Diphnamid, Imazalil, 6-Methyl-1, 3-dithiolo (4,5–b) quinoxalin-2-One, Phosphamidon S-Propyl dipropylthiocarbamate, and Trimethacarb; Tolerance Revocations'' (FRL7182–5) received on July 11, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7989. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Asergillus flavus AF36 ; Amendment, Temporary Exemption From the Requirement of a Tolerance'' (FRL7185–4) received on July 11, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7990. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to Tennessee Implementation Plan'' (FRL7245–7) received on July 11, 2002; to the Committee on Environment and Public Works.

EC–7991. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans Tennessee: Approval and Revisions to Tennessee Implementation Plan'' (FRL7245–7) received on July 11, 2002; to the Committee on Environment and Public Works.

EC–7992. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Section 112(1) Authority for Regulating Hazardous Air Pollutants; Equivalency by Permit Provisions National Emissions Standards for Hazardous Air Pollutants from the Pulp and Paper Industry; State of Maine'' (FRL7240–7) received on July 11, 2002; to the Committee on Environment and Public Works.

EC–7993. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Commonwealth of Puerto Rico: Control of Emissions from Existing Municipal Solid Waste Landfills'' (FRL7246–7) received on July 11, 2002; to the Committee on Environment and Public Works.

EC–7994. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District'' (FRL7231–8) received on July 11, 2002; to the Committee on Environment and Public Works.

EC–7995. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Monterey Bay Unified

Air Pollution Control District and South Coast Air Quality Management District'' (FRL7220–6) received on July 11, 2002; to the Committee on Environment and Public Works.

EC–7996. A communication from the Acting Deputy General Counsel, Office of Size Standards, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled ''Small Business Size Standards; Travel Agencies; Economic Injury Disaster Loan Program'' (RIN3245–AE93) received on July 16, 2002; to the Committee on Small Business and Entrepreneurship.

EC–7997. A communication from the Acting Deputy General Counsel, Office of Size Standards, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled ''Small Business Size Standards; Travel Agencies'' (RIN3245–AE95) received on July 16, 2002; to the Committee on Small Business and Entrepreneurship.

EC–7998. A communication from the Director, National Legislative Commission, The American Legion, transmitting, pursuant to law, the Accountants' Report and Consolidated Financial Statements for 2001; to the Committee on the Judiciary.

EC–7999. A communication from the Administrator, General Service Administration, transmitting, the report of lease prospectuses that support the General Service Administration's Fiscal Year 2003 Capital Investment and Leasing Program; to the Committee on Environment and Public Works.

EC–8000. A communication from the Secretary of State, transmitting , pursuant to law, the Annual Report for 2001 on Voting Practices at the United Nations; to the Committee on Foreign Relations.

EC–8001. A communication from the Vice Chairman of the Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled ''Prohibited and Excessive Contributions: Non-Federal Funds of Soft Money'' (Notice 2002–11) received on July 16, 2002; to the Committee on Rules and Administration.

EC–8002. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Revisions and Clarifications to Encryption Controls in the Export Administration Regulations—Implementation of Changes in Category 5, Part 2 (''Information Security''), of the Wassenar Arrangement List of Dual-Use Goods and Other Technologies'' (RIN0694–AC61) received on July 3, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8003. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Semiannual Monetary Policy Report dated July 16, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8004. A communication from the Under Secretary for Domestic Finance, Department of the Treasury, transmitting, pursuant to law, the Annual Report on the Resolution Funding Corporation for the calendar year 2001; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DORGAN, from the Committee on Appropriations, without amendment:

S. 2740: An original bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107–212) .

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. KENNEDY for the Committee on Health, Education, Labor, and Pensions.

*Richard H. Carmona, of Arizona, to be Medical Director in the Regular Corps of the Public Health Service, subject to qualifications therefor as provided by law and regulations, and to be Surgeon General of the Public Health Service for a term of four years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BAUCUS:

S. 2737. A bill to amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance programs, to provide community-based economic development assistance for trade-affected communities, and for other purposes; to the Committee on Finance.

By Mr. JOHNSON (for himself and Mr. DASCHLE):

S. 2738. A bill to provide for the reimbursement under the medicaid program under title XIX of the Social Security Act of nursing facilities that are located on an Indian reservation in the State of South Dakota and owned or operated by an Indian tribe or tribal organization, and for other purposes; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. DEWINE, Mr. LOTT, Mr. DOMENICI, Mr. BUNNING, Mr. GRASSLEY, Mr. KYL, Mr. MCCONNELL, Mr. SESSIONS, Mr. SANTORUM, Mr. HUTCHINSON, Mr. THURMOND, and Mr. HELMS):

S. 2739. A bill to provide for post-conviction DNA testing, to improve competence and performance of prosecutors, defense counsel, and trial judges handling State capital criminal cases, to ensure the quality of defense counsel in Federal capital cases, and for other purposes; to the Committee on the Judiciary.

By Mr. DORGAN:

S. 2740. An original bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. GRASSLEY (for himself and Mr. NELSON of Nebraska):

S. 2741. A bill to amend title 38, United States Code, to improve procedures for the determination of the inability of veterans to defray expenses of necessary medical care, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. HUTCHISON (for herself, Mr. LEVIN, Mr. BINGAMAN, Mr. DOMENICI, Mr. MURKOWSKI, and Ms. CANTWELL):

S. 2742. A bill to establish new nonimmigrant classes for border commuter students; to the Committee on the Judiciary.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 2743. A bill to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes; to the Committee on Indian Affairs.

By Mr. DEWINE (for himself and Mr. VOINOVICH):

S. 2744. A bill to establish the National Aviation Heritage Area , and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BENNETT (for himself and Mr. HATCH):

S. 2745. A bill to provide for the exchange of certain lands in Utah; to the Committee on Energy and Natural Resources.

By Mr. FEINGOLD (for himself and Ms. COLLINS):

S. 2746. A bill to establish a Federal Liaison on Homeland Security in each State, to provide coordination between the Department of Homeland Security and State and local first responders, and for other purposes; to the Committee on Governmental Affairs.

By Mr. TORRICELLI:

S. 2747. A bill to provide for substantial reductions in the price of prescription drugs for Medicare beneficiaries and for women diagnosed with breast cancer; to the Committee on Finance.

By Mr. CONRAD:

S. 2748. A bill to authorize the formulation of State and regional emergency telehealth network testbeds and, within the Department of Defense, a telehealth task force; to the Committee on Armed Services.

By Mr. CORZINE (for himself, Mr. TORRICELLI, Mr. SCHUMER, Mrs. CLINTON, Mr. DODD, and Mr. LIEBERMAN):

S. 2749. A bill to establish the Highlands Stewardship Area in the States of Connecticut, New Jersey, New York, and Pennsylvania, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. Con. Res. 128. A concurrent resolution honoring the invention of modern air conditioning by Dr. Willis H. Carrier on the occasion of its 100th anniversary; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 267

At the request of Mr. AKAKA, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 267, a bill to amend the Packers and Stockyards Act of 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes.

S. 411

At the request of Mr. LIEBERMAN, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 411, a bill to designate a portion of the Arctic National Wildlife Refuge as wilderness.

S. 540

At the request of Mr. DEWINE, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 540, a bill to amend the Internal Revenue Code of 1986 to allow as a deduction in determining adjusted gross income the deduction for expenses in connection with services as a member of a reserve component of the Armed Forces of the United States, to allow employers a credit against income tax with respect to employees who participate in the military reserve components, and to allow a comparable credit for participating reserve component self-employed individuals, and for other purposes.

S. 556

At the request of Mr. JEFFORDS, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 556, a bill to amend the Clean Air Act to reduce emissions from electric powerplants, and for other purposes.

S. 776

At the request of Mr. BINGAMAN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 776, a bill to amend title XIX of the Social Security Act to increase the floor for treatment as an extremely low DSH State to 3 percent in fiscal year 2002.

S. 948

At the request of Mr. LOTT, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 948, a bill to amend title 23, United States Code, to require the Secretary of Transportation to carry out a grant program for providing financial assistance for local rail line relocation projects, and for other purposes.

S. 960

At the request of Mr. BINGAMAN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 960, a bill to amend title XVIII of the Social Security Act to expand coverage of medical nutrition therapy services under the medicare program for beneficiaries with cardiovascular diseases.

S. 1626

At the request of Mr. BINGAMAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1626, a bill to provide disadvantaged children with access to dental services.

S. 2055

At the request of Ms. CANTWELL, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2055, 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 analyses of samples from crime scenes, and for other purposes.

S. 2067

At the request of Mr. BINGAMAN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2067, a bill to amend title XVIII of the Social Security Act to enhance the access of medicare beneficiaries who live in medically underserved areas to critical primary and preventive health care benefits, to improve the Medicare+Choice program, and for other purposes.

S. 2210

At the request of Mr. BIDEN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2210, a bill to amend the International Financial Institutions Act to provide for modification of the Enhanced Heavily Indebted Poor Countries (HIPC) Initiative.

S. 2455

At the request of Mr. ENSIGN, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 2455, a bill to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

S. 2513

At the request of Mr. BIDEN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2513, a bill to assess the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence.

S. 2541

At the request of Mrs. FEINSTEIN, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 2541, a bill to amend title 18, United States Code, to establish penalties for aggravated identity theft, and for other purposes.

S. 2554

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 2554, a bill to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

S. 2626

At the request of Mr. KENNEDY, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2626, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 2628

At the request of Mr. CORZINE, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2628, a bill to amend part A of title IV of the Social Security Act to require a State to promote financial education under the temporary assistance to needy families program and to allow financial education to count as a work activity under that program.

S. 2670

At the request of Mr. KYL, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 2670, a bill to establish Institutes to conduct research on the prevention of, and restoration from, wildfires in forest and woodland ecosystems.

S. 2674

At the request of Mr. BROWNBACK, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of S. 2674, a bill to improve access to health care medically underserved areas.

S. 2714

At the request of Mrs. CLINTON, the names of the Senator from California (Mrs. BOXER) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2714, a bill to extend and expand the Temporary Extended Unemployment Compensation Act of 2002.

S. 2715

At the request of Mrs. CLINTON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2715, a bill to provide an additional extension of the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the case of victims of the terrorist attacks of September 11, 2001.

S. 2734

At the request of Mr. KERRY, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 2734, a bill to provide emergency assistance to non-farm small business concerns that have suffered economic harm from the devastating effects of drought.

S. RES. 239

At the request of Mr. ALLEN, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. Res. 239, a resolution recognizing the lack of historical recognition of the gallant exploits of the officers and crew of the S.S. Henry Bacon, a Liberty ship that was sunk February 23, 1945, in the waning days of World War II.

S. RES. 242

At the request of Mr. THURMOND, the names of the Senator from Utah (Mr. HATCH) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. Res. 242, a resolution designating August 16, 2002, as ''National Airborne Day''.

S. RES. 258

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. Res. 258, a resolution urging Saudi Arabia to dissolve its ''martyrs'' fund and to refuse to support terrorism in any way.

S. RES. 270

At the request of Mr. CAMPBELL, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. Res. 270, a resolution designating the week of October 13, 2002, through October 19, 2002, as ''National Cystic Fibrosis Awareness Week''.

S. CON. RES. 11

At the request of Mrs. FEINSTEIN, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. Con. Res. 11, a concurrent resolution expressing the sense of Congress to fully use the powers of the Federal Government to enhance the science base required to more fully develop the field of health promotion and disease prevention, and to explore how strategies can be developed to integrate lifestyle improvement programs into national policy, our health care system, schools, workplaces, families and communities.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAUCUS:

S. 2737. A bill to amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance programs, to provide community-based economic development assistance for trade-affected communities, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to introduce the Trade Adjustment Assistance Improvement Act of 2002.

You may ask why I am introducing this new bill now. After all, only about a month ago the Senate passed the Trade Act of 2002, a bill which prominently features a landmark expansion and improvement of the current Trade Adjustment Assistance program.

We all know that work on that trade bill is not yet complete. And I continue working diligently to get that bill through the conference process and on to the President's desk just as soon as possible.

Indeed, I am frustrated that so much time has been lost on this bill. Five weeks in the House as they worked through a very unusual process of appointing conferees. More time in the Senate while Republicans blocked efforts to get the bill to conference.

The TAA provisions in the trade bill that passed the Senate back in May are solid and important. They represent a huge improvement over current law. It is critical to remember, however, that they are the product of compromise, a compromise that was reached between Democrats and Republicans in the Senate and with the Administration.

In my view, the Senate-passed TAA reforms represent a good first step toward making TAA work for American workers. But we could do better. And we should do better.

That is why I am here introducing new TAA legislation today. I think American workers should know that my commitment to improve TAA will not end after we pass the current trade bill.

This new bill includes a number of provisions not included in H.R. 3009, the bill that passed the Senate. I would like to summarize a few of the most important new provisions now.

First, this bill makes training a full entitlement under TAA.

Under current law, TAA income support is an individual entitlement, but the training entitlement is subject to a funding cap. When funds run out, as they frequently do, workers cannot get the training to which they are entitled. In some cases, this results in denial of income support as well.

While H.R. 3009 raises the funding cap in an attempt to eliminate funding shortfalls for TAA training, I think this bill takes an even better approach. After all, TAA is fundamentally a retraining program. It just makes sense to make the same commitment to fully fund training that we already do to income support.

Second , this bill broadens the scope of eligibility to additional groups of trade-impacted workers who were dropped from TAA in the compromise language passed by the Senate. This includes, most importantly, a much broader definition of secondary workers.

In particular, this bill includes full TAA eligibility for downstream secondary workers, rather than limiting that eligibility to workers impacted by NAFTA.

It also includes coverage for workers who provide services under contract to trade-impacted firms and to truckers who may be adversely affected by the opening of the border to Mexican trucking services. In sum, this bill aims to make sure that every worker who loses his job as a result of trade gets fair and equitable access to services under TAA.

Third, this bill creates an easy and efficient process for providing TAA benefits on an industry-wide rather than firm-by-firm basis. We all know that there are industries in this country, like softwood lumber, steel, and textiles, just to name a few, that are experiencing declining employment on a national basis as a direct consequence of trade.

The bill addresses the problem two ways. In cases where an industry has already demonstrated adverse trade effects in a section 201 or ''safeguard'' investigation, the President must provide industry-wide TAA certification as part of the remedy.

It also requires the Secretary of Labor to use an industry-wide approach to certification in other industries when there is evidence that trade-related worker displacements are national in scope.

Finally, we restore the 75 percent health care tax credit for TAA participants that was reduced to 70 percent in the compromise trade bill. We also give workers additional choices for obtaining health care coverage.

Without strong and meaningful improvements in the TAA program, I think we would not have seen the wide, bipartisan support for the overall trade bill that allowed it to pass the Senate by a vote of 66–30.

For that reason, I view the Senate-passed TAA bill as a floor for what can reasonably be agreed to in conference. I don't think that something weaker is going to get us to a majority when the Senate considers the conference report.

As I mentioned before, many of the provisions included in this new bill were dropped from the trade bill that recently passed the Senate as part of a bipartisan compromise. Many, if not all, of them fall easily within the scope of the upcoming conference.

While I plan to vigorously defend the Senate bill in conference, I want to remind my colleagues in the House that the Senate bill already represents a bipartisan compromise, one worked out with the Administration.

In passing the rule to go to conference, my colleagues in the House have passed a bill that would completely gut the Senate-passed provisions. For example: the restrictions on coverage for secondary workers are so strict as to effectively eliminate coverage; the bill would not cover shifts in production to non-NAFTA countries; and the health care benefits have been significantly weakened. They would cover many fewer workers, for a shorter period of time, with reduced benefits that may be of little use.

I would suggest to my colleagues in the House that efforts to weaken the Senate bill will be met with equally strong efforts to strengthen it. It should come as no surprise that, if my House colleagues persist in trying to weaken TAA, I will feel obligated to raise some of the provisions that were dropped in the Senate negotiations.

As I have said many times, I believe an improved TAA program is critical to regaining public confidence in a liberal trade policy for our country. In future, I intend to keep working toward the goal of improving TAA in every way available. I think this new bill points us in the right direction and I am pleased to be introducing it today.

By Mr. JOHNSON (for himself and Mr. DASCHLE):

S. 2738. A bill to provide for the reimbursement under the Medicaid program under title XIX of the Social Security Act of nursing facilities that are located on an Indian reservation in the State of South Dakota and owned or operated by an Indian tribe or tribal organization, and for other purposes; to the Committee on Finance.

Mr. JOHNSON. Mr. President, South Dakota tribes are prevented from developing elder care on their reservations due to a State imposed moratorium on the construction or acquisition of additional nursing home beds. This impasse has gone on for nearly a decade, much too long.

Today I am introducing legislation along with my good friend and colleague Senator DASCHLE, that will facilitate the development and operation of nursing facilities that are owned or operated by an Indian tribe or tribal organization on Indian reservations that are located in the State of South Dakota. Additionally, the legislation will protect the right of members of Indian tribes and tribal organizations to

access health care provided by nursing facilities in the exercise of those members' entitlement to medical assistance under the Medicaid program.

The facts and information discussed during the Senate Indian Affairs July 10, 2002, Hearing on Elder Health Issues, confirms the need for this legislation. The National Resource Center on Native American Aging at the University of North Dakota, NRCNAA, reports that there is a ''greater level of need for personal assistance among the Native American elders than in the general population''. Only 6.5 percent of the Native American elders over 55 receive such services. This fact is especially alarming in light of the fact that Indian elders are affected disproportionately by disability and poor health. For example, the prevalence of diagnosed diabetes among American Indians and Alaska Natives age 65 and over, is 21.5 percent. This is nearly double the rate of 11 percent for the non-Hispanic white population, age 65 and over. Additionally, because of their rural isolation, poverty, and other barriers, reservation elders have little access to existing long term care delivery mechanisms that may serve mainstream or urban elderly populations.

This legislation will reduce existing barriers and give South Dakota tribes, their tribal elders, and their families long-term care alternatives. This legislation will assist tribes in their goal of providing their elders with care that preserves the individuals' dignity and health. I will continue to work closely with tribal leaders in South Dakota and Senator DASCHLE to address this critical problem facing the Native American community. I urge my colleagues to support passage of the South Dakota Tribal Nursing Facilities Act of 2002.

Mr. DASCHLE. Mr. President, today I join the Senator from South Dakota, Mr. Johnson, in introducing the South Dakota Tribal Nursing Facilities Act of 2002. I am proud to be an original cosponsor of this legislation, which will address the growing need for tribally-operated nursing homes on South Dakota's Indian reservations.

The Committee on Indian Affairs recently held a hearing on the growing health concerns facing Native American elders throughout Indian Country. Elderly Native Americans suffer from diabetes and other debilitating illnesses at rates hundreds of times higher than the general population. As more and more people live longer, it is necessary to find new ways to provide them with the health care, support, and services they need to lead productive, dignified lives.

American Indian elders are well respected and play a strong, central role in their communities. They are the storytellers, the historians, the teachers, and the link between the younger generation and the past. Unfortunately, Native American elderly in need of nursing home or other long-term care are forced to enter off-reservation facilities, or pay for private care, which many cannot afford. In rural States like South Dakota, many off-reservation facilities are hundreds of miles from the reservation, which places an increased burden on family members and ioslated the elders who are housed there. Many families cannot afford to visit their parents or grandparents in these distant nursing homes, and the elders often die forgotten and alone. While these nursing homes provide for the physical well-being, their spiritual health suffers.

There are only eleven tribally operated nursing home nationwide, and only one in South Dakota, operated by the Rosebud Sioux Tribe. The National Indian Council on Aging estimates that there are approximately 165,000 American Indians elderly nationwide, with less than 700 tribal nursing home beds available. Tribal nursing homes will allow tribal elders to remain in their communities, surrounded by friends and loved ones in their later years. In recent years, several South Dakota tribes have expressed an interest in establishing nursing homes on their reservations to provide for their tribal elderly. However, the South Dakota Legislature, in response to a surplus of nursing home beds and dwindling Medicaid funding, enacted a moratorium prohibiting the construction and licensing of new nursing homes.

While the moratorium does not apply to construction on Indian reservations in the State, the prohibition on licensing has the unfortunate effect of blocking access to a key and critical source of funding for any tribally-operated nursing home, Medicaid. Federal law requires that nursing homes be licensed by the State in which they are located to be eligible for reimbursement under Medicaid. The South Dakota Tribal Nursing Facilities Act of 2002 will overcome this obstacle by authorizing Indian tribes to construct, operate and license their own nursing homes. This will level the playing field to afford an opportunity to tribal governments that is afforded already to States. It is my hope this proposal will serve as a starting point so we can begin to address the long-term health care needs of American Indians across the country. I hope you will support our joint efforts.

By Mr. HATCH (for himself, Mr. DEWINE, Mr. LOTT, Mr. DOMENICI, Mr. BUNNING, Mr. GRASSLEY, Mr. KYL, Mr. MCCONNELL, Mr. SESSIONS, Mr. SANTORUM, Mr. HUTCHINSON, Mr. THURMOND, and Mr. HELMS):

S. 2739. A bill to provide for post-conviction DNA testing, to improve competence and performance of prosecutors, defense counsel, and trial judges handling State capital criminal cases, to ensure the quality of defense counsel in Federal capital cases, and for other purposes; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, the issue of the death penalty in our country continues to spark significant debate. The recent Supreme Court decisions addressing capital punishment underscore the importance of this issue to the American people. It is an issue that engenders great passion, both among its supporters and among its opponents. The American people believe in the death penalty, especially for terrorists who have killed thousands of Americans. And all of us agree that the death penalty must be imposed fairly and accurately.

I have stated on numerous occasions my views on the death penalty. It is the ultimate punishment and it should be reserved only for those defendants who commit the most heinous of crimes. I am firmly convinced that we must be vigilant in ensuring that capital punishment is meted out fairly against those truly guilty criminals. We cannot and should not tolerate defects in the capital punishment system. No one can disagree with this ultimate and solemn responsibility.

In the last decade, DNA testing has evolved as the most reliable forensic technique for identifying criminals when biological evidence is recovered. While DNA testing is now standard in pre-trial investigations today, the issue of post-conviction DNA testing has emerged in recent years as the technology for such testing has improved. The integrity of our criminal justice system and in particular, our death penalty system, can be enhanced with the appropriate use of DNA testing. No one disagrees with the fact that post-conviction DNA testing should be made available to defendants when it serves the ends of justice.

In addition to post-conviction DNA testing, every defendant in our criminal justice system is afforded the guarantee by the 6th Amendment of our Constitution of competent and effective counsel. The Supreme Court has enforced this right in numerous decisions in order to ensure that all defendants are afforded the constitutional protections guaranteed to them.

Death penalty opponents argue that the system is broken and blame ineffective assistance of counsel. Their own evidence, however, indicates that the system is not broken. To the contrary, a recent Justice Department study concluded that ''[i]n both Federal and large State courts, conviction rates were the same for defendants represented by publicly financed and private attorneys.'' (Caroline Wolf Harlow, Defense Counsel in Criminal Cases, Bureau of Justice Statistics, November 2000). Further, 34 out of 38 States with capital punishment have adopted standards or have existing practices to ensure assignment of competent counsel. In my view, the appellate system and our habeas system, which was reformed in 1996, remain robust and entirely capable of identifying and rectifying instances of deficient representation or substantial error at the trial level.

We have all heard the horror stories of the attorney who fell asleep during

his client's trial and the attorney who showed up for trial intoxicated. Some opponents of the death penalty seek to portray these stories as ''par for the course.'' This view ignores the hundreds of capital cases in which no flaw was found in the quality of legal representation. It also ignores the hundreds of capital cases in which defendants were either acquitted, or sentenced to a penalty less than death, many times the result of outstanding representation by defense counsel. The truth is that in many cases prosecutors handling a capital case are out-manned and outgunned by defense teams funded by a combination of public and private sources.

The legislation I introduce today will ensure the integrity of our death penalty system. The Act addresses post-conviction DNA testing for defendants, provides grants to States to fund state post-conviction DNA testing programs, and creates new grant programs to train State prosecutors, defense counsel and judges to ensure that defendants receive a fair capital trial.

First, the Act authorizes post-conviction DNA testing where a federal defendant can show that the DNA test will establish his or her ''actual innocence.'' There has been considerable debate about when a convicted defendant should be entitled to post-conviction DNA testing. Under my proposal, when a defendant demonstrates that a favorable result would show that he or she is actually innocent of the crime, the defendant will be given access to DNA testing. Thus, DNA testing will not be permitted where such a test would only muddy the waters and be used by the defendant to fuel a new and frivolous series of appeals. When a DNA test shows that the defendant is actually innocent, then the Act authorizes the defendant to file a motion for a new trial. Under the Act, DNA testing in capital cases will be prioritized and conducted on a ''fast track,'' so that these important cases are handled quickly.

Second, in order to discourage a flood of baseless claims, the Act authorizes the prosecution of defendants who make false claims of innocence in support of a DNA testing request. Each defendant will be required to assert under penalty of perjury that they are, in fact, innocent of the crime. When DNA testing reveals that the defendant's claim of innocence was actually false, the defendant can then be prosecuted for perjury, contempt or false statements. Further, the Act allows DNA test results to be entered into the CODIS database and compared against unsolved crimes. If the test result shows that the defendant committed another crime, the defendant may then be prosecuted for the other crime.

Third, with respect to State defendants, the Act encourages States to create similar DNA testing procedures, and provides funding assistance to those States that implement DNA testing programs. Twenty-five of 38 States which have capital punishment already have enacted post-conviction DNA testing programs, and 6 States have pending legislation to create such a program. With the new source of funding, more States will enact DNA testing programs, and will provide such testing on an expedited basis.

Fourth, in order to improve the fairness and accuracy of state capital trials, the Act creates grant programs to train defense counsel, prosecutors and trial judges to ensure fair capital trials. While I do not believe that the system is broken, I do believe that our justice system can always be improved. The grants proposed under the Act will enable States to send prosecutors, defense counsel and trial judges to training programs to ensure that capital cases are handled more efficiently and effectively, and that every capital defendant will receive a fair trial under our justice system.

Starting in 2001 and continuing through this year, the Judiciary Committee, has conducted a number of hearings to examine these difficult issues relating to the death penalty system in our country. A competing proposal, S. 486, is now pending before the Committee. The alternative proposal would open the floodgates to frivolous litigation by allowing convicted Federal and State defendants to obtain post-conviction DNA testing even when they have never previously claimed they were innocent of the crime. Second, the alternative proposal tramples on the concept of federalism by stretching the 14th Amendment to mandate DNA testing and evidence preservation requirements on the States. Third, the alternative proposal would strip state courts of their traditional power to appoint counsel to represent indigent defendants; require states to comply with federally-mandated requirements for assignment of competent counsel; and fund new private capital resource litigation centers. Fourth, the alternative bill threatens to reduce valuable Byrne grants to State law enforcement agencies which are needed to fight crime in our local communities. Finally, the alternative bill would authorize a flood of private suits to enforce a set of new federal mandates on each of the states.

My bill will further our nation's commitment to justice, ensure that our country has a fair death penalty system, and protect the sovereignty of states from burdensome and unnecessary federal assertions of power.

I strongly urge my colleagues to join with me in promptly passing this important legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

[Data not available at time of printing.]

By Mr. GRASSLEY (for himself and Mr. NELSON of Nebraska):

S. 2741. A bill to amend title 38, United States Code, to improve procedures for the determination of the inability of veterans to defray expenses of necessary medical care, and for other purposes; to the Committee on Veterans' Affairs.

Mr. GRASSLEY. Mr. President, today I am introducing legislation to address a problem in the way the Department of Veterans Affairs, VA, determines a veteran's eligibility category for health care, which results in an unfair misclassification of many veterans who are farmers. Veterans who do not have a service-connected disability but who are unable to defray the cost of necessary health care are placed in priority group 5 and are able to receive health care services from the VA at no cost to the veteran. In order to determine whether a veteran falls below the means test threshold and is thus eligible to enroll in priority group 5, the VA looks at the net worth of a veteran's estate, including any real property owned by the veteran or the veteran's spouse. When you add in the value of farm land, the net worth of many farmer-veterans can appear high on paper even though they may in fact have little or no income.

The current means test threshold for net worth is set at $80,000. Given the current average value of farm land in Iowa of $1,857, a farm in Iowa worth $80,000 would average a barely viable 44 acres. A more viable 80 acre farm would be worth $148,560 on average. In other words, almost any Iowa farm large enough to be viable would exceed the current means test threshold.

Under the current law, when the value of a veteran's estate exceeds the means test threshold, the veteran becomes ineligible to enroll in priority group 5 if the VA determines that ''it is reasonable that some part of the corpus of such estates be consumed for the veteran's maintenance.'' I don't think it is ever ''reasonable'' that a veteran, who has little or no income or other assets, be asked to sell a portion of his family farm in order to pay his medical bills. Nevertheless, because of the way the law currently reads, these land-rich but cash-poor veterans are often placed in priority group 7, meaning they may only enroll in VA health care if they agree to pay co-payments to the VA and then only on a space-available and funds-available basis.

This problem was first brought to my attention by one of my constituents, Larry Sundall, who is a county veterans service officer in Emmet County, IA. In response, I convened a meeting in Des Moines in April of 2000, which was attended by county veterans service officers and State veterans affairs officers from Iowa, Minnesota, Nebraska, and South Dakota as well as VA staff. I heard many similar stories about low-income veterans who were in the same boat. In September of that year, I introduced legislation to fix this problem by excluding the value of real property from the calculation of

the net worth of a veteran's estate in determining a veteran's eligibility category for health care.

Unfortunately, my bill was not acted on before the end of the 106th Congress. In the first session of the 107th Congress, an unsuccessful attempt was made to address this issue in the context of legislation to make improvements to various veterans' programs. I am now reintroducing my legislation in hopes of fixing this problem once and for all.

In addition, my bill makes some adjustments to the way the VA determines the attributable income of a veteran that will make the process easier for both the VA and the veteran. The VA currently has the authority to verify a veteran's income using a quick and efficient computer process that matches VA records with data from the IRS and other Federal agencies. However, the data for the prior year is often unavailable making it impossible for the VA to perform this income verification for the majority of veterans at the time when the data is needed. My bill would allow the VA to use the data available for the year preceding the previous year to determine the attributable income of a veteran. This would not only help the VA to more easily and more accurately determine a veteran's income, it would also allow a veteran to check a box to let the VA use this procedure to gather the veteran's income data without the veteran having to dig through his financial records and fill out the information on a form. It can be frustrating for a veteran to have to fill out the paperwork necessary to apply for benefits and this change would make the application process easier for both the veteran and the VA.

My bill would correct a fundamental unfairness that adversely affects veterans who are farmers while making the application process for health benefits simpler for veterans and more efficient for the VA. In fact, taken together, these important reforms would actually save taxpayer dollars. According to data provided to me by the VA, over $8.7 million would be saved in fiscal year 2003 alone. This legislation is a win-win proposition and I would urge my colleagues to join me in supporting the swift passage of this measure.

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. 2741

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

SECTION 1. IMPROVEMENT OF PROCEDURES FOR DETERMINATION OF INABILITY TO DEFRAY EXPENSES OF NECESSARY MEDICAL CARE.

(a) EXCLUSION OF CERTAIN ASSETS FROM ATTRIBUTABLE INCOME AND CORPUS OF ESTATES.—Subsection (f) of section 1722 of title 38, United States Code, is amended—

(1) in paragraph (1), by inserting before the period at the end the following: '', except that such income shall not include the value of any real property of the veteran or the veteran's spouse or dependent children, if any, or any income of the veteran's dependent children, if any''; and

(2) in paragraph (2), by striking ''the estates'' and all that follows and inserting ''the estate of the veteran's spouse, if any, but does not include any real property of the veteran, the veteran's spouse, or any dependent children of the veteran, nor any income of dependent children of the veteran.''.

(b) ALTERNATIVE YEAR FOR DETERMINATION OF ATTRIBUTABLE INCOME.—That section is further amended by adding at the end the following new subsection:

''(h) For purposes of determining the attributable income of a veteran under this section, the Secretary may determine the attributable income of the veteran for the year preceding the previous year, rather than for the previous year, if the Secretary finds that available data do not permit a timely determination of the attributable income of the veteran for the previous year for such purposes.''.

(c) USE OF INCOME INFORMATION FROM CERTAIN OTHER FEDERAL AGENCIES.—Section 5317 of that title is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection (f):

''(f) In addition to any other activities under this section, the Secretary may utilize income information obtained under this section from the Secretary of Health and Human Services or the Secretary of the Treasury for the purpose of determining the attributable income of a veteran under section 1722 of this title, in lieu of obtaining income information directly from the veteran for that purpose.''.

(d) PERMANENT AUTHORITY TO OBTAIN INFORMATION.—(1) Section 5317 of that title, as amended by subsection (c), is further amended by striking subsection (h).

(2) Section 6103(l)(7)(D) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(l)(7)(D)) is amended in the flush matter at the end by striking the second sentence.

By Mrs. HUTCHISON (for herself, Mr. LEVIN, Mr. BINGAMAN, Mr. DOMENICI, Mr. MURKOWSKI and Ms. CANTWELL):

S. 2742. A bill to establish new nonimmigrant classes for border commuter students; to the Committee on the Judiciary.

Mr. LEVIN. Mr. President, I am pleased to join my colleague from Texas, Senator HUTCHISON, in introducing legislation to make part-time commuter students who are nationals of either Canada or Mexico and attend school in the United States eligible for student visas.

Thousands of Canadian nationals commute to attend schools part time in the United States and hundreds of these part-time students commute to schools in Michigan. Between 35 and 40 part-time Canadian students attend Baker College, in Port Huron, MI, each semester. And more than 400 Canadian students plan to attend Wayne State University in Detroit part time this fall alone. Other schools in Michigan, including Lake Superior State University in Sault Saint Marie, also have a number of part-time Canadian students. Unfortunately, current law does not establish an appropriate visa for these part-time commuter students.

Under the Immigration and Naturalization Act, aliens who reside in a foreign country and are pursuing a full course of study from a recognized vocational institution or an established college, university, or other academic institution in the United States are eligible for student visas. For purposes of granting student visas, the INS defines ''full course of study'' as 12 credits or more. Part-time commuter students, those who might be only taking a class or two, are not currently eligible for student visas.

However, some INS district offices have permitted part-time commuter students to enter the United States as visitors to pursue their studies. However, the INS recently announced its intention to eliminate this practice and enforce the full time, 12 credit hour requirement.

I agree with the INS that we need to tighten up enforcement of our immigration laws. However, achieving this goal does not mean that we have to prohibit all part-time commuter students from attending classes at schools in the United States. But absent a legislative remedy, that is exactly what will happen. Fortunately, the agency recently postponed enforcement of the policy until August 15, 2002, while administrative and legislative remedies are considered. The legislation we are introducing today appropriately addresses the problem facing part-time commuter students without opening new avenues for illegal immigration.

Our bill would amend 18 U.S.C. 1101 to make certain part-time commuter students eligible for student visas. The bill would allow nationals of Canada or Mexico who both maintain a residence and a place of abode in their country or nationality and who commute to school to enroll part time in schools in the United States. Part-time commuter student visas are restricted to nationals of Canada or Mexico. Our bill would not make political asylees, residents, or others who are nationals of third countries but simply live in Canada or Mexico eligible for the visas.

The legislation also enhances national security by ensuring that part-time commuter students are tracked through SEVIS, the Student and Exchange Visitor Information System. SEVIS was set up to make the Federal Government aware of changes in a foreign student's status that could affect their eligibility to remain in the United States. The Enhanced Border Security and Visa Entry Reform Act passed by the Senate in April and signed into law by the President on May 14, 2002, paved the way for full implementation of SEVIS. Certain schools began participating in a SEVIS this month and participation is mandatory by January 30, 2003. However, SEVIS only tracks nonimmigrant students and exchange visitors. Aliens admitted with visitor visas are not tracked through the system. Our bill will, for the first time, ensure that part-time commuter students from

Canada and Mexico are tracked through SEVIS.

Mr. President, the legislation we are introducing today is not only an improvement on current INS policy with regards to part-time commuter students but it closes an important loophole in INS's student tracking system. I am pleased to join Senator HUTCHINSON in introducing the bill and I look forward to seeing it pass the 107th Congress.

BORDER COMMUTER STUDENT ACT OF 2002

Ms. CANTWELL. Mr. President, I am joining today with Senator KAY BAILEY HUTCHISON to introduce the Border Commuter Student Act of 2002.

In my State and many other States along our borders, Canadian and Mexican students take advantage of our excellent community colleges and vocational schools. For many years, this system has worked well, providing economic benefits to the schools and to the surrounding communities while also helping Mexican and Canadian students to benefit from educational opportunities in this country.

Unfortunately, despite the fact that this is a system that has worked well for both Canadian students and the local communities the Immigration and Naturalization, INS, recently decided to begin enforcing a 50-year-old law that prohibits those students from attending U.S. schools on a part-time basis. As of August 15, students will no longer be allowed to cross the Canadian border to attend classes at Bellingham Technical College. This will result in a significant loss of funds for Bellingham Technical College and the surrounding community in Whatcom County which is already suffering from severely reduced border traffic in the wake of September 11 and the economic downturn in the State as a whole.

They will not be allowed to cross the border to attend El Paso Community College, D'Youville College in Buffalo, or Wayne State University in Detroit.

In my home State of Washington, Bellingham Technical College currently has many part-time students who commute from Canada, the vast majority of whom are enrolled in nursing, surgical technology, and dental assistant training programs. This action is being taken at the same time we are facing a devastating shortage of nurses and other health care professionals both in the United States and in Canada.

This bill will address this issue by creating a new category for students who do not intend to immigrate to this country. It will be limited to Canadian and Mexican commuter students residing in their home country and attending school on a full- or part-time basis at schools in many of our border States. In order to qualify for this visa, students will have to prove that they are who they say they are, and will be subjected to more strict requirements than Canadian visitors entering the U.S. for pleasure.

Our educational system is the best in the world, and the INS decision to terminate a system that has been extending that educational opportunity to those who live adjacent to our borders and that has been providing economic benefit to my State and many other States, is the wrong policy. With the introduction of this legislation today, we will address this problem and allow a system that has been working to continue. I am proud to be a cosponsor of the Border Commuter Student Act of 2002.

I would like to thank Senator HUTCHISON for her leadership on the bill and look forward to working with her and my other colleagues to pass this important legislation.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 2743. A bill to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes; to the Committee on Indian Affairs.

Mr. KYL. Mr. President, on behalf of Senator MCCAIN and myself I am introducing legislation today that would codify the settlement of the Zuni Indian Tribe's water rights for its religious lands in northeastern Arizona. Congress first recognized the importance of these lands in 1984 when it created the Zuni Heaven Reservation, Pub. L. No. 98–498, as amended by Pub. L. No. 101–486, 1990. The small communities upstream from this Reservation have been fully-appropriated, they have had more would-be water users than water, for nearly a century. The prospect of dividing this limited water with yet another user created great uncertainty. To resolve that uncertainty and to avoid expensive and protracted litigation, the Zuni Tribe, the United States on behalf of the Zuni Tribe, the State of Arizona, including the Arizona Game and Fish Commission, the Arizona State Land Department, and the Arizona State Parks Board, and the major water users in this area of Arizona negotiated for many years to produce a settlement that is acceptable to all parties.

This bill would provide the Zuni Tribe with the resources and protections necessary to acquire water rights from willing sellers and to restore and protect the wetland environment that previously existed on the Reservation. In return, the Zuni Tribe would waive its claims in the Little Colorado River Adjudication. In addition, the Zuni Tribe would, among other things, grandfather existing water uses and waive claims against many future water uses in the Little Colorado River basin. In summary, with this bill, the Zuni Tribe can achieve its needs for the Zuni Heaven Reservation while avoiding a disruption to local water users and industry. Furthermore, the United States can avoid litigating water rights and damage claims and satisfy its trust responsibilities to the Tribe regarding water for the Reservation. The parties have worked many years to reach consensus and I believe this bill would produce a fair result to all.

By Mr. DEWINE (for himself and Mr. VOINOVICH):

S. 2744. A bill to establish the National Aviation Heritage Area, and for other purposes; to the Committee on Energy and Natural Resources.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Mr. DEWINE. Mr. President, I rise today with my friend and fellow Ohioan, Senator VOINOVICH, to introduce a bill that would establish a National Aviation Heritage Area within our home state of Ohio.

The year 2003 represents the 100th anniversary of manned flight. On December 17, 1903, Wilbur and Orville Wright, who are native Ohioans, invented controlled, heavier-than-air flight. This was the first step in the century-long progression of flight. The Wright Brothers' successful design and the science behind it were the forerunners to our modern airplanes and space vehicles.

There is obvious historical and cultural significance to the birth of aviation, and one of the unique educational aspects of aviation is the opportunity we can give children to interact with the subject outside of the classroom. This is why I am proud today to be introducing the National Aviation Heritage Area Act.

Our bill seeks to foster strong public and private investments in aviation landmarks. Some of these landmarks include the Wright Brother's Wright Cycle Company, located in Dayton, OH; the National Aviation Hall of Fame; the Wright-Dunbar Interpretive Center, where students of all ages can learn about the painstaking measures the Wright Brothers and many of their predecessors took to fly; and the Huffman Prairie Flying Field, where the Brothers perfected the design of the world's first airplane. Listed in the bill are several other important aviation sites that may be added into the Heritage Area at a later date, such as the NASA-Glenn Research Facility and the Captain Edward V. Rickenbacher House.

Mr. President, flight has become another important square in the patchwork of our nation's history. We are reminded of this every time we look skyward and see the crisscross of jet contrails. We are reminded of this every time we walk through the Rotunda of our very own U.S. Capitol and see the last frieze square that depicts the invention of flight by the Wright Brothers. And, we are reminded of this by one of the symbols of America, the eagle, a flying bird that represents the freedom of a people.

It is vital that we protect the sites that have played such an important role in aviation. Doing so, we can enhance the education and enrichment of our children and our grandchildren for many years to come.

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. 2744

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

TITLE I—NATIONAL AVIATION HERITAGE AREA

SECTION 101. SHORT TITLE.

This title may be cited as the ''National Aviation Heritage Area Act''.

SEC. 102. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Few technological advances have transformed the world or our Nation's economy, society, culture, and national character as the development of powered flight.

(2) The industrial, cultural, and natural heritage legacies of the aviation and aerospace industry in the State of Ohio are nationally significant.

(3) Dayton, Ohio, and other defined areas where the development of the airplane and aerospace technology established our Nation's leadership in both civil and military aeronautics and astronautics set the foundation for the 20th Century to be an American Century.

(4) Wright-Patterson Air Force Base in Dayton, Ohio, is the birthplace, the home, and an integral part of the future of aerospace.

(5) The economic strength of our Nation is connected integrally to the vitality of the aviation and aerospace industry, which is responsible for an estimated 11,200,000 American jobs.

(6) The industrial and cultural heritage of the aviation and aerospace industry in the State of Ohio includes the social history and living cultural traditions of several generations.

(7) The Department of the Interior is responsible for protecting and interpreting the Nation's cultural and historic resources, and there are significant examples of these resources within Ohio to merit the involvement of the Federal Government to develop programs and projects in cooperation with the Aviation Heritage Foundation, Incorporated, the State of Ohio, and other local and governmental entities to adequately conserve, protect, and interpret this heritage for the educational and recreational benefit of this and future generations of Americans, while providing opportunities for education and revitalization.

(8) Since the enactment of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102–419), partnerships among the Federal, State, and local governments and the private sector have greatly assisted the development and preservation of the historic aviation resources in the Miami Valley.

(9) An aviation heritage area centered in Southwest Ohio is a suitable and feasible management option to increase collaboration, promote heritage tourism, and build on the established partnerships among Ohio's historic aviation resources and related sites.

(10) A critical level of collaboration among the historic aviation resources in Southwest Ohio cannot be achieved without a congressionally established national heritage area and the support of the National Park Service and other Federal agencies which own significant historic aviation-related sites in Ohio.

(11) The Aviation Heritage Foundation, Incorporated, would be an appropriate management entity to oversee the development of the National Aviation Heritage Area.

(12) Five National Park Service and Dayton Aviation Heritage Commission studies and planning documents ''Study of Alternatives: Dayton's Aviation Heritage'', ''Dayton Aviation Heritage National Historical Park Suitability/Feasibility Study'', ''Dayton Aviation Heritage General Management Plan'', ''Dayton Historic Resources Preservation and Development Plan'', and Heritage Area Concept Study (in progress) demonstrated that sufficient historical resources exist to establish the National Aviation Heritage Area.

(13) With the advent of the 100th anniversary of the first powered flight in 2003, it is recognized that the preservation of properties nationally significant in the history of aviation is an important goal for the future education of Americans.

(14) Local governments, the State of Ohio, and private sector interests have embraced the heritage area concept and desire to enter into a partnership with the Federal Government to preserve, protect, and develop the Heritage Area for public benefit.

(15) The National Aviation Heritage Area would complement and enhance the aviation-related resources within the National Park Service, especially the Dayton Aviation Heritage National Historical Park, Ohio, and the Wright Brothers National Memorial, Kitty Hawk, North Carolina.

(b) PURPOSE.—The purpose of this title is to establish the Heritage Area to—

(1) encourage and facilitate collaboration among the facilities, sites, organizations, governmental entities, and educational institutions within the Heritage Area to promote heritage tourism and to develop educational and cultural programs for the public;

(2) preserve and interpret for the educational and inspirational benefit of present and future generations the unique and significant contributions to our national heritage of certain historic and cultural lands, structures, facilities, and sites within the National Aviation Heritage Area;

(3) encourage within the National Aviation Heritage Area a broad range of economic opportunities enhancing the quality of life for present and future generations;

(4) provide a management framework to assist the State of Ohio, its political subdivisions, other areas, and private organizations, or combinations thereof, in preparing and implementing an integrated Management Plan to conserve their aviation heritage and in developing policies and programs that will preserve, enhance, and interpret the cultural, historical, natural, recreation, and scenic resources of the Heritage Area; and

(5) authorize the Secretary to provide financial and technical assistance to the State of Ohio, its political subdivisions, and private organizations, or combinations thereof, in preparing and implementing the private Management Plan.

SEC. 103. DEFINITIONS.

For purposes of this title:

(1) BOARD.—The term ''Board'' means the Board of Directors of the Foundation.

(2) FINANCIAL ASSISTANCE.—The term ''financial assistance'' means funds appropriated by Congress and made available to the management entity for the purpose of preparing and implementing the Management Plan.

(3) HERITAGE AREA.—The term ''Heritage Area'' means the National Aviation Heritage Area established by section 4 to receive, distribute, and account for Federal funds appropriated for the purpose of this title.

(4) MANAGEMENT PLAN.—The term ''Management Plan'' means the management plan for the Heritage Area developed under section 106.

(5) MANAGEMENT ENTITY.—The term ''management entity'' means the Aviation Heritage Foundation, Incorporated (a nonprofit corporation established under the laws of the State of Ohio).

(6) PARTNER.—The term ''partner'' means a Federal, State, or local governmental entity, organization, private industry, educational institution, or individual involved in promoting the conservation and preservation of the cultural and natural resources of the Heritage Area.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(8) TECHNICAL ASSISTANCE.—The term ''technical assistance'' means any guidance, advice, help, or aid, other than financial assistance, provided by the Secretary.

SEC. 104. NATIONAL AVIATION HERITAGE AREA.

(a) ESTABLISHMENT.—There is established in the State of Ohio, and other areas as appropriate, the National Aviation Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall include the following:

(1) A core area consisting of resources in Montgomery, Greene, Warren, Miami, Clark, and Champaign Counties in Ohio.

(2) The Neil Armstrong Air & Space Museum, Wapakoneta, Ohio, and the Wilbur Wright Birthplace and Museum, Millville, Indiana.

(3) Sites, buildings, and districts recommended by the Management Plan.

(c) MAP.—A map of the Heritage Area shall be included in the Management Plan. The map shall be on file in the appropriate offices of the National Park Service, Department of the Interior.

(d) MANAGEMENT ENTITY.—The management entity for the Heritage Area shall be the Aviation Heritage Foundation.

SEC. 105. AUTHORITIES AND DUTIES OF THE MANAGEMENT ENTITY.

(a) AUTHORITIES.—For purposes of implementing the Management Plan, the management entity may use Federal funds made available through this Act to—

(1) make grants to, and enter into cooperative agreements with, the State of Ohio and political subdivisions of that State, private organizations, or any person;

(2) hire and compensate staff; and

(3) enter into contracts for goods and services.

(b) DUTIES.— The management entity shall—

(1) develop and submit to the Secretary for approval the proposed Management Plan in accordance with section 106;

(2) give priority to implementing actions set forth in the Management Plan, including taking steps to assist units of government and nonprofit organizations in preserving resources within the Heritage Area and encouraging local governments to adopt land use policies consistent with the management of the Heritage Area and the goals of the Management Plan;

(3) consider the interests of diverse governmental, business, and nonprofit groups within the Heritage Area in developing and implementing the Management Plan;

(4) maintain a collaboration among the partners to promote heritage tourism and to assist partners to develop educational and cultural programs for the public;

(5) encourage economic viability in the Heritage Area consistent with the goals of the Management Plan;

(6) assist units of government and nonprofit organizations in—

(A) establishing and maintaining interpretive exhibits in the Heritage Area;

(B) developing recreational resources in the Heritage Area;

(C) increasing public awareness of and appreciation for the historical, natural, and architectural resources and sites in the Heritage Area; and

(D) restoring historic buildings that relate to the purposes of the Heritage Area;

(7) assist units of government and nonprofit organizations to ensure that clear, consistent, and environmentally appropriate signs identifying access points and sites of interest are placed throughout the Heritage Area;

(8) conduct public meetings at least quarterly regarding the implementation of the Management Plan;

(9) submit substantial amendments to the Management Plan to the Secretary for the approval of the Secretary; and

(10) for any year in which Federal funds have been received under this Act—

(A) submit an annual report to the Secretary that sets forth the accomplishments of the management entity and its expenses and income;

(B) make available to the Secretary for audit all records relating to the expenditure of such funds and any matching funds; and

(C) require, with respect to all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available to the Secretary for audit all records concerning the expenditure of such funds.

(c) USE OF FEDERAL FUNDS.—

(1) IN GENERAL.—The management entity shall not use Federal funds received under this Act to acquire real property or an interest in real property.

(2) OTHER SOURCES.—Nothing in this Act precludes the management entity from using Federal funds from other sources for authorized purposes.

SEC. 106. MANAGEMENT PLAN.

(a) PREPARATION OF PLAN.—Not later than 3 years after the date of enactment of this Act, the management entity shall submit to the Secretary for approval a proposed Management Plan that shall take into consideration State and local plans and involve residents, public agencies, and private organizations in the Heritage Area.

(b) CONTENTS.—The Management Plan shall incorporate an integrated and cooperative approach for the protection, enhancement, and interpretation of the natural, cultural, historic, scenic, and recreational resources of the Heritage Area and shall include the following:

(1) An inventory of the resources contained in the core area of the Heritage Area, including the Dayton Aviation Heritage Historical Park, the sites, buildings, and districts listed in section 202 of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102–419), and any other property in the Heritage Area that is related to the themes of the Heritage Area and that should be preserved, restored, managed, or maintained because of its significance.

(2) Recommendations for inclusion within the Heritage Area of suitable and feasible sites, buildings, and districts outside the core area of the Heritage Area. Such recommendations shall be included in the inventory required under paragraph (1) and may include the following:

(A) The Wright Brothers National Memorial, Kitty Hawk, North Carolina.

(B) The Captain Edward V. Rickenbacker House National Historic Landmark, Columbus, Ohio.

(C) The NASA Glenn Research Center at Lewis Field, Cleveland, Ohio.

(D) The Rocket Engine Test Facility National Historic Landmark, Sandusky, Ohio.

(E) The Zero Gravity Research Facility National Historic Landmark, Cleveland, Ohio.

(F) The International Women's Air & Space Museum, Inc., Cleveland, Ohio.

(G) The John and Annie Glenn Museum and Exploration Center, New Concord, Ohio.

(3) An assessment of cultural landscapes within the Heritage Area.

(4) Provisions for the protection, interpretation, and enjoyment of the resources of the Heritage Area consistent with the purposes of this Act.

(5) An interpretation plan for the Heritage Area.

(6) A program for implementation of the Management Plan by the management entity, including the following:

(A) Facilitating ongoing collaboration among the partners to promote heritage tourism and to develop educational and cultural programs for the public.

(B) Assisting partners planning for restoration and construction.

(C) Specific commitments of the partners for the first 5 years of operation.

(7) The identification of sources of funding for implementing the plan.

(8) A description and evaluation of the management entity, including its membership and organizational structure.

(c) DISQUALIFICATION FROM FUNDING.—If a proposed Management Plan is not submitted to the Secretary within 3 years of the date of the enactment of this Act, the management entity shall be ineligible to receive additional funding under this Act until the date on which the Secretary receives the proposed Management Plan.

(d) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—The Secretary, in consultation with the State of Ohio, shall approve or disapprove the proposed Management Plan submitted under this Act not later than 90 days after receiving such proposed Management Plan.

(e) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves a proposed Management Plan, the Secretary shall advise the management entity in writing of the reasons for the disapproval and shall make recommendations for revisions to the proposed Management Plan. The Secretary shall approve or disapprove a proposed revision within 90 days after the date it is submitted.

(f) APPROVAL OF AMENDMENTS.—The Secretary shall review and approve substantial amendments to the Management Plan. Funds appropriated under this Act may not be expended to implement any changes made by such amendment until the Secretary approves the amendment.

SEC. 107. TECHNICAL AND FINANCIAL ASSISTANCE; OTHER FEDERAL AGENCIES.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—Upon the request of the management entity, the Secretary may provide technical assistance, on a reimbursable or nonreimbursable basis, and financial assistance to the Heritage Area to develop and implement the Management Plan. The Secretary is authorized to enter into cooperative agreements with the management entity and other public or private entities for this purpose. In assisting the Heritage Area, the Secretary shall give priority to actions that in general assist in—

(A) conserving the significant natural, historic, cultural, and scenic resources of the Heritage Area; and

(B) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(2) OTHER ASSISTANCE.—Upon request, the Superintendent of Dayton Aviation Heritage National Historical Park may provide to public and private organizations within the Heritage Area, including the management entity, such technical and financial assistance as appropriate to support the implementation of the Management Plan, subject to the availability of appropriated funds. The Secretary is authorized to make grants and enter into cooperative agreements with public and private organizations for the purpose of implementing this subsection.

(b) DUTIES OF OTHER FEDERAL AGENCIES.—Any Federal agency conducting or supporting activities directly affecting the Heritage Area shall—

(1) consult with the Secretary and the management entity with respect to such activities;

(2) cooperate with the Secretary and the management entity in carrying out their duties under this Act;

(3) to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(4) to the maximum extent practicable, conduct or support such activities in a manner which the management entity determines will not have an adverse effect on the Heritage Area.

SEC. 108. COORDINATION BETWEEN THE SECRETARY AND THE SECRETARY OF DEFENSE AND THE ADMINISTRATOR OF NASA.

The decisions concerning the execution of this title as it applies to properties under the control of the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall be made by such Secretary or such Administrator, in consultation with the Secretary of the Interior.

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this title there is authorized to be appropriated $10,000,000, except that not more than $1,000,000 may be appropriated to carry out this title for any fiscal year.

(b) 50 PERCENT MATCH.—The Federal share of the cost of activities carried out using any assistance or grant under this title shall not exceed 50 percent.

(c) OTHER FEDERAL FUNDS.—Other Federal funding received by the management entity for the implementation of this Act shall not be counted toward the authorized appropriation.

SEC. 110. SUNSET PROVISION.

The Secretary shall not provide any grant or other assistance under this title after September 30, 2017.

TITLE II—WRIGHT COMPANY FACTORY STUDY

SEC. 201. STUDY.

(a) IN GENERAL.—The Secretary shall conduct a special resource study updating the study required under section 104 of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102–419) and detailing alternatives for incorporating the Wright Company factory as a unit of Dayton Aviation Heritage National Historical Park.

(b) CONTENTS.—The study shall include an analysis of alternatives for including the Wright Company factory as a unit of Dayton Aviation Heritage National Historical Park that detail management and development options and costs.

(c) CONSULTATION.—In conducting the study, the Secretary shall consult with the Delphi Corporation, the Dayton Aviation Heritage Commission, the Aviation Heritage Foundation, State and local agencies, and other interested parties in the area.

SEC. 202. REPORT.

Not later than 2 years after funds are first made available for this title, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the results of the study conducted under section 201.

By Mr. BENNETT (for himself and Mr. HATCH):

S. 2745. A bill to provide for the exchange of certain lands in Utah; to the

Committee on Energy and Natural Resources.

Mr. BENNETT. Mr. President, it gives me great pleasure today to introduce for the Senate's consideration legislation that will benefit the school children of Utah and improve the management of the public lands within Utah. This legislation closely follows two previous legislated land exchanges, the ''Utah Schools and Lands Exchange Act of 1998'' and the ''Utah West Desert Land Exchange Act of 2000''. Each of these past exchanges has enabled the Federal Government to consolidate lands in Utah with significant resource value while the State of Utah has accumulated lands of lesser environmental significance, but with higher revenue generating potential. The Federal-Utah State Trust Lands Consolidation Act will only add to the successes earned through the last two land exchanges.

The Utah Enabling Act of 1894 granted to the State four sections, each section approximately 640 acres in size, in each 36 square-mile township. These lands were granted for the support of the public schools, and thus are referred to a school trust lands. Accordingly, the School and Institutional trust Lands Administration, SITLA, is required by law to generate revenue in accordance with its mission from approximately 3.5 million acres of widely dispersed land. The location of these lands, as they are not contiguous to each other, has made management by the State difficult. In addition, as school trust lands are interspersed with Federal lands, Federal land designations, such as wilderness study areas, national monuments, and national parks, have further complicated the state's ability to fully carry out its trust responsibility to its public schools.

The legislation I propose today will ratify an agreement signed by the State of Utah, the Department of the Interior, and the Department of Agriculture. Under the agreement the Federal Government will receive 108, 284 acres from SITLA while the Federal government will transfer to SITLA approximately 133,000 acres of federal lands. SITLA will exchange property with significant resource values including inholdings in the Manti-La Sal National Forest, the Red Cliffs Desert Reserve, and most importantly 102,000 acres in the San Rafael Swell. The San Rafael Swell is one of the most remarkable areas in the county. It is 900 square miles of rugged terrain sprinkled with amazing mesas, buttes, and canyons. The San Rafael Swell also contains significant natural, historical, and cultural resources and it is home to an important population of desert bighorn sheep. Furthermore, over the yeas the San Rafael Swell has been proposed to be designated as wilderness, a national conservation area, a heritage area, and a national monument. It is widely agreed that this area deserves special recognition. Because of the proposed designations and the overall importance of the San Rafael Swell, sizable school trust inholdings are not advisable; both the State and Federal Government would be better served by consolidated ownership.

The majority of the lands acquired by the SITLA are in the Uinta Basin, which will compliment current SITLA holdings. These lands are less environmentally sensitive but have good potential for development in the future, thereby allowing the State to maintain its trust responsibilities. Additional properties will be acquired in Emery, Washington, Sevier, and Utah counties.

During negotiations between the State of Utah and the Federal Government great care was taken to exclude from exchange Federal lands designated as wilderness study areas, areas proposed for wilderness designations in pending Federal legislation, significant endangered species habitat, significant archaeological resources, areas of critical environmental concern, or other lands known to raise significant environmental concerns of any kind. Additionally, the parties to this agreement expended substantial effort to ensure the value of the exchange was equal. To ensure the exchange was of comparable value the parties obtained the services of a nationally recognized real estate consultant who reviewed the methodologies and assumptions used to determine value. After completing a thorough review, the consultant supported the parties' conclusion that the exchange was of equal value.

This legislation has the strong support of Utah's delegation, the Utah State Office of Education, and the Utah Parent Teacher Association. I look forward to working with my colleagues to pass this legislation this year.

By Mr. FEINGOLD (for himself and Ms. COLLINS):

S. 2746. A bill to establish a Federal Liaison on Homeland Security in each State, to provide coordination between the Department of Homeland Security and State and local first responders, and for other purposes; to the Committee on Governmental Affairs.

Mr. FEINGOLD. Mr. President, I rise today with my colleague from Maine to introduce legislation to improve and streamline Federal support for first responders. Our proposal will also provide an avenue for our first responders, our fire fighters, law enforcement, rescue, and emergency medical service, EMS, providers, to help Federal agencies and the new Department of Homeland Security improve and coordinate existing programs and future initiatives.

The President has proposed a massive shift in the Federal Government by creating a new Department of Homeland Security. While Washington will surely be shaken up by this restructuring, nobody will feel the impact of this shift more than those on the front lines, our law enforcement, firefighters, rescue workers, EMS providers, and other first responders.

I am concerned that as the proposed Department of Homeland Security moves forward, one of the most important functions has not received enough consideration, supporting first responders.

A recent editorial by Amy Smithson, the Director of the Chemical and Biological Nonproliferation Project at the Henry L. Stimson Center, which was published in the New York Times, illustrates that even without this massive re-organization, Washington must do a more effective job in targeting the resources to the training and equipment programs that our communities need.

Ms. Smithson details how Washington has already shifted key training and equipment programs for firefighters, police, paramedics, and others from the Defense Department to the Justice Department and now on to the Federal Emergency Management Agency.

While these first responders are the most important people in any emergency, they received just $311 million of the more than $9.7 billion in counter-terrorism spending in 2001.

While I commend the Administration for raising the funding dedicated to first responders for 2003 fiscal year to $5 billion, I share Ms. Smithson's concern that with the new layers of bureaucracy and reorganization, that number could shrink significantly.

Providing resources is not the only answer. These resources need to be dedicated to those programs that meet the needs of the first responders serving our communities.

The Federal agencies in the Department of Homeland Security must listen to the priorities of our communities. After all, the needs of first responders vary between regions, as well as between rural and urban communities. In Wisconsin, I have heard needs ranging from training to equipment to more emergency personnel in the field, just to name a few.

We must listen to our law enforcement officials to identify which programs most effectively help them protect our communities. We must listen to our firefighters and fire chiefs to identify which programs most effectively prevent and respond to disasters.

Once we have identified these programs and perceived needs, the Federal agencies under the New Department of Homeland Security must coordinate their activities in an effective manner.

In the case of EMS providers, more than five Federal agencies currently support EMS services, but they lack coordination and the necessary input from our local EMS providers. Earlier this year, Congress approved legislation, sponsored by the Senator from Maine and myself, that would improve coordination between these services.

We must ensure that the agencies within the Department of Homeland Security promote this same kind of coordination and not fall into the trap of five separate initiatives to address the same problem.

Our legislation, the First Responder Support Act will promote effective coordination among Federal agencies under the Department of Homeland Security and ensure that our first responders, our firefighters, law enforcement, rescue, and EMS providers, can help Federal agencies and the new Department of Homeland Security improve existing programs and future initiatives.

Our proposal establishes a Federal Liaison on Homeland Security in each State, to provide coordination between the Department of Homeland Security and State and local first responders. This office will serve not only as an avenue to exchange ideas, but also as a resource to ensure that the funding and programs are effective. For example, they can help ensure that State and local priorities are matching up with those set out at the new Department. They can also identify areas of Homeland Security in which the Federal and State or local role is duplicative and recommend ways to decrease or eliminate unneeded resources.

It would also direct the agencies within the Department of Homeland Security to coordinate and prioritize their activities that support first responders, and at the same time, ensure effective use of taxpayer dollars.

As part of this coordination, the First Responders Support Act establishes a new advisory committee of those in the first responder community to identify and streamline effective programs.

I am submitting this proposal in the hope that the Committee charged with creating the new agency will consider it during their mark up of any legislation. I recognize, however, that this consideration does not prejudge which committee will be charged with oversight of this new department.

We must be aggressive in seeking the advice of our first responders, and helping them to attain the resources that they need to provide effective services. They are on the front lines, and deserve our support. In almost any disaster, the local first providers and health care providers play an indispensable role. If the Department of Homeland Security is to be effective, we need to ensure that the resources are delivered to the front line personnel in an effective and coordinated manner. I urge my Colleagues to join me in cosponsoring this proposal and support our first responders.

By Mr. CONRAD:

S. 2748. A bill to authorize the formulation of State and regional emergency telehealth network testbeds and within the Department of Defense, a telehealth task force; to the Committee on Armed Services.

Mr. CONRAD. Mr. President, today I am introducing the National Emergency Telemedical Communications Act of 2002 or NETCA. This bill would take important steps to strengthen our Nation's ability to respond to and manage biological, chemical, and nuclear terrorist attacks and other natural disasters.

Today, we live in a world forever changed by the September 11 attacks on our country. These events exposed weaknesses in our homeland defense; the anthrax attacks further showed how important it is to have a strong public health system and what happens when such a system has been neglected.

My bill would help address both of these issues. It would authorize two regional telehealth test beds, linking local and state health departments with the CDC, academic, VA, and DoD medical centers, Emergency Medical Services, and other health entities. Additionally, these efforts would be coordinated with local and State law enforcement, fire departments, and the National Guard. The system would then be tested for its ability to gather information in real-time, send timely alerts, and connect front-line responders with key support people to prevent or assist in managing a crisis. For instance, in a situation where there are mass casualties, an emergency room physician, while in the hospital, would be able to assist the emergency medical technician at the scene in triaging patients and directing where patients should be transported. They also would be able to participate directly in the treatment of patients in the field and not have to wait for them to arrive at the hospital. In these situations, minutes mean lives; enactment of this legislation would save lives.

But this system would do more than allow for medical specialist-to-patient consultations; it would permit disaster experts hundreds or even thousands of miles away to view the disaster area and communicate directly with front-line responders. For example, in a ''dirty'' bomb explosion, fire and rescue responders might not notice anything different than expected based upon their training for response to explosives. However, if their trucks and uniforms were equipped with devices that recognized this radiation, not only would they be alerted, but the information could be automatically relayed by the telehealth system to radiation experts who could then be ''brought'' to the scene to help direct the response and improve responder safety.

For such a system to work, everyone must be on the same page. This means the information being sent must be understood by all. We cannot have one part of the system use medical terminology typical for one region of the country, such as ''reactive airway disease'', and another part of the system using a different name, such as ''asthma.'' Thus, a common agreed upon language must be determined. Furthermore, each statewide network must be connected in a seamless fashion so this information can pass through smoothly and without interruption. My bill would create a task force of relevant experts from private and government to solve both of these challenges and then use the test beds to evaluate their solutions.

In the end, I envision an intelligent system, capable of gathering information real-time and proactively connecting front-line responders with key support people. It would provide timely alerts, crisis response, prevention, and prediction of medical and other dangers.

Ultimately, it is my hope that this project will lead to the formation of a secure National Emergency Telemedical Network. I am happy to say that there is broad support for this legislation in the telemedicine and information management communities, as well as in various State and Federal agencies. In particular, I am pleased that my bill has been endorsed by the American Telemedicine Association, the Center for Telemedicine Law, the American Association of Medical Colleges, the North Dakota Hospital Association, the North Dakota Medical Association, the North Dakota State Department of Health, the University of Texas Health Sciences Center, the University of Tennessee Health Sciences Center, and the Telemedicine Center of East Carolina University. I am also pleased that Senator Kay Bailey Hutchison has joined me in this effort, and I urge my other colleagues to support this important piece of legislation.

By Mr. CORZINE (for himself, Mr. TORRICELLI, Mr. SCHUMER, Mrs. CLINTON, Mr. DODD, and Mr. LIEBERMAN):

S. 2749. A bill to establish the Highlands Stewardshp area in the States of Connecticut, New Jersey, New York, and Pennsylvania, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. CORZINE. Mr. President, today along with Senator TORRICELLI, Schumer, Clinton, Dodd and Lieberman, I am introducing the Highlands Stewardship Act of 2002. I am proud to be joining my colleagues from the New Jersey, New York, and Connecticut delegations in the House of Representatives, who have introduced identical legislation in the House.

This legislation would help to preserve one of the last open space treasures in this country, the Highlands forest region that stretches from northwestern Connecticut, across the lower Hudson River valley in New York, through my State of New Jersey and into east-central Pennsylvania. This region encompasses more than two million acres of forest, farms, streams, wetlands, lakes and reservoirs and historic sites. It includes the Green, Taconic and Notre Dame Mountains. It also includes such historic sites as Morristown National Historic Park and West Point.

The value of the ecological, recreational and scenic resources of the Highlands cannot be overstated. 170 million gallons are drawn from the

Highlands aquifers daily, providing quality drinking water for over 11 million people. 247 threatened or endangered species live in the Highlands including the timber rattlesnake, wood turtle, red-shouldered hawk, barred owl, great blue heron and eastern wood rat. There also are many fishing, hiking and boating recreation opportunities in the Highlands that are used by many of the one in twelve Americans who live within 2 hours of travel of the Highlands.

Unfortunately, much of Highlands is quickly vanishing. According to a study issued by the United States Department of Agriculture we lost 3,400 acres of forest and 1,600 acres of farmland between 1995 and 2000 to development.

This legislation would designate a Stewardship Area amongst the four States in order to protect the most important Highlands projects. It would create a source of funding for conservation and preservation projects in the Highlands to preserve and protect the open space that remains. $7 million a year for seven years would be provided for conservation assistance projects in the four Highlands states. This funding could be used for items such as smart growth initiatives and cultural preservation projects. $25 million a year over ten years also would be provided for open space preservation projects in the four Highlands states. The source of this funding would be the Land and Water Conservation Fund.

I am proud to introduce this legislation to ensure that we to protect this resource, which is so critical to our quality of life.

I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 2749

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Highlands Stewardship Act of 2002''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Highlands region is a geographic area that encompasses more than 2,000,000 acres extending from eastern Pennsylvania through the States of New Jersey and New York to northwestern Connecticut;

(2) the Highlands region is an environmentally unique and economically important area that—

(A) provides clean drinking water to over 11,000,000 people in metropolitan areas in the States of Connecticut, New Jersey, New York, and Pennsylvania;

(B) provides critical wildlife habitat, including habitat for threatened and endangered species;

(C) maintains an important historic connection to early Native American culture, colonial settlement, the American Revolution, and the Civil War;

(D) contains—

(i) recreational resources; and

(ii) cultural and multicultural landscapes relating to the development of commerce, transportation, the maritime industry, agriculture, and industry in the Highlands region; and

(E) provides other significant ecological, natural, tourism, recreational, educational, and economic benefits;

(3) an estimated 1 in 12 citizens of the United States live within a 2-hour drive of the Highlands region;

(4) more than 1,000,000 residents live in the Highlands region;

(5) the Highlands region forms a greenbelt adjacent to the Philadelphia-New York City-Hartford urban corridor that offers the opportunity to preserve natural and agricultural resources, open spaces, recreational areas, and historic sites, while encouraging sustainable economic growth and development in a fiscally and environmentally sound manner;

(6) continued population growth and land use patterns in the Highlands region—

(A) reduce the availability and quality of water;

(B) reduce air quality;

(C) fragment the forests;

(D) destroy critical migration corridors and forest habitat; and

(E) result in the loss of recreational opportunities and scenic, historic, and cultural resources;

(7) the natural, agricultural, and cultural resources of the Highlands region, in combination with the proximity of the Highlands region to the largest metropolitan areas in the United States, make the Highlands region nationally significant;

(8) the national significance of the Highlands region has been documented in—

(A) the Highlands Regional Study conducted by the Forest Service in 1990;

(B) the New York-New Jersey Highlands Regional Assessment Update conducted by the Forest Service in 2001;

(C) the bi-State Skylands Greenway Task Force Report;

(D) the New Jersey State Development and Redevelopment Plan;

(E) the New York State Open Space Conservation Plan;

(F) the Connecticut Green Plan: Open Space Acquisition FY 2001–2006

(G) the open space plans of the State of Pennsylvania; and

(H) other open space conservation plans for States in the Highlands region;

(9) the Highlands region includes or is adjacent to numerous parcels of land owned by the Federal Government or federally designated areas that protect, conserve, restore, promote, or interpret resources of the Highlands region, including—

(A) the Wallkill River National Wildlife Refuge;

(B) the Shawanagunk Grasslands Wildlife Refuge;

(C) the Morristown National Historical Park;

(D) the Delaware and Lehigh Canal Corridors;

(E) the Hudson River Valley National Heritage Area;

(F) the Delaware River Basin;

(G) the Delaware Water Gap National Recreation Area;

(H) the Upper Delaware Scenic and Recreational River;

(I) the Appalachian National Scenic Trail; and

(J) the United States Military Academy at West Point, New York;

(10) it is in the interest of the United States to protect, conserve, restore, promote, and interpret the resources of the Highlands region for the residents of, and visitors to, the Highlands region;

(11) the States of Connecticut, New Jersey, New York, and Pennsylvania, regional entities, and units of local government in the Highlands region have the primary responsibility for protecting, conserving, preserving, and promoting the resources of the Highlands region; and

(12) because of the longstanding Federal practice of assisting States in creating, protecting, conserving, preserving, and interpreting areas of significant natural, economic, and cultural importance, and the national significance of the Highlands region, the Federal Government should, in partnership with the Highlands States, regional entities, and units of local government in the Highlands region, protect, restore, promote, preserve, and interpret the natural, agricultural, historical, cultural, and economic resources of the Highlands region.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to recognize the importance of the natural resources and the heritage, history, economy, and national significance of the Highlands region to the United States;

(2) to assist the Highlands States, regional entities, and units of local government, public and private entities, and individuals in protecting, restoring, preserving, interpreting, and promoting the natural, agricultural, historical, cultural, recreational, and economic resources of the Highlands Stewardship Area;

(3) to authorize the Secretary of Agriculture and the Secretary of the Interior to provide financial and technical assistance for the protection, conservation, preservation, and sustainable management of forests, land, and water in the Highlands region, including assistance for—

(A) voluntary programs to promote and support private landowners in carrying out forest land and open space retention and sustainable management practices; and

(B) forest-based economic development projects that support sustainable management and retention of forest land in the Highlands region;

(4) to provide financial and technical assistance to the Highlands States, regional entities, and units of local government, and public and private entities for planning and carrying out conservation, education, and recreational programs and sustainable economic projects in the Highlands region; and

(5) to coordinate with and assist the management entities of the Hudson River Valley National Heritage Area, the Wallkill National Refuge Area, the Morristown National Historic Area, and other federally designated areas in the region in carrying out any duties relating to the Highlands region.

SEC. 4. DEFINITIONS.

In this Act:

(1) ELIGIBLE ENTITY.—The term ''eligible entity'' means any agricultural producer, regional entity, unit of local government, public entity, private entity, or other private landowner in the Stewardship Area.

(2) HIGHLANDS REGION.—The term ''Highlands region'' means the region that encompasses nearly 2,000,000 acres extending from eastern Pennsylvania through the States of New Jersey and New York to northwestern Connecticut.

(3) HIGHLANDS STATE.—The term ''Highlands State'' means—

(A) the State of Connecticut;

(B) the State of New Jersey;

(C) the State of New York; and

(D) the State of Pennsylvania.

(4) LAND CONSERVATION PARTNERSHIP PROJECT.—The term ''land conservation partnership project'' means a project in which a non-Federal entity acquires land or an interest in land from a willing seller for the purpose of protecting, conserving, or preserving the natural, forest, agricultural, recreational, historical, or cultural resources of the Stewardship Area.

(5) OFFICE.—The term ''Office'' means the Office of Highlands Stewardship established under section 6(a).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(7) STEWARDSHIP AREA.—The term ''Stewardship Area'' means the Highlands Stewardship Area established under section 5(a).

(8) STUDY.—The term ''study'' means the Highlands Regional Study conducted by the Forest Service in 1990.

(9) UPDATE.—The term ''update'' means the New York-New Jersey Highlands Regional Assessment Update conducted by the Forest Service in 2001.

(10) WORK GROUP.—The term ''Work Group'' means the Highlands Stewardship Area Work Group established under section 6(c).

SEC. 5. ESTABLISHMENT OF HIGHLANDS STEWARDSHIP AREA.

(a) ESTABLISHMENT.—The Secretary and the Secretary of the Interior, shall establish the Highlands Stewardship Area in the Highlands region.

(b) CONSULTATION AND RESOURCE ANALYSES.—In establishing the Stewardship Area, the Secretary and the Secretary of the Interior shall—

(1) consult with appropriate officials of the Federal Government, Highlands States, regional entities, and units of local government; and

(2) utilize the study, the update, and relevant State resource analyses.

(c) MAP.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of the Interior shall prepare a map depicting the Stewardship Area.

(2) AVAILABILITY.—The map shall be on file and available for public inspection at the appropriate offices of the Secretary and the Secretary of the Interior.

SEC. 6. OFFICE OF HIGHLANDS STEWARDSHIP.

(a) ESTABLISHMENT.—The Secretary, in consultation with the Under Secretary of Agriculture for Natural Resources and Environment, the Chief of the Natural Resources Conservation Service, the Administrator of the Farm Service Agency, the Chief of the Forest Service, and the Under Secretary for Rural Development, shall establish within the Department of Agriculture the Office of Highlands Stewardship.

(b) DUTIES.—The Office shall implement in the Stewardship Area—

(1) the strategies of the study and update; and

(2) in consultation with the Highlands States, other studies consistent with the purposes of this Act.

(c) HIGHLANDS STEWARDSHIP AREA WORK GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory committee to be known as the ''Highlands Stewardship Area Work Group'' to assist the Office in implementing the strategies of the studies and update referred to in subsection (b).

(2) MEMBERSHIP.—The Work Group shall be comprised of members that represent various public and private interests throughout the Stewardship Area, including private landowners and representatives of private conservation groups, academic institutions, local governments, and economic interests, to be appointed by the Secretary, in consultation with the Governors of the Highlands States.

(3) DUTIES.—The Work Group shall advise the Office, the Secretary, and the Secretary of the Interior on priorities for—

(A) projects carried out with financial or technical assistance under this section;

(B) land conservation partnership projects carried out under section 7;

(C) research relating to the Highlands region; and

(D) policy and educational initiatives necessary to implement the findings of the study and update.

(d) FINANCIAL AND TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Office may provide financial and technical assistance to an eligible entity to carry out a project to protect, restore, preserve, promote, or interpret the natural, agricultural, historical, cultural, recreational, or economic resources of the Stewardship Area.

(2) PRIORITY.—In determining the priority for financial and technical assistance under paragraph (1), the Office shall consider the recommendations of the study and update.

(3) CONDITIONS.—

(A) IN GENERAL.—The provision of financial assistance under this subsection shall be subject to the condition that the eligible entity enter into an agreement with the Office that provides that if the eligible entity converts, uses, or disposes of the project for a purpose inconsistent with the purpose for which the financial assistance was provided, as determined by the Office, the United States shall be entitled to reimbursement from the eligible entity in an amount that is, as determined at the time of conversion, use, or disposal, the greater of—

(i) the total amount of the financial assistance provided for the project by the Federal Government under this section; or

(ii) the amount by which the financial assistance has increased the value of the land on which the project is carried out.

(B) COST-SHARING REQUIREMENT.—The Federal share of the cost of carrying out a project under this subsection shall not exceed 50 percent of the total cost of the project.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $7,000,000 for each of fiscal years 2004 through 2010, to remain available until expended.

SEC. 7. LAND CONSERVATION PARTNERSHIP PROJECTS.

(a) IN GENERAL.—The Secretary of the Interior, in consultation with the Secretary, the Office, and the Governors of the Highlands States, shall annually designate land conservation partnership projects that are eligible to receive financial assistance under this section.

(b) CONDITIONS.—

(1) IN GENERAL.—To be eligible for financial assistance under subsection (a), a non-Federal entity shall enter into an agreement with the Secretary of the Interior that—

(A) identifies—

(i) the non-Federal entity that will own or hold the land or interest in land; and

(ii) the source of funds to provide the non-Federal share under paragraph (2);

(B) provides that if the non-Federal entity converts, uses, or disposes of the project for a purpose inconsistent with the purpose for which the assistance was provided, as determined by the Secretary of the Interior, the United States shall be entitled to reimbursement from the non-Federal entity in an amount that is, as determined at the time of conversion, use, or disposal, the greater of—

(i) the total amount of the financial assistance provided for the project by the Federal Government under this section; or

(ii) the amount by which the financial assistance increased the value of the land or interest in land; and

(C) provides that use of the financial assistance will be consistent with—

(i) the open space plan or other plan of the Highlands State in which the land conservation partnership project is being carried out; and

(ii) the findings and recommendations of the study and update.

(2) COST-SHARING REQUIREMENT.—The Federal share of the cost of carrying out a land conservation partnership project under this subsection shall not exceed 50 percent of the total cost of the land conservation partnership project.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Secretary of the Interior from the Treasury or the Land and Water Conservation Fund to carry out this section $25,000,000 for each of fiscal years 2004 through 2013, to remain available until expended.

(2) USE OF LAND AND WATER CONSERVATION FUND.—Appropriations from the Land and Water Conservation Fund under paragraph (1) shall be considered to be for Federal purposes under section 5 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–7).

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 128—HONORING THE INVENTION OF MODERN AIR CONDITIONING BY DR. WILLIS H. CARRIER ON THE OCCASION OF ITS 100TH ANNIVERSARY

Mr. DOOD (for himself and Mr. LIBERMAN) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 128

Whereas on July 17, 1902, Dr. Willis H. Carrier submitted designs to a printing plant in Brooklyn, New York, for equipment to control temperature, humidity, ventilation, and air quality, marking the birth of modern air conditioning;

Whereas air conditioning has become an integral technology enabling the advancement of society through improvements to the Nation's health and well-being, manufacturing processes, building capacities, research, medical capabilities, food preservation, art and historical conservation, and general productivity and indoor comfort;

Whereas Dr. Carrier debuted air conditioning technology for legislative activity in the House of Representatives Chamber in 1928, and the Senate Chamber in 1929;

Whereas the air conditioning industry now totals $36,000,000,000 on a global basis and employs more than 700,000 people in the United States; and

Whereas the year 2002 marks the 100th anniversary of modern air conditioning: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress honors the invention of modern air conditioning by Dr. Willis H. Carrier on the occasion of its 100th anniversary.

Mr. DODD. Mr. President, I rise today to mark the 100th anniversary of the modern air conditioner, which was invented by Dr. Willis H. Carrier in 1902. I join with my colleague Senator LIEBERMAN to submit a Resolution honoring this achievement.

It was 100 years ago today that a 25 year old engineer named Willis Carrier, while trying to address a printing problem caused by heat and humidity at the Sackett-Williams Lithographing

and Publishing Company of Brooklyn, developed a cooling solution which ended up revolutionalizing the world we live in.

Dr. Carrier had grown up an only child, surrounded by a large extended family on a farm in Angola, NY. He worked three jobs during his college years at Cornell to pay for his room and board, and showed a work ethic and tirelessness that carried over into his career as a mechanical engineer. His first job after graduation was with the Buffalo Forge Company planning heating mechanisms for the drying of coffee and lumber. It was soon after a promotion to head of the Forge Company's department of experimental engineering that he made his breakthrough with the control of heat and humidity for the Sackett-Williams Company that led to modern air conditioning.

Several years later, he and six friends formed their own company in Syracuse, NY, Carrier, that now has current annual revenues of $9 billion and clients in 170 countries. Indeed, not only has this company grown over the past century, but the expanding role and impact of modern air conditioning has been nothing short of tremendous. Air conditioning has afforded us such a dramatic improvement in quality of life that it is difficult now to conceive of its absence. It has increased our economic productivity and output, our comfort and our mood, and in some cases, our general health and welfare. Some have suggested that air conditioning is even responsible for keeping Washington as our Nation's capital, when long, unbearable summer months not only shortened the legislative session, but threatened to send politicians looking for a more climatically hospitable city to conduct their business in. Dr. Carrier brought air-conditioning to the House Chamber in 1928 and the Senate Chamber in 1929.

Indeed, on a 93 degree day such as today, I think we all see the special value of Dr. Carrier's life's work, and I ask my colleagues to join me remembering him today, and giving our thanks for modern air conditioner.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4299. Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) proposed an amendment to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

SA 4300. Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, and Mr. FEINGOLD)) proposed an amendment to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812) supra.

SA 4301. Mr. COCHRAN (for himself, Mr. BREAUX, Mr. ROBERTS, Mr. SANTORUM, Mr. NICKLES, and Mr. HUTCHINSON) proposed an amendment to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812) supra.

SA 4302. Mr. THOMAS (for himself and Mr. ROBERTS) submitted an amendment intended to be proposed to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812) supra; which was ordered to lie on the table.

SA 4303. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 812, supra; which was ordered to lie on the table.

SA 4304. Mr. SMITH, of New Hampshire (for himself, Mr. ALLARD, Mr. GRASSLEY, Mr. HATCH, Mr. BURNS, Mr. CRAIG, Mr. CRAPO, and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the bill S. 812, supra; which was ordered to lie on the table.

SA 4305. Mr. REID (for Ms. STABENOW) proposed an amendment to the bill S. 812, supra.

SA 4306. Mrs. FEINSTEIN (for herself and Mrs. HUTCHISON) proposed an amendment to the bill H.R. 5011, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes.

TEXT OF AMENDMENTS

SA 4299. Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) proposed an amendment to the bill S. 812), to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; and follows:

S. 812

At the end, add the following:

TITLE ____—IMPORTATION OF PRESCRIPTION DRUGS

SEC. ____01. IMPORTATION OF PRESCRIPTION DRUGS.

(a) IN GENERAL.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.) is amended by striking section 804 and inserting the following:

"SEC. 804. IMPORTATION OF PRESCRIPTION DRUGS.

"(a) DEFINITIONS.—In this section:

"(1) IMPORTER.—The term 'importer' means a pharmacist or wholesaler.

"(2) PHARMACIST.—The term 'pharmacist' means a person licensed by a State to practice pharmacy, including the dispensing and selling of prescription drugs.

"(3) PRESCRIPTION DRUG.—The term 'prescription drug' means a drug subject to section 503(b), other than—

"(A) a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(B) a biological product (as defined in section 351 of the Public Health Service Act (42 U.S.C. 262));

"(C) an infused drug (including a peritoneal dialysis solution);

"(D) an intravenously injected drug; or

"(E) a drug that is inhaled during surgery.

"(4) QUALIFYING LABORATORY.—The term 'qualifying laboratory' means a laboratory in the United States that has been approved by the Secretary for the purposes of this section.

"(5) WHOLESALER.—

"(A) IN GENERAL.—The term 'wholesaler' means a person licensed as a wholesaler or distributor of prescription drugs in the United States under section 503(e)(2)(A).

"(B) EXCLUSION.—The term 'wholesaler' does not include a person authorized to import drugs under section 801(d)(1).

"(b) REGULATIONS.—The Secretary, after consultation with the United States Trade Representative and the Commissioner of Customs, shall promulgate regulations permitting pharmacists and wholesalers to import prescription drugs from Canada into the United States.

"(c) LIMITATION.—The regulations under subsection (b) shall—

"(1) require that safeguards be in place to ensure that each prescription drug imported under the regulations complies with section 505 (including with respect to being safe and effective for the intended use of the prescription drug), with sections 501 and 502, and with other applicable requirements of this Act;

"(2) require that an importer of a prescription drug under the regulations comply with subsections (d)(1) and (e); and

"(3) contain any additional provisions determined by the Secretary to be appropriate as a safeguard to protect the public health or as a means to facilitate the importation of prescription drugs.

"(d) INFORMATION AND RECORDS.—

"(1) IN GENERAL.—The regulations under subsection (b) shall require an importer of a prescription drug under subsection (b) to submit to the Secretary the following information and documentation:

"(A) The name and quantity of the active ingredient of the prescription drug.

"(B) A description of the dosage form of the prescription drug.

"(C) The date on which the prescription drug is shipped.

"(D) The quantity of the prescription drug that is shipped.

"(E) The point of origin and destination of the prescription drug.

"(F) The price paid by the importer for the prescription drug.

"(G) Documentation from the foreign seller specifying—

"(i) the original source of the prescription drug; and

"(ii) the quantity of each lot of the prescription drug originally received by the seller from that source.

"(H) The lot or control number assigned to the prescription drug by the manufacturer of the prescription drug.

"(I) The name, address, telephone number, and professional license number (if any) of the importer.

"(J)(i) In the case of a prescription drug that is shipped directly from the first foreign recipient of the prescription drug from the manufacturer:

"(I) Documentation demonstrating that the prescription drug was received by the recipient from the manufacturer and subsequently shipped by the first foreign recipient to the importer.

"(II) Documentation of the quantity of each lot of the prescription drug received by the first foreign recipient demonstrating that the quantity being imported into the United States is not more than the quantity that was received by the first foreign recipient.

"(III)(aa) In the case of an initial imported shipment, documentation demonstrating that each batch of the prescription drug in the shipment was statistically sampled and tested for authenticity and degradation.

''(bb) In the case of any subsequent shipment, documentation demonstrating that a statistically valid sample of the shipment was tested for authenticity and degradation.

''(ii) In the case of a prescription drug that is not shipped directly from the first foreign recipient of the prescription drug from the manufacturer, documentation demonstrating that each batch in each shipment offered for importation into the United States was statistically sampled and tested for authenticity and degradation.

''(K) Certification from the importer or manufacturer of the prescription drug that the prescription drug—

''(i) is approved for marketing in the United States; and

''(ii) meets all labeling requirements under this Act.

''(L) Laboratory records, including complete data derived from all tests necessary to ensure that the prescription drug is in compliance with established specifications and standards.

''(M) Documentation demonstrating that the testing required by subparagraphs (J) and (L) was conducted at a qualifying laboratory.

''(N) Any other information that the Secretary determines is necessary to ensure the protection of the public health.

''(2) MAINTENANCE BY THE SECRETARY.—The Secretary shall maintain information and documentation submitted under paragraph (1) for such period of time as the Secretary determines to be necessary.

''(e) TESTING.—The regulations under subsection (b) shall require—

''(1) that testing described in subparagraphs (J) and (L) of subsection (d)(1) be conducted by the importer or by the manufacturer of the prescription drug at a qualified laboratory;

''(2) if the tests are conducted by the importer—

''(A) that information needed to—

''(i) authenticate the prescription drug being tested; and

''(ii) confirm that the labeling of the prescription drug complies with labeling requirements under this Act;

be supplied by the manufacturer of the prescription drug to the pharmacist or wholesaler; and

''(B) that the information supplied under subparagraph (A) be kept in strict confidence and used only for purposes of testing or otherwise complying with this Act; and

''(3) may include such additional provisions as the Secretary determines to be appropriate to provide for the protection of trade secrets and commercial or financial information that is privileged or confidential.

''(f) REGISTRATION OF FOREIGN SELLERS.—Any establishment within Canada engaged in the distribution of a prescription drug that is imported or offered for importation into the United States shall register with the Secretary the name and place of business of the establishment.

''(g) APPROVED LABELING.—The manufacturer of a prescription drug shall provide an importer written authorization for the importer to use, at no cost, the approved labeling for the prescription drug.

''(h) PROHIBITION OF DISCRIMINATION.—

''(1) IN GENERAL.—It shall be unlawful for a manufacturer of a prescription drug to discriminate against, or cause any other person to discriminate against, a pharmacist or wholesaler that purchases or offers to purchase a prescription drug from the manufacturer or from any person that distributes a prescription drug manufactured by the drug manufacturer.

''(2) DISCRIMINATION.—For the purposes of paragraph (1), a manufacturer of a prescription drug shall be considered to discriminate against a pharmacist or wholesaler if the manufacturer enters into a contract for sale of a prescription drug, places a limit on supply, or employs any other measure, that has the effect of—

''(A) providing pharmacists or wholesalers access to prescription drugs on terms or conditions that are less favorable than the terms or conditions provided to a foreign purchaser (other than a charitable or humanitarian organization) of the prescription drug; or

''(B) restricting the access of pharmacists or wholesalers to a prescription drug that is permitted to be imported into the United States under this section.

''(i) CHARITABLE CONTRIBUTIONS.—Notwithstanding any other provision of this section, section 801(d)(1) continues to apply to a prescription drug that is donated or otherwise supplied at no charge by the manufacturer of the drug to a charitable or humanitarian organization (including the United Nations and affiliates) or to a government of a foreign country.

''(j) WAIVER AUTHORITY FOR IMPORTATION BY INDIVIDUALS.—

''(1) DECLARATIONS.—Congress declares that in the enforcement against individuals of the prohibition of importation of prescription drugs and devices, the Secretary should—

''(A) focus enforcement on cases in which the importation by an individual poses a significant threat to public health; and

''(B) exercise discretion to permit individuals to make such importations in circumstances in which—

''(i) the importation is clearly for personal use; and

''(ii) the prescription drug or device imported does not appear to present an unreasonable risk to the individual.

''(2) WAIVER AUTHORITY.—

''(A) IN GENERAL.—The Secretary may grant to individuals, by regulation or on a case-by-case basis, a waiver of the prohibition of importation of a prescription drug or device or class of prescription drugs or devices, under such conditions as the Secretary determines to be appropriate.

''(B) GUIDANCE ON CASE-BY-CASE WAIVERS.—The Secretary shall publish, and update as necessary, guidance that accurately describes circumstances in which the Secretary will consistently grant waivers on a case-by-case basis under subparagraph (A), so that individuals may know with the greatest practicable degree of certainty whether a particular importation for personal use will be permitted.

''(3) DRUGS IMPORTED FROM CANADA.—In particular, the Secretary shall by regulation grant individuals a waiver to permit individuals to import into the United States a prescription drug that—

''(A) is imported from a licensed pharmacy for personal use by an individual, not for resale, in quantities that do not exceed a 90-day supply;

''(B) is accompanied by a copy of a valid prescription;

''(C) is imported from Canada, from a seller registered with the Secretary;

''(D) is a prescription drug approved by the Secretary under chapter V;

''(E) is in the form of a final finished dosage that was manufactured in an establishment registered under section 510; and

''(F) is imported under such other conditions as the Secretary determines to be necessary to ensure public safety.

''(k) STUDIES; REPORTS.—

''(1) BY THE INSTITUTE OF MEDICINE OF THE NATIONAL ACADEMY OF SCIENCES.—

''(A) STUDY.—

''(i) IN GENERAL.—The Secretary shall request that the Institute of Medicine of the National Academy of Sciences conduct a study of—

''(I) importations of prescription drugs made under the regulations under subsection (b); and

''(II) information and documentation submitted under subsection (d).

''(ii) REQUIREMENTS.—In conducting the study, the Institute of Medicine shall—

''(I) evaluate the compliance of importers with the regulations under subsection (b);

''(II) compare the number of shipments under the regulations under subsection (b) during the study period that are determined to be counterfeit, misbranded, or adulterated, and compare that number with the number of shipments made during the study period within the United States that are determined to be counterfeit, misbranded, or adulterated; and

''(III) consult with the Secretary, the United States Trade Representative, and the Commissioner of Patents and Trademarks to evaluate the effect of importations under the regulations under subsection (b) on trade and patent rights under Federal law.

''(B) REPORT.—Not later than 2 years after the effective date of the regulations under subsection (b), the Institute of Medicine shall submit to Congress a report describing the findings of the study under subparagraph (A).

''(2) BY THE COMPTROLLER GENERAL.—

''(A) STUDY.—The Comptroller General of the United States shall conduct a study to determine the effect of this section on the price of prescription drugs sold to consumers at retail.

''(B) REPORT.—Not later than 18 months after the effective date of the regulations under subsection (b), the Comptroller General of the United States shall submit to Congress a report describing the findings of the study under subparagraph (A).

''(l) CONSTRUCTION.—Nothing in this section limits the authority of the Secretary relating to the importation of prescription drugs, other than with respect to section 801(d)(1) as provided in this section.

''(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

(b) CONFORMING AMENDMENTS.—The Federal Food, Drug, and Cosmetic Act is amended—

(1) in section 301(aa) (21 U.S.C. 331(aa)), by striking ''covered product in violation of section 804'' and inserting ''prescription drug in violation of section 804''; and

(2) in section 303(a)(6) (21 U.S.C. 333(a)(6), by striking ''covered product pursuant to section 804(a)'' and inserting ''prescription drug under section 804(b)''.

SA 4300. Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, and Mr. FEINGOLD)) proposed an amendment to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; as follows:

In the amendment strike all after the first word and insert the following:

____—IMPORTATION OF PRESCRIPTION DRUGS

SEC. ____01. IMPORTATION OF PRESCRIPTION DRUGS.

(a) IN GENERAL.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.) is amended by striking section 804 and inserting the following:

"SEC. 804. IMPORTATION OF PRESCRIPTION DRUGS.

''(a) DEFINITIONS.—In this section:

''(1) IMPORTER.—The term 'importer' means a pharmacist or wholesaler.

''(2) PHARMACIST.—The term 'pharmacist' means a person licensed by a State to practice pharmacy, including the dispensing and selling of prescription drugs.

''(3) PRESCRIPTION DRUG.—The term 'prescription drug' means a drug subject to section 503(b), other than—

''(A) a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

''(B) a biological product (as defined in section 351 of the Public Health Service Act (42 U.S.C. 262));

''(C) an infused drug (including a peritoneal dialysis solution);

''(D) an intravenously injected drug; or

''(E) a drug that is inhaled during surgery.

''(4) QUALIFYING LABORATORY.—The term 'qualifying laboratory' means a laboratory in the United States that has been approved by the Secretary for the purposes of this section.

''(5) WHOLESALER.—

''(A) IN GENERAL.—The term 'wholesaler' means a person licensed as a wholesaler or distributor of prescription drugs in the United States under section 503(e)(2)(A).

''(B) EXCLUSION.—The term 'wholesaler' does not include a person authorized to import drugs under section 801(d)(1).

''(b) REGULATIONS.—The Secretary, after consultation with the United States Trade Representative and the Commissioner of Customs, shall promulgate regulations permitting pharmacists and wholesalers to import prescription drugs from Canada into the United States.

''(c) LIMITATION.—The regulations under subsection (b) shall—

''(1) require that safeguards be in place to ensure that each prescription drug imported under the regulations complies with section 505 (including with respect to being safe and effective for the intended use of the prescription drug), with sections 501 and 502, and with other applicable requirements of this Act;

''(2) require that an importer of a prescription drug under the regulations comply with subsections (d)(1) and (e); and

''(3) contain any additional provisions determined by the Secretary to be appropriate as a safeguard to protect the public health or as a means to facilitate the importation of prescription drugs.

''(d) INFORMATION AND RECORDS.—

''(1) IN GENERAL.—The regulations under subsection (b) shall require an importer of a prescription drug under subsection (b) to submit to the Secretary the following information and documentation:

''(A) The name and quantity of the active ingredient of the prescription drug.

''(B) A description of the dosage form of the prescription drug.

''(C) The date on which the prescription drug is shipped.

''(D) The quantity of the prescription drug that is shipped.

''(E) The point of origin and destination of the prescription drug.

''(F) The price paid by the importer for the prescription drug.

''(G) Documentation from the foreign seller specifying—

''(i) the original source of the prescription drug; and

''(ii) the quantity of each lot of the prescription drug originally received by the seller from that source.

''(H) The lot or control number assigned to the prescription drug by the manufacturer of the prescription drug.

''(I) The name, address, telephone number, and professional license number (if any) of the importer.

''(J)(i) In the case of a prescription drug that is shipped directly from the first foreign recipient of the prescription drug from the manufacturer:

''(I) Documentation demonstrating that the prescription drug was received by the recipient from the manufacturer and subsequently shipped by the first foreign recipient to the importer.

''(II) Documentation of the quantity of each lot of the prescription drug received by the first foreign recipient demonstrating that the quantity being imported into the United States is not more than the quantity that was received by the first foreign recipient.

''(III)(aa) In the case of an initial imported shipment, documentation demonstrating that each batch of the prescription drug in the shipment was statistically sampled and tested for authenticity and degradation.

''(bb) In the case of any subsequent shipment, documentation demonstrating that a statistically valid sample of the shipment was tested for authenticity and degradation.

''(ii) In the case of a prescription drug that is not shipped directly from the first foreign recipient of the prescription drug from the manufacturer, documentation demonstrating that each batch in each shipment offered for importation into the United States was statistically sampled and tested for authenticity and degradation.

''(K) Certification from the importer or manufacturer of the prescription drug that the prescription drug—

''(i) is approved for marketing in the United States; and

''(ii) meets all labeling requirements under this Act.

''(L) Laboratory records, including complete data derived from all tests necessary to ensure that the prescription drug is in compliance with established specifications and standards.

''(M) Documentation demonstrating that the testing required by subparagraphs (J) and (L) was conducted at a qualifying laboratory.

''(N) Any other information that the Secretary determines is necessary to ensure the protection of the public health.

''(2) MAINTENANCE BY THE SECRETARY.—The Secretary shall maintain information and documentation submitted under paragraph (1) for such period of time as the Secretary determines to be necessary.

''(e) TESTING.—The regulations under subsection (b) shall require—

''(1) that testing described in subparagraphs (J) and (L) of subsection (d)(1) be conducted by the importer or by the manufacturer of the prescription drug at a qualified laboratory;

''(2) if the tests are conducted by the importer—

''(A) that information needed to—

''(i) authenticate the prescription drug being tested; and

''(ii) confirm that the labeling of the prescription drug complies with labeling requirements under this Act;

be supplied by the manufacturer of the prescription drug to the pharmacist or wholesaler; and

''(B) that the information supplied under subparagraph (A) be kept in strict confidence and used only for purposes of testing or otherwise complying with this Act; and

''(3) may include such additional provisions as the Secretary determines to be appropriate to provide for the protection of trade secrets and commercial or financial information that is privileged or confidential.

''(f) REGISTRATION OF FOREIGN SELLERS.—Any establishment within Canada engaged in the distribution of a prescription drug that is imported or offered for importation into the United States shall register with the Secretary the name and place of business of the establishment.

''(g) SUSPENSION OF IMPORTATION.—The Secretary shall require that importations of a specific prescription drug or importations by a specific importer under subsection (b) be immediately suspended on discovery of a pattern of importation of the prescription drugs or by the importer that is counterfeit or in violation of any requirement under this section or poses an additional risk to the public health, until an investigation is completed and the Secretary determines that the public is adequately protected from counterfeit and violative prescription drugs being imported under subsection (b).

''(h) APPROVED LABELING.—The manufacturer of a prescription drug shall provide an importer written authorization for the importer to use, at no cost, the approved labeling for the prescription drug.

''(i) PROHIBITION OF DISCRIMINATION.—

''(1) IN GENERAL.—It shall be unlawful for a manufacturer of a prescription drug to discriminate against, or cause any other person to discriminate against, a pharmacist or wholesaler that purchases or offers to purchase a prescription drug from the manufacturer or from any person that distributes a prescription drug manufactured by the drug manufacturer.

''(2) DISCRIMINATION.—For the purposes of paragraph (1), a manufacturer of a prescription drug shall be considered to discriminate against a pharmacist or wholesaler if the manufacturer enters into a contract for sale of a prescription drug, places a limit on supply, or employs any other measure, that has the effect of—

''(A) providing pharmacists or wholesalers access to prescription drugs on terms or conditions that are less favorable than the terms or conditions provided to a foreign purchaser (other than a charitable or humanitarian organization) of the prescription drug; or

''(B) restricting the access of pharmacists or wholesalers to a prescription drug that is permitted to be imported into the United States under this section.

''(j) CHARITABLE CONTRIBUTIONS.—Notwithstanding any other provision of this section, section 801(d)(1) continues to apply to a prescription drug that is donated or otherwise supplied at no charge by the manufacturer of the drug to a charitable or humanitarian organization (including the United Nations and affiliates) or to a government of a foreign country.

''(k) WAIVER AUTHORITY FOR IMPORTATION BY INDIVIDUALS.—

''(1) DECLARATIONS.—Congress declares that in the enforcement against individuals of the prohibition of importation of prescription drugs and devices, the Secretary should—

''(A) focus enforcement on cases in which the importation by an individual poses a significant threat to public health; and

''(B) exercise discretion to permit individuals to make such importations in circumstances in which—

''(i) the importation is clearly for personal use; and

''(ii) the prescription drug or device imported does not appear to present an unreasonable risk to the individual.

''(2) WAIVER AUTHORITY.—

''(A) IN GENERAL.—The Secretary may grant to individuals, by regulation or on a case-by-case basis, a waiver of the prohibition of importation of a prescription drug or device or class of prescription drugs or devices, under such conditions as the Secretary determines to be appropriate.

''(B) GUIDANCE ON CASE-BY-CASE WAIVERS.—The Secretary shall publish, and update as necessary, guidance that accurately describes circumstances in which the Secretary will consistently grant waivers on a case-by-case basis under subparagraph (A), so that individuals may know with the greatest practicable degree of certainty whether a particular importation for personal use will be permitted.

''(3) DRUGS IMPORTED FROM CANADA.—In particular, the Secretary shall by regulation grant individuals a waiver to permit individuals to import into the United States a prescription drug that—

''(A) is imported from a licensed pharmacy for personal use by an individual, not for resale, in quantities that do not exceed a 90-day supply;

''(B) is accompanied by a copy of a valid prescription;

''(C) is imported from Canada, from a seller registered with the Secretary;

''(D) is a prescription drug approved by the Secretary under chapter V;

''(E) is in the form of a final finished dosage that was manufactured in an establishment registered under section 510; and

''(F) is imported under such other conditions as the Secretary determines to be necessary to ensure public safety.

''(l) STUDIES; REPORTS.—

''(1) BY THE INSTITUTE OF MEDICINE OF THE NATIONAL ACADEMY OF SCIENCES.—

''(A) STUDY.—

''(i) IN GENERAL.—The Secretary shall request that the Institute of Medicine of the National Academy of Sciences conduct a study of—

''(I) importations of prescription drugs made under the regulations under subsection (b); and

''(II) information and documentation submitted under subsection (d).

''(ii) REQUIREMENTS.—In conducting the study, the Institute of Medicine shall—

''(I) evaluate the compliance of importers with the regulations under subsection (b);

''(II) compare the number of shipments under the regulations under subsection (b) during the study period that are determined to be counterfeit, misbranded, or adulterated, and compare that number with the number of shipments made during the study period within the United States that are determined to be counterfeit, misbranded, or adulterated; and

''(III) consult with the Secretary, the United States Trade Representative, and the Commissioner of Patents and Trademarks to evaluate the effect of importations under the regulations under subsection (b) on trade and patent rights under Federal law.

''(B) REPORT.—Not later than 2 years after the effective date of the regulations under subsection (b), the Institute of Medicine shall submit to Congress a report describing the findings of the study under subparagraph (A).

''(2) BY THE COMPTROLLER GENERAL.—

''(A) STUDY.—The Comptroller General of the United States shall conduct a study to determine the effect of this section on the price of prescription drugs sold to consumers at retail.

''(B) REPORT.—Not later than 18 months after the effective date of the regulations under subsection (b), the Comptroller General of the United States shall submit to Congress a report describing the findings of the study under subparagraph (A).

''(m) CONSTRUCTION.—Nothing in this section limits the authority of the Secretary relating to the importation of prescription drugs, other than with respect to section 801(d)(1) as provided in this section.

''(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

(b) CONFORMING AMENDMENTS.—The Federal Food, Drug, and Cosmetic Act is amended—

(1) in section 301(aa) (21 U.S.C. 331(aa)), by striking ''covered product in violation of section 804'' and inserting ''prescription drug in violation of section 804''; and

(2) in section 303(a)(6) (21 U.S.C. 333(a)(6), by striking ''covered product pursuant to section 804(a)'' and inserting ''prescription drug under section 804(b)''.

SA 4301. Mr. COCHRAN (for himself, Mr. BREAUX, Mr. ROBERTS, Mr. SANTORUM, Mr. NICKLES, and Mr. HUTCHINSON) proposed an amendment to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; as follows:

On page 15, line 17, strike ''section.''.'' and insert ''section.'' and insert the following new subsection:

''(e) CONDITIONS.—This section shall become effective only if the Secretary of Health and Human Services certifies to the Congress that the implementation of this section will—

''(A) pose no additional risk to the public's health and safety, and

''(B) result in a significant reduction in the cost of covered products to the American consumer.''.''

SA 4302. Mr. THOMAS (for himself and Mr. ROBERTS) submitted an amendment intended to be proposed to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812), to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table, as follows:

Strike subsection (h) of section 804 of the Federal Food, Drug, and Cosmetic Act (as added by the amendment) and insert the following:

''(h) LABELING.—

''(1) APPROVED LABELING.—The manufacturer of a prescription drug shall provide an importer written authorization for the importer to use, at no cost, the approved labeling for the prescription drug.

''(2) DISCLAIMER.—The importer of any prescription drug under this section shall provide a labeling statement prominently displayed and in bold face type as follows:

''THIS DRUG HAS BEEN IMPORTED FROM CANADA.

SA 4303. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals, which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ____. ELIGIBILITY OF CHILDREN ENROLLED IN THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM FOR THE PEDIATRIC VACCINE DISTRIBUTION PROGRAM.

(a) IN GENERAL.—Section 1928(b)(2)(B)(ii)(I) of the Social Security Act (42 U.S.C. 1396s(b)(2)(B)(ii)(I)) is amended by inserting ''(other than a State child health plan under title XXI)'' after ''policy or plan''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to vaccines administered on or after the date of the enactment of this Act.

SA 4304. Mr. SMITH of New Hampshire (for himself, Mr. ALLARD, Mr. GRASSLEY, Mr. HATCH, Mr. BURNS, Mr. CRAIG, Mr. CRAPO, and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals, which was ordered to lie on the table; as follows:

(The amendment will be printed in the RECORD of Thursday, July 18, 2002.)

SA 4305. Mr. REID (for Ms. STABENOW) proposed an amendment to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; as follows:

At the end, add the following:

SEC. ____. CLARIFICATION OF STATE AUTHORITY RELATING TO MEDICAID DRUG REBATE AGREEMENTS.

Section 1927 of the Social Security Act (42 U.S.C. 1396r–8) is amended by adding at the end the following:

''(1) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State from—

''(1) directly entering into rebate agreements that are similar to a rebate agreement described in subsection (b) with a manufacturer for purposes of ensuring the affordability of outpatient prescription drugs in order to provide access to such drugs by residents of a State who are not otherwise eligible for medical assistance under this title; or

''(2) making prior authorization (that satisfies the requirements of subsection (d) and that does not violate any requirements of this title that are designed to ensure access to medically necessary prescribed drugs for individuals enrolled in the State program under this title) a condition of not participating in such a similar rebate agreement.''.

SA 4306. Mrs. FEINSTEIN (for herself and Mrs. HUTCHISON) proposed an amendment to the bill H.R. 5011, making appropriations for Military Construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes; as follows:

Viz: At the appropriate place, insert the following:

SEC. Of the amount appropriated in this Act under the heading ''Military Construction, Army'', $8,000,000 may be provided for a parking garage at Walter Reed Army Medical Center, District of Columbia.

SEC. Of the amount appropriated in this Act under the heading ''Military Construction, Army'', $3,000,000 may be provided for

an Anechoic Chamber at White Sands Missile Range, New Mexico.

SEC. Of the amount appropriated in this Act under the heading ''Military Construction, Air Force'', $7,500,000 may be provided for a control tower at Dover Air Force Base, Delaware.

SEC. Of the amount appropriated in this Act under the heading ''Military Construction, Army National Guard'', $9,000,000 may be provided for a Joint Readiness Center at Eugene, Oregon.

SEC. Of the amount appropriated in this Act under the heading ''Military Construction, Air National Guard'', $8,400,000 may be provided for a composite Maintenance Complex, Phase II in Nashville, Tennessee.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a full Committee hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, July 24, at 3:00 pm in SD–366.

The purpose of the hearing is to conduct oversight to examine issues related to the need for and barriers to development of electricity infrastructure. The hearing will focus on the Department of Energy's National Transmission Grid Study, and on information developed in a series of technical conferences held by the Federal Energy Regulatory Commission starting in November of 2001.

Those wishing to submit written statements on this subject should address them to the Committee on Energy and Natural Resources, Attn: Leon Lowery, United States Senate, Washington, D.C. 20510.

For further information, please call Leon Lower at 202/224–2209 or Jonathan Black at 202/224–6722.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to conduct a hearing during the session of the Senate on Wednesday, July 17, 2002. The purpose of this hearing will be to discuss homeland security at 2:00 pm.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, July 17, 2002, at 9:30 am on the FTC Reauthorization.

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 Wednesday, July 17, 2002 at 10:00 a.m., to hear testimony on Schemes, Scams and Cons, Part IV: Fuel Tax Fraud.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 17, 2002 at 10:30 a.m. to hold a hearing on the Moscow Treaty.

AGENDA

WITNESSES

The Honorable Donald L. Rumsfeld, Secretary of Defense, Washington, DC; General Richard B. Myers, Chairman, Joint Chiefs of Staff, Washington, DC.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, July 17, 2002 at 2:00 pm to hold a hearing to consider the nomination of Mark W. Everson to be Deputy Director for Management, Office of Management and Budget.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate after the first vote of the day on Wednesday, July 17, 2002, in S–216 of the Capitol.

AGENDA

Richard H. Carmona, of Arizona, to be U.S. Surgeon General of the Public Health Service.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, July 17, 2002, at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct an Oversight Hearing on the Protection of Native American Sacred Places.

THE PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, July 17, 2002, at 2:30 p.m. to conduct an oversight hearing on ''Transit: A Lifeline For America's Citizens.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSTITUTION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on the Constitution be authorized to meet to conduct a hearing on ''S.J. Res. 35, Proposing A Victim's Rights Amendment to the United States Constitution,'' on Wednesday, July 17, 2002, at 10:00 a.m. in SD226.

TENTATIVE WITNESS LIST

PANEL I

The Honorable John Gillis, Director, Office for Victims of Crime, U.S. Department of Justice, Washington, DC.

PANEL II

Arwen Bird, Survivors Advocating for an Effective System, Portland, OR.

Julie Goldscheid, Esq., General Counsel, Safe Horizon, New York, NY.

James Orenstein, Esq., Baker & Hostetler LLP, New York, NY.

Roger Pilon, Director, Center for Constitutional Studies, CATO Institute, Washington, DC.

Roberta Roper, Director, Stephanie Roper Committee and Foundation, Upper Marlboro, MD.

Steven J. Twist, Esq., General Counsel, National Victims Constitutional Amendment Network, Scottsdale, AZ.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. GREGG. Mr. President, I ask unanimous consent that Madhavi Patt, with Senator HATCH, be granted the privileges of the floor during consideration of S. 812.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that Lynn Borkon of my staff be granted the privilege of the floor during my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF RICHARD R. CLIFTON, OF HAWAII, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

Mr. REID. Mr. President, I move to proceed to executive session to consider Calendar No. 825, Richard Clifton, to be United States Circuit Judge for the Ninth Circuit.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

CLOTURE MOTION

Mr. REID. Mr. President, we have no objection to the confirmation on this side of the aisle. We have, however, been advised there is an objection on the Republican side. As a result of that, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the

Standing Rules of the Senate, do hereby move to bring to a close the debate on Executive Calendar No. 825, the nomination of Richard Clifton to be U.S. Circuit Court Judge for the Ninth Circuit.

Jeff Bingaman, Patrick Leahy, Daniel Inouye, Harry Reid, Tom Daschle, Dianne Feinstein, Orrin Hatch, Chuck Grassley, Michael B. Enzi, Craig Thomas, Christopher Bond, Jeff Sessions, Jon Kyl, Rick Santorum, Pat Roberts, and Trent Lott.

Mr. REID. Mr. President, I ask unanimous consent that the live quorum under rule XXII be waived; that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ORDERS FOR THURSDAY, JULY 18, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Thursday, July 18; that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until 10:30 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Republican leader or his designee; that at 10:30 a.m. the Senate resume consideration of the military construction appropriations bill, under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, as a result of the order previously entered, a rollcall vote will occur on passage of the military construction appropriations bill at approximately 10:45 a.m. Senator McCAIN and the two managers of the bill, Senator HUTCHISON of Texas and Senator FEINSTEIN of California, will each have 5 minutes.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:02 p.m., adjourned until Thursday, July 18, 2002, at 9:30 a.m.

EXTENSIONS OF REMARKS

CELEBRATING 50TH ANNIVERSARY OF CONSTITUTION OF COMMONWEALTH OF PUERTO RICO

SPEECH OF

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. DEUTSCH. Mr. Speaker, I join my colleagues from New York, Rhode Island, and throughout the country in opposing this resolution because I, too, find no reason to celebrate the anniversary of the Constitution of Puerto Rico. This constitution prolonged the colonial status of Puerto Rico when approved in 1952, and the people of Puerto Rico continue to be dependent on the absolute powers of the United States Congress under the territorial clause of the United State Constitution.

As a result, the citizens of Puerto Rico lack full representation in the same United States Congress that retains absolute powers over their future and their children's future. Under the commonwealth status celebrated by this resolution, Puerto Rican citizens remain disenfranchised, as they cannot vote for the President or a voting Representative to the Federal Government.

I rise today to express my continued support for Puerto Rico's statehood and oppose this resolution that celebrates the status quo of the commonwealth and colonial status. I stand by my colleagues who believe that the only suitable change in the relationship between Puerto Rico and the United States is an agreement that either brings Puerto Rico into statehood or independence.

CORPORATE FRAUD ACCOUNTABILITY ACT

SPEECH OF

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 2002

Mr. GILMAN. Mr. Speaker, I rise today in support of H.R. 5118, the Corporate Fraud Accountability Act. I urge my colleagues to give it their support.

This bill is a necessary step to control a situation that is erupting throughout our economy. Corporate America can no longer take liberties to deliberately and purposefully deceive the American public. This legislation will create, redefine and strengthen those laws and penalties to force corporate America to stand up and be held accountable.

The recent wave of corporate scandals has shattered the companies involved, cost thousands of dedicated employees their jobs and shaken the faith of investors and the American public in the American model of capitalism. Unless this trust is restored, we run the real risk of further corporate scandal, continued meltdowns in the financial markets, and ongoing hardship for the individual investor who sees 401K and other retirement savings disappear.

While there is little that Congress can do to prevent future problems that have yet to be uncovered from the creative accounting practices of the recent past, it can act to head off any future shenanigans from those CEOs and corporations that might be tempted to pad the bottom line in order to inflate a stock price. This legislation seeks to accomplish this objective along with the greater goal of restoring faith in the American free market system.

First, this bill will undoubtedly strengthen existing laws that will criminalize obstruction of justice such as document shredding, and provide prosecutors with the necessary tools to prosecute such actions, and create a new ''Securities Fraud'' section. It will also increase penalties for mail and wire fraud. The U.S. sentencing commission will then have the authority to change guidelines to reflect the grave nature of pension, securities and accounting fraud crimes.

Moreover, this measure will require top corporate executives to take responsibility and be held accountable for their actions and those of their company. It requires that these company officers certify financial statements that accurately represent the financial situation of the company. Should they fail to do so, they can then be held liable and subject to fines up to $5 million and twenty years in prison. The bill also increases the criminal penalties for filing false statements with the SEC, and increases the fines for the corporation if a false financial statement is uncovered. Furthermore, the legislation also affects the personal incomes of the top executives. If their financial statements result in an investigation by the SEC any unusual or large payments to the executives will then be frozen.

In summary, H.R. 5118 is a necessary and positive step in reassuring the American public that corporate America is being honest and accurate in their financial disclosures. It is imperative that we send a strong message to these companies that may be falsifying records or altering their accounts that they will be held accountable for these actions, and face stiff fines and prison time for breaking such serious laws.

Accordingly, I urge my colleagues to support H.R. 5118, the Corporate Accountability Act of 2002, which sends a clear message to the American public that executives and top employees of corporations will be held responsible for their actions, or face severe penalties, fines and prison time.

TRIBUTE TO WILLIAM AND VERNA BROWN OF BRONSON, FLORIDA AND THE CHILDREN'S TABLE

HON. KAREN L. THURMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

Mrs. THURMAN. Mr. Speaker, I am here today to pay tribute to William and Verna Brown of Bronson, Florida. Through their organization, The Children's Table, the Browns provide food for needy families in North Central Florida. Since November of last year, the organization has distributed 7,346,000 pounds of food and, incredibly, this is done on a budget of less than $20,000! These wonderful people provide fresh produce, along with other foods, to families who would otherwise not be able to eat.

The Browns incorporated their hobby of farming into what they truly love to do—help people. It all began in 1996 when the Browns fed a single mother and her three young children. Not long after that, The Children's Table was born. The Browns would trade plants grown on their 40 acre property to local grocery stores for nonperishable food items that they would then deliver to the needy. Today, the Browns have expanded this wonderful organization to touch the lives of rural, small town and some large city families in 51 Florida counties, an area that runs from Orlando to the Georgia border and from Jacksonville to Pensacola. On a more personal note, they distribute thousands of pounds of food to a small rural community called Dunnellon, my hometown. The Browns love does not stop here, however, as they are collecting food to send to the children of Afghanistan.

The Browns have proven that neighbors can help neighbors in very caring and effective ways. They've shown that the true spirit of a community comes to light in bad times as well as in good and they've extended their hands to others to join their effort. With the assistance of an army of volunteers, donors, various community and church groups, The Children's Table has grown into an increasingly successful operation. Their goal for each day is to feed one more family and to continue doing so one family at a time. These families are in need of temporary emergency assistance. Many of them are struggling to get by following a job loss, serious illness or a death in the family. They do all of this to teach communities that they can and must do more to take care of their needy. The Browns believe that no child or adult should be deprived of the nutrition necessary to lead a healthy, happy, and productive life.

Recently the Browns were honored with the Gainesville Sun's 39th annual Community Service Award. Upon winning, Mr. Brown said, ''We didn't win it,'' as he gave credit to the 20,000 volunteers who are active in the organization. After all, it is the volunteers who have brought the Brown's dream to life. The dream of helping as many people as possible. As selfless as ever, Mr. Brown also gave the reason for The Children's Table when he said, ''People need us.''

I am so proud of William and Verna Brown, The Children's Table, and all the volunteers that work so hard for such a wonderful cause. I would also like to submit for the RECORD an article from the Gainesville Sun that helps explain the goodwill of the Browns:

COUPLE PLEDGE TO FEED HUNGRY

GAINESVILLE SUN STAFF REPORT

When it comes to serving others, there's nothing more essential than feeding the hungry.

And that's just what Bill and Verna Brown have devoted their lives to doing for the past six years.

The Browns, co-founders of The Children's Table, an organization that provides food and assistance to the rural needy in 44 Florida counties, have been nominated for The Gainesville Sun's 39th Annual Community Service Award.

The roots of The Children's Table began with the efforts of the couple, who owned a commercial nursery, to give away food from their home garden to those who might need it. Little by little, they expanded their efforts, gathering more and more food to give away by purchasing it with their own money, asking for donations and trading plants from their nursery. They would then spend evenings delivering the food themselves.

Today, The Children's Table network distributes some 2 million pounds of fresh produce and USDA food to rural communities every month, according to Don Ricard, president of the Blessed Hope Foundation, one of many groups that works with The Children's Table. Ricard wrote one of 10 letters nominating the Browns for the award.

During 2001, the Browns put together a distribution network that extends north from Orlando to cover all of North Central Florida. They also have recently initiated hearing screening at rural food distribution sites and provided medicines to the needy.

''I have had the pleasure of working with Bill Brown on various food collection and distribution projects for the past two years,'' wrote Paul Fuller, a board member of Gainesville Harvest, which works with The Children's Table in their common mission to feed the hungry. ''He and his wife, Verna, are the finest examples of Community Service I have ever known in my entire lifetime. . . . These folks love their fellow man and give because it is the human thing to do.

INTRODUCTION OF THE HIGHLANDS STEWARDSHIP ACT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

Mr. GILMAN. Mr. Speaker, I rise today to introduce the Highlands Stewardship Act of 2002, H.R. 5146, a new, cooperative approach to addressing urban sprawl in our Highlands region; an area which includes critical water supplies for three of our Nation's largest metropolitan areas.

The Highlands region, stretching from eastern Pennsylvania, through New Jersey and New York, to northwestern Connecticut, includes the drinking water supply for over 11 million people, a wide diversity of significant rare and endangered plants, animals, and ecosystems agricultural and timber lands, historic sites and structures, and landscapes. It is estimated that one in twelve Americans live within two hours travel of the Highlands region and an astonishing 14 million people visit the more than 200,000 acres of public land in the Highlands region annually, exceeding visitation to even our Nation's most famous national parks. In 1992, the USDA Forest Service completed their Highlands Study which, among other things, found the region to be a ''landscape of national significance.''

Mr. Speaker, ''Urban Sprawl'' and ''Smart Growth'' are modern terms coined by the environmental movement to describe the unsustainable growth patterns in certain suburban and rural areas throughout our Nation and efforts to promote sound planning initiatives. Anywhere that we witness population growth, from the northeast to the southwest, urban sprawl is or will become an issue important to communities and citizens. Urban sprawl can be readily addressed with effective and educated planning, proper zoning, and financial assistance. There is no better place for us to witness the impacts of urban sprawl, or to foresee future impacts, then in the Highlands region, where, it is estimated, that we are losing approximately 5,000 acres of Highlands land and resources, each year.

As noted in the USDA Forest Service Highlands Study (1992), the draft Update (2002), and other State and local open space and planning reports, the Highlands region is being imminently threatened and that there is a national interest in protecting the natural, historical agricultural and economic benefits of the Highlands for the residents of, and visitors to, the region.

Accordingly, in October of 2000, I hosted our Highlands Preservation Summit, which began our Highlands Preservation Initiative, a comprehensive effort to develop a proposal which would find a balance between the environmental and economic needs of the region and define what role the Federal Government should play in the Highlands.

While I feel that it is inappropriate for the Federal Government to influence local decisionmaking matters, I firmly believe that the Federal Government can provide sound leadership by ensuring that our communities have the information and support needed to protect critical, regional resources. Moreover, it is important to undertake a partnership approach which does not infringe on private property rights or the ability of communities to make sovereign decisions.

All of these components have been included in our Highlands Stewardship Act.

In sum, our measure recognizes the national significance of the Highlands region by defining it as our Nation's first ''Stewardship Area,'' modeled after National Heritage Areas and underscoring the importance of the President's call for ''good stewardship'' and ''cooperation'' where ''Private organizations, landowners, government at all levels are working with each other.'' The measure is broken into two provisions: Land Conservation and Office of Highlands Stewardship.

In the ''Land Conservation'' provision, instead of using a ''Federal Government knows-best'' approach, this measure builds on the outstanding work already completed by our States in their open space plans. Using these existing plans, the Governors of each State work together with the Secretary of Interior to determine which projects should be funded from the federal-side of the Land and Water Conservation Fund (LWCF). We are also including flexibility for the use of these funds to allow for innovative conservation approaches, notably conservation easements, which allow the land to be protected, but at the same time to remain on local tax rolls.

The use of Federal-side LWCF is the most contentious issue in this measure. However the Land and Water Conservation Fund Act of 1965 provides for the acquisition of land, waters, or the interests in land and waters ''within the exterior boundaries of the National Park System'' and for ''endangered species and threatened species.'' As noted in our measure, the Highlands region contains or is adjacent to numerous Federal designations, including the Wallkill River National Wildlife Refuge, the Upper Delaware Scenic and Recreational River, the U.S. Military Academy at West Point, New York.

Mr. Speaker, our Atlantic region benefits little from the Federal-side of the Land and Water Conservation Fund. However, there is no appropriate Federal designation available to meet the diverse needs of the Highlands region. Moreover, time is of the essence in protecting this critical national treasure. Use of the Federal-side Land and Water Conservation Fund for the purposes described in this measure allows us to expeditiously access existing sources of assistance; ensures the funds are used for land preservation purposes of nationally significant lands; is justified by the findings of multiple State and Federal studies; protects resources in a manner which minimizes the acquisition of additional Federal lands and the need for additional Federal staff; and affords our Nation the opportunity to use a unique approach to addressing urban sprawl, an issue not known when the Land and Water Conservation Fund Act of 1965 was adopted.

Mr. Speaker, our measure also authorizes the creation of an Office of Highlands Stewardship; designed to work with the States and communities, private landowners, including farmers, and individuals, ensuring that they have the information, resources, and support needed to protect the resources of this region. This includes technical and financia assistance for Highlands communities looking to update their master-plans or attempting to reduce non-point source pollution, support for farmers to reduce run-off, ensuring that towns and villages have scientific data and information on important Highlands issues, working with private landowners, etc. Various units of government could use the assistance for planning, carrying capacity analysis, smart growth initiatives, infrastructure assessments, appropriate economic development, eco-tourism, or the development of Smart Growth Resource Centers to develop a tool box for municipalities on Smart Growth and on environmental and land use education.

Due to the multi-state nature of this region, it is important that we ensure that our communities have the opportunity to coordinate with each other and with a Federal entity to ask for information or assistance.

Finally, this measure also creates a diverse working group of citizens, organizations, communities, and other interests in the region to consult with this office and with the states and act as guides to our agencies.

In closing, Mr. Speaker, in view of the national significance of the Highlands, the Federal Government has a significant role in assisting the States in creating, protecting, conserving, preserving, and interpreting areas of significant natural, economic, historical and cultural importance in the Highlands.

New York Governor Pataki, New Jersey Governor McGreevey, Pennsylvania Governor Schweiker, and Connecticut Governor Rowland are supportive of our measure. Our colleague in the Senate, the gentleman from New Jersey, Mr. CORZINE is offering a companion

measure with the support of Senator TORRICELLI, Senator SCHUMER, and Senator LIEBERMAN. Numerous local, regional, and national organizations are with us in this effort. We are gathering support from local governments, including mayors and county officials, and are bringing together a number of media outlets to help publicize this important initiative.

Moreover, the ongoing drought has heightened public interest in protecting water supplies and offers an excellent opportunity to respond to this crisis.

To encourage economic growth in locations and ways that are fiscally and environmentally sound, we must depend on quality infrastructure, mass transit systems, green spaces, water and recreational facilities, and comprehensive planning decisions. All of these components are necessary to provide good jobs, adequate services, livable neighborhoods, and are critical to the long-term health of the Highlands.

The Highlands Stewardship Act recognizes the national significance of the Highlands region, builds on the work of the USDA Forest Service Highlands Regional Study and Update, the open space and other related plans of Highlands States, and relies on the partnership needed between Federal, State, local, and private entities to meet the present and future need of this important region.

If you are interested in more information or in supporting this important measure, I invite my colleagues to contact Brian Walsh in my office at 202–225–3776.

H.R. 5146

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Highlands Stewardship Act of 2002''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Highlands region is a geographic area that encompasses more than 2,000,000 acres extending from eastern Pennsylvania through the States of New Jersey and New York to northwestern Connecticut;

(2) the Highlands region is an environmentally unique and economically important area that—

(A) provides clean drinking water to over 11,000,000 people in metropolitan areas in the States of Connecticut, New Jersey, New York, and Pennsylvania;

(B) provides critical wildlife habitat, in eluding habitat for threatened and endangered species;

(C) maintains an important historic connection to early Native American culture, colonial settlement, the American Revolution, and the Civil War;

(D) contains—

(i) recreational resources; and

(ii) cultural and multicultural landscapes relating to the development of commerce, transportation, the maritime industry, agriculture, and industry in the Highlands region; and

(E) provides other significant ecological, natural, tourism, recreational, educational, and Economic Benefits;

(3) an estimated 1 in 12 citizens of the United States live within a 2-hour drive of the highlands region;

(4) more than 1,000,000 residents live in the Hlghlands region;

(5) the Highlands region forms a greenbelt adjacent to the Philadephia-New York City-Hartford urban corridor that offers the opportunity to preserve natural and agricultural resources, open spaces, recreational areas, and historic sites, while encouraging sustainable economic growth and development in a fiscally and environmentally sound manner;

(6) continued population growth and land use patterns in the Highlands region—

(A) reduce the availability and quality of water;

(B) reduce air quality;

(C) fragment the forests;

(D) destroy critical migration corridors and forest habitat; and

(E) result in the loss of recreational opportunities and scenic, historic, and cultural resources;

(7) the natural, agricultural, and cultural resources of the Highlands region, in combination with the proximity of the Highlands region to the largest metropolitan areas in the United States, make the Highlands region nationally significant;

(8) the national significance of the Highlands region has been documented in—

(A) the Highlands Regional Study conducted by the Forest Service in 1990;

(B) the New York-New Jersey Highlands Regional Assessment Update conducted by the Forest Service in 2001;

(C) the bi-State Skylands Greenway Task Force Report;

(D) the New Jersey State Development and Redevelopment Plan;

(E) the New York State Open Space Conservation Plan;

(F) the Connecticut Green Plan: Open Space Acquisition FY 2001–2006;

(G) the open space plans of the State of Pennsylvania; and

(H) other open space conservation plans for States in the Highlands region;

(9) the Highlands region includes or is adjacent to numerous parcels of land owned by the Federal Government or federally designated areas that protect, conserve, restore, promote, or interpret resources of the Highlands region, including—

(A) the Wallkill River National Wildlife Refuge;

(B) the Shawanagunk Grasslands Wildlife Refuge;

(C) the Morristown National Historical Park;

(D) the Delaware and Lehigh Canal Corridors;

(E) the Hudson River Valley National Heritage Area;

(F) the Delaware River Basin;

(G) the Delaware Water Gap National Recreation Area;

(H) the Upper Delaware Scenic and Recreational River;

(I) the Appalachian National Scenic Trail; and

(J) the United States Military Academy at West Point, New York;

(10) it is in the interest of the United States to protect, conserve, restore, promote, and interpret the resources of the Highlands region for the residents of, and visitors to, the Highlands region;

(11) the States of Connecticut, New Jersey, New York, and Pennsylvania, regional entities, and units of local government in the Highlands region have the primary responsibility for protecting, conserving, preserving, and promoting the resources of the Highlands region, and

(12) because of the longstanding Federal practice of assisting States in creating, protecting, conserving, preserving, and interpreting areas of significant natural, economic, and cultural importance, and the national significance of the Highlands region, the Federal Government should, in partnership with the Highlands States, regional entities, and units of local government in the Highlands region, protect, restore, promote, preserve, and interpret the natural, agricultural, historical, cultural, and economic resources of the Highlands region.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to recognize the importance of the natural resources and the heritage, history, economy, and national significance of the Highlands region to the United States;

(2) to assist the Highlands States, regional entities, and units of local government, public and private entities, and individuals in protecting, restoring, preserving, interpreting, and promoting the natural, agricultural, historical, cultural, recreational, and economic resources of the Highlands Stewardship Area;

(3) to authorize the Secretary of Agriculture and the Secretary of the Interior to provide financial and technical assistance for the protection, conservation, preservation, and sustainable management of forests, land, and water in the Highlands region, including assistance for—

(A) voluntary programs to promote and support private landowners in carrying out forest land and open space retention and sustainable management practices; and

(B) forest-based economic development projects that support sustainable management and retention of forest land in the Highlands region;

(4) to provide financial and technical assistance to the Highlands States, regional entities, and units of local government, and public and private entities for planning and carrying out conservation, education, and recreational programs and sustainable economic projects in the Highlands region; and

(5) to coordinate with and assist the management entities of the Hudson River Valley National Heritage Area, the Wallkill National Refuge Area, the Morristown National Historic Area, and other federally designated areas in the region in carrying out any duties relating to the Highlands region.

SEC. 4. DEFINITIONS.

In this Act:

(1) ELIGIBLE ENTITY.—The term ''eligible entity'' means any agricultural producer, regional entity, unit of local government, public entity, private entity, or other private landowner in the Stewardship Area.

(2) HIGHLANDS REGION.—The term ''Highlands region'' means the region that encompasses nearly 2,000,000 acres extending from eastern Pennsylvania through the States of New Jersey and New York to northwestern Connecticut.

(3) HIGHLANDS STATE.—The term ''Highlands State'' means—

(A) the State of Connecticut;

(B) the State of New Jersey;

(C) the State of New York; and

(D) the State of Pennsylvania.

(4) LAND CONSERVATION PARTNERSHIP PROJECT.—The term ''land conservation partnership project'' means a project in which a non-Federal entity acquires land or an interest in land from a willing seller for the purpose of protecting, conserving, or preserving the natural, forest, agricultural, recreational, historical, or cultural resources of the Stewardship Area.

(5) OFFICE.—The term ''Office'' means the Office of Highlands Stewardship established under section 6(a).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(7) STEWARDSHIP AREA.—The term ''Stewardship Area'' means the Highlands Stewardship Area established under section 5(a).

(8) STUDY.—The term ''study'' means the Highlands Regional Study conducted by the Forest Service in 1990.

(9) UPDATE.—The term ''update'' means the New York-New Jersey Highlands Regional

Assessment Update conducted by the Forest Service in 2001.

(10) WORK GROUP.—The term ''Work Group'' means the Highlands Stewardship Area Work Group established under section 6(c).

SEC. 5. ESTABLISHMENT OF HIGHLANDS STEWARDSHIP AREA.

(a) ESTABLISHMENT.—The Secretary and the Secretary of the Interior shall establish the Highlands Stewardship Area in the Highlands region.

(b) CONSULTATION AND RESOURCE ANALYSES.—In establishing the Stewardship Area, the Secretary and the Secretary of the Interior shall—

(1) consult with appropriate officials of the Federal Government, Highlands States, regional entities, and units of local government; and

(2) utilize the study, the update, and relevant State resource analyses.

(c) MAP.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of the Interior shall prepare a map depicting the Stewardship Area.

(2) AVAILABILITY.—The map shall be on file and available for public inspection at the appropriate offices of the Secretary and the Secretary of the Interior.

SEC. 6. OFFICE OF HIGHLANDS STEWARDSHIP.

(a) ESTABLISHMENT.—The Secretary, in consultation with the Under Secretary of Agriculture for Natural Resources and Environment, the Chief of the Natural Resources Conservation Service, the Administrator of the Farm Service Agency, the Chief of the Forest Service, and the Under Secretary for Rural Development, shall establish within the Department of Agriculture the Office of Highlands Stewardship.

(b) DUTIES.—The Office shall implement in the Stewardship Area—

(1) the strategies of the study and update, and

(2) in consultation with the Highlands States, other studies consistent with the purposes of this Act.

(c) HIGHLANDS STEWARDSHIP AREA WORK GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory committee to be known as the ''Highlands Stewardship Area Work Group'' to assist the Office in implementing the strategies of the studies and update referred to in subsection (b).

(2) MEMBERSHIP.—The Work Group shall be comprised of members that represent various public and private interests throughout the Stewardship Area, including private landowners and representatives of private conservation groups, academic institutions, local governments, and economic interests, to be appointed by the Secretary, in consultation with the Governors of the Highlands States.

(3) DUTIES.—The Work Group shall advise the Office, the Secretary, and the Secretary of the Interior on priorities for—

(A) projects carried out with financial or technical assistance under this section;

(B) land conservation partnership projects carried out under section 7;

(C) research relating to the Highlands region; and

(D) policy and educational initiatives necessary to implement the findings of the study and update.

(d) FINANCIAL AND TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Office may provide financial and technical assistance to an eligible entity to carry out a project to protect, restore, preserve, promote, or interpret the natural, agricultural, historical, cultural, recreational, or economic resources of the Stewardship Area.

(2) PRIORITY.—In determining the priority for financial and technical assistance under paragraph (1), the Office shall consider the recommendations of the study and update.

(3) CONDITIONS.—

(A) IN GENERAL.—The provision of financial assistance under this subsection shall be subject to the condition that the eligible entity enter into an agreement with the Office that provides that if the eligible entity converts, uses, or disposes of the project for a purpose inconsistent with the purpose for which the financial assistance was provided, as determined by the Office, the United States shall be entitled to reimbursement from the eligible entity in an amount that is, as determined at the time of conversion, use, or disposal, the greater of—

(i) the total amount of the financial assistance provided for the project by the Federal Government under this section; or,

(ii) the amount by which the financial assistance has increased the value of the land on which the project is carried out.

(B) COST-SHARING REQUIREMENT.—The Federal share of the cost of carrying out a project under this subsection shall not exceed 50 percent of the total cost of the project.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $7,000,000 for each of fiscal years 2004 through 2010, to remain available until expended.

SEC. 7. LAND CONSERVATION PARTNERSHIP PROJECTS.

(a) IN GENERAL.—The Secretary of the Interior, in consultation with the Secretary, the Office, and the Governors of the Highlands States, shall annually designate land conservation partnership projects that are eligible to receive financial assistance under this section.

(b) CONDITIONS.—

(1) IN GENERAL.—To be eligible for financial assistance under subsection (a), a non-Federal entity shall enter into an agreement with the Secretary of the Interior that—

(A) identifies—

(i) the non-Federal entity that will own or hold the land or interest in land; and

(ii) the source of funds to provide the non-Federal share under paragraph (2);

(B) provides that if the non-Federal entity converts, uses, or disposes of the project for a purpose inconsistent with the purpose for which the assistance was provided, as determined by the Secretary of the Interior, the United States shall be entitled to reimbursement from the non-Federal entity in an amount that is, as determined at the time of conversion, use, or disposal, the greater of—

(i) the total amount of the financial assistance provided for the project by the Federal Government under this section; or

(ii) the amount by which the financial assistance increased the value of the land or interest in land; and

(C) provides that use of the financial assistance will be consistent with—

(i) the open space plan or other plan of the Highlands State in which the land conservation partnership project is being carried out; and

(ii) the findings and recommendations of the study and update.

(2) COST-SHARING REQUIREMENT.—The Federal share of the cost of carrying out a land conservation partnership project under this subsection shall not exceed 50 percent of the total cost of the land conservation partnership project.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Secretary of the Interior from the Treasury or the Land and Water Conservation Fund to carry out this section $25,000,000 for each of fiscal years 2004 through 2013, to remain available until expended.

(2) USE OF LAND AND WATER CONSERVATION FUND.—Appropriations from the Land and Water Conservation Fund under paragraph (1) shall be considered to be for Federal purposes under section 5 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–7).

NAMES OF THOSE WHO ARE MISSING OF HAVE PERISHED AS A RESULT OF SEPTEMBER 11, ATTACKS

HON. JO ANN DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, for the past few months, I have submitted into the CONGRESSIONAL RECORD the names of those who are missing or who have perished as a result of the September 11 attacks. Today, I would like to complete the list of names that are available to date. This will be an ongoing effort as more names are released. The fallen deserve our recognition, our remembrance, and our respect.

Paula Morales, Martin Morales, Abner Morales, Carlos Morales, John Moran, Gerard Moran, Lindsay S. Morehouse, George Morell, Vincent Morello, Steven P. Morello, Roy Wallace Moreno, Yvette Nichole Moreno, Arturo Alva Moreno, Richard J. Morgan, Dorothy Morgan, Nancy Morgenstern, Sanae Mori, Blanca Morocho, Leonel Morocho, Dennis G. Moroney, and Odessa V. Morris.

TO DESIGNATE THE NEW POST OFFICE IN THE TOWN OF EMERSON, NEW JERSEY AS THE GARY ALBERO POST OFFICE

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

Mrs. ROUKEMA. Mr. Speaker, today I am introducing a bill to designate the new post office in the town of Emerson, New Jersey in the name of a man who exemplified our American ideals, Gary Albero. On September 11, Gary was killed while conducting the nation's economic business in the World Trade Center. A dedicated husband, proud father, and intelligent insurance broker, Gary Albero lived his life with a unique perspective. As his family explained, ''he could find the extraordinary in the very ordinary.'' And although he may have been taken early from this life, we have the opportunity today to extend his spirit and legacy beyond his friends and family by naming the Emerson Post Office after this man.

Mr. Speaker, when Congress names particular facilities in honor of someone, we do it to recognize their outstanding contributions to society. Gary's wife, family and friends can best describe the contributions he made to their lives, and the community can best explain the character and friendliness he brought to the town. I will tell of the contribution Gary Albero made to our nation, as a proud American.

That Tuesday in September, Gary went to a meeting in Tower Two as an employee of

Swett & Crawford. As a newly named Vice President, he worked hard to provide for his family and create a good life in Emerson, New Jersey. Like so many Americans that morning, Gary was dutifully doing his job, however what happened next changed the community of Emerson.

Thousands were killed that day, leaving tremendous voids in their communities. Gary was the only individual killed from the tight-knit community of Emerson. The terrorists attacked these towers because the World Trade Center represented America's democracy, economic prosperity, diversity and freedom. Gary embodied these ideals in his work and his life.

Out of this tragedy, our nation has emerged with strength and pride. Our spirit is inspired by these stories of brave men and women from that day—true American heroes such as Gary Albero. In the naming of this post office in Emerson after Gary, we will have his memory and inspiration with us for generations. The Gary Albero Post Office will represent his spirit, as well as ''the warm courage of national unity'' of which Franklin Delano Roosevelt once spoke. We are a nation united, now more than ever. And for this we are all tremendously grateful to Gary Albero. For a man who loved his family, community and country, his death brought his country closer together.

Emerson, New Jersey is a small family town of just over 7,200 people. The council of the Borough of Emerson has requested that I introduce legislation to rename their new post office for Gary Albero. I am proud to honor Gary and his family with the naming of this postal facility with a man who embodied our American values.

Mr. Speaker, I ask my colleagues to join me in commemorating the life of Gary Albero by naming the new facility of the United States Postal Service located on Kinderkamack Road in Emerson, New Jersey, as the ''Gary Albero Post Office Building.''

RECOGNIZING DON SCOTT

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

Mrs. JONES of Ohio. Mr. Speaker, I rise today to acknowledge Don Scott, an American hero and pioneer in the sport of bowling, whose outstanding achievements will be recognized on Friday, July 19, 2002, as the Hall of Fame inductee at the Greater Cleveland Bowling Association's Annual Awards banquet. Since 1981, Don and his wife, Vel have been my personal friends and I am proud to join the Greater Cleveland Bowling Association to honor Don Scott.

A native of Cleveland, Ohio, Mr. Scott was introduced to the game as a teenage pin boy at the Cleveland and Akron lanes. In 1959, he was allowed membership in the Professional Bowlers Association and then became the first African-American bowler to appear on national television competing with national champions for major monetary awards.

In 1961, Mr. Scott led the qualifying round of the Professional Bowling Association Open. He was the only African American competing against many of the giants in bowling including Dick Webber, Don Carter and other long-time stars. Throughout his career, Mr. Scott competed against top bowlers in Canada, Japan, China, the Ivory Coast, the Philippines and major cities in the United States. Continuing to pave the way for others, Mr. Scott organized the first Negro team to ever compete in the American Bowling Congress Classic Division.

In 1964, Don Scott was sponsored in the Firestone Championship Bowling at Copley Lanes in Akron, Ohio. He averaged 202 during three match plays against Carmen Salvino, Bill Allen and George Allen. Mr. Scott, a certified bowling instructor and co-author of How to Bowl, was inducted into the Cleveland Bowling Senate Hall of Fame in April 1991. Through his travel, Mr. Scott truly became a goodwill ambassador for the game of bowling as he earned the love and respect of many.

In 2000, Don Scott received the Congressional Black Caucus ''Unsung Hero'' award to honor his lifetime achievements for excellence in sports. Our colleague from the great State of South Carolina Representative JIM CLYBURN joined me in this tribute. As a former bowling instructor and coach, Representative CLYBURN became good friends with Don Scott after losing to him 39 years ago in South Carolina and presented the award to Don Scott on my behalf.

I ask that other Members in the U.S. Congress join me and the people of greater Cleveland in saluting the outstanding efforts of Mr. Don Scott, a great American trailblazer who paved the way for others in the sport of bowling.

INTRODUCTION OF A HOUSE RESOLUTION URGING THE GOVERNMENT TO PURCHASE FAIR TRADE CERTIFIED COFFEE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

Mr. STARK. Mr. Speaker, I rise today with a group of my colleagues to introduce a resolution recommending the use of fair trade coffee by the Congress, the Judicial Branch, and the Executive Branch. This resolution requires very little effort from us and yet would promote efforts to assure a decent standard of living to poor coffee farmers around the world.

Small Coffee farmers in Latin America, Africa and Asia consistently do not receive a living wage for their coffee. In fact, many farmers receive an amount that is less than the cost of production. Millions of small farmers earn only 5–10 percent of the final retail price of their coffee due to the interference of coffee middlemen who take a huge cut from the sales. This creates a cycle of debt and poverty in the lives of the farmers. These farmers must constantly borrow money from the coffee middlemen to stay afloat, and yet they can never make enough money to support their families, let alone get out of debt.

As a major purchaser of coffee, the U.S. has a responsibility to ensure that the producers of that coffee are adequately compensated for their work. And as the Congress, we can do our part to ensure that we pay a fair price for the coffee that is purchased for our own use. Starbuck's has successfully brought fair trade coffee to their shops. In addition, Starbucks currently brews it for retail sale and makes the beans available for purchase. The use of fair trade coffee is already being implemented in some of the House of Representatives cafeterias, but we need to do more.

Transfair USA is a non-profit U.S. based organization that certifies coffee is ''fair trade'' by placing a seal upon all the bags that qualify. In order to determine if the coffee is fair trade, representatives visit the farms in the countries in which the coffee is grown in addition to monitoring the sale and distribution within the U.S. The criteria for fair trade coffee are as follows: (1) Coffee importers agree to purchase from the small farmers included on the international trade register; (2) farmers are guaranteed a minimum ''fair trade price'' of $1.26 per pound for their coffee; (3) coffee importers provide a certain amount of credit to farmers against future sales to help the farmers stay out of debt to coffee middlemen; (4) importers and roasters agree to develop longterm relationships with producer groups that cut out the coffee middlemen.

Fair trade coffee has been sold since 1988 in Europe, which has imported 30 million pounds this year, as compared to the 7 million pounds imported by the U.S. Fair trade coffee currently represents 5 percent of the Swiss and Dutch markets. It is time for the U.S. to show that we are interested in supporting the 800,000 small coffee farmers that currently benefit from the fair trade relationship.

The story of Blanca Rosa Molina provides testament to the benefits of fair trade coffee. She has been working in the Nicaraguan coffee industry since she was a little girl. The money she received from fair trade coffee allowed her to receive an education and provide for her family. In her own words, ''I always give thanks to fair trade coffee because if it hadn't been for fair trade, I wouldn't have sold my coffee. I wouldn't have been able to pay for my studies.'' Blanca now holds an undergraduate degree in engineering and a graduate degree in rural development and sustainable agriculture. With stories like this, the choice as to purchase fair trade coffee is an obvious one.

Fair trade coffee is no more expensive than gourmet coffee, but provides so many benefits to the producers that it is hard to justify not buying it. There is also still plenty of coffee to go around. 165–170 million pounds of fair trade coffee are being produced each year, but only 35 million pounds have been sold worldwide. There is a strong supply of fair trade coffee; all that is currently needed are purchasers like the House of Representatives.

The Resolution we are introducing today recommends that Congress, the Judicial Branch and the Executive Branch exclusively purchase fair trade coffee for all of their offices and events. It sends an important message about the willingness of our Federal Government to aid farmers in other countries by supporting family farms and in turn promoting better labor practices world-wide.

TRIBUTE TO MRS. LAUNA BANKS BREWINGTON

HON. EVA M. CLAYTON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

Mrs. CLAYTON. Mr. Speaker, I rise today to bring to your attention the momentous occasion of the 90th birthday of Mrs. Launa Banks Brewington of Greenville North Carolina. Mrs. Brewington was born in Pitt County on August 31st, 1912 to Oscar & Lena Banks. The 5th of 12 children, her family included eight brothers and three sisters. Only two of her siblings are still living; Mrs. Lena R. Murrell-White and Mrs. Missouri (Lady) Wilkens. She married the late Jesse Brewington of Greenville North Carolina in 1930. They lived and she still resides in the home that her father built in 1925. Their marriage lasted until his death in 1993.

Although she and her husband did not have children of their own, they adopted her niece Bernice Banks Forbes and raised her as their own loving daughter. Mrs. Brewington is now the proud grandmother of four children and great-grandmother to eight children.

For 29 years, Mrs. Brewington worked in the Greenville City School system. After she retired, she still did not stop. She then joined the staff of East Carolina University becoming the first Black supervisor of the Custodial Department retiring after 10 years of service.

During the 90 years of her life, Mrs. Brewington has exemplified those attributes we all attempt to embrace. She is a caring, generous, dedicated, honest, and faithfully religious woman. She always received great joy in helping and caring for others. If anyone suffered with an illness, she was always there to help. The neighborhood children were also her children. She was always taking them in and caring for them. She has been a member of the Sycamore Hill Missionary Baptist Church since 1937. Her church activities included singing in the church choir for over 50 years and acting as Treasurer for the choir, serving as President of the Missionary Board, President of the Senior Ladies Auxiliary, serving on the Trustee Board, President of the Pastor's Aide organization, Chairman of the Kitchen Committee, and serving on the Pulpit Committee. In her community, she was the President of the Matrons Club which ministered to the bereaved in the community. In addition, she was a member of the Morning Light Tent Lodge, serving as leader and was also elected as Queen of the Royal Degree Circle.

Friends and family will gather in Hampton, Virginia to celebrate Mrs. Launa Banks Brewington's 90th milestone.

Mr. Speaker, I ask that you join me, our colleagues, Mrs. Brewington's family and friends, and the city of Greenville in recognizing this momentous occasion of her 90th birthday.

HONORING THE FOX COMPANY, A MARINE CORPS RESERVE UNIT FROM UTAH

HON. CHRIS CANNON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

Mr. CANNON. Mr. Speaker, after the tragic events of September 11, Americans have shown their patriotism and support for the War on Terror in various ways, such as voting, volunteering and serving in the armed forces. One such group of patriots is the men and women of the Fox Company, a Marine Corps Reserve unit from my home State of Utah. These Marines were recently called to active duty and sent to Camp Pendleton, California, assigned to Homeland Security. They have left their families, friends, homes and careers to defend and protect us, standing as bulwark for our freedom.

Today I wish to thank those men and women of the Fox Company for accepting that call of duty. These Marines have willingly put their lives on the line to defend the freedom that this country enjoys. Though they have not yet been deployed to fight the enemy overseas, these Marines play a vital role in securing our safety and liberty. Their service and determination to uphold and defend our rights must not go unnoticed. They should be recognized and appreciated by all Utahns and all Americans.

I would also like to recognize the families of these Marines. Their support, sacrifice and love are the driving force and inspiration behind the Fox Company. These Utah families are not only facing the absence of a father, husband, mother or wife, but also financial hardship due to the significantly decreased income from established careers so they may serve full time. This is no easy task, but one that these families willingly take on as their part in operation Enduring Freedom.

I commend the courage and patriotism of the Marine Reserve Fox Company. They are admirably performing an honorable job to defend and support the flag at a time when evil enemies are attempting to tear down the institutions that protect the freedom Americans have worked long to build. We should all be thankful for the sacrifice and work of the Fox Company.

HONORING HAROLD OSHRY

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

Mr. DEUTSCH. Mr. Speaker, I rise today to honor the life of Mr. Harold Oshry, a noted humanitarian, a civic-minded businessman and an exemplary leader. Born in Chelsea, Massachusetts in 1918, Mr. Oshry graduated Magna Cum Laude from Bowdoin College in 1940. Shortly thereafter, he proudly answered the call of his nation and served as a captain in the 32nd Special Services Unit of the Eighth Army Air Force during World War II, where he was awarded six battle stars for his courage in the Normandy Invasion and other crucial European Campaigns. After his discharge, he married Claire Herman and relocated to New York City where he began a successful business career.

In 1955, Mr. Oshry founded a transportation holding company, which later became known as Sandgate Corporation. This immensely successful venture afforded Mr. Oshry the opportunities and resources to make a significant impact on many people's lives. His most noted accomplishments were seen in his efforts to further cultural understanding through education. Mr. Oshry was an influential member of the New York United Jewish Associations Federation where he demonstrated his commitment to the public's understanding of Jewish culture. In 1976, he established the Harry Oshry Scholarship Fund at Bowdoin College in honor of his father. Additionally, Mr. Oshry's generous contributions allowed Ben Gurion University in Israel to endow a chair in Aquatic Microbiology Federations. As a final tribute, Mr. Oshry was honored a week before his death by the Yeshiva Shaar Ephraim, a center for Jewish Studies in Monsey, NY, for his generosity and philanthropic pursuits.

Mr. Speaker, it is indeed a truly special occasion for me to honor Harold Oshry, who worked to foster a better understanding among the world's citizens. His unparalleled dedication to this cause serves as an example for us all.

Mr. Oshry is survived by his wife Claire Oshry of Tamarac, FL, in addition to his daughters Suzanne Oshry of Pacific Palisades, CA, Meryl Evens of Point Reyes Station, CA, and son Michael Oshry of Hewlitt Harbor, NY. Mr. Oshry also is survived by his sister Sally Adelson of Delray Beach, FL and brother George Oshry of Brookline, MA, along with seven grandchildren.

PRESIDENT'S EXECUTIVE ORDER GRANTING CITIZENSHIP TO U.S. SERVICEMEN ON ACTIVE DUTY

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to commend President Bush on the executive order he signed on July 3, 2001. This executive order speeds up the citizenship proceedings for non-citizens who have been serving in the U.S. military since September 11, 2000.

Under current immigration law, non-citizens must serve in the U.S. military for three years before they are even eligible to apply for U.S. citizenship. This executive order is an important first step in acknowledging the dedication of the thousands of non-citizens currently serving in the Armed Forces. I say first step because we have been attempting to rectify this situation with permanent legislation for some time.

Although it has the bipartisan support of 42 House Members, H.R. 4575, the Citizenship for America's Troops Act, has languished in the Judiciary Subcommittee on Immigration and Claims since April 24th of this year. H.R. 4575, sponsored by my good friend and colleague Representative MARTIN FROST, will rectify a variety of barriers faced by U.S. servicemen and women seeking to become naturalized citizens.

This legislation reduces the required amount of military service for qualification to apply for citizenship from three years to two years; allows the INS to conduct citizen interviews and oath ceremonies for military personnel overseas, and exempts non-citizen military personnel from paying fees for their naturalization.

Over 10,000 servicemen and women will benefit from this legislation. Currently there are 6,000 non-citizen enlisted personnel in the Army, 6,620 in the Marine Corps, 2,901 in the

Air Force, and 2,878 in the Navy. These military personnel have demonstrated a willingness to die in defense of this country. Not only is this legislation the very least we can do to show our gratitude, it will have the additional benefit of enhancing recruiting, retention, morale and readiness within the armed services.

Again, I congratulate the President on this initiative and urge my colleagues to bring H.R. 4575 to the floor for a vote before the August recess.

PERSONAL EXPLANATION

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

Mr. CLEMENT. Mr. Speaker, on rollcall No. 295, had I been present, I would have voted ''yes''.

OPPOSITION TO H.R. 5002

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

Mr. PALLONE. Mr. Speaker, I come to the House floor this evening to express my strong opposition to H.R. 5002, a bill to include Turkey in the Qualified Industrial Zone, allowing duty-free goods from Turkey to enter the U.S. markets. This bill is not only an inappropriate and fiscally irresponsible back-door approach to establishing a free trade agreement with Turkey, but also rewards a country that has illegally occupied 37 percent of Cyprus for the last 28 years. On July 20, 1974, Turkey invaded Cyprus, and to this day continues to maintain an estimated 40,000 heavily armed troops on the island. Nearly 200,000 Greek Cypriots, who fell victim to a policy of ethnic cleansing, were forcibly evicted from their homes and became refugees in their own country. This bill would send the wrong message to countries that are seeking access to our trade markets. It sends the presumably unintended message that violating international laws can be rewarded.

Mr. Speaker, I believe a discussion by this Congress to grant Turkey substantial trade benefits cannot take place until a settlement has been achieved in Cyprus and Turkish troops have vacated the island. The Turkish government must exert pressure on Turkish Cypriot leader Denktash to put aside his unreasonable and unacceptable demands, and negotiate in good faith with Cyprus President Clerides. International officials were hoping for a breakthrough in negotiations by the end of June, but once again the Turkish side refused to budge and move closer to a peace agreement within the framework provided by the United Nation's Security Council.

I am also very concerned by reports that the Turkish government sent more than 5,500 Turkish soldiers to the Turkish-occupied section of Cyprus over the last month. Cypriot leaders and officials from the European Union see this action as a deliberate attempt on Turkey's part to create tension and negatively impact peace negotiations.

Once a peace settlement is reached, all political and social restrictions on the enclaved Greek Cypriots must be lifted, and any transfer of property that has taken place over the last 28 years in the occupied area should not be recognized. I also believe that our federal courts should be granted jurisdiction to hear the cases of U.S. citizens who have been excluded from their real property in occupied Cyprus.

I believe each of these five conditions must be met before any discussion of extending trade with Turkey can begin.

Turkey has also not been a good neighbor to Greece in questioning the established maritime boundary of the two countries in the Aegean Sea. This boundary has been established through several treaties dating back to 1923. The U.S. cannot now support expanded trade with Turkey while Turkey refuses to abide by provisions in the 1947 Paris Peace Treaty that once again established the Aegean boundary. The United States was one of the nations that signed that historic document, and therefore must publicly state that it accepts the demarcation of the maritime borders in the Aegean Sea as final.

Mr. Speaker, I am concerned that this legislation not only reflects poorly on the United States' moral authority in trade policy, but also represents dangerous fiscal policy; in effect subsidizing a politically unstable and economically backwards country. Two weeks ago, 34 members of Prime Minister Bulent Ecevit's ruling party resigned in protest of the Prime Minister's refusal to step down as ruler of Turkey. Then, last week, two of the highest-level Ministers resigned: Economic Minister Kemal Dervis and Foreign Minister Ismail Cem, triggering calls within Turkey for new elections as early as September. Minister Dervis is widely recognized as the architect of the colossal International Monetary Fund bailouts of Turkey, which saved Turkey from immediate financial disaster, but has put Turkey in debt to the IMF for a staggering 31 billion dollars. The nine billion dollars that were made available for release this year have not made any impact on the rapidly shrinking economy and massive unemployment.

We should not reward Turkey and put our own economy in further jeopardy without radical reform of Turkey's economic and trade policy.

Mr. Speaker, it is time to stop making special concessions for Turkey. Their blatant disregard for international norms—whether it be trade policy or their abysmal human and minority rights record—can no longer be ignored.

CORPORATE ACCOUNTING METHODS AND THE RULE OF LAW

HON. ADAM H. PUTNAM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

Mr. PUTNAM. Mr. Speaker, in recent months America has seen the collapse of several large corporations because of shady accounting methods and practices. These events have left many American investors worried and some financially ruined. These revelations of corporate abuses and corporate fraud have caused a temporary crisis of confidence in our markets and financial institutions.

The ripple effect of these financial scandals is extending all the way to the smallest investors. It is the small private investor, not necessarily the large institutional investor, who is taking the brunt of this crisis of confidence. Small investors have seen their retirement plans dwindle not because of a poor investment strategy, but because the entire market has been depressed by the actions of a few dishonest and corrupt corporate executives.

I do not believe these instances of fraud and abuse are representative of all American corporations or the executives that run them, but there should be no difference between ''ethics'' and ''business ethics.'' Like anyone else in our society, for a corporate executive to succeed, honesty and integrity are essential. Corporate CEOs who commit fraud or whose actions destroy confidence in the entire market and thereby steal the retirement nest eggs of millions of Americans are no better than thugs. They must be identified and prosecuted to the fullest extent of the law. To root out the perpetrators of these crimes, we must move corporate accounting out of the shadows to protect America's small investors and pension holders.

Our society and culture must reaffirm that it values ethics over next quarter's balance sheet. Corporate executives, no matter how much paper wealth they create, are not above the law. Those that commit fraud and violate the public's trust will be brought to justice.

Our free market economy is anchored in the rule of law. There can be no special exceptions for corporate leaders with regard to the rule of law.

NATIONAL AVIATION HERITAGE AREA

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

Mr. HALL of Ohio. Mr. Speaker, I rise to join Mr. HOBSON and my other Ohio Colleagues in introducing the National Aviation Heritage Area Act, a bill to protect and enhance sites in and near the State of Ohio associated with the history of aviation. The legislation establishes the National Aviation Heritage Area, building on earlier measures enacted by Congress. The legislation is supported by individuals and historical organizations throughout the state. It is appropriate to create the National Aviation Heritage Area to recognize the significant contributions made in the state toward the advancement of aviation and aerospace. The legislation would be a fitting step to mark the celebration of the 100th anniversary of the Wright brothers' first flight in 2003.

With the passage of the Dayton Aviation Heritage Act of 1992, Congress recognized the importance of several historic sites associated with the Wright brothers by establishing the Dayton Aviation Heritage National Historical Park. The park is expected to be fully operational by the year 2003. That is the 100th anniversary of the first manned, controlled, and sustained flight by the Wright brothers, ushering in the aviation era. Though the two interpretive centers for the park are still under construction, the park has already transformed the way our Nation looks at the early history of flight by recognizing the key role that Dayton played. The park has also enhanced local pride in our two most famous sons and their achievements.

However, the link between Ohio and aviation history goes far beyond the Wright brothers. In what could be viewed as an early example of technology spin-off, familiarity with the secrets of aviation enabled Ohioans to make further developments in aeronautics and later aerospace. The attention devoted to the development of the national park has sparked a broad interest in the state beyond the Dayton area about the larger role Ohio has played that followed from the Wright brothers' invention.

There is probably no state in the union that is more closely associated with the history of aviation and the men and women who pioneered the development of flight than Ohio. It was in Dayton where the Wright brothers built the first airplane. At Huffman Prairie Flying Field the Wright brothers tested and developed the world's first practical flying machine and established the first permanent flying school. Cleveland's NASA Glenn Research Center has been responsible for advances in air and space technology. At McCook Field, and later Wright-Patterson Air Force Base, much of our Nation's military aviation technology was developed. The first American in orbit, as well as the first man to walk on the moon, were both raised in Ohio. The Columbus home of World War I aviator Captain Edward Rickenbacker is a National Historic Landmark. Cleveland's Rocket Engine Test Facility, also a National Historic Landmark, pioneered the technology to use hydrogen as a rocket fuel. In Sandusky, the Centaur Rocket was developed in yet another National Historic Landmark and Akron has the Goodyear Airdock, the world's largest airship hangar.

Ohio boasts the world's first mass produced airplane, the first commercial airplane flight, and the development of the modern free fall parachute, nighttime flying, high altitude flying, radio beacon navigation, guided missiles, reversible pitch airplane propellers, crop-dusting airplanes, the pressurized airplane cabin, and blind flying. The list goes on and on.

The same law which created the Dayton Aviation Heritage National Historical Park also established the Dayton Aviation Heritage Commission, which was charged with assisting the preservation of the many sites in Ohio's Miami Valley related to the history of aviation. The commission, which is currently chaired by United States District Judge Walter H. Rice, has recommended establishing the National Aviation Heritage Area to continue the preservation and enhancement of historic sites not only in the Dayton area but throughout the state. This is the natural step, given the interest and historical resources in Ohio.

A heritage area is a cohesive group of natural, historic, cultural, or recreational resources in a distinct geographical area that can benefit from forming a collaboration to protect, enhance, and promote those resources. Congress has designated 23 National Heritage Areas which have special national significance and which offer outstanding opportunities for conservation and interpretation. The National Aviation Heritage Area established under this bill fully meets these criteria.

As part of the process of developing the National Aviation Heritage Area concept, public meetings were held in Columbus, Cleveland, and Dayton giving a chance for individuals to comment on the proposal. Public comment was also provided through a Website and an extensive e-mail campaign. A list was compiled of almost 100 specific sites in Ohio with potential public access that are linked with significant developments in aviation history. Examples include the Neil Armstrong Air and Space Museum, United States Air Force Museum, Cincinnati Museum Center, Ohio Flight Museum, John and Annie Glenn Museum and Exploration Center, National Inventors Hall of Fame, and the NASA Glenn Research Center Visitors Center.

The bill establishes the National Aviation Heritage Area including a core area of Montgomery, Greene, Warren, Miami, Clark, and Champlain Counties in Southwest Ohio. Additional sites can be added upon the recommendation of a management plan. The bill provides a management framework to improve collaboration among the sites and organizations within the heritage area to promote educational programs, historic preservation, and heritage tourism. The bill authorizes $10 million over the next 15 years, provided an equal amount of non-Federal funds are raised.

The idea behind the heritage area is that the sites and organizations, working together, can accomplish more than working separately. Because they are linked together by theme and geographical proximity, they can readily collaborate on preservation activities, promotion, and programming. The bill calls for a management plan and provides on-going assistance to maintain the collaboration. The real work of the heritage area is conducted by the individual sites and organizations. The minimal role of the Federal government is to help coordinate and assist the management of the groups.

The bill also includes a provision to study the Wright Company factory buildings in West Dayton.

The National Aviation Heritage Area concept is supported by the Ohio Economic Development Council, Downtown Dayton Partnership, Dayton Mayor Rhine McLean, the United States Air and Trade Show, Inc., Inventing Flight, and the Dayton Aviation Heritage Commission. The bill is sponsored or cosponsored by a total of 14 Ohio House members, more than half of the state's House delegation. Similar legislation is being introduced by Ohio's two Senators, MIKE DEWINE and GEORGE VOINOVICH.

I commend my colleague, Mr. HOBSON, for his leadership on this issue. We have enjoyed a long partnership working together to protect and promote Ohio's historic aviation heritage going back to the legislation establishing the Dayton Aviation Heritage National Historical Park. This measure builds on and continues those earlier successes.

Mr. Speaker, the United States leads the world in aviation and aerospace technology. The State of Ohio has been a dominant force in bringing our Nation to this position. It is therefore fitting that the National Aviation Heritage Area be established in Ohio to protect the state's historic aviation resources and share the stories of our rich aviation heritage with the world.

IN SUPPORT OF H. RES. 393, A RESOLUTION CONDEMNING THE RISE OF ANTI-SEMITISM IN EUROPE

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

Mr. HASTINGS of Florida. Mr. Speaker, I rise today as one of the original cosponsors of House Resolution 393, a resolution condemning the rise of anti-Semitism in Europe which has occurred over the past 18 months. The recent rise of anti-Semitism in Europe is an unacceptable development which must be stopped, and European governments must take whatever action is needed to achieve this end. I applaud my friend from New York, Mr. CROWLEY, for his fight against the abhorrent developments leading up to this resolution

Anti-Semitism is a dangerous creature with a long and ignominious history in Europe. It is a particularly virulent form of racism which goes beyond place and time, oversteps borders and languages. It finds a home within the ignorant, dissatisfied and disenfranchised in all parts of the globe.

In every era, anti-Semitism finds a new way to manifest itself and a new justification for its presence. Starting in the 12th century, blood libels were levied against the Jews of Europe, citing the fictionist Jewish need for Christian blood as evidence for the accusations. When the bubonic plague struck in the 14th century, Jews were wrongfully blamed for the outbreak of the epidemic and the decimation of the European population. Jews across Europe were murdered by angry mobs as punishment for these alleged crimes.

Later, European anti-Semitism took on a scientific justification. In 1899, Houston Stewart Chamberlain published ''The Foundations of the Nineteenth Century.'' He argued that all of the accomplishments of Western civilization resulted from the influence of the superior, Germanic race, while inferior races, like the Jews, impeded progress. His book became the Nazi bible and his arguments were adopted by Adolph Hitler as grounds for the elimination of European Jewry. Today anti-Semitism disguises itself as a political platform, often as opposition to Israeli policies.

This rise in anti-Semitism, while despicable in its own right, is indicative of a much greater problem. It is part of an obnoxious rise in racism, intolerance, and widespread xenophobia. Though anti-Semitism today lacks the religious mythology attached to it in the Middle Ages or the scientific theories that fueled it in the first half of the 20th century, it is equally dangerous and terrorizes the Jewish community just as it did 60 years ago.

Mr. Speaker, last week, I returned from Berlin where the annual session of the Parliamentary Assembly of the Organization for Security and Cooperation in Europe, an organization of which I serve as Vice President, was convened. For some of my European colleagues, combating increased anti-Semitism is an issue they are concerned about. For those who were not concerned, it was time to make it clear to them that they need to be.

Since the days of President Woodrow Wilson and the League of Nations, we have worked to build a global community. Now, xenophobia threatens to undo over 80 years

of progress, to destroy our work and our accomplishments. The spread of discrimination in all of its incarnations, be it anti-Semitism or any other form of bigotry, must be stopped.

Mr. Speaker, I rise today with all of my colleagues, black, white, Hispanic, Asian, Jewish and otherwise, in support of this resolution, and urge European governments to fight the spread of anti-Semitism within their borders. Frankly, if we do not, then history is bound to repeat itself.

IN RECOGNITION OF THE CYPRUS FEDERATION OF AMERICA, INC.

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

Mrs. MALONEY of New York. Mr. Speaker, I rise to pay tribute to the Cyprus Federation of America, Inc. which will solemnly commemorate the 28th year anniversary of the tragic invasion and occupation of Cyprus by the Turkish armed forces on Saturday, July 20, and Sunday, July 21, 2002. The Cyprus Federation of America is an umbrella organization representing the Cypriot American community in the United States. The largest Hellenic Cypriot community outside of Cyprus is located in the 14th congressional district, which I am fortunate to represent.

Twenty-eight years ago, on July 20, 1974, the Turkish armed forces invaded Cyprus, in a tragic and brutal disregard for the human rights of Cypriots. Since then, 37% of Cyprus has remained under Turkish rule. The Cyprus Federation of America has been leading the effort to promote an end to the devastating occupation.

The occupation of Cyprus has had a devastating impact on the people of Cyprus. Families have been separated, parents have lost the right to bequeath land that has been in their families for generations, churches have been desecrated and historical sites destroyed. More than 1,500 Greek Cypriots, including four American citizens, were missing after the invasion and we still do not know what happened to many of them.

In a spirit of remembrance and commemoration, a concert will be held on July 20, 2002 at the SummerStage in Central Park, New York, with the participation of two exemplary artists from Greece, Dionyssios Savopoulos and Alkinoos Ioannides. These remarkable performers have been strong advocates against the division of Cyprus and the human rights violations perpetrated by the Turkish army in Cyprus.

On July 21, 2002, memorial services will be held for the victims of the Turkish invasion and occupation of Cyprus at the Cathedral of Holy Trinity in Manhattan. His Eminence, Archbishop Demetrios, Primate of the Greek Church of America, will officiate.

After twenty-eight years of occupation, all Cypriots deserve to live in peace and security, with full enjoyment of their human rights. I am hopeful that their desire for freedom will one day be fulfilled.

In recognition of the spirit of the people of Cyprus, I ask my colleagues to join me in honoring the Cyprus Federation of America, and in solemnly commemorating the twenty-eighth anniversary of the invasion of Cyprus. I hope that this anniversary will mark the advent of true freedom and peace for Cyprus.

A CALL FOR PEACE IN CYPRUS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

Mr. BONIOR. Mr. Speaker, it has been 28 years since the Turkish invasion of Cyprus. In 1974, Turkish troops evicted 200,000 Greek Cypriots from their homes, making them refugees in their own country. And yet, the elapsing of more than a quarter century has not darkened the memory of the invasion. Turkey's continued violation of the Greek Cypriots' human rights, and the need for the reversal of Turkey's actions and a return to peace, remains as strong today as it did in 1974.

For 25 years, Turkey has fought to increase its grip on Cyprus. In violation of international law, Turkey has moved more than 80,000 settlers into the ancestral homes of the Greek Cypriots. A campaign of harassment and the destruction of cultural sites has been used to intimidate the Greek Cypriots.

Despite these abuses, the people of Cyprus continue to work toward peace. The Cypriot Government called for the demilitarization of Cyprus, despite the threat of the Turkish army occupying 37% of the island's territory. Cyprus is seeking to join the European Union, a step that will move them forward. Even as it is constantly confronted with uncertainty and instability, the Cypriot Government acts in the best interest of its people.

The world community has joined the call for peace, yet Turkey continues to threaten with force and non-compliance. To the international community, the objection over the invasion of 1974 remains as strong today as it was then. For the Greek Cypriots, who struggle to move forward underneath the burden of human rights violations and refugee status, the desire for peace is unending. In the name of democracy and in the defense of human rights, we need to continue to support the people of Cyprus in their efforts to bring peace and stability back to their country.

IN HONOR OF OUR NATION'S FIRST RESPONDERS

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

Mr. HOLT. Mr. Speaker, I rise today to recognize, honor, and thank our nation's fire, rescue, and police squads. These ''first responders'' represent our first line of defense—made all too clear on September 11, 2001 and since. And they continue to play an invaluable role in our daily lives, serving their local communities, protecting our families, and risking their lives for our safety.

Much has been said about these valiant men and women. The President and my colleagues here in Congress understand the indispensable role that our local first responders will play in the defense of our nation.

I can certainly speak of their intrepid actions. On the night of July 8, 2002, a fire damaged my home in New Jersey. My wife, daughter, and grandchildren were present at the time, when a smoke alarm roused them from their sleep.

Members from the Lawrence, Lawrenceville, Pennington, and Union police, fire, and rescue squads quickly responded, ensuring the safety of my family. And members from Bucks County, Hunterdon County, Montgomery, Princeton and West Trenton backed up these departments by filling their vacancies and providing mutual support.

I am fortunate that my family escaped without getting hurt, and I would like to thank the men and women serving on the Bucks County, Hunterdon County, Lawrence, Lawrenceville, Montgomery, Pennington, Princeton, Union, and West Trenton police, fire, and rescue squads for promptly responding to my family's 911 call and for containing the fire before it caused irreparable damage to my home.

As legislation establishing a Department of Homeland Security takes shape, it is imperative that we include our first responders. Homeland Security is hometown security. These brave men and women continue to answer our calls everyday, and I share in the admiration and gratitude of all Americans in expressing my thanks for their service. All Americans could help these men and women by surveying their homes and offices for fire and other safety hazards—checking smoke detectors, escape plans, and escape routes.

Therefore, Mr. Speaker, again, I rise to celebrate and honor these brave men and women. I ask my colleagues to join me in recognizing their local police, fire, and rescue squads.

SUMMER MUSIC

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

Mr. KIRK. Mr. Speaker, this evening, July 17th, Mark Damisch, the Mayor of Northbrook, Illinois will preview the classical piano program he will take on the road to Europe late this summer. I want to congratulate this accomplished pianist as he celebrates his 42nd year of performing. While many in Northbrook and throughout the Chicagoland area know him as a prominent civic leader as demonstrated through his service as the mayor of Northbrook and his work with the Metropolitan Mayor's Caucus, he has been participating in good will cultural events throughout the world for almost 30 years.

In March 1974, while on a New Trier High School Choir tour of Europe where the choir performed with the Vienna Boys Choir, Mark arranged, promoted and played a series of Concerts in Eastern Europe, Western Europe and the Soviet Union. In 1977, Mark returned to the stage to perform in a seven week tour around the world. He performed concerts in Washington, D.C., Keflavik, Iceland, Oxford, England, Oslo, Norway, Hannover, Germany, Tokyo, Japan, Mondorf, Luxembourg and Honolulu, Hawaii. The Tour was recognized by President Jimmy Carter, Illinois Governor James Thompson and Chicago Mayor Michael Bilandic. All of the concerts were dedicated to forging better relations between the United States and citizens in the host countries.

This summer's tour will consist of twenty-five concerts performed in 42 days, including tonight's engagement at the Chicago Theater as well as two concerts sponsored by the International Music Foundation and a sold out performance at the North Shore Senior Center in Northfield.

Mark Damisch is an accomplished and talented musician as well as a thoughtful and respected leader in his community. I commend him on bringing his talents beyond our Chicagoland borders and working with others throughout the world in promoting his love of music. I look forward to continued work with my friend Mark Damisch, and express our community's best wishes for a successful summer of music.

TRIBUTE TO RAY McKENNA

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

Mr. LARSON of Connecticut. Mr. Speaker, I rise today to pay tribute to Ray McKenna of East Hartford, Connecticut. There is truly only one name that can be associated with sports in my hometown of East Hartford: Ray McKenna. For kids like myself, growing up in Mayberry Village, Ray was a person to look up to. He is a legendary figure and it only proper that he be recognized for his achievements and his positive influence on our community.

I am also submitting for the RECORD a radio commentary by Scott Gray of WTIC 1080 AM in Hartford, who captured the essence of Ray McKenna and his importance to East Hartford.

[From WTIC AM News Talk 1080, May 16, 2002]

COMMENTARY FOR TODAY

(By Scott Gray)

University of New Mexico women's basketball coach Don Flanagan wrapped up his acceptance speech on being inducted into the East Hartford Explorers Tap-Off Club Hall of Fame at the Marco Polo restaurant last night with a simple thank you. Flanagan, who knows something about winning, felt it was important to thank another big winner from East Hartford, the man responsible for the annual fete, Ray McKenna. But he wasn't thanking Ray for putting on the dinner or for his induction into the hall of fame, he was thanking him for giving a kid from the Mayberry Village section of East Hartford, which has produced a list of national and international sports luminaries, inspiration, inspiration, and a chance to see such heroes as Bill Russell, Bob Cousy and Tommy Heinsohn play basketball in an intimate setting in his hometown. I did mention Flanagan knows about winning. In sixteen seasons as a high school coach at Eldorado High in Albuquerque he had a record of four hundred one wins and thirteen losses. In seven seasons at New Mexico he's turned the program into a big winner, with a 144–72 record and games played in front of average crowds approaching nine thousand, fifth highest average in the nation. But on the second Wednesday of every May the biggest winner in East Hartford is named Ray McKenna. He talks about the committee that puts the annual dinner together. I've never seen one. The committee is named Ray McKenna, the guy who coached the East Hartford Explorers to more than eleven hundred wins and less than two hundred fifty losses, and thirteen New England Basketball Association titles. And every year they celebrate the team, they celebrate the town, they celebrate East Hartford sports. Every year they fill the banquet room at the Marco Polo, they come for Ray McKenna. Mayor Tim Larson beams about the new UConn football stadium going up in his town, and the innovations that will be part of it. Congressman John Larson, if he can't be there in person, reads the names of the inductees, the Explorers and, as he says, the legendary Ray McKenna into the Congressional Record. Dave Cowens and Larry Costello and John Calipari and Jim Calhoun and Geno Auriemma have all come to be part of the celebration of Ray McKenna. Dom Pemo, Tom Penders, George Blaney and Nick Macarchuk have all come. Bill Detrick and Howie Dickenman, the legends of Central Connecticut, rarely miss it. They come to celebrate a glorious past and to honor it's heroes. They come to honor the new stars and bright young citizens of East Hartford High School basketball and those kids from neighborhoods like Mayberry Village who go on to greater glory. They come, like Don Flanagan, who broke away from a busy schedule, to say thanks to Ray McKenna. There's a baseball park in the town named for the humble former East Hartford mailman, who utters his classic expletive, ''pretzels'', anytime someone suggests he's more special than he believes himself to be. However Ray McKenna may downplay his own accomplishments, accomplishments that have enriched so many lives, this I know to be true. When you say Ray McKenna in East Hartford, magic happens. With a comment from the sports world, I'm Scott Gray.

CONGRATULATING NATIONAL JEWISH MEDICAL AND RESEARCH CENTER ON ITS U.S. NEWS AND WORLD REPORT RANKING

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

Ms. DEGETTE. Mr. Speaker, I rise today to congratulate National Jewish Medical and Research Center on being named ''U.S. News and World Report's'' best respiratory hospital in the nation for the fifth consecutive year in its annual survey of ''America's Best Hospitals.''

National Jewish was selected by board-certified pulmonologists, as well as by the numbers—mortality rates, ratio of registered nurses to beds, technology, and other factors culled from the annual survey of hospitals by the American Hospital Association. In short, this is an honor bestowed upon National Jewish by its peers.

National Jewish is located in the heart of my congressional district of Denver, Colorado. Founded in 1899, this nonprofit and nonsectarian institution is dedicated to enhancing prevention, treatment and cures through research, and to developing and providing innovative clinical programs for treating patients regardless of age, religion, race or ability to pay.

I am pleased and proud that the only medical and research center in the United States devoted entirely to respiratory, allergic and immune system diseases is a stellar institution and is in my congressional district.

HOLY CATHEDRAL MINISTERS CELEBRATE 20 YEARS OF PASTORAL LEADERSHIP

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

Mr. KLECZKA. Mr. Speaker, on Monday, September 9th, 2002 members of the Holy Cathedral Church of God in Christ (COGIC) congregation and the Milwaukee community will join together to celebrate Pastor and Lady C. H. McClelland's 20 years of ministry and community service.

Dr. Charles H. McClelland was appointed pastor of Holy Cathedral in September 1982. In July 1989, with his wife Prentiss and a congregation of less than 300 members, Pastor McClelland led his flock from the former Eagle Eye COGIC congregation into its present location on North 40th Street in Milwaukee. Since then membership has continued to thrive and now numbers over 1,200 strong.

The mission of Holy Cathedral is to ''reap the harvest of souls by preaching of the gospel as well as the provision of an array of services that are Christ centered through the Word of Hope Ministries.'' The Word of Hope Ministries, founded by Pastor McClelland, includes a Family Resource Center, Health and Social Service programs, an Alcohol, Tobacco and Other Drug Abuse (ATODA) Support Group, Job Placement and Training, and a training lab in the Family Technology Center.

The wide range of ministries offered through Word of Hope, directly address the needs of the surrounding community. The Men's Ministry focuses on spiritual development for all men, with special focus on the challenges facing young black males in the city of Milwaukee. There is also a Women's Ministry, designed to address the physical, moral and spiritual development of lay women. Members of the congregation also reach out to prison inmates, nursing home residents and poor through the Urban Ministry.

So it is with great pride that I congratulate Dr. and Lady C.H. McClelland on a lifetime of service to God, and on 20 years of service, not only to the congregation of Holy Cathedral Church of God in Christ, but also to the surrounding Milwaukee community.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 18, 2002 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 19

10 a.m.
Intelligence
To continue joint closed hearings with the House Permanent Select Committee on Intelligence to examine events surrounding September 11, 2001.
S–407, Capitol

JULY 23

9:30 a.m.
Governmental Affairs
Investigations Subcommittee
To hold hearings to examine the role of financial institutions in the collapse of Enron Corporation, focusing on the contribution to Enron's use of complex transactions to make the company look better financially than it actually was.
SD–342

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine the challenge of America's uninsured.
SD–430

Judiciary
To hold hearings to examine pending nominations.
SD–226

10:30 a.m.
Foreign Relations
To resume hearings on the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002 (Treaty Doc. 107-8).
SD–419

2 p.m.
Judiciary
To hold hearings on S. 2480, to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.
SD–226

2:30 p.m.
Energy and Natural Resources
National Parks Subcommittee
To hold hearings on S. 2494, to revise the boundary of the Petrified Forest National Park in the State of Arizona; S. 2598, to enhance the criminal penalties for illegal trafficking of archaeological resources; S. 2727, to provide for the protection of paleontological resources on Federal lands; and H.R. 3954, to designate certain waterways in the Caribbean National Forest in the Commonwealth of Puerto Rico as components of the National Wild and Scenic Rivers System.
SD–366

JULY 24

9:30 a.m.
Veterans' Affairs
To hold hearings to examine mental health care issues.
SR–418

Health, Education, Labor, and Pensions
Business meeting to consider S. 2328, to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to ensure a safe pregnancy for all women in the United States, to reduce the rate of maternal morbidity and mortality, to eliminate racial and ethnic disparities in maternal health outcomes, to reduce pre-term, labor, to examine the impact of pregnancy on the short and long term health of women, to expand knowledge about the safety and dosing of drugs to treat pregnant women with chronic conditions and women who become sick during pregnancy, to expand public health prevention, education and outreach, and to develop improved and more accurate data collection related to maternal morbidity and mortality; S. 2394, to amend the Federal Food, Drug, and Cosmetic Act to require labeling containing information applicable to pediatric patients; S. 2499, to amend the Federal Food, Drug, and Cosmetic Act to establish labeling requirements regarding allergenic substances in food; S. 1998, to amend the Higher Education Act of 1965 with respect to the qualifications of foreign schools; proposed legislation authorizing funds for the Child Care and Development Block Grant; and the nominations of Edward J. Fitzmaurice, Jr., of Texas, and Harry R. Hoglander, of Massachusetts, each to be a Member of the National Mediation Board.
SD–430

Energy and Natural Resources
Business meeting to consider pending calendar business.
SD–366

10 a.m.
Indian Affairs
To hold hearings on S. 1344, to provide training and technical assistance to Native Americans who are interested in commercial vehicle driving careers.
SR–485

Joint Economic Committee
To hold hearings to examine the measuring of economic change.
311, Cannon Building

10:30 a.m.
Environment and Public Works
Foreign Relations
To hold joint hearings to examine implementation of environmental treaties.
SD–406

2:30 p.m.
Banking, Housing, and Urban Affairs
Housing and Transportation Subcommittee
To hold oversight hearings to examine management challenges of the Department of Housing and Urban Development.
SD–538

Judiciary
Crime and Drugs Subcommittee
To hold hearings to examine corporate responsibility, focusing on criminal sanctions to deter wrong doing.
SD–226

3 p.m.
Energy and Natural Resources
To hold hearings to examine issues surrounding the Federal Energy Regulatory Commission.
SD–366

JULY 25

9:30 a.m.
Armed Services
To hold hearings to examine the national security implications of the Strategic Offensive Reductions Treaty.
SD–106

2:30 p.m.
Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine S. 2672, to provide opportunities for collaborative restoration projects on National Forest System and other public domain lands.
SD–366

JULY 30

9:30 a.m.
Governmental Affairs
Investigations Subcommittee
To resume hearings to examine the role of financial institutions in the collapse of Enron Corporation, focusing on the contribution to Enron's use of complex transactions to make the company look better financially than it actually was.
SD–342

10 a.m.
Indian Affairs
To hold hearings on proposed legislation concerning the Department of the Interior/Tribal Trust Reform Taks Force; and to be followed by S. 2212, to establish a direct line of authority for the Office of Trust Reform Implementations and Oversight to oversee the management and reform of Indian trust funds and assets under the jurisdiction of the Department of the Interior, and to advance tribal management of such funds and assets, pursuant to the Indian Self-Determinations Act.
SR–485

JULY 31

9:30 a.m.
Finance
To hold hearings to examine the Report of the President's Commission to Strengthen Social Security.
SD–215

10 a.m.
Indian Affairs
To hold oversight hearings to examine the application of criteria by the Department of the Interior/Branch of Acknowledgment.
SR–485

Governmental Affairs

Oversight of Government Management, Restructuring and the District of Columbia Subcommittee

To hold hearings to examine consumer safety and weight loss supplements, focusing on the extent of the use of supplements for weight loss purposes, the validity of claims currently being made for and against weight loss supplements, and the structure of the current federal system of oversight and regulation for dietary supplements.

SD–342

AUGUST 1

10 a.m.

Indian Affairs

To hold oversight hearings to examine the Secretary of the Interior's Report on the Hoopa Yurok Settlement Act.

SR–485

2 p.m.

Indian Affairs

To hold oversight hearings to examine problems facing Native youth.

SR–485

Daily Digest

HIGHLIGHTS

The House passed H.R. 5093, FY 2003 Interior Appropriations.

Senate

Chamber Action

Routine Proceedings, pages S6877–S6965

Measures Introduced: Thirteen bills and one resolution were introduced, as follows: S. 2737–2749, and S. Con. Res. 128. **Page S6947**

Measures Reported:

S. 2740, making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003. (S. Rept. No. 107–212) **Page S6947**

Greater Access to Affordable Pharmaceuticals Act: Pursuant to the order of July 16, 2002, Senate agreed to the motion to proceed to consideration of S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals, and began consideration of the bill. **Pages S6878–S6931**

By unanimous consent, Senate agreed to the committee reported amendment, that the bill, as amended, be considered as original text for the purpose of further amendment, and that no points of order be considered waived by virtue of this agreement. **Page S6887**

The following amendments were proposed and considered as follows:

Adopted:

By 69 yeas to 30 nays (Vote No. 179), Reid (for Dorgan) Amendment No. 4300 (to Amendment No. 4299), of a perfecting nature. **Pages S6890–S6909**

By a unanimous vote of 99 yeas (Vote No. 180), Cochran/Breaux Amendment No. 4301 (to Amendment No. 4299), to protect the health and safety of Americans. **Pages S6909–30**

Pending:

Reid (for Dorgan) Amendment No. 4299, to permit commercial importation of prescription drugs from Canada. **Pages S6889–S6931**

Reid (for Stabenow) Amendment No. 4305 (to Amendment No. 4299), to clarify that section 1927 of the Social Security Act does not prohibit a State from entering into drug rebate agreements in order to make outpatient prescription drugs accessible and affordable for residents of the State who are not otherwise eligible for medical assistance under the Medicaid program. **Pages S6930–31**

During consideration of this measure today, Senate also took the following action:

By a unanimous vote of 99 yeas (Vote No. 178), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to close further debate on the motion to proceed to consideration of S. 812, listed above. **Page S6883**

Military Construction Appropriations: Senate began consideration of H.R. 5011, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, striking all after the enacting clause and inserting in lieu thereof the text of S. 2709, Senate companion measure, taking action on the following amendment proposed thereto: **Pages S6931–34**

Adopted:

Feinstein/Hutchison Amendment No. 4306, to provide funding for certain military construction projects. **Page S6933**

A unanimous-consent agreement was reached providing for further consideration of the bill at 10:30 a.m., on Thursday, July 18, 2002, with a vote on final passage to occur at approximately 10:45 a.m. **Page S6965**

By prior unanimous consent, upon passage of the bill, the Senate insist on its amendment, request a conference with the House thereon, and the Chair be authorized to appoint conferees on the part of the Senate. **Page S6906**

Corporate and Auditing Accountability, Responsibility, and Transparency Act Conferees: Pursuant to the order of July 15, 2002, the Chair was authorized to appoint the following conferees on the part of the Senate to H.R. 3763, to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws: Senators Sarbanes, Dodd, Johnson, Reed, Leahy, Gramm, Shelby, Bennett, and Enzi.

Page S6898

Executive Session: Senate agreed to the motion to proceed to Executive Session to consider the nomination of Richard R. Clifton, of Hawaii, to be United States Circuit Judge for the Ninth Circuit.

Page S6964

Nomination Cloture Motion Filed: A motion was entered to close further debate on the nomination of Richard R. Clifton, of Hawaii, to be United States Circuit Judge for the Ninth Circuit and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a cloture vote will occur on Friday, July 19, 2002. **Pages S6964–65**

Messages From the President: Senate received the following messages from the President of the United States:

Transmitting, pursuant to the provisions of the 25th Amendment to the Constitution of the United States, a letter declaring the temporary transfer of power to the Vice President of the United States; ordered to lie on the table. (PM–103) **Pages S6945–46**

Transmitting, pursuant to the provisions of the 25th Amendment to the Constitution of the United States, a letter declaring the resumption of duties as President of the United States; ordered to lie on the table. (PM104) **Page S6946**

Messages From the House: **Page S6946**

Measures Referred: **Page S6946**

Executive Communications: **Pages S6946–47**

Executive Reports of Committees: **Page S6947**

Additional Cosponsors: **Pages S6947–49**

Statements on Introduced Bills/Resolutions: **Pages S6949–60**

Additional Statements: **Pages S6944–45**

Amendments Submitted: **Pages S6960–64**

Notices of Hearings/Meetings: **Page S6964**

Authority for Committees to Meet: **Page S6964**

Privilege of the Floor: **Page S6964**

Record Votes: Three record votes were taken today. (Total—180) **Pages S6883, S6909, S6930**

Adjournment: Senate met at 9:30 a.m., and adjourned at 8:02 p.m., until 9:30 a.m., on Thursday, July 18, 2002. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S6965).

Committee Meetings

(Committees not listed did not meet)

HOMELAND SECURITY

Committee on Agriculture, Nutrition, and Forestry: Committee concluded hearings to examine the Animal Plant Health Inspection Service and the Plum Island Research Center, with respect to border security and scientific goals of the President's proposed Department of Homeland Security, after receiving testimony from Tom Ridge, Director, Homeland Security Transition Office, Office of Management and Budget; Ann M. Veneman, Secretary of Agriculture; and Alfonso Torres, Cornell University College of Veterinary Medicine/New York State Animal Health Diagnostic Laboratory, Ithaca, New York.

MASS TRANSIT PROGRAMS

Committee on Banking, Housing, and Urban Affairs: Subcommittee on Housing and Transportation concluded oversight hearings to examine public mass transit systems, focusing on the reauthorization of certain programs within the Transportation Equity Act for the 21st Century (TEA 21), including the Job Access and Reverse Commute (JARC) program after receiving testimony from John D. Porcari, Maryland Department of Transportation, BWI Airport; Gloria McKenzie, Capital District Transportation Authority, Albany, New York; Lavada E. DeSalles, Sacramento, California, on behalf of the American Association of Retired Persons; Andrew J. Imparato, American Association of People with Disabilities, Washington, D.C.; Jessie Tehranchi, Birmingham, Alabama, on behalf of the Transportation Equity Network; and Faye Thompson, Fort Gay, West Virginia, on behalf of the Wayne County Community Service Organization, Inc.

FTC REAUTHORIZATION

Committee on Commerce, Science, and Transportation: Subcommittee on Consumer Affairs, Foreign Commerce, and Tourism concluded hearings on proposed legislation authorizing funds for the Federal Trade Commission, after receiving testimony from Timothy Muris, Chairman, and Sheila F. Anthony, Mozelle W. Thompson, Orson Swindle, and Thomas B. Leary, each a Commissioner, all of the Federal Trade Commission; Charlie Mendoza, Association of American Retired Persons, Lawrence Sarjeant, United States Telecom Association, H. Robert Wientzen, Direct Marketing Association, Ari Schwartz, Center for Democracy and Technology, and Lou Cannon,

Fraternal Order of Police, all of Washington, D.C.; and Dennis H. Alldridge, Wisconsin Special Olympics, Madison.

FUEL TAX FRAUD

Committee on Finance: Committee held hearings to examine different strategies used to perpetuate schemes, scams, and cons regarding fuel tax fraud, and how this fraud affects the Highways, Airport, and Airway Trust Funds, receiving testimony from Mary E. Peters, Administrator, Federal Highway Administration, Department of Transportation; Joseph R. Brimacombe, Deputy Director of Compliance, Small Business and Self Employed Operating Division, Internal Revenue Service, Department of the Treasury; Ray Barnhart, Center for Balanced Public Policy, Washington, D.C., former Administrator, Federal Highway Administration, Department of Transportation; Wayne Rhoads, Mississippi Department of Transportation, Jackson; and David L. Skinner, Florida Department of Revenue, Tallahassee.

Hearings recessed subject to call.

STRATEGIC OFFENSIVE REDUCTION

Committee on Foreign Relations: Committee continued hearings on the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002 (Treaty Doc. 107–8), receiving testimony from Donald L. Rumsfeld, Secretary of Defense; and Gen. Richard B. Myers, Chairman, Joint Chiefs of Staff.

Hearings will continue on Tuesday, July 23.

NOMINATION

Committee on Governmental Affairs: Committee concluded hearings on the nomination of Mark W. Everson, of Texas, to be Deputy Director for Management, Office of Management and Budget, after the nominee testified and answered questions in his own behalf.

NOMINATIONS

Committee on Health, Education, Labor, and Pensions: Committee ordered favorably reported the nomination of Richard H. Carmona, of Arizona, to be Medical Director in the Regular Corps of the Public Health Service, and to be Surgeon General of the Public Health Service, Department of Health and Human Services.

SACRED SITES

Committee on Indian Affairs: Committee continued oversight hearings to examine the protection of Native American sacred sites as they are affected by the undertakings and activities of certain Federal agencies, focusing on land management activities of the Department of the Interior and the impact of those activities on the federal policy which supports the protection of Native American sacred places, receiving testimony from Senator Boxer; Christopher Kearney, Deputy Assistant Secretary of the Interior for Policy and International Affairs, who was accompanied by several of his associates; Mike Jackson, Sr. and Lorey Cachora, both of the Quechan Indian Tribe, Yuma, Arizona; Malcolm B. Bowekaty, Pueblo of Zuni, Zuni, New Mexico; Suzan Shown Harjo, Morning Star Institute, Washington, D.C.; Vernon Masayesva, Black Mesa Trust, Kykotsmovi, Arizona; and Robert W. Trepp, Inter-Tribal Sacred Land Trust, Tulsa, Oklahoma.

Hearings recessed subject to call.

VICTIMS' RIGHTS CONSTITUTIONAL AMENDMENT

Committee on the Judiciary: Subcommittee on the Constitution held hearings on S.J. Res. 35, proposing an amendment to the Constitution of the United States to protect the rights of crime victims, receiving testimony from John Gillis, Director, Office for Victims of Crime, Department of Justice; Arwen Bird, Survivors Advocating For an Effective System, Portland, Oregon; Julie Goldscheid, Safe Horizon, and James Orenstein, Baker and Hostetler, former Assistant United States Attorney for the Eastern District of New York, both of New York, New York; Roger Pilon, Cato Institute Center for Constitutional Studies, Washington, D.C.; and Roberta Roper, Stephanie Roper Committee and Foundation, Inc., Upper Marlboro, Maryland, and Steven J. Twist, Scottsdale, Arizona, both on behalf of the National Victims' Constitutional Amendment Network.

Hearings recessed subject to call.

House of Representatives

Chamber Action

Measures Introduced: 9 public bills, H.R. 5146–5154; and 6 resolutions, H.J. Res. 106; H. Con. Res. 442–444, and H. Res. 490–491, were introduced. **Page H4872**

Reports Filed: Reports were filed today as follows:

H.R. 521, to amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam (H. Rept. 107–584);

H. Res. 488, providing for consideration of H.R. 5120, making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003 (H. Rept. 107–585); and

H. Res. 489, providing for consideration of H.R. 5121, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003 (H. Rept. 107–586). **Pages H4871–72**

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Stearns to act as Speaker pro tempore for today. **Page H4769**

Guest Chaplain: The prayer was offered by the guest Chaplain, Rev. T. Brannon Bowman, Pastor, Monroeville Presbyterian Church of Monroeville, Alabama. **Page H4769**

Journal: Agreed to the Speaker's approval of the Journal of Tuesday, July 16 by a yea-and-nay vote of 361 yeas to 50 nays with 1 voting "present," Roll No. 309. **Pages H4769, H4772–73**

Interior Appropriations: The House passed H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003 by a yea-and-nay vote of 377 yeas to 46 nays, Roll No. 318. The bill was also considered on July 16. **Pages H4773–H4838, H4847–59**

Agreed To:

Slaughter amendment that increases funding for the National Endowment for the Humanities by $5 million and increases funding for the National Endowment for the Arts by $10 million and decreases Department of the Interior Departmental Management Salaries and Expenses funding accordingly (agreed to by a recorded vote of 234 ayes to 192 noes, Roll No. 310); **Pages H4802–16**

Rahall amendment that sought to strike provisions limiting the historical accounting of each Individual Indian Money Account open on December 31, 2000, to the period from the date on which the account was opened or January 1, 1985, whichever is later, to December 31, 2000 (agreed to by a recorded vote of 281 ayes to 144 noes, Roll No. 311); **Pages H4786–95, H4816–17**

Hayworth amendment No. 11 printed in the Congressional Record of July 16 that strikes section 141 dealing with the establishment of a Commission on Native American Policy (agreed to by a recorded vote of 273 ayes to 151 noes, Roll No. 312); **Pages H4795–H4802, H4817**

Hoeffel amendment No. 12 printed in the Congressional Record of July 16 that increases funding for the National Forest Service grazing management account by $5 million; **Pages H4818–19**

Sanders amendment No. 8 printed in the Congressional Record of July 15 that increases the Energy Conservation Energy Star Program by $3 million and decreases salaries and expense funding accordingly; **Pages H4826–27**

Capps amendment No. 2 printed in the Congressional Record of July 15 that prohibits the exploration, development, or production plans or applications for permits to drill or to permit drilling on specified Outer Continental Shelf Southern California Planning Area leases (agreed to by a recorded vote of 252 ayes to 172 noes, Roll No. 315); and **Pages H4829–34, H4848**

Norton amendment that prohibits any funding for the planning, design, or construction of improvements to Pennsylvania Avenue in front of the White House without the advance approval of the Committee on Appropriations. **Pages H4850–51**

Rejected:

Tancredo amendment No. 16 printed in the Congressional Record of July 16 that sought to increase funding for the National Forest Service by $50 million and decrease funding for the National Endowment for the Arts accordingly (rejected by a recorded vote of 123 ayes to 300 noes, Roll No. 314); **Pages H4820–21, H4847–48**

Blumenauer amendment No. 1 printed in the Congressional Record of July 15 that sought to prohibit new commercial leases on the Lower Klamath and Tule Lake National Wildlife Refuges in Oregon and California that permit the growing of row crops or alfalfa (rejected by a recorded vote of 201 ayes to 223 noes, Roll No. 316); and **Pages H4834–38, H4848–49**

Shadegg amendment that sought to increase Bureau of Land Management funding for Wildland Fire Management by $23 million and decrease Bureau of Land M funding for Land Acquisition by $36 million (rejected by a recorded vote of 153 ayes to 269 noes, Roll No. 317). **Pages H4851–54, H4857–58**

Points of Order Sustained Against:

Shadegg amendment that sought to allow Regional Foresters to exempt projects involving the removal of trees from the applicability of the citizen suit authority contained in the Endangered Species Act on the basis that a wildfire is likely to cause harm to the forest ecosystem and destroy human life and dwellings. **Pages H4849–50**

Dicks amendment that sought to provide funding to acquire lands or waters within the Everglades watershed; and **Pages H4855–56**

Flake amendment that sought to prohibit the use of any funding to entities not specifically identified by name as recipients in the Act. **Page H4856**

H. Res. 483, the rule that provided for consideration of the bill was agreed to on July 16.

Company Accounting Reform and Investor Protection Act: The House disagreed to the Senate amendment to H.R. 3763, to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws and agreed to a conference. Appointed as conferees: From the Committee on Financial Services, for consideration of the House bill and the Senate amendments, and modifications committed to conference: Chairman Oxley and Representatives Baker, Royce, Ney, Kelly, Cox, LaFalce, Frank, Kanjorski, and Waters. Provided that Representative Shows is appointed in lieu of Representative Waters for consideration of section 11 of the House bill and section 305 of the Senate amendment, and modifications committed to conference. **Pages H4838–47**

Appointed as conferees from the Committee on Education and the Workforce, for consideration of sections 306 and 904 of the Senate amendment, and modifications committed to conference: Chairman Boehner and Representatives Sam Johnson of Texas and George Miller of California. **Page H4847**

Appointed as conferees from the Committee on Energy and Commerce, for consideration of sections 108 and 109 of the Senate amendment, and modifications committed to conference: Chairman Tauzin and Representatives Greenwood and Dingell. **Page H4847**

Appointed as conferees from the Committee on the Judiciary, for consideration of section 105 and titles 8 and 9 of the Senate amendment, and modifications committed to conference: Chairman Sensenbrenner and Representatives Smith of Texas and Conyers. **Page H4847**

Appointed as conferees from the Committee on Ways and Means, for consideration of section 109 of the Senate amendment, and modifications committed to conference: Chairman Thomas and Representatives McCrery and Rangel. **Page H4847**

Rejected the Conyers motion to instruct conferees to recede from disagreement with the Senate positions relating to document retention, extension of the statute of limitations, whistleblower protection, and sentencing enhancements by a yea-and-nay vote of 207 yeas to 218 nays, Roll No. 313. **Pages H4838–47**

Discharge Petition: Representative Maloney of Connecticut moved to discharge the Committee on Rules from the consideration of H. Res. 456, providing for consideration of H.R. 3884, to amend the Internal Revenue Code of 1986 to prevent corporations from avoiding the United States income tax by reincorporating in a foreign country.

Recess: The House recessed at 10:44 p.m. and reconvened at 10:53 p.m. **Page H4870**

Amendments: Amendments ordered printed pursuant to the rule appears on page H4873.

Quorum Calls—Votes: Three yea-and-nay votes and seven recorded votes developed during the proceedings of the House today and appear on pages H4772–73, H4815–16, H4816–17, H4817, H4846–47, H4847–48, H4848, H4848–49, H4857–58, and H4859. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 10:54 p.m.

Committee Meetings

SPORTS AGENT RESPONSIBILITY AND TRUST ACT

Committee on Energy and Commerce: Subcommittee on Commerce, Trade, and Consumer Protection approved for full Committee, as amended, H.R. 4701, Sports Agent Responsibility and Trust Act.

HARMING PATIENT ACCESS TO CARE: IMPACT OF EXCESSIVE LITIGATION

Committee on Energy and Commerce: Subcommittee on Health held a hearing on ''Harming Patient Access to Care: The Impact of Excessive Litigation.'' Testimony was heard from public witnesses.

MONETARY POLICY AND THE STATE OF THE ECONOMY

Committee on Financial Services: Held a hearing on Monetary Policy and the State of the Economy. Testimony was heard from Alan Greenspan, Chairman, Board of Governors, Federal Reserve System.

DEPARTMENT OF THE ARMY: GOVERNMENT TRAVEL AND PURCHASE CARD PROGRAMS

Committee on Government Reform: Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations held a hearing on "Government Travel and Purchase Card Programs at the Department of the Army." Testimony was heard from Senator Grassley; Gregory D. Kutz, Director, Financial Management and Assurance, GAO; and the following officials of the Department of Defense: Maj. Gen. Thomas W. Eres, USA, Commander, Army National Guard, State of California; Sandra L. Pack, Assistant Secretary, Army, Financial Management and Comptroller, Office of the Secretariat; Jerry Hinton, Director, Finance, Defense Finance and Accounting Service; James T. Inman, Acting Deputy Assistant Secretary, Army, Policy and Procurement; and Deidre A. Lee, Director, Defense Procurement.

MISCELLANEOUS MEASURES

Committee on the Judiciary: Ordered reported the following measures: S.J. Res. 13, amended, conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette; H.R. 4558, to extend the Irish Peace Process Cultural and Training Program; S. 487, Technology, Education, and Copyright Harmonization Act of 2001; H. Res. 437, requesting that the President focus appropriate attention on neighborhood crime prevention and community policing, and coordinate certain Federal efforts to participate in "National Night Out," including by supporting local efforts and neighborhood watches and by supporting local officials to provide homeland security; H.R. 3951, amended, Financial Services Regulatory Relief Act of 2002; and H.R. 4965, Partial-Birth Abortion Ban Act of 2002.

OVERSIGHT—COMPACTS OF FREE ASSOCIATION; MISCELLANEOUS MEASURES

Committee on Resources: Held an oversight hearing on the Compacts of Free Association. Testimony was heard from Peter T.R. Brookes, Deputy Assistant Secretary, Asian and Pacific Affairs, Department of Defense; David B. Cohen, Deputy Assistant Secretary, Insular Affairs, Department of the Interior; Albert V. Short, Chief Compact Negotiator, Bureau of East Asian and Pacific Affairs, Department of State; Susan S. Westin, Managing Director, International Affairs and Trade, GAO; Peter Christian, Chief Negotiator, Federal States of Micronesia and Gerald M. Zackios, Compact Negotiator, Republic of Marshall Islands.

The Committee also held a hearing on the following bills: H.R. 2408, Yankton Sioux Tribe and Santee Sioux Tribe Equitable Compensation Act; H.R. 3407, Indian Financing Act Reform Amendment; and H.R. 4938, to direct the Secretary of the Interior, through the Bureau of Reclamation, to conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water supply for the Santee Sioux Tribe of Nebraska. Testimony was heard from following officials of the Department of the Interior: Neal A. McCaleb, Assistant Secretary, Indian Affairs; and John W. Keys III, Commissioner, Bureau of Reclamation; and public witnesses.

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS

Committee on Rules: Granted, by a vote of 9 to 1, an open rule on H.R. 5120, making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, providing one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the bill. The rule provides that the bill shall be considered for amendment by paragraph. The rule waives points of order against provisions in the bill for failure to comply with clause 2 of rule XXI (prohibiting unauthorized appropriations or legislative provisions in an appropriations bill), except as specified in the resolution. The rule provides that the amendment printed in the Rules Committee report accompanying the resolution may be offered only at the appropriate point in the reading of the bill, shall be considered as read, and shall not be subject to amendment. The rule provides that the Chairman of the Committee of the Whole shall accord priority in recognition to Representative Goss of Florida or his designee to offer the amendment printed in the report. The rule waives all points of order against the amendment printed in the report. The rule authorizes the Chair to accord priority in recognition to Members who have pre-printed their amendments in the Congressional Record. Finally, the rule provides one motion to recommit with or without instructions. On July 16, testimony was heard from Representatives Istook, Flake, Hoyer, and DeLauro.

LEGISLATIVE APPROPRIATIONS

Committee on Rules: Granted, by voice vote, a structured rule on H.R. 5121, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, providing one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule provides that the bill shall

be considered as read through page 61, line 16. The rule waives points of order against provisions in the bill for failure to comply with clause 2 of rule XXI (prohibiting unauthorized appropriations or legislative provisions in an appropriations bill), except as specified in the resolution. The rule provides that where points of order are waived against part of a paragraph, points of order against a provision in another part of that paragraph may be made only against that provision and not against the entire paragraph. The rule provides that no amendment to the bill shall be in order except the amendment printed in the report of the Committee on Rules accompanying this resolution and except pro forma amendments offered at any time by the chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate. The rule provides that the amendment printed in the report may be offered only by a member specified in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. Finally, the rule provides one motion to recommit with or without instructions.

Testimony was heard from Representatives Taylor of North Carolina, Moran of Virginia, Davis of Illinois and Holt.

IN THE MATTER OF REPRESENTATIVE JAMES A. TRAFICANT, JR.

Committee on Standards of Official Conduct: Adjudicatory Subcommittee continued hearings in the Matter of Representative James A. Traficant, Jr., to determine whether any counts in the Statement of Alleged Violations have been proven by clear and convincing evidence. Testimony was heard from Representative Traficant.

The Subcommittee denied all of Representative Traficant's motions to dismiss the charges against him.

The summation of charges against Representative Traficant were presented to the Subcommittee by Paul Lewis, a Counsel to the Committee on Standards of Official Conduct.

Representative Traficant was heard in his defense to rebut the charges against him.

Subcommittee will meet tomorrow.

HOMELAND SECURITY ACT

Select Committee on Homeland Security: Concluded hearings on H.R. 5005, Homeland Security Act of 2002. Testimony was heard from Representatives Young of Florida and Obey, Skelton, Tauzin, Dingell, Oxley, LaFalce, Goss, Pelosi, Burton of Indiana, Waxman, Hyde, Lantos, Boehlert, Hall of Texas, Young of Alaska, Oberstar and Thomas; and David M. Walker, Comptroller General, GAO.

Joint Meetings

U.S. ECONOMY

Joint Economic Committee: Committee concluded hearings to examine issues related to the economic outlook of the nation, focusing on proposed tax and budgetary policies that advance recovery and promote economic growth, after receiving testimony from R. Glenn Hubbard, Chairman, Council of Economic Advisers.

COMMITTEE MEETINGS FOR THURSDAY, JULY 18, 2002

(Committee meetings are open unless otherwise indicated)

Senate

Special Committee on Aging: to hold hearings to examine issues with respect to identity theft, 9:30 a.m., SD–628.

Committee on Agriculture, Nutrition, and Forestry: Subcommittee on Production and Price Competitiveness, to hold hearings on S. 532, to amend the Federal Insecticide, Fungicide, and Rodenticide Act to permit a State to register a Canadian pesticide for distribution and use within that State, 2 p.m., SR–332.

Committee on Appropriations: business meeting to mark up H.R. 5010, making appropriations for the Department of Defense for the fiscal year ending September 30, 2003; proposed legislation making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2003; proposed legislation making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2003; proposed legislation making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2003; and a proposed resolution encouraging the Committee on Appropriations to report thirteen fiscally responsible, bipartisan appropriation bills to the Senate no later than July 31, 2002, 2 p.m., S–128, Capitol.

Committee on Banking, Housing, and Urban Affairs: to hold hearings on the nominations of Paul S. Atkins, of Virginia, and Harvey Jerome Goldschmid, of New York, each to be a Member of the Securities and Exchange Commission, 10 a.m., SD–538.

Committee on Commerce, Science, and Transportation: Subcommittee on Consumer Affairs, Foreign Commerce, and Tourism, to hold hearings to examine perspectives on improving corporate responsibility, 9:30 a.m., SR–253.

Full Committee, to hold hearings to examine the role of Enron Corporation energy services in the western state electricity crisis, 11 a.m., SR–253.

Full Committee, to hold hearings on the nominations of Frederick W. Gregory, of Maryland, to be Deputy Administrator of the National Aeronautics and Space Administration; and Kathie L. Olsen, of Oregon, and Richard M. Russell, of Virginia, each to be an Associate Director of the Office of Science and Technology Policy, 2:30 p.m., SR–253.

Committee on Energy and Natural Resources: Subcommittee on National Parks, to hold hearings to examine S. 1865, to authorize the Secretary of the Interior to study the suitability and feasibility of establishing the Lower Los Angeles River and San Gabriel River watersheds in the State of California as a unit of the National Park System; S. 1943, to expand the boundary of the George Washington Birthplace National Monument; S. 2571, to direct the Secretary of the Interior to conduct a special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor as a unit of the Santa Monica Mountains National Recreation Area; S. 2595, to authorize the expenditure of funds on private lands and facilities at Mesa Verde National Park, in the State of Colorado; and H.R. 1925, to direct the Secretary of the Interior to study the suitability and feasibility of designating the Waco Mammoth Site Area in Waco, Texas, as a unit of the National Park System, 2:30 p.m., SD–366.

Committee on Environment and Public Works: to hold hearings on the nominations of John S. Bresland, of New Jersey, to be a Member, and Carolyn W. Merritt, of Illinois, to be a Member and Chairperson, both of the Chemical Safety and Hazard Investigation Board, 10 a.m., SD–406.

Committee on Foreign Relations: business meeting to consider the Convention on the Elimination of All Forms of Discrimination Against Women, adopted by the United Nations General Assembly on December 18, 1979, and signed on behalf of the United States of America on July 17, 1980 (Treaty Doc. 96–53); Agreement Establishing the South Pacific Regional Environment Programme, done at Apia on June 16, 1993 (Treaty Doc. 105–32); Treaty Between the Government of the United States of America and the Government of Niue on the Delimitation of a Maritime Boundary, signed in Wellington, May 13, 1997 (Treaty Doc. 105–53); S. Res. 296, recognizing the accomplishment of Ignacy Jan Paderewski as a musician, composer, statesman, and philanthropist and recognizing the 10th Anniversary of the return of his remains to Poland; S. Res. 300, encouraging the peace process in Sri Lanka; and pending nominations, 2:15 p.m., SD–419.

Committee on Indian Affairs: business meeting to consider S. 1210, to reauthorize the Native American Housing Assistance and Self-Determination Act of 1996; and S. 2711, to reauthorize and improve programs relating to Native Americans; to be followed by hearings on S. 2743, to approve the settlement of water rights claims of the Zuni Indian Tribe in Apache County, Arizona; and on proposed legislation to ratify an agreement to regulate air quality on the Southern Ute Indian Reservation, 10 a.m., SR–485.

Select Committee on Intelligence: to hold joint closed hearings with the House Permanent Select Committee on Intelligence to examine events surrounding September 11, 2001, 10 a.m., S–407, Capitol.

Committee on the Judiciary: business meeting to resume 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; and to begin markup of S. 862, to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2002 through 2006 to carry out the State Criminal Alien Assistance Program; S. 2395, to prevent and punish counterfeiting and copyright piracy; S. 2513, to assess the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence; and S. Res. 293, designating the week of November 10 through November 16, 2002, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country, 10 a.m., SD–226.

House

Committee on Agriculture, Subcommittee on Department Operations, Oversight, Nutrition and Forestry, hearing on Stewardship Contracting, 10 a.m., 1300 Longworth.

Committee on Armed Services, to continue markup of H.R. 4547, National Defense Authorization Act for Fiscal Year 2003, and to mark up H.R. 5132, to express the sense of Congress concerning the fiscal year 2003 end strengths needed for the Armed Forces to fight the War on Terrorism, 10 a.m., 2118 Rayburn.

Committee on Education and the Workforce, Subcommittee on Employer-Employee Relations, to mark up H.R. 4054, to provide for civil monetary penalties in certain cases, 10:30 a.m., 2175 Rayburn.

Committee on Energy and Commerce, Subcommittee on Commerce, Trade and Consumer Protection, hearing titled "Are All Online Travel Sites Good for the Consumer: An Examination of Supplier-Owned Online Travel Sites," 9:30 a.m., 2123 Rayburn.

Committee on Financial Services, Subcommittee on Oversight and Investigations and the Subcommittee on Housing and Community Opportunity, joint hearing entitled "Mold: A Growing Problem," 2 p.m., 2128 Rayburn.

Committee on International Relations, Subcommittee on Middle East and South Asia, hearing on Recent Developments in South Asia, 2 p.m., 2172 Rayburn.

Committee on the Judiciary, Subcommittee on Courts, the Internet, and Intellectual Property, oversight hearing on "The U.S. Patent and Trademark Office: Fee Schedule Adjustment and Agency Reform," 10 a.m., 2141 Rayburn.

Committee on Resources, Subcommittee on Fisheries Conservation, Wildlife and Oceans, hearing on H.R. 4722, Lake Erie Western Basin International Wildlife Refuge Establishment Act, 10 a.m., 1324 Longworth.

Subcommittee on National Parks, Recreation and Public Lands, to mark up the following bills: H.R. 2099, to

amend the Omnibus Parks and Public Lands Management Act of 1996 to provide adequate funding authorization for the Vancouver National Historic Reserve; H.R. 2748, National War Permanent Tribute Historical Database Act; H.R. 3434, McLoughlin House National Historic Site Act; H.R. 4530, Blue Ridge Heritage and Cultural Partnership Area Study Act of 2002; H.R. 4622, Gateway Communities Cooperation Act of 2002; H.R. 4874, to direct the Secretary of the Interior to disclaim any Federal interest in lands adjacent to Spirit Lake and Twin Lakes in the State of Idaho resulting from possible omission of lands from an 1880 survey; H.R. 4953, to direct the Secretary of the Interior to grant to Deschutes and Crook Counties in the State of Oregon a right-of-way to West Butte Road; and H.R. 4968, Federal-Utah State Trust Lands Consolidation Act, 10 a.m., 1334 Longworth.

Committee on Science, Subcommittee on Space and Aeronautics, hearing on NASA Workforce and Management Challenges, 10 a.m., 2318 Rayburn.

Committee on Standards of Official Conduct, Adjudicatory Subcommittee, to continue in the Matter of Representative James A. Traficant, Jr., to determine whether any counts in the Statement of Alleged Violations have been proven by clear and convincing evidence, 10 a.m., 2237 Rayburn.

Committee on Veterans' Affairs, Subcommittee on Benefits, hearing on the Transition Assistance Program and the Disabled Transition Assistance Program, 10 a.m., 334 Cannon.

Committee on Ways and Means, to mark up H.J. Res. 101, disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam, 2:30 p.m., 1100 Longworth.

Subcommittee on Trade, hearing on the Administration's Waiver for Vietnam from the Jackson-Vanik Freedom of Emigration Requirements, 10 a.m., 1100 Longworth.

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., Room to be announced.

Joint Meetings: Senate Select Committee on Intelligence, to hold joint closed hearings with the House Permanent Select Committee on Intelligence to examine events surrounding September 11, 2001, 10 a.m., S–407, Capitol.

Next Meeting of the SENATE

9:30 a.m., Thursday, July 18

Senate Chamber

Program for Thursday: After the transaction of any morning business (not to extend beyond 10:30 a.m.), Senate will continue consideration of H.R. 5011, Military Construction Appropriations, with a vote on final passage to occur at approximately 10:45 a.m.

Also, Senate will continue consideration of S. 812, Greater Access to Affordable Pharmaceuticals Act.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, July 18

House Chamber

Program for Thursday: Consideration of H.R. 5121, Legislative Branch Appropriations Act for Fiscal Year 2003 (structured rule, one hour of debate); and

Consideration of H.R. 5120, Treasury and Postal Operations Appropriations Act for Fiscal Year 2003 (open rule, one hour of debate).

Extensions of Remarks, as inserted in this issue

HOUSE

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