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

PRAYER

The Reverend Samer Youssef, Antiochian Orthodox Church of the Redeemer, Los Altos Hills, California, offered the following prayer:

O God, who miraculously revealed Your teaching that evil cannot be overcome except by good, in the preserved pages of the Scriptures recovered from the arsonist-burned Antiochian Orthodox Church of the Redeemer in Los Altos Hills, California, on April 7, 2002, where we read: “You have heard an eye for an eye and a tooth for a tooth, but I say to you do not resist the one who is evil, but if anyone strikes you on your right cheek, turn to him the other also.”

I beseech You, O Lord, on behalf of these Your servants who are gathered here together under Your divine authority, the Members of this House of Representatives, to guide them in all communication from the Speaker:

WASHINGTON, DC, July 24, 2002.

I hereby appoint the Honorable RAY LAHOOD to act as Speaker pro tempore on this day.

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

PLEDGE OF ALLEGIANCE

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

Mr. WILSON of South Carolina led the Pledge of Allegiance as follows:

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain one 1-minute to be given by the gentlewoman from California (Ms. ESHOO), who represents the guest chaplain.

The Chair will entertain ten 1-minutes on each side following the suspension vote.

TRIBUTE TO FATHER SAMER YOUSSEF

(Ms. ESHOO asked and was given permission to address the House for 1 minute.)

Ms. ESHOO. Mr. Speaker, this morning the House of Representatives welcomes Father Samer Youssef, who has come here from California, from my congressional district in Northern California in the heart of the Silicon Valley.

On April 7, a tragedy befall our community and the Parish of the Church of the Redeemer in Los Altos Hills, the Antiochian Church. An arsonist set fire to that magnificent church, and it burned to the ground. But Father Youssef and the entire Parish, together with our entire community, fire-fighters, the sheriff’s department, churches, the temple, the Catholic Church came together to heal and his leadership is healing. His leadership has spoken to the magnificence of the great principles of America, that we believe in justice but more importantly or just as importantly we believe in one another.

And so we have come past this tragedy in our community. Together people from throughout our congressional district have placed contributions at the table to not only rebuild the church through their good faith and their contributions but to send a signal to people across our country and across the world that no arsonist, that no one who tries to terrorize our community will win. We are stronger, we are better, we are faith filled because of Who and what we believe in.

So I thank Father Youssef for coming to Washington. I thank him for his faith and leadership, and I thank my colleagues for his warm welcome, to not only the father but to his magnificent family who is seated in the gallery. And we can hear his son’s approval, his 18-month-old son’s approval.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair reminds Members not to refer to people in the gallery.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to make an announcement.

On July 24, 1998, at 3:40 p.m., Officer Jacob J. Chestnut and Detective John M. Gibson of the United States Capitol...
Police were killed in the line of duty defending the Capitol against an intruder armed with a gun. At 3:40 p.m. today, the Chair will recognize the anniversary of this tragedy by observing a moment of silence in their memory.

COST OF WAR AGAINST TERRORISM AUTHORIZATION ACT OF 2002

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4547, as amended.

The Clerk read the title of the bill. The vote was taken by electronic device, and there were—yeas 413, nays 3, not voting 18, as follows:

Ron Paul (TX)

The result of the vote was announced as above recorded.

The remaining roll call votes are on the table.

COMMEMORATING DELTA SIGMA THETA SORORITY, INC.

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

Mrs. JONES of Ohio. Mr. Speaker, I would like to join with my colleague, the gentleman from Texas (Mr. DELAY), today as we commemorate the loss of Officer Chesterknight and Detective Gibson on behalf of the whole House, and speak on behalf of the Democratic side as well.

I rise this morning, Mr. Speaker, to commemorate my sorority, Delta Sigma Theta, SORORITY, INC., which had a sister fold in our sisterhood in Delta Sigma Theta on this very date in 1913. Mrs. JONES of Ohio is the president of that chapter.

Rep. JONES of Ohio (closing).—Mr. Speaker, I yield to the gentleman from Texas (Mr. DELAY).

[45x112]Fosselman
[45x118]Solis
[45x124]Smith (NJ)
[45x81]Hastings (FL)
[45x89]Langevin
[45x56]Mccollum
[45x53]Reed
[45x77]Young (FL)
[45x73]Sibley
[45x85]Baldacci
[45x51]McGovern
[45x287]Quinn
[45x274]Greenwood
[45x269]Green (WI)
[45x308]Gutknecht
[45x304]Gutierrez
[45x300]Greenwood (WI)
[45x296]Green (WI)
[45x392]Gutknecht
[45x388]Gutierrez
[45x384]Greenwood
[45x380]Greenwood (WI)
[45x377]Gutknecht
[45x372]Gutierrez
[45x369]Greenwood
[45x365]Greenwood (WI)
[45x361]Gutknecht
[45x351]Gutierrez
[45x347]Greenwood
[45x343]Greenwood (WI)
[45x340]Gutknecht
[45x336]Gutierrez
[45x332]Greenwood
[45x328]Greenwood (WI)
[45x324]Gutknecht
[45x319]Gutierrez
[45x315]Greenwood
[45x311]Greenwood (WI)
[45x307]Gutknecht
[45x294]Greenwood
[45x290]Greenwood (WI)
[45x286]Gutknecht
[45x282]Gutierrez
[45x278]Greenwood
[45x274]Greenwood (WI)
[45x270]Gutknecht
[45x266]Greenwood
[45x262]Greenwood (WI)
[45x259]Gutknecht
[45x255]Gutierrez
[45x251]Greenwood
[45x247]Greenwood (WI)
[45x243]Gutknecht
[45x239]Gutierrez
[45x235]Greenwood
[45x231]Greenwood (WI)
[45x228]Gutknecht
[45x224]Gutierrez
[45x220]Greenwood
[45x216]Greenwood (WI)
[45x212]Gutknecht
[45x208]Gutierrez
[45x204]Greenwood
[45x200]Greenwood (WI)
[45x197]Gutknecht
[45x193]Gutierrez
[45x190]Greenwood
[45x186]Greenwood (WI)
[45x182]Gutknecht
[45x178]Gutierrez
[45x174]Greenwood
[45x170]Greenwood (WI)
[45x166]Gutknecht
[45x162]Gutierrez
[45x158]Greenwood
[45x154]Greenwood (WI)
[45x150]Gutknecht
[45x146]Gutierrez
[45x142]Greenwood
[45x138]Greenwood (WI)
[45x134]Gutknecht
[45x130]Gutierrez
[45x126]Greenwood
[45x122]Greenwood (WI)
[45x118]Gutknecht
[45x114]Gutierrez
[45x110]Greenwood
[45x106]Greenwood (WI)
[45x102]Gutknecht
[45x98]Gutierrez
[45x94]Greenwood
[45x90]Greenwood (WI)
[45x86]Gutknecht
[45x82]Gutierrez
[45x78]Greenwood
[45x74]Greenwood (WI)
[45x70]Gutknecht
[45x66]Gutierrez
[45x62]Greenwood
[45x58]Greenwood (WI)
[45x54]Gutknecht
[45x50]Gutierrez
[45x46]Greenwood
[45x42]Greenwood (WI)
[45x38]Gutknecht
[45x34]Gutierrez
[45x30]Greenwood
[45x26]Greenwood (WI)
[45x22]Gutknecht
[45x18]Gutierrez
[45x14]Gutierrez
[45x10]Gutknecht
[45x6]Gutierrez
[45x2]Gutknecht
[45x0]Gutierrez

The result of the vote was announced as above recorded.

The remaining roll call votes are on the table.

COMMEMORATING DELTA SIGMA THETA SORORITY, INC.

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

Mrs. JONES of Ohio. Mr. Speaker, I would like to join with my colleague, the gentleman from Texas (Mr. DELAY), today as we commemorate the loss of Officer Chesterknight and Detective Gibson on behalf of the whole House, and speak on behalf of the Democratic side as well.

I rise this morning, Mr. Speaker, to commemorate my sorority, Delta Sigma Theta, SORORITY, INC., which had a sister fold in our sisterhood in Delta Sigma Theta on this very date in 1913. Mrs. JONES of Ohio is the president of that chapter.

Rep. JONES of Ohio (closing).—Mr. Speaker, I yield to the gentleman from Texas (Mr. DELAY).
CONGRESSIONAL RECORD — HOUSE

July 24, 2002

RECOGNIZING AND COMMENDING THE BRAVERY AND COURAGE OF TERESA JACOBO

(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 recognize and commend the bravery of a young, 10-year-old girl from Elko, Nevada.

Teresa Jacobo’s quick thinking and courage saved her family possibly from death or injury from a House fire last week.

Last Wednesday morning, young Teresa immediately called the fire department and 911 when she heard the smoke detector go off and woke her up in her room. She then woke up her family to alert them to danger.

Elko Fire Marshal Dave Greenan said Teresa’s “actions prevented what could have been a true disaster.”

The young girl has been recognized by the Elko Fire Department for her actions, and it too would like to echo their sentiment.

It is my hope that all children would react so bravely to such a situation.

Like the firefighters that responded to her call, Teresa represents the best of the American spirit, and she probably never even thought twice about doing what she did.

Thank you, Teresa. You not only saved your family, but you made Nevada proud.

RECOGNITION IN THE SAMANTHA RUNNION CASE

(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, I rise to recognize the tireless efforts of the Orange County Sheriff’s Department, the Riverside County Sheriff’s Department, the FBI, and the numerous local law enforcement agencies who contributed to a prompt arrest last week in one of the largest manhunts in Orange County’s history.

Tragically, 5-year-old Samantha Runnion’s body was found last Tuesday, a day after she was abducted from her apartment complex.

Four minutes after Samantha’s kidnapping was reported, an Orange County Sheriff’s Deputy was right there on the scene. A county-wide alert was sounded within 10 minutes, and the Child Abduction Regional Emergency Signal went out within the hour, allowing local radio stations to broadcast a description of the kidnapper.

When Robert John Wyrick was found, 400 FBI and Orange County investigators responded to the scene, collecting physical evidence and following up on over 2,000 tips they received from the public. This investigation led to the arrest of a key suspect in Samantha’s murder just 4 days after she was reported missing. The Orange County Sheriff’s Department remains dedicated to this investigation until a conviction in this case.

Law enforcement and the local community in Orange County have delivered a strong message in this case: Samantha’s death and other such horrendous crimes will not be tolerated in our community.

CONGRATULATING SANDRA PEEBLES

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

Ms. ROS-LEHTINEN. Mr. Speaker, I am proud to congratulate Sandra Peebles, a constituent of my congressional district, for her support of the Leukemia and Lymphoma Society in its fight to find a cure for these deadly diseases.

Susan became involved with the society’s team and training with the goal of completing a 13-mile marathon by September 1.

Leukemia is the number one killer of children under the age of 15; and with the commitment of individuals like Susan, however, the cure for lymphoma and leukemia will one day become a reality.

Susan gets donations from concerned citizens as she runs her marathon on behalf of the Leukemia and Lymphoma Society.

I am proud to know generous and concerned individuals like Susan Peebles who give up their time for such a worthy cause. I ask my congressional colleagues to join me in congratulating Susan Peebles and the Leukemia and Lymphoma Society.

HONORING TIM MILLER AND MEMBERS OF THE TEXAS EQUIUSEARCH MOUNTED SEARCH AND RECOVERY TEAM

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

Mr. LAMPSON. Mr. Speaker, I rise today to honor Tim Miller and the members of the Texas EquiSearch Mounted Search and Recovery Team.

The first official meeting of this organization was held in August of 2000; and since then, Texas EquiSearch has been on nearly 100 searches in 2 short years. They have an admirable record of recovering children and construing working with our Nation’s local law enforcement and the Federal Bureau of Investigation; and right now, Tim and Texas EquiSearch are on still another search near their headquarters in Dickinson, Texas.

Texas EquiSearch stands for a great deal. Tim Miller founded the search team in loving memory of his 16-year-old daughter, Laura Miller, who was abducted and murdered in 1984. The success rate of Texas EquiSearch in finding our missing and returning many of them home alive to their loved ones is truly impressive and a living tribute to the spirit of Laura Miller. Her spirit is alive today in the heart of the Texas EquiSearch members and supporters.

Texas EquiSearch Mounted Search and Recovery Team searches for our Nation’s missing and abducted children and adults.

Mr. Speaker, I rise today to applaud and to urge on Texas EquiSearch to continue forward in their mission, assuring that “the lost are not alone.”

JOIN THE FIGHT AGAINST CORPORATE CORRUPTION

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

Mr. FOLEY. Mr. Speaker, last week I asked this body to consider immediately the Sarbanes bill. Thank God we had a conference committee, because our bill is actually now stronger than the Senate bill. We have an admirable record of working constructively with our National organizations.

Let me suggest to them if they want to have good hearings, let us call Senator CORZINE who headed Goldman Sachs, and let us call Secretary Robert Rubin, the Clinton Secretary of the Treasury, who headed Citigroup. When we talk about Enron, we ought to talk about all of the players.

There seems to be some real mischief. In fact, Goldman Sachs, Mr. CORZINE used $60 million to run for the Senate. Goldman Sachs was hyping Enron stock past $90. They encouraged people to buy it. So if we are going to have hearings, Mr. Speaker, let us have Goldman Sachs, let us have Citigroup.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). The Chair would ask Members not to make references to sitting Senators in violation of the rules.
WEALTHY CORPORATIONS AVOID THEIR FAIR SHARE OF TAXES

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

Mr. STRICKLAND. Mr. Speaker, the American people need to know what is happening. Wealthy corporations are choosing to leave America, go to Bermuda, get a post office box, simply to avoid paying their fair share of taxes.

This is happening at a time when our colleague, the gentlewoman from Connecticut (Ms. DeLAURO), tried to get an amendment to the Postal-Treasury appropriation bill that would say, if a corporation does this, they should not have access to lucrative Federal contracts. But the leadership in this House said oh, no, we cannot do that.

At a time when we are raising the cost of prescription drugs on our veterans from $2 to $7 a prescription, and at a time when the pension for wartime veterans’ widows is a measly $534 a month, we are allowing wealthy corporations, in a time of war, to avoid their fair share of American taxes.

Who is going to pay those taxes? Are veterans?

BORN-ALIVE INFANTS PROTECTION ACT

(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, thank you, Jill Stanck. Jill is an obstetrical nurse at Christ Hospital in Illinois. After observing a child born alive after an abortion procedure and left to die, she became involved in righting this wrong through the legislative process, hence, the Born Alive Infant Protection Act.

On July 18 the other body voted unanimous consent to approve the Born Alive Infants Protection Act. The bill is urgent to the President for his signature. This bill passed both Chambers easily because we all felt, pro-lifers and those that are pro-choice, that infants that are born alive at any stage of development are individual human beings who are entitled to the full protection of the law.

Thanks to the work of Jill Stanck, the Concerned Women of America, Members of both the House and the Senate, and soon President Bush, a baby born alive will not be left to die in a hospital again.

CUBAN POLITICAL PRISONER DR. OSCAR ELIAS BISCET

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

Mr. DEUTSCH. Mr. Speaker, many of us here in this Chamber have adopted Cuban political prisoners in order to publicize their unjustified incarceration. We have done so in hopes of helping them to regain their freedom and shed light on the numerous injustices and human rights violations of the Castro regime in Cuba.

Mr. Speaker, I hereby today to discuss my adopted Cuban prisoner, Dr. Oscar Biscet. Inspired by Gandhi and Dr. Martin Luther King, Dr. Biscet’s nonviolent resistance to the Cuban government has received international attention. As president of the Lawton Foundation for Human Rights, Dr. Biscet was arrested 40 times in three months for his peaceful opposition and organizing activities.

In 1999, he carried out a 40-day prayer fast and organized schools on non-violent tactics. This soft-spoken physician was condemned to 3 years in prison for hanging a Cuban flag upside down at a press conference.

Recognized by Amnesty International as a prisoner of conscience, Dr. Biscet has suffered through solitary confinement, torture, and an appalling lack of medical care. Still his faith in mankind endures, as he demonstrated when he told the policemen who were torturing him with lit cigarettes, God loves you.

Mr. Speaker, allowing for political dissent and debate is a fundamental reason why democracy adapts to, and represents the will of the people. I urge the Cuban government to listen to the will of its people, to end its continued human rights abuses, and to release Dr. Biscet and other political prisoners like him immediately.

COMMEMORATING INDIA’S INDEPENDENCE DAY

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

Mr. WILSON. Mr. Speaker, on August 15, 1947, India became an independent nation. Just as Americans look forward to their day of freedom every July 4, people of all faiths come together in India to celebrate a struggle for independence begun by Mahatma Gandhi. Both America and India fought against British domination to secure freedom for their nations. People in both countries fought for the freedoms found in our respective constitutions, such as freedom of speech and freedom of religion. The framers of India’s constitution were greatly influenced by the founding fathers of America, James Madison, Thomas Jefferson, John Adams and George Washington.

America is now the world’s oldest parliamentary democracy and India the world’s largest democracy. The future looks bright for both of our countries. We have grown closer since victory in the Cold War and rightfully so since we share the same values. America and India should take action to boost our bilateral trade and must coordinate defense strategies to maintain stability in South Asia. Both America and India serve as models for democracy and freedom around the world. And our independence days are symbols of these achievements.

STOP THE VIOLENT OFFENDERS AGAINST CHILDREN DNA ACT OF 2002

(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. Mr. Speaker, this Nation must express outrage about its murdered, abused and sexually violated children. Samantha Runnion, and Elizabeth Smart and Laura Ayala in my own district and Danielle Van Dam and Rilya Wilson out of Florida missing for a year. We must express our outrage.

Only 22 States in this Nation require of sex offender registries to keep DNA samples, the very materials that allow the very effective law enforcement in California to find the horrific alleged murderer of Samantha Runnion. That is why this week I will offer the Save Our Children, Stop the Violent Offenders Against Children DNA Act of 2002, that will instruct the Attorney General to hold a separate, free-standing DNA database for all sex offenders and offenders against children in this Nation.

We wish we did not have this kind of violence against our children, our most precious resources, but we should give every opportunity to our law enforcement to be able to find the perpetrator quickly and bring him or she to justice. What an outrage, killing our babies, and no one standing up to say a word. We must have the ability to solve these crimes and stop these crimes.

DEPARTMENT OF HOMELAND SECURITY

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

Mr. RYUN. Mr. Speaker, shortly after the events of September 11, we made a promise that we would fight the war on terror to its finish in order to ensure security of every American. Recognizing this, President Bush has outlined a plan to consolidate homeland security functions into the Department of Homeland Security.

The President warned us that making such a major change could be very contentious and this has been proven to be somewhat true. Some are afraid that the traditional missions not related to homeland security may not be adequately filled after restructuring. Others simply balk at the idea of leaving the status quo.

We must use every resource to ensure that the loss of innocent life does not occur again. To achieve that again, we must cut through bureau-ocracy and consolidate numerous agencies to ensure that future terrorist attacks are prevented.
Our best tool to accomplish this goal is to establish a Department of Homeland Security. Let us keep our promise to the American people.

WAR WITH 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, last night the House passed a $28.9 billion supplemental appropriations bill, $14.5 billion for military funding. Today the House has authorized another $10 billion for an undefined war on terrorism. Barely a day goes by where we do not see reports that the administration is in the advanced stages of planning a preemptive military strike against Iraq. H.R. 4547, the Cost of War Against Terrorism Authorization Act, would authorize over $480 million for chemical and biological defense as well as $598 million in funding for a Tomahawk missile conversion.

Is this military hardware needed in Afghanistan or are these funding priorities directed at preparing the United States for war with Iraq?

EXCELLENCE IN MILITARY SERVICE ACT
(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBLE. Mr. Speaker, I rise today to introduce the Excellence in Military Service Act. This legislation would increase the active duty service obligation of military service academy graduates from 5 to 8 years. This free and highly competitive college education costs the average taxpayer approximately $300,000 per cadet/midshipman.

As college tuitions continue to escalate, I believe our U.S. military academies will become even more attractive to prospective college students. In light of this fact, we need to ensure that a free education does not become a primary motivation for future applicants. I maintain that increasing the active duty service obligation is an effective way to accomplish this without jeopardizing the viability of these historic institutions.

I hope my colleagues will join with me in co-sponsoring this legislation, and I look forward to working with them to protect the U.S. taxpayers' investments and our Nation's future and ensure the integrity of one of our Nation's most precious resources.

CORPORATE REFORM
(Mrs. MALONEY of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MALONEY. Mr. Speaker, I rise in support of real corporate reform legislation and urge the conference committee to adopt the proposals put forth by Senator SARBANES. Financial markets around the world are in a highly anxious mood. U.S. fiscal policy is plunging our country back into deficits, and the credibility of some of our most trusted companies' financial statements is undermined. This is no time to delay the establishment of fully independent oversight of the industry by a newly created public accounting board that is not under accounting industry influence.

As the conference committee nears its completion, the funding for the new oversight board must not be used as a means of undermining its independence.

Senator SARBANES' legislation provides the board with funding from public companies as they are audited, a mechanism that separates the board funding from the accounting firms it will oversee and it protects its independence.

The Sarbanes legislation will not turn the markets around by itself but it will send a message to investors here and abroad that Congress is serious about removing the conflicts of interest.

MEDICARE MODERNIZATION AND PRESCRIPTION DRUG ACT OF 2002
(Mr. LEWIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS.Mr. Speaker, it is time to provide prescription drugs for our senior citizens. It is time to stop fussing and discussing and get down to business.

We just passed recently in this House a Medicare Modernization and Prescription Drug Act of 2002. This Act provides immediate relief from high drug costs with prescription drug discount cards and immediately implements a program to assist low income beneficiaries with their costs. It supplies significant front-end coverage of drug costs from government coverage.

90 percent paid on the first $1,000. It saves seniors more on their drug costs than any other bill in Congress. It lowers pharmaceutical manufacturing drug prices by $18 billion with best price provisions, offers catastrophic protection, 100 percent coverage after $3,700 in costs, and covers all costs except nominal co-pays for low income seniors up to 175 percent of poverty.

Mr. Speaker, it is time that the two bodies come together and provide our senior citizens with prescription drug coverage. Now is the time. Today is the day and we should do it before this year is out.

PUNISH CORRUPT CEO'S AND ACCOUNTANTS
(Mr. ISRAEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ISRAEL. Mr. Speaker, as a New Yorker I know that on the hottest ticket on Broadway has been a comedy, The Producers. The tragedy with recent financial scandals is that we are running the plot line of The Producers in real life.

In The Producers, the accountant, Leo Bloom, is sent to conduct an independent audit of the producer, Max Bialystock. Bialystock begs the accountant to find a way to fudge the books to enhance his earnings. So the accountant finds a way to sell 2,000 percent of stock options in Bialystock’s company, losing his independence and becoming part of a scam.

The difference is only on Broadway and in the movies do the accountants and CEO’s go to jail. In real life, no one has gone to jail, no personal bankruptcies in senior management, no disgorgements, no accountability. Just victims who have lost it all.

Unlike in The Producers, no one is laughing, not our senior citizen, not our middle class families who are watching their children’s tuition funds disappear, not hard-working taxpayers who have to put their retirements on hold. The American dream is turning into an American tragedy right before our eyes and no one is laughing.
TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2003

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 488 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. 5120.

At 10:59 p.m.

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. 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, with Mr. DREIER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. The Committee of the Whole House on the State of the Union rose on Tuesday, July 23, 2002, amendment No. 5 offered by the gentleman from New York (Mr. RANGEL) had been disposed of and the bill was open from page 75, line 11, through page 103, line 10.

Pursuant to the order of the House of that day, no further amendment to the bill may be offered except:

Pro forma amendments offered by the chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate;

Amendments numbered 2, 8, 12, and 18 printed in the CONGRESSIONAL RECORD, debatable for 5 minutes each;

An amendment offered by the gentleman from Georgia (Mr. BARR) regarding a national media campaign regarding high sea repairs, and an amendment by the gentleman from California (Mr. GEORGE MILLER) regarding Federal acquisition regulation, debatable for 20 minutes each;

Amendment No. 16, printed in the CONGRESSIONAL RECORD, an amendment offered by the gentleman from Maryland (Mr. HOYER) regarding high sea repairs, and the amendment at the desk offered by the gentleman from Colorado (Mr. HEFLEY) debatable for 10 minutes each;

Amendment No. 21 printed in the CONGRESSIONAL RECORD, debatable for 40 minutes; and

An amendment offered by the gentleman from Vermont (Mr. SANDERS) regarding taxation of pension plans, debatable for 30 minutes.

Each amendment may be offered only by the Member designated in the order of the House, or a designee, or the Member who caused it to be printed, or a designee, shall be considered read, shall be debatable for the time specified, equally divided and controlled by the respective opponents, shall not be subject to amendment and shall not be subject to a demand for a division of the question.

AMENDMENT NO. 21 OFFERED BY MR. MORAN OF VIRGINIA

Mr. MORAN of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 21 offered by Mr. Moran of Virginia.
At the end of title VI (page ___, line __), insert the following:

Sect. ___. None of the funds made available in this Act may be used by an executive branch agency to enforce any one-size-fits-all arbitrary privatization quota or numerical target, or quota for subjecting the employees of the agency to public-private competitions or converting such employees or the work performed by such employees to private contractor performance under Office of Management and Budget Circular A-76 or any other administrative regulation, directive, or policy.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, July 23, 2002, the gentleman from Virginia (Mr. MORAN) and a Member opposed each won control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

This amendment is necessary because the Office of Management and Budget has issued an arbitrary requirement on all of the Federal agencies to privatize 127,500 Federal jobs by the end of this fiscal year, and as many as 425,000 Federal jobs by the end of fiscal year 2004. That is nearly a quarter of the entire Federal workforce.

OMB’s one-size-fits-all arbitrary privatization quotas do not consider the unique needs of different Federal agencies, and we believe will harm the ability of those Federal agencies to most effectively carry out their missions. My amendment today is wholly consistent with what is called the FAIR Act. This is an act that requires the Federal agencies to identify what jobs could possibly be performed by the private sector. In other words, what jobs could be subject to outsourcing.

This amendment does not put a halt to any agency’s ability to contract out a single Federal job, and I am not opposed to privatization where it works. There is $120 billion being contracted out now. In fact, there are more people working for the private sector doing Federal work than actual Federal employees. The amendment is all about is imposing arbitrary one-size-fits-all quotas on all of the Federal agencies.

They are not all alike. The Internal Revenue Service is different from the Department of Defense; the Department of Defense is different from the Department of Justice; and on and on. We think managers should be able to exercise their own individual judgment and knowledge of their agency’s mission. I support the FAIR Act, I still support the FAIR Act, but I’ve reluctantly left those decisions on how many or how few jobs to contract out to Federal executives.

Now, there was a Commercial Activities Panel, controversial because many of the Federal employee union organizations felt that they were not adequately represented, but they stated, as one of their principles, that the Federal Government should avoid arbitrary, numerical goals. What this amendment does. It simply says that OMB cannot issue these arbitrary quotas across all the Federal agencies.

The Commercial Activities Panel said the success of government programs should be measured by the results achieved in terms of providing value to the taxpayer, not the size of the in-house or the contractor workforce. The use of arbitrary percentages, and I am quoting, ‘the use of arbitrary percentages or numerical targets can be counterproductive.’ That is the purpose of this amendment.

On that panel was Kay Coles James, who is Director of the Office of Personnel Management, and Angela Savee, the Administrators, the Chief of the Office of Federal Procurement Policy.

The Federal workforce has been reduced by 600,000 Federal jobs for functions carried out by private contractors. That trend is going to continue, and we should control, intelligent, responsible way. This quota approach is not responsible, Mr. Chairman.

Now, as I said, there is over $120 billion for services being contracted out. That does not include any of the submarines ships, tanks, etcetera. This is an effort that is going to continue, but it should continue in a responsible manner.

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

The CHAIRMAN. Does the gentleman from Oklahoma (Mr. ISTOOK) seek time in opposition to the amendment?

Mr. ISTOOK. Yes, Mr. Chairman, I seek to manage the time in opposition.

The CHAIRMAN. The gentleman is recognized for 20 minutes.

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

Mr. Chairman, I believe this is an amendment that is a wolf in sheep’s clothing. We heard from its sponsor that this is supposedly to stop people from being arbitrary; to stop people from setting some arbitrary quota, as they call it. The amendment has nothing to do with whether things are being done in an arbitrary way. The amendment has as its goal stopping the Federal Government from privatizing or outsourcing, or even trying to, anything that involves work that is currently being done by Federal workers.

It has as its goal stopping the Bush administration’s initia-

There is a process that is established by prior legislation of this Congress, what is called the FAIR Act, what is
known as the A76 process, and through this there has already been underway for months an effort to identify work that is done by Federal workers that is considered competitive in nature, where it is competing with the private sector. If it involves data processing, it may involve food services.

The Marine Corps, for example, Mr. Chairman, has just contracted out hiring people to feed our Marines. Rather than have them at the wage rates and the benefit rates and the built-in bureaucracy of Federal employees, they hire people who are experienced in handling food; in ordering it, in preparing it, in keeping the inventories on hand, in managing the right numbers, seeking to save the taxpayers tens, if not hundreds, of millions of dollars a year.

We have already had a process that has identified, through the process that the gentleman from Virginia (Mr. Moran) claims he supports, it has already identified 850,000 people that are on the Federal payroll, doing work that could be done by the private sector, saving the taxpayers potentially 25 to 50 percent of what we are paying now. However, the Federal employees unions, which are perhaps the strongest labor unions in the country, say we do not want that to happen. We do not care if it saves taxpayers money, we want to make sure that these are union jobs.

That is what is really behind the amendment. The amendment does not say what we have been told it says. I want to read to you, Mr. Chairman, and say what we have been told it says. I do not want that to happen. We do not want that to happen. We do not want that to happen. We do not want that to happen.

Mr. Chairman, we ought to say to the other Members, what the amendment actually says. The amendment states: “None of the funds made available in this act may be used by an executive agency to establish, apply, or enforce any numerical goal, target, or quota for subjecting the employees of the agency to public-private competitions or converting such employees or the work performed by such employees to private contractor performance under the A-76 Management and Personnel Development Circular A-76 or any other administrative regulation, directive, or policy.”

What it does is to try to stop cold the process of identifying government jobs that are commercial in nature that could be performed by the private sector. It is not about stopping some supposed arbitrary quota. The term arbitrary is not in the amendment. It says you cannot set any goal that involves a number. You cannot set any target that involves a number.

If the goal was to save the taxpayers $1, that is a numerical goal that is outlawed by this outrageous amendment. It is not about what we are paying stop people from being arbitrary in having private-public competition, to see who can do the job, who can do it best and who can do it at the best cost for the taxpayers, it is trying to stop the very concept. It is not trying to stop quotas.

If the measure offered by the gentleman from Virginia only said we are going to stop arbitrary quotas and then defined what arbitrary quotas were, then perhaps he might have a case. But his amendment says we are outlawing any numerical goal, any numerical target. And what the Bush administration has done, through the Office of Management and Budget, and what we are going through this process, mandated by statute, mandated by laws passed by this Congress, the process has identified 850,000 jobs currently held by Federal workers that could be done by the private sector and possibly done for as much as 50 percent less than we are paying, they have said, okay, let us try in the next year to compete 15 percent of those. That is 127,500.

It does not say we are going to award those to the private sector. It is saying that 15 percent of these Federal jobs that are commercial in nature, in the next year, are going to have to justify whether they should be Federal jobs or whether they should be outsourced potentially to the private sector and let the private sector come in and compete and tell us this is what we say we can do and how much we say we can do it for and how we can save the taxpayers money. No guarantee of who is going to win that competition.

But the Moran amendment, by saying we outlaw any goal or any target that has a number, the number may be one employee, the number may be trying to save $1, or the number could be saying we are trying to save the taxpayers $100 million, no matter. Any goal, any target that involves a number under this outrageous, overreaching amendment could not happen. We would be locked into the current rate of spending.

Now, right now I am very concerned about how much of the taxpayers’ money we are spending and the Moran amendment would guarantee that we could not accomplish savings for the taxpayers. We could not try to hold the line on the Federal Government. We could not try to make things more efficient. We could not let the private sector save us money when they say they can. No. By using language that I believe is deceptive to them is that we are saying we are trying to save the taxpayers $1, that is a numerical goal that is outlawed by this amendment. We do not want that to happen. We do not want that to happen. We do not want that to happen.
decision is even more puzzling when studies comparing public servants with private contractors have shown that keeping work in-house is a better deal for taxpayers.

In 1994, GAO studied nine contract out situations, finding that in each case dollar taxes would have been saved if the work had been done by public servants. A 1998 Army study, the most comprehensive ever done, found that it was paying 46 percent more for each private contractor employee than for each Army public servant.

So the facts are in. Federal employees are a good deal for taxpayers. They do great work for the American people. Really, it is about time that we recognize that situation and stop supporting measures that undermine their efforts. It is clear that setting an arbitrary number of positions that should be outsourced compounds the problems that we have in many agencies.

To avoid arbitrary quotas, the Department of the Interior can contract out 97 percent of its FAIR Act jobs without public-private competition, and HHS is contracting out 70 percent of its jobs without public-private competition.

This amendment deserves to be passed, and that is why the Moran-Wolf-Morella amendment is so important and so logical.

Mr. MORAN of Virginia. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. Tom Davis). Mr. TOM DAVIS of Virginia. Mr. Chairman, I rise to speak in favor of the amendment. The question has always been do we take a matter in-house or outsource it. The overriding goal of procurement policy should always be, how did we get the best value for the American taxpayer, period; how do we pay the least cost for the best service.

Sometimes this can best be done in-house with trained Federal workers who have done something over a long period of time. Sometimes it can be done more efficiently by taking it out to the private sector. Sometimes it can be done because the private sector has a certain expertise and experience level we just cannot get through the Federal employees.

Now, the previous administration had numerous initiatives whereby they would eliminate Federal jobs, and they defined how many Federal employees they had. This was a mistake. What we should have been asking was how much money do we save the American taxpayer, not how many employees we have, how much we are outsourcing and the like.

In some cases the jobs eliminated did not save anything because these jobs were off-budget. They were fee paid for, and they were not costing the taxpayers or the general fund a nickel. In some cases we found out we eliminated Federal jobs, but it ended up costing us more money by going outside. But it was driven by quotas, it was driven by numbers, and I submit that is the wrong approach; and that is the problem with the current legislation, which is why I support the Moran amendment because the current legislation looks at arbitrary percentages and says when it comes to outsourcing and competing things in-house, we are going to look at certain agencies, and we are going to define it by this rather than where do we think we can get the best value for the American taxpayer, not how much money will it save.

There is precious little evidence that the elimination of Federal employees by itself saved money during the previous administration. In some cases, as I noted before, these were fee-based employees, and whatever happened was not going to cost the taxpayers or fee payers a penny, but it was arbitrary.

Competitive sourcing is a good thing; but arbitrary quotas, numerical targets, are a bad thing. I would say to this body that the Moran amendment does not mean we cannot adopt a goal or target for outsourcing jobs if there is a number involved in the goal. We cannot set a numerical target.

Each agency has identified under law what they have that are jobs being outsourced. Federal work is factually commercial in nature. It could be cleaning, data processing, payroll services, construction. This says the administration's goal for each agency, take whatever they have identified, and do not try to compete them all, just compete 15 percent. They say because it is a number, they outlaw it.

If they are serious about this, they should say we should not try to compete more than this percentage of each agency's jobs; but they are trying to say we cannot set a goal that involves a number, which means we cannot set a goal. This effort to save taxpayers money will not do anything because they will stop that effort.

Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. Sessions).

Mr. SESSIONS. Mr. Chairman, today what we are talking about is the effectiveness of the United States Government. Today is yet another attempt by those who wish to place handcuffs and arbitrarily stop the government from making sure that the best available worker is available to do a job that is very important for the American people. Prior to coming over, they said that the administration understands what this amendment is about, and they said the following: “The administration understands that an amendment may be offered on the floor that would effectively shut down the administration’s competitive sourcing initiatives to fundamentally improve the performance of the government’s many commercial activities. If the final version of the bill would contain such a provision, the President’s senior advisors would recommend that he veto the bill.”

Mr. Chairman, it is very plain what this is about. This is about an opportunity to hamper the President of the security, so much so that the President wants to put it into the new Department of Homeland Security, has no flexibility under these arbitrary quotas.

The Moran amendment would give Federal agencies the flexibility to contract out as much or as little of government work as they feel is necessary to meet the mission requirements. I urge Members to join us in supporting the amendment of the gentleman from Virginia (Mr. Moran), which recognizes the decisions about how best to deliver government services at the lowest cost to taxpayers should be driven by unique agency mission requirements and not some arbitrary, numerical target or quota that no one understands.

Mr. ISPOOK. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I think part of the problem with this as part of not being what it is said to be, is that this amendment seeks to outlaw math. It says we cannot adopt a goal for outsourcing jobs if there is a number involved in the goal. We cannot set a numerical target.

Each agency has identified under law what they have that are jobs being outsourced. Competitive sourcing is a good thing; but arbitrary quotas, numerical targets, are a bad thing. I would say to this body that the Moran amendment does not mean we cannot adopt a goal or target for outsourcing jobs if there is a number involved in the goal. We cannot set a numerical target.

Each agency has identified under law what they have that are jobs being outsourced. Federal work is factually commercial in nature. It could be cleaning, data processing, payroll services, construction. This says the administration's goal for each agency, take whatever they have identified, and do not try to compete them all, just compete 15 percent. They say because it is a number, they outlaw it.

If they are serious about this, they should say we should not try to compete more than this percentage of each agency's jobs; but they are trying to say we cannot set a goal that involves a number, which means we cannot set a goal. This effort to save taxpayers money will not do anything because they will stop that effort.

Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. Sessions).

Mr. SESSIONS. Mr. Chairman, today what we are talking about is the effectiveness of the United States Government. Today is yet another attempt by those who wish to place handcuffs and arbitrarily stop the government from making sure that the best available worker is available to do a job that is very important for the American people. Prior to coming over, they said that the administration understands what this amendment is about, and they said the following: “The administration understands that an amendment may be offered on the floor that would effectively shut down the administration’s competitive sourcing initiatives to fundamentally improve the performance of the government’s many commercial activities. If the final version of the bill would contain such a provision, the President’s senior advisors would recommend that he veto the bill.”

Mr. Chairman, it is very plain what this is about. This is about an opportunity to hamper the President of the
United States, the OMB, from their ability to manage what is a dynamic workforce today on behalf of the United States Government, a workforce that is not just someone who is concerned about inherently government activities, but that the government performs, but about tens of millions of other jobs, tens of thousands of other jobs, that the government can no longer effectively manage and able to properly make sure that the American taxpayer gets their dollar in return. I am in favor of this government having every single penny that they need, but not more than that. We need to make sure that this government has the ability to manage its resources, whether we are talking about cooks, or people who take care of lawns, or whether we are talking about people who provide secretarial services or administrative services. What this will do today is say directly to the OMB, who right now, with their order, they cannot manage outsourcing activities to make sure that the government is properly organized and run.

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

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

Mr. DICKS. Mr. Chairman, I would like to gently remind the gentleman that one of the major concerns on our side for people who represent thousands of government employees, is that there is supposed to be a competition under A76 in order to let the civilian employees try to maintain their jobs. Sometimes they reorganize into a smaller unit and then they try to compete. Part of our concern is that OMB is saying do not do competition in order to achieve these quotas, and I think that is wrong. I think that violates the existing law. That is what I am so concerned about it. We do not object to the A76 competition if the civilians have an opportunity to compete for their jobs. I thank the gentleman for yielding.

Mr. SESSIONS. Mr. Chairman, I do appreciate that. The gentleman is a friend of mine. This is an honest discussion. The fact of the matter is that it stops dead in its tracks the Bush Administration for reform to make sure that every single government job that is performed on behalf of a grateful Nation is reviewed and looked at in terms of its ability to be price competitive and efficient, and that is what this is all about. And I believe that even those people who stand up today who are arguing this amendment would argue with me. We want a more efficient Government. But this is a process that will be stopped dead in its tracks. It is not something that would maybe balance out a circumstance.

The Bush Administration, now more than ever, dealing with the events of September 11, has had to employ many, many people outside of the Government because the Government is busy doing the things they do. The Government is having to provide all sorts of things to help people even in New York City today that would not come from a Government organization but would come from the Government. The Government simply needs the help, they need the ability, and they need the flexibility.

This is about stopping the Bush Administration from providing efficiency and the flexibility to Government. Not on a balanced measure, but on a total stopping basis because they did it right. The people who do not want this went right to OMB and where they are funded.

I urge my colleagues, I urge Members, please do not do this when now more than ever this Government needs the flexibility to address people's issues, to do it effectively and efficiently.

Mr. MORAN of Virginia. Mr. Chairman, I yield 1 1/2 minutes to the very distinguished gentlewoman from the District of Columbia (Ms. NORTON), our foremost advocate for civil rights and civil service.

Ms. NORTON. Mr. Chairman, I thank the gentleman for yielding me this time and for this amendment that I hope brings us to our senses. I am bemused to hear some Republicans on this Floor argue for quotas. I thought the administration and the Republican Congress stood against quotas. I want to make it clear I do not support quotas in any context, and I certainly do not support or believe Government can tolerate deciding who gets to perform Government work by the numbers. Let us be clear. The Moran amendment leaves in place total ability to contract out work. It is contracting out without competition that assures a fair deal for the taxpayers that is at issue here on this floor. Contracting by the quotas is arbitrary on its face.

Here is an example. In 1 year, they are supposed to contract out 15 percent quota to 50 percent quota in certain job categories. That does not exactly lead to careful analysis. And the DOD has decided that the way to meet such an escalating quota is to simply contract out all of the work without any competition. The other agencies are sure to follow when they see that that is how DOD is going to do it. Why not let civil servants compete to do this work? They have been doing it. Let us see who does it best. I thought that is what the other side stood for.

Another reason that makes no sense is that we need to retain workers for 3 years. We on the Subcommittee on Civil Service and Agency Organization, the House has been working to keep workers in this Government. When they hear their work is going to be contracted out, they are going to be out of here.

Mr. ISTOOK. Mr. Chairman, I have a parliamentary inquiry.

Mr. CHAIRMAN. The gentleman will state it.

Mr. ISTOOK. Is it correct that as the advocate of the committee's position, I have the right to close?

Mr. CHAIRMAN. The gentleman is correct.

Mr. ISTOOK. Mr. Chairman, I yield myself 1 minute and 20 seconds.

Mr. Chairman, I noticed the gentleman from Washington (Mr. DICKS) said that the intent is to make sure that, under the laws that we have passed, there is competition for jobs that are commercial in nature. So that Federal employees have the right to compete against the private employees and they are not automatically outsourced. I think that is a very valid position. It is not, however, what the amendment advocates, because the amendment by its express terms prevents public-private competitions.

Any time that you set a goal, if you say we are going to have one competition between the public and private sector, it is outlawed. If you say that 1 percent of the commercial jobs in the Federal sector is going to be competed, it is outlawed. The amendment does not do what many people claim it does. The amendment stops all efforts to have public-private competitions to see if we can save taxpayers' money which typically those competitions save the taxpayers 30 to 50 percent.

The Department of Defense reports that during the Clinton administration years, they outsourced some 550 different initiatives that were leaving taxpayers about $1.5 billion each year. Those efforts could not be pursued by the administration under the language proposed by the gentleman from Virginia.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

The gentleman is absolutely wrong. The Federal executives will be able to contract out all the jobs they want to. We have on the floor the bipartisan amendment of what is in the best taxpayers' interest.

Mr. Chairman, I yield 1 1/2 minutes to the gentleman from Washington (Mr. DICKS), the ranking member on Interior appropriations.

Mr. DICKS. Mr. Chairman, I strongly support this amendment. The FAIR Act was created to list these commercial jobs. It said nothing about quotas or forcing these jobs to be contracted out. That is all we are asking for. Do not have quotas. Let them go in and have a competition under A-76 for these jobs.

I would say to the gentleman, I have served on the Defense Subcommittee, and I know for a fact that once we contract these jobs out, then the cost of the work goes up. OMB fought against us. We used to have postcontracting audits to make certain that once the thing was contracted out, that we actually saved money and did not pay all these contractors more money than we were paying the civilian workers. This is ridiculous. This Moran amendment is needed. We do not need quotas. We need A76 competition. Let us have
competition between the public employees and the private employees and let us see who can do the best job and let us do it on an agency by agency basis. Let us support the Moran amendment.  

Mr. Moran of Virginia. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. STRICKLAND).  

Mr. STRICKLAND asked and was given permission to revise and extend his remarks.  

Mr. STRICKLAND. Mr. Chairman, as the founder and cochairman of the Correctional Officers Caucus, I rise in support of this amendment.  

I rise today in support of the Moran-Wolf-Morella amendment. As a co-chairman of the Congressional Correctional Officers Caucus, I am acutely aware of the placement of thousands of correctional jobs in our Federal prisons on the FAIR Act inventory. Here’s a list from the Department of Justice—it lists 10,260 DOJ jobs that are quote-unquote “commercial activities.” Of those ten thousand jobs that the OMB would have us turn over to the private sector, 7,670 are from the Federal Bureau of Prisons. Quite frankly, anyone who says that a job in a prison is “not inherently governmental” has not spent enough time in a prison. I would see in a state correctional facility in Ohio for eight years and I will not accept that OMB should be able to force a prison to replace its trained correctional workers with untrained, private-sector cooks or night-shift janitors just because the cost is cheaper. Prisons can be dangerous, and workers cannot switch between private-sector jobs and prison jobs without risking their own safety and that of others. Now, more than ever, with our increased focus on terrorism, we need trained, federal, correctional workers in our Federal prisons. These prisons often serve as administrative holding pens for the INS and Federal courts for terrorists. For example, in 1998, two defendants on trial for the 1993 World Trade Center bombing assaulted an employee of a facility in Lower Manhattan, immobilizing him for if the amendment would prevent OMB from setting prison policy. It would ensure that our Federal correctional workers are just that: Federal. For this House to vote to federalize all baggage screeners at airports, and then to allow OMB to force ill-prepared workers into the ranks of our Federal prisons is abominable. Let’s let the agencies manage their own personnel, and let OMB manage itself. Vote “Yes” on the Moran-Wolf-Morella amendment.  

Mr. Moran of Virginia. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois (Mr. DAVIS).  

(Mr. DAVIS of Illinois asked and was given permission to revise and extend his remarks.)  

Mr. DAVIS of Illinois. Mr. Chairman, this amendment recognizes the principle that competition should drive decisions about work management. We all know that over the years, there has been some sentiment that somehow or another government work is inferior, that the private sector can do it more effectively and efficiently. The purpose of this amendment is to allow OMB to set goals that they think are best for the taxpayers money. But that is a flawed notion. It is a flawed argument. There is a cadre, a corps of competent, hard-working Federal employees who have the expertise and skill to do the job. We need to provide for them the opportunity to compete, to display their skills and talent. That means the only way we can do it is to support the Moran amendment. I urge its support.  

Mr. Istook. Mr. Chairman, I yield myself 2 minutes.  

I think the most important thing that anybody can do, Mr. Chairman, in this particular debate, or any debate when people say, well, this amendment but does one thing and someone says, no, it does not, it does something else, the most important thing people can do is read the amendment. Look for yourself. The gentleman from Virginia would have people believe that this amendment is just about outlawing quotas, that it is about outlawing arbitrariness.  

Not at all. Nothing in the amendment says anything about arbitrary decisions. And although, yes, it does mention outlawing quotas, it goes far, far beyond that. It outlawes setting goals. It outlawes the very first steps in the process of trying to determine whether taxpayers are best served by having certain work done by government workers or by workers in the private sector.  

We spent a lot of time in this Congress setting up this process to compete public and private jobs, but the amendment does not even mention the fact that the government should not switch between private-sector jobs and prison jobs without risking their own safety and that of others. Now, more than ever, with our increased focus on terrorism, we need trained, Federal, correctional workers in our Federal prisons. These prisons often serve as administrative holding pens for the INS and Federal courts for terrorists. For example, in 1998, two defendants on trial for the 1993 World Trade Center bombing assaulted an employee of a facility in Lower Manhattan, immobilizing him for life. This amendment would prevent OMB from setting prison policy. It would ensure that our Federal correctional workers are just that: Federal. For this House to vote to federalize all baggage screeners at airports, and then to allow OMB to force ill-prepared workers into the ranks of our Federal prisons is abominable. Let’s let the agencies manage their own personnel, and let OMB manage itself. Vote “Yes” on the Moran-Wolf-Morella amendment.  

Mr. Moran of Virginia. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. Rothman.)  

Mr. Rothman. Mr. Chairman, let us make no mistake about what this debate is all about. It is about privatization, not about whether we should save taxpayers’ money. Did you know that today, any Federal manager who wants to outsource or privatize any or all of his or her Federal workforce’s jobs can do so? Today they can outsource or privatize any or all of their work if they can demonstrate it saves taxpayers’ money. So why has the Bush administration and so many of my Republican colleagues said we need a quota where by the end of fiscal year 2003, 85,000 Federal jobs must be privatized when they can do so now if the managers feel it is important and will save taxpayers’ money?  

Why do they want that privatization quota? Because my friends on the Republican side of the aisle, most of them, and this President, believe in privatization. That is why they still want to privatize Social Security. That is why when we talked about prescription drugs for seniors, Democrats said put it under Medicare where it will be safe and all seniors can get it. My Republican friends said, no, prescription drugs for seniors, give it to private insurance companies to manage. Privatize it, just like the Medigap coverage. They believe in privatization. They hate big government. That is why they wanted to privatize Social Security, that is why they voted against Medicare when it first came up, and they want to do this now with prescription drugs and these employees.  

Support the Moran amendment, and let competition be the rule of the day, no quotas and privatization.  

Mr. Istook. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. Sessions).  

Mr. Sessions. Mr. Chairman, you have heard the truth today. This is all about employee labor unions, government labor unions, versus the White House. But there is so much more that needs to be said. We have talked about government efficiency. The fact of the matter is that this United States Congress is going to provide the most money we have ever provided, ever, to the United States Government to perform its tasks and duties that need to be done. The Bush White House believes that government will and should go out of business, that not a penny more that might go to waste. What this Bush Administration is asking for is the ability that they have to manage the workforce with the dollars that have been given to them. Let us take a look at what happens every day, not just September 11, but disasters across this country. The Bush administration may want to do the right
thing by outsourcing things that might be done to where people can be helped.

The bottom line is this is about whether we are going to stop the Bush Administration from doing those things that are oriented to reform, about whether the Bush administration is not going to be able to manage its resources and assets out of the OMB. It is real simple. I understand it, and I get it.

I think this body should respond by saying we need to give this President the opportunity to not only reform government, but to make sure that efficiency and correctness is done with the efficiency and assets that are given to the government.

George Bush is honest and sincere about taking care of people’s problems and needs, but he needs the ability to manage that in a dynamic workplace and in a dynamic country where the needs pop up every day.

If you say all the work only has to be done by federal employees, then I think that the American people are missing out. I support what we are doing today to say no to the Moran amendment, because it is wrong and does not help government efficiency.

Mr. MORAN of Virginia. Mr. Chairman, how much time is left?

The CHAIRMAN. The gentleman from Virginia (Mr. MORAN) has 1½ minutes remaining, and the time of the gentleman from Oklahoma (Mr. ISTOOK) has expired.

Mr. ISTOOK. Mr. Chairman, my time has expired? Would you double-check that, please?

The CHAIRMAN. Two minutes was yielded to the gentleman from Texas (Mr. SESSIONS), and that expired all the time for the gentleman from Oklahoma (Mr. HOYER).

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

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

The CHAIRMAN. The gentleman cannot move to strike the last word until the time for debate has expired.

Mr. HOYER. Mr. Chairman, under the rule, I am the ranking member.

The CHAIRMAN. The amendment is pending. There are 1½ minutes remaining for debate under the amendment offered by the gentleman from Virginia (Mr. MORAN), and until that time has been completed, the Member cannot strike the last word.

Mr. MORAN of Virginia. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN asked and was given permission to revise and extend his remarks.

Mr. WAXMAN. Mr. Chairman, I rise in favor of the Moran amendment. It is an important amendment, and I urge all Members to vote for it.

Mr. Chairman, this amendment is simple. It would prohibit federal agencies from using arbitrary quotas to subject federal employees to either public-private competitions or direct conversions.

This Administration has directed agencies to review for outsourcing 425,000 jobs by the end of 2004. In March 2001, OMB directed all agencies to contract out at least 5 percent of the jobs capable of being outsourced. That's 42,500 jobs. That quota increases to 10 percent in FY 03—another 85,000 jobs.

The use of these quotas has been roundly criticized for their one-size-fits-all approach to improving efficiency in the federal government. Arbitrarily assigning quotas is poor management practice. It demoralizes the workforce and forces reductions where none may be warranted.

These quotas will also encourage agencies to contract out the jobs of federal employees through direct conversions, without the often time-consuming public-private competitions. This unfairly denies Federal employees the opportunity to defend their jobs and denies the taxpayer the benefits of such competition.

I know that Representative TOM DAVID from the Government Reform Committee agrees with these concerns. At a hearing last year he said he was “alarmed” by OMB’s use of quotas and that “No justification for these percentages has been offered to date.”

So this amendment should not be controversial. It would stop agencies from implementing, converting, or contracting out Federal jobs. However, agencies would no longer be forced to comply with arbitrary quotas.

When debating this issue, we used to hear the argument that we needed to wait for the GAO’s Commercial Activities Panel to issue its report before prohibiting the use of quotas. Well that report was issued in April and one of its principle recommendations was to “Avoid arbitrary full-time equivalency or other arbitrary numerical goals.” It goes on to say that “the success of government programs should be measured by the results achieved in terms of providing value to the taxpayer, not the size of the in-house or contractor workforce. . . . The use of percentage or numerical targets can be counterproductive.”

OMB has generally endorsed the results of the GAO Panel report. It should endorse the recommendation on quotas. They are generally recognized to be bad management technique and we should eliminate them. I urge members to vote for this amendment.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the point I want to make is that we are not opposing privatization, we are not opposing outsourcing, and the point that the gentleman from Oklahoma was trying to make simply is not consistent at all with this amendment.

We are not arbitrary quotas. They are arbitrary because they apply to every single Federal agency. The Department of Defense is different from the IRS. More than 225,000 jobs in the Department of Defense are supposed to be privatized by the end of 2004. The Department of Defense said is not going to work. But at the IRS, do we really want to apply the same arbitrary quotas? Do we really want private accounting firms reviewing income tax returns, private collection agencies enforcing income tax receipts? I do not think so.

Every agency is different, and every Federal manager understands their agency. We do not want arbitrary quotas, but we certainly want the best use of the Federal taxpayers’ money. It is only managers that can identify what jobs should be privatized by function.

Mr. Chairman, OMB’s directive is so burdensome that the result is direct conversion of jobs to the private sector against the wishes of the managers, because the managers know that the only way they are going to get a green light, which is the system that OMB is insistent that we do. But they also know they are arbitrary. They know they are not in the best interests of the taxpayer.

The CHAIRMAN. All time has expired on this amendment.

Mr. HOYER. Mr. Chairman, I ask unanimous consent that there be an additional 5 minutes of debate on this amendment, and that that time be equally divided, 2½ minutes to the chairman of this committee and 2½ minutes to the gentleman from Virginia (Mr. MORAN).

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

There was no objection.

The CHAIRMAN. The gentleman from Virginia (Mr. MORAN) is recognized for 2½ minutes.

Mr. MORAN. Mr. Chairman, I yield 2½ minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I rise in very strong support of this amendment.

The gentleman from Texas (Mr. SESSIONS) makes a good point. All of us want the government managed so that we save taxpayers’ dollars and we affect the ends that this Congress wants effected on behalf of the American people. This is not a partisan amendment. This is not a union amendment, let me say. I want to read you two quotes that I hope Members listen to.

One is from David Walker, the Comptroller General of the United States. By the way, he is not a Democrat, as you probably know. In considering this issue, and the issue is simply whether or not you set numerical, and that is the key, “numerical,” that is the word in this amendment, and, yes, I have read the amendment, numerical, because once you set the numerical, then you in effect say either you have to or you do not. In fact have an expectation that you will get to X percentage, irrespective of whether the competition and the analysis shows you save money. Irrespective of that. That is the problem with the policy that the President is pursuing through OMB.

Now, what does the Comptroller General, a Republican, the head of GAO, the head of looking over efficiency and effectiveness in government, say? “It is inappropriate to have quantitative targets in the competitive sourcing.” The Comptroller General. He disagrees with your proposition, therefore. He disagrees with the President’s proposition. Why? Because it is
not an effective and efficient way to accomplish the objective that all of us share.

Secondly, not a partisan politician, Paul Light, respected overseer of the Brookings Institution view of public employment, says this: "The Bush administration has shown that it means business by imposing a moratorium on its competition initiative which has a," listen to this, "ready-fire-aim quality, and think more systematically about what the Federal Gov-

That is what the starting of the year because they have followed this process. We have the potential for

hundreds of millions or billions of dol-

I would say against the private sector for activities that are inherently commercial in na-

Let it happen. Play the game. Find out who is right or wrong. Do not stifle competition. Do not outlaw competition, like the Moran amendment does. Vote no.

Mr. DAVIS of Illinois. Mr. Chairman, I rise in support of the amendment offered by my colleague Mr. MORAN of Virginia, which affords flexibility to Federal agencies in decisions con-

cerning contracting out of government work.

There has been a growing sentiment over the years that government work is inherently inferior to that offered by the private sector—

that somehow the private sector has a monopoly on brains, diligence, and professionalism. As a result, there has been a thrust towards establishing across-the-board quotas to pri-

You cannot set a goal for what percentage of jobs or how many or what dollar targets. You cannot set a goal for how many jobs you will compete.

We are not talking about a guarantee of the results of the public-private competition. They want to stop the competition. They want to be amazed by the difference between the rhetoric and the reality. The amendment that we are asking to approve does not outlaw just results, it outlaws the competition. The amendment states you cannot set a goal for what percentage of jobs or how many or what dollar targets. You cannot set a goal for how many jobs you will compete.

They outlaw the competition under this amendment. They say you cannot play the game. So it does not matter what else they may say about it or what else they may include in the amendment. The killer in their amendment is you cannot set a goal for what you are going to subject to competition.

The Bush administration is not setting a goal saying you must transfer so many jobs from the public sector to the private sector. They are saying of the jobs that you have already identified as being commercial in nature, take 15 percent of the jobs that you identified and find out. Have the competition between the public sector and the private sector, but do not outlaw the game from being played.

You cannot set a goal, you cannot set a target, without including a number. They say any goal, any target that has a number in it, is illegal. That is wrong. That undercuts the reforms that this Congress has adopted trying to save the taxpayer money.

The Department of Defense says they are already saving about $1.5 billion each year because they have followed this process. We have the potential for
least $436,000 next year, whereas the expense of Ford, Carter, Reagan and Bush’s offices combined would only cost $528,000.

We are also seeing a drastic increase in miscellaneous services. Former President Clinton received $300,000 for what is called “other services” in fiscal year 2002. That is roughly five times the amount that former President Bush used, and eight times the amount that former President Reagan used in fiscal year 2002.

Now, I am not picking on President Clinton. What I am trying to do here is simply show a trend. After all, there are more Republican former Presidents than there are Democrat former Presidents, and may it always be the case; but there is a trend there.

Many of the allowances for former Presidents are necessary; no question about that. However, numerous costs leave room to be reduced. I am asking for a reduction in these budgets, as they have seen strong growth in the past few years. I want to take care of our past Presidents, but enough is enough. I am merely asking for a slight reduction in allotting these funds and continue to increase the allowance at the rate of more than 10 percent every year.

What I am asking for, Mr. Chairman, is that in the time of impending budget deficits, we tighten our belts where we can. What we are talking about is a little over $300,000 worth of reduction here, not a monumental amount as our budgets go; but at least it would reverse this trend of ever increasing these particular accounts.

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

Mr. HOYER. Mr. Chairman, I rise in opposition to the gentleman’s amendment, and I yield myself such time as I may consume.

Mr. Chairman, we passed on suspension a bill that passed overwhelmingly that allocated $10 billion. It was subjected to 40 minutes of debate on this floor last night. We voted. There were hardly any votes in opposition.

This issue is so de minimis in terms of its dollars, any dollar is important. I understand that, but that it must be interpreted simply as either symbolic or annoying.

The gentleman from Colorado projects this as a small amount of dollars but, relatively speaking, I will tell my friend, they are a relatively large number of dollars. In fact, they are 41 percent of the discretionary dollars from which this cut would have to be made, almost.

Now, why do I say that? Because pensions are given, salaries of those currently on board working for President Ford, President Clinton, President Bush, President Carter are not going to be cut, so that the remaining money will be truly cut from the $980,000 for all five Presidents, and Mrs. Johnson, the widow, who gets a very, very small sum and, therefore, the sum that the gentleman suggests, while yes, presumably a smaller sum of the whole, but because so much of the whole is already committed, that which remains, the discretionary dollars from which it is cut, it is a 41 percent cut.

Now, Mr. Chairman, I reserve my colleagues one that I speak to most frequently, interestingly enough, not a Democrat, but a Republican, for whom I have great respect and who has all of the other Presidents. I will tell my colleagues that President Ford believes these kinds of amendments are, in effect, simply scratching former Presidents, as if somehow they are a problem fiscally for the country. Indeed, I look at them as just the opposite: a backbone of the country, and that is President Gerald Ford, who has used his resources, his position, his experience, his wisdom in a very positive way, as has President Carter, and as have all of the other Presidents. I will tell my colleagues that President Ford believes these kinds of amendments are, in effect, simply scratching former Presidents, as if somehow they are a problem fiscally for the country. Indeed, I look at them as just the opposite: a backbone of the country, not a monumental amount as our disbursement...

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

I think the gentleman from Maryland has a good point, this is a small amount, and it is somewhat symbolic. It is saying, when we are trying to get our budget back in balance, we need to cut wherever we can cut. But even though I would say to the gentleman from Maryland that it is a significant sum in undermining the ability of former Presidents to travel and, frankly, when they travel on the private sector, my colleagues must understand, they travel at private sector expense, not a public expense, not at taxpayer expense.

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

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

I think the gentleman from Maryland has a good point, this is a small amount, and it is somewhat symbolic. It is saying, when we are trying to get our budget back in balance, we need to cut wherever we can cut. But even though I would say to the gentleman from Maryland that it is a significant sum in undermining the ability of former Presidents to travel and, frankly, when they travel on the private sector, my colleagues must understand, they travel at private sector expense, not a public expense, not at taxpayer expense.

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

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

I think the gentleman from Maryland has a good point, this is a small amount, and it is somewhat symbolic. It is saying, when we are trying to get our budget back in balance, we need to cut wherever we can cut. But even though I would say to the gentleman from Maryland that it is a significant sum in undermining the ability of former Presidents to travel and, frankly, when they travel on the private sector, my colleagues must understand, they travel at private sector expense, not a public expense, not at taxpayer expense.

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

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

I think the gentleman from Maryland has a good point, this is a small amount, and it is somewhat symbolic. It is saying, when we are trying to get our budget back in balance, we need to cut wherever we can cut. But even though I would say to the gentleman from Maryland that it is a significant sum in undermining the ability of former Presidents to travel and, frankly, when they travel on the private sector, my colleagues must understand, they travel at private sector expense, not a public expense, not at taxpayer expense.

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

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

I think the gentleman from Maryland has a good point, this is a small amount, and it is somewhat symbolic. It is saying, when we are trying to get our budget back in balance, we need to cut wherever we can cut. But even though I would say to the gentleman from Maryland that it is a significant sum in undermining the ability of former Presidents to travel and, frankly, when they travel on the private sector, my colleagues must understand, they travel at private sector expense, not a public expense, not at taxpayer expense.

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

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

I think the gentleman from Maryland has a good point, this is a small amount, and it is somewhat symbolic. It is saying, when we are trying to get our budget back in balance, we need to cut wherever we can cut. But even though I would say to the gentleman from Maryland that it is a significant sum in undermining the ability of former Presidents to travel and, frankly, when they travel on the private sector, my colleagues must understand, they travel at private sector expense, not a public expense, not at taxpayer expense.

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

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

I think the gentleman from Maryland has a good point, this is a small amount, and it is somewhat symbolic. It is saying, when we are trying to get our budget back in balance, we need to cut wherever we can cut. But even though I would say to the gentleman from Maryland that it is a significant sum in undermining the ability of former Presidents to travel and, frankly, when they travel on the private sector, my colleagues must understand, they travel at private sector expense, not a public expense, not at taxpayer expense.

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

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

I think the gentleman from Maryland has a good point, this is a small amount, and it is somewhat symbolic. It is saying, when we are trying to get our budget back in balance, we need to cut wherever we can cut. But even though I would say to the gentleman from Maryland that it is a significant sum in undermining the ability of former Presidents to travel and, frankly, when they travel on the private sector, my colleagues must understand, they travel at private sector expense, not a public expense, not at taxpayer expense.

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

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

I think the gentleman from Maryland has a good point, this is a small amount, and it is somewhat symbolic. It is saying, when we are trying to get our budget back in balance, we need to cut wherever we can cut. But even though I would say to the gentleman from Maryland that it is a significant sum in undermining the ability of former Presidents to travel and, frankly, when they travel on the private sector, my colleagues must understand, they travel at private sector expense, not a public expense, not at taxpayer expense.

Mr. Chairman, I yield the balance of my time.
Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. HEFLEY. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, does the gentleman agree with me that the items he has mentioned and, obviously, they go down the further the President is a past President; does the gentleman agree with me that the dollars he seeks to cut would not and could not be cut from those items?

Mr. HEFLEY. Mr. Chairman, no, I do not.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) and a Member opposed each.

Mr. HOYER. Mr. Chairman, I offer the amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 18 offered by Mr. KUCINICH

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 18 offered by Mr. KUCINICH: At the end of the bill (before the short title), add the following new section:

SEC. 1. Notwithstanding any provisions of this Act, the amended and reissued and a Member opposed each.

The text of the amendment is as follows:

Amendment No. 18 offered by Mr. KUCINICH: At the end of the bill (before the short title), add the following new section:

SEC. 1. Notwithstanding any provisions of this Act, the amendment offered by the gentleman from Ohio (Mr. KUCINICH) and a Member opposed each.

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

Mr. KUCINICH. Mr. Chairman, I would like to offer the Value of Human Life Amendment. I believe that all human lives are equal. Our founders said as much when the Declaration of Independence was drafted: “All men are created equal.” Whether young or old, born last year or next year, no one person is worth more money than the other intrinsically. I think that nearly all of my colleagues in the House would agree with me on this point. Unfortunately, the Office of Management and Budget has been acting in a way contrary to this deeply held principle of human equality.

When the Office of Management and Budget goes through a regulatory review, it expects that an agency has completed a cost-benefit analysis. As part of the cost-benefit analysis, sometimes, human lives are included.

For example, the arsenic rule that was accepted by the EPA last year will result in a saving of many human lives that otherwise, if exposed to a higher level of arsenic, would have been lost. For the cost-benefit analysis for that rule, all of the lives that would have been saved were added up in dollars at a rate of about $6.1 million per person. In the cost-benefit analysis, EPA included the total figure. In dollars, as part of the total benefits of lowering arsenic levels in the drinking water.

Now, what if, instead of being worth all the same, many lives were valued at a much lower level, say $1.1 million. This is exactly what an outside group, the AEI-Brookings Joint Center for Regulatory Studies did in its study. It did not want to see arsenic levels in drinking water lowered, so it employed the disinfecting technique. Human discounting is when a discount rate is applied over a time period to reduce the dollar value of the human lives that are saved. So instead of calculating the number of lives saved at the same value as human discounting artificially reduces the dollar value of human lives. By reducing the value, it makes the benefit appear smaller.

AEI-Brookings assumed that the cancers caused by arsenic would not apply for 30 years, so it applied a discount rate over 30 years. Applying these calculations, it estimated the value of a life at $1.1 million instead of the EPA’s estimate of $6.1 million.

The impact of using discounting on the value of human life was enormous. Relying upon the AEI-Brookings study, the Washington Post ran a series criticizing EPA, and the Administration held off on the rule for 8 months, accepting it only after enormous public outcry.

The use of human discounting is a tactic used to distort the benefits of a policy. Instead of having a discussion of saving lives, it allows opponents to reduces lives to dollars, and then reduce the dollar value. Human discounting is literally, a discount on life. It places a reduced value on human life. Human discounting says, a person is not worth as much next year as he is today, and the dollar value or his or her head is less next year than it is today.

For tangible objects, like buildings or machines, the concept of discounting makes sense. We employ depreciation rates all the time. Capital things depreciate, and that can be reasonably measured. But is it just to or even reasonable to employ depreciation rates on human lives that are saved? So instead of calculating the number of lives saved at the same value as human discounting artificially reduces the dollar value of human lives. By reducing the value, it makes the benefit appear smaller.

AEI-Brookings assumed that the cancers caused by arsenic would not apply for 30 years, so it applied a discount rate over 30 years. Applying these calculations, it estimated the value of a life at $1.1 million instead of the EPA’s estimate of $6.1 million.

The impact of using discounting on the value of human life was enormous. Relying upon the AEI-Brookings study, the Washington Post ran a series criticizing EPA, and the Administration held off on the rule for 8 months, accepting it only after enormous public outcry.

The use of human discounting is a tactic used to distort the benefits of a policy. Instead of having a discussion of saving lives, it allows opponents to reduces lives to dollars, and then reduce the dollar value. Human discounting is literally, a discount on life. It places a reduced value on human life. Human discounting says, a person is not worth as much next year as he is today, and the dollar value or his or her head is less next year than it is today.

For tangible objects, like buildings or machines, the concept of discounting makes sense. We employ depreciation rates all the time. Capital things depreciate, and that can be reasonably measured. But is it just to or even reasonable to employ depreciation rates for people? Congress has never allowed it before.

Since 1992, when the OMB presented Circular A-94 that specifically advised agencies to use a 7 percent discount rate, it has continued to issue guidance and communications to agencies to apply this discount rate to human lives. However, there is no statute that Congress has passed that tells agencies to use a 7 percent discount rate. There is no statute that even permits it. Yet OMB has advised agencies that discounts should be applied to human lives when cost-benefit analyses are completed.

Ending human discounting is the ethical thing to do by refusing to put different dollar values on different people. If OMB advises agencies to discriminate between different ages of people, what is to stop it from putting different values on people based on income, race or gender? I urge OMB and other agencies to stop this practice and use the same value for all human lives.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. KUCINICH) has expired.

Mr. HOYER. Mr. Chairman, I offer the amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 18 offered by Mr. HEFLEY: At the end of the bill (before the short title), insert the following:

SEC. 1. 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.

The CHAIRMAN. The amendment is a point of order. I would ask the gentleman if he would be willing to withdraw his amendment.

The CHAIRMAN. Let me just state that each Member was recognized for 2 1/2 minutes, a total of 5 minutes debate under the unanimous consent agreement on this amendment.

Mr. ISTOOK. Mr. Chairman, rather than my consuming the time and pressing the point of order, I would inquire of the gentleman from Ohio if he is willing to withdraw his amendment.

Mr. KUCINICH. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

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

There was no objection.
this year’s budget deficit would amount to roughly $1.5 trillion dollars. In order to balance this budget, Mr. Chairman, I am asking that every agency make a minor decrease in its rate of spending. I am not asking for any agency to take a big cut. I am just asking that they reduce their spending. If every agency complies with this request, we can actually come close to offering a balanced budget this year. We would like the excise. We are at war and we are at a time of economic downturn, and that is a genuine excuse. It is not only an excuse, it is a reason. And if we want a reason to not balance the budget this year, we have got reasons for not balancing the budget this year. But I think we need to adopt the philosophy that if we do not have it, we do not spend it. We tighten our belts and we figure a way to maintain that balanced budget.

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

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

The CHAIRMAN. The gentleman from Oklahoma is recognized for 5 minutes.

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

Despite my great sympathy for the amendment offered by the gentleman from Colorado (Mr. HEFLEY), I cannot support it. This particular bill, were it subjected to across-the-board cuts, would find that we have significant cuts and reduction in homeland security efforts which are the major focus of the bill.

We have already identified in the subcommittee and the committee several places where we have applied significant cuts, for example, the Bureau of Public Debt, some $23 million. Bureaucracy within the Office of Narcotics and Dangerous Drugs in excess of $10 million. The First Accounts Program with the Treasury Department, approximately $6 million say from what we had last year and yet improve the program, I believe. These are certain examples and there will be others.

We have what we have done, Mr. Chairman. In this bill we are to try to accomplish savings every place we can and plow those into the front lines of homeland security. Border security, in particular with the Customs Service, where we have significant increases in the drug interdiction program, investment and information technology, in the research and developments to use better levels of technology to secure our borders, the Container Security Initiative, trying to protect us from having something brought in within the $8 billion daily of commodities that come into the country as part of the international trade. I do not think we could accomplish an across-the-board cut without jeopardizing those.

I do agree with the gentleman about the need for significant cuts overall in Federal spending. Unfortunately, because of the extreme needs of homeland security and national defense and the as yet unwillingness of people to make some sacrifices in some other places in the government, I do not think it is a practical amendment at least certainly not in this particular bill. I yield the gentleman and everyone else in this body to try to identify more specific cuts that can be made in all of our bills, but I cannot support this particular amendment.

Mr. Chairman, I yield the balance of my time to the ranking member, the gentleman from Maryland (Mr. HOYER). Mr. HOYER. Mr. Chairman, I rise in opposition to this amendment. A one percent across-the-board cut, small number.

First of all, let me say to the gentleman something he did not say, the committee has already adopted the President’s administrative cuts of $50 billion with the exception of the law enforcement agencies, with the exception of the law enforcement agencies because as the gentleman has pointed out, we are confronting terrorism here at home and around the world.

But let me speak to the larger question that the gentleman, I think, probably does not know, and too many of our Members do not know this fact, the public probably does not know this fact either.

In 1962, 40 years ago, this country spent 3.4 percent of its gross domestic products on domestic discretionary spending. That is what this is all about. Speaking on the Treasury Department, GSA building, the President’s salary, expenses that we are talking about, 3.4 percent. The last year for which we have record, we are in 2002, for 2001, I tell the gentleman, with the rhetoric about exploding expenses, we spent 3.4 percent of GDP on domestic discretionary spending.

Only one year I tell my friend, from 1981 through the agencies of Ronald Reagan and George Bush, only one of those years did we spend as little as 3.4 percent of GDP. All the rest of the years were either in the 3.5’s or above or in the 4 percent of GDP.

So I tell my friend, the Committee on Appropriations, which all the authorizers think is spending money willy-nilly, is spending less money today as a percentage of GDP than we did in the Reagan and Bush years. So the belt has been tightened, and I think important that the public understand that.

I speak in strong opposition to this bill. It is so easy to come to the floor and say do 1 percent across-the-boards, or 2 percent or 5 percent or 10 percent. It is easy to come to this floor and say cut X or Y or Z because it is not as effective or efficient.

Mr. HEFLEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman from Idaho (Mr. OTTER) is not here, so I guess I will go ahead and close. I do not want to hold things up.

Both the gentleman from Oklahoma (Mr. ISTOOK) and the gentleman from Maryland (Mr. HOYER) mentioned the law enforcement portions of this thing. I am not going into any accounts and picking out and saying cut that except for the presidential thing that we did earlier. You have to make choices. If law enforcement is the important thing now, we need to put the emphasis on law enforcement.

I think the gentleman from Maryland (Mr. HOYER) had very good figures through about the things we were spending before and now, the point is we have had a history of spending far, far too much money at the Federal level over the years, and we continue this history. Now, we have tightened our belts.

I have listened to the gentleman from Maryland (Mr. HOYER) but I have to close this thing out. We have spent too much money traditionally. It is the habit here and as I said in my statement, I am not criticizing the committee for their work.

By golly, the gentlemen here do a good job on this committee. They do the best they can. I understand too it is very tough to get a bill with any cuts out of it out of committee because everybody has something they are particularly interested in. Everybody has at least one thing that is the most important thing in their life, and in committee those dynamics work. On the floor, the bills may not work as well. It might be easier for us to pass something like this on the floor than it is in committee.

Mr. Chairman, I yield to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I understand the gentleman’s point. The point I was going to make is when the gentleman says we spend too much money, I agree with him. I am one of Democrats that voted on the balanced budget amendment. I agree that we need to live within our means. The point I want to make to my friends who are not on the Committee on Appropriations, is this is an OMB figure I read, it is not because we are spending more discretionary dollars. That is what we focus on because those are the bills on the floor.

In the tax bills, it is not entitlement bills, et cetera, et cetera, where we are spending the real money and when we look at those figures, that is where the incremental expenditures are occurring. I think that the gentleman is concerned about, not in the appropriations process. I know it is difficult for Members who only get a chance to make their point only when we come to the appropriations process. So it is frustrating to say this is not the problem, but this is not the problem.

Mr. HEFLEY. Reclaiming my time, I will say to the gentleman, we have to try to save the money wherever we can save it, and there is where we have a chance to save it.

Mr. OTTER. Mr. Chairman, I rise today in strong support of the amendment offered by
my friend and colleague from Colorado, Mr. Hefley. Our simple amendment is a sensible response to the more than $109 billion deficit we will run next year. Reducing spending by one percent in the bill, we lower that number by $1.85 billion and speed the return of balanced budgets.

This amendment does not defund critical programs, but rather encourages federal bureaucrats to become more efficient. Asking federal agencies to get by with 99 cents on the dollar is fair when the American people will be stuck with more than $100 billion of debt to burden their children. Every family cuts back on expenditure when their budget is cut. If federal bureaucrats cannot do the same then they do not deserve the tax dollars of those families.

This bill, as written, is $537 million over the President’s request and more than 8 percent higher than last year. Passing the Hefley/Otter Amendment will still leave this bill more than 6.9 percent larger than last year’s bill and $352 million above the President’s request. I appreciate the efforts of Chairman Istook and the entire Appropriations Committee in crafting this bill. They have worked diligently and responsibly under difficult circumstances. I urge them to join me in supporting this Amendment.

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

The CHAIRMAN. The question was taken; and the Chairman announced that the noes appeared to have prevailed.

Mr. Hefley. 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. Hefley) will be postponed.

AMENDMENT NO. 12 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. Jackson-Lee of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Ms. Jackson-Lee of Texas: 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 prevent the re habilitation of urban and rural post offices.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, July 23, 2002, the gentleman from Arizona (Mr. Flake) will be recognized for 2 minutes and a Member opposed will be recognized for 2 minutes.

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

Ms. Jackson-Lee of Texas. I yield to the gentleman from Oklahoma.

Mr. ISTOOK. Mr. Chairman, I am pleased to engage in a colloquy with the gentlewoman. I would be pleased to work with her to address this issue with report language as we go to conference on this bill.

Ms. Jackson-Lee of Texas. Reclaiming my time, I thank the gentleman for yielding and for his commitment.

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

Ms. Jackson-Lee of Texas. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I recognize the gentlewoman from Texas (Ms. Jackson-Lee).

Ms. Jackson-Lee of Texas. Mr. Chairman, I yield myself such time as I may consume.

Ms. Jackson-Lee of Texas asked and was given permission to revise and extend her remarks.)

Ms. Jackson-Lee of Texas. Mr. Chairman, so many of us come to this floor with frustrations that we would hope that our colleagues would join us in fixing.

This amendment deals with the urban and rural post offices so many of us have in our respective districts that go unattended, with dilapidated leaking roofs, and not lighted. This amendment is part of an effort with that concept of not preventing resources to be used for fixing those post offices that so many of us use.

Mr. Chairman, I would like to be able to enter into a colloquy on this issue with the distinguished ranking member and the distinguished chairman of this committee. They brought forth an excellent bill, but I have a problem and so many of us have a problem. Mine in particular deals with the Jensen Drive Postal Station in my district where, so many times, I have been promised that it would be repaired for the seniors who use it. First go to Washington, then go back to Houston.

I am concerned that the U.S. Postal Service is not doing enough to improve this facility to serve its customers better. Right now it has only 8 available parking slots of which one is for disabled parking and only 2 are for senior citizens. This is an area dominated by senior citizen residents. This causes traffic jams and creates an unsafe environment.

As this bill moves forward, I would ask the chairman and ranking member, who work so good together, to consider the inclusion of report language that would encourage the Postal Service to work with local officials and community leaders so the need of its facility and its customers are addressed, particularly our elderly and disabled.

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

Ms. Jackson-Lee of Texas. I yield to the gentleman from Oklahoma.

Mr. ISTOOK. Mr. Chairman, I am pleased to engage in a colloquy with the gentlewoman. I would be pleased to work with her to address this issue with report language as we go to conference on this bill.

Ms. Jackson-Lee of Texas. Reclaiming my time, I thank the gentleman for yielding and for his commitment.

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

Ms. Jackson-Lee of Texas. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I recognize the gentlewoman from Texas (Ms. Jackson-Lee).

Ms. Jackson-Lee of Texas. Mr. Chairman, I yield myself such time as I may consume. We just had a discussion about our ability to rein in spending by the Federal Government. The gentleman from Colorado (Mr. Hefley) is exactly right. We ought to save money where we can. We all know that entitlements are running out of control. There are other things that spend money, but we do have control over appropriation bills and discretionary spending that comes to this floor. The problem is we have far too little control. Those of us who do not serve on the Committee on Appropriations are forced to look at only the bill language when we amend on the floor. All we have is the bill. We cannot spend what is in the bill. The problem is the bill here in this case for this bill that we are looking at is 103 pages. The committee report, on the other hand, is 135 pages. The bill contains what are called hard marks or directions for spending money. The committee report contains what are called soft marks or directions. We do not have any control. We cannot get at the soft marks here on the floor. Ordinary Members of Congress cannot go...
in and cut out pork barrel spending because most of the pork barrel spending happens and is directed within the conference report.

When I brought this amendment on the last appropriation bill we did, I was ruled out of order because they cannot legislate on appropriation bills. My amendment would assume that those who spend the money in Federal agencies actually read our bills. Apparently we do not assume that. They are not directed to. But we know they do because they spend money they spend the soft marks. If they do not, they are punished the next year by the Committee on Appropriations.

All my amendment says is that unless it is appropriated in a bill, not in a report, in a bill that Members have the ability to amend, then Federal agencies cannot spend it. That is not unreasonable. It is not saying that we do not have earmarks. The House, the Senate, has a prerogative to earmark. It simply is saying do it in a bill where we have sunlight, where everybody can see it, where we have an open process, not hidden away in some committee language or conference language or a report that nobody can get at. So I think that is a reasonable request. However, I realize that I will be ruled out of order again. I will commit to work on the language to make sure that we can get around the problem.

Mr. Chairman, I ask unanimous consent that the amendment be withdrawn.

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

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT NO. 7 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. 7 offered by Mr. SANDERS: At the end of the bill before the short title, insert the following new section:


The CHAIRMAN. Pursuant to the order of the House of Tuesday, July 23, the gentleman from Vermont (Mr. SANDERS) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Vermont (Mr. SANDERS).

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

This tripartisan amendment is co-sponsored by the gentleman from Minnesota (Mr. GUTENREICH), the gentleman from New York (Mr. HINCHLEY), and the gentleman from California (Mr. GEORGE MILLER). This amendment has the strong support of the AARP, the largest senior citizen group in America, as well as 15 million union members in the AFL-CIO. It is supported by the Pension Rights Center and many other groups.

Mr. Chairman, this amendment is about corporate accountability. Today corporations after corporation have been caught misleading their investors. Many of these same companies are doing exactly the same thing with respect to employees’ pensions. Mr. Chairman, enough is enough.

This amendment addresses two issues. First it tells companies they must stop discriminating against workers based on age by shifting to the so-called cash balance scheme. Second, it tells companies that they must not cheat their employees out of their hard-earned benefits. Specifically this amendment would prohibit the Internal Revenue Service from using any funds for activities that violate current pension age discrimination laws, laws that have been on the books since 1986. A similar amendment was passed by voice vote during the consideration of the Fiscal Year 2001 Treasury Postal Appropriations bill but was stripped from the conference report.

Mr. Chairman, age discrimination in general and age discrimination with regard to pensions is unacceptable and must not be allowed to happen. Unfortunately, hundreds of profitable companies across the country, including IBM, AT&T, CBS, and Bell Atlantic, have converted their traditional defined benefit pension plans to the controversial cash balance approach. Cash balance schemes typically reduce the future pension benefits of older workers by as much as 50 percent. Not only is this immoral, it is also illegal because reductions in benefits are directly tied to an employee’s age which is in violation of Federal age discrimination law.

What makes these conversions even more indefensible is the fact that many of the companies that make these conversions have pension fund surpluses in the billions of dollars. It is simply unacceptable that during the time of large corporate profits, pension fund surpluses, and bonuses for CEOs including, by the way, very generous retirement benefits, that corporate America reneges on the commitments they have made to workers by slashing their benefits and their pensions.

Mr. Chairman, Congress must stand with older workers and insist that anti-age discrimination statutes are enforced.

Mr. Chairman, let me quote from the letter from the AARP written to me. ‘AARP believes that cash balance plans violate current law prohibitions on age discrimination. We commend you,’ me, “for offering this timely and important amendment. AARP hopes that this amendment will send a strong message that we value older workers and that we reaffirm that older workers should not be subject to age discrimination, in this case, the so-called ‘cash balance plan.’” End of quote from the letter that AARP wrote to me.

In addition, the Pension Rights Center writes in a letter to me, and I quote, “The Center has long been concerned that cash balance conversions have deprived older workers of their hard-earned expected pension benefits. The Center has joined labor and retiree organizations in taking the position that cash balance conversions should be stopped because they violate age discrimination laws and deprive older employees of expected future benefits that they counted on earning in their traditional defined benefit plans. As a result, policy makers must be concerned that these conversions rank high among abusive practices that corporations have instituted to surreptitiously cut employees’ benefits. It is noteworthy that before the current calamities that befell Enron and WorldCom, many companies had converted their secure defined benefit plan to cash balance plans for the purpose of reducing their older employees’ benefits and increasing the corporate balance sheet. Both companies then purported to “improve” the 401(k) plan only to lure employees into investing into employer stock that soon became worthless.” Letter from the Pension Rights Center.

Mr. Chairman, through my involvement with the IBM cash balance conversion, I have heard from hundreds of workers throughout the country who have expressed their anger, their disappointment, and feelings of betrayal. These are employees who had often stuck with their company when times were tough, these were employees who had often stayed at their jobs precisely because of the pension program that the company offered, and these are employees who woke up one day to discover that all of the promises that their companies made to them were not worth the paper they were written on.

Mr. Chairman, this is not acceptable. We must provide protections for these workers who have been screaming out to Congress for help. We must pass this amendment. Large multinational corporations with defined benefit pension plans receive $100 billion a year in tax breaks alone, according to the Office of Management and Budget. Mr. Chairman, the IRS should not be giving tax breaks to companies that willfully violate the pension age discrimination statutes. To do so not only violates public law and policy, it also provides taxpayer subsidies for illegal pension conversions.

Mr. Chairman, there should be no tax breaks for companies that discriminate on the basis of age.

This amendment also has another very important component designed to
July 24, 2002

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

I rise in opposition to the amendment offered by the gentleman from Vermont (Mr. SANDERS) and I rise as chairman of the Subcommittee on Employer/Employee Relations which has jurisdiction over ERISA, and a member of the Committee on Education and the Workforce which has jurisdiction over discrimination issues. I am also a member of the Committee on Ways and Means which also has jurisdiction on pension issues.

Despite some assertion made recently by the gentleman from Vermont (Mr. SANDERS) as ranking member of the Subcommittee on International Monetary Policy and Trade, he has no jurisdiction over any pension issues.

Congress should be in the business of encouraging, not discouraging, employer-sponsored pension plans. Currently less than half of the Americans who work in the private sector are covered by a retirement plan. The reason for this anemic number is that we have so overregulated these plans that many employers simply decide not to offer this important employee benefit.

The decline in the defined benefit pension plans has been particularly shocking. Earlier this year the Committee on Ways and Means held a hearing on defined benefit pension plans and we heard testimony on the decline of these plans that provide retirees guaranteed income for life. The number of defined benefit pension plans peaked in 1985 at 114,000 plans. In 2001 the number of these plans had fallen to 35,000, a staggering decline of almost 70 percent. The reason for this drop is that these plans were wrapped in so much red tape that employers chose to stop offering this benefit to their employees.

One type of defined benefit pension plan that provides some glimmer of hope that we will not see these plans become extinct is cash balance pension plans. The accrued benefits in these plans are guaranteed not to be reduced, a deal that many of us wish we could find for our shrinking 401(k) and TSP balances. I think that it is important that we maintain the employer's ability to do these things. The employer makes contributions and the employer bears the risk of market reductions, not the employee.

Finally, the United States Government Pension Benefit Guarantee Corporation, which insures the pensions of government employees, has found that cash balance plans are guaranteed not to be reduced, that these plans were wrapped in so much red tape that employers chose to stop offering this benefit to their employees.

Mr. SANDERS. Mr. Chairman, how much time is remaining, please?

The CHAIRMAN. The gentleman from Vermont (Mr. SANDERS) has 8 minutes remaining. The gentleman from Texas (Mr. SAM JOHNSON) has 11 minutes remaining.

Mr. CHAIRMAN. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. GEORGE MILLER), ranking member of the Committee on Education and the Workforce.

Mr. GEORGE MILLER of California. Mr. Chairman, I thank the gentleman from Vermont for yielding me this time, and I thank him for bringing this amendment.

This amendment just addresses a very fundamental question: What will happen to the corporations of America stop raiding the pensions of their workers? If one listens to the gentleman from Texas (Mr. SAM JOHNSON), the suggestion is that corporations will only go to a defined benefit plan or they will only go to a cash balance plan if they think they can continue to raid the cash balance of the pension plan. What they promise their workers they will give them is different than what they will give them. And how do they do that? Because they are working with the Department of Labor, with the Department of Labor trying to concoct a means by which they can have unrealistic assumptions about the rates of return and then use that to gyp the workers out of their money.

Mr. CHAIRMAN. The gentleman from Vermont (Mr. SANDERS) is Calories. This is not just me who says this. This is what the Inspector General found as they have audited these plans. We find out that the workers are underpaid.

Now, we have been through Enron, we have been through WorldCom, we have been through Merck, and we have been through one scandal after another. What is interesting is that these are many of the same companies that not only killed their workers' 401(k) plans, but now they are also in the process of footloosing the cash balance plans.

So the question is: Is this Congress going to put a stop to it? Is it going to tell the Treasury Department that they should be able to do as they have been doing and making realistic assumptions about rates of return on these plans, or are they going to engage in some kind of fiction and cooking of the books with the very corpora- tions that have destroyed families across this country?

This is a moment of truth for the Congress. Because the Treasury and the IRS have been doing it one way, it has been upheld in court, it is determined to be fair to the workers, it is determined to return to them the value of the cash out of their pension plan; and now, in come the companies. In come the companies, who have destroyed the stock market, who have destroyed confidence in the American investment system, who have destroyed these people's lives, and now they want us to become their partner in depriving people of tens of millions of dollars that they are owed, that they worked for, and that they were promised.

Now maybe promising somebody something, and keeping the promise was old-fashioned in the 1990s, but I have a sneaking suspicion that it is coming back into vogue; that it is going to be a basic value. These companies promised these workers this pension for the work that they did, and when they changed plans, they promised them that they would have a balance; that it was the equivalent of the cash balance of that. Now they want to cook the books.

The question for this Congress is: Are we going to be part of that? The Sanders amendment gives us an opportunity to say no; to say no to age discrimina- tion and to say no to having this Con- gress and the Treasury Department and the Labor Department be partners in cooking the books. We must pass the Sanders amendment.

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

The complexity of cash balance plans has made them the subject of study of both the Clinton and Bush administrations, and there is no Federal agency in any administration that found that cash
balance plans discriminate on the basis of age. By its own admission, the Internal Revenue Service is trying to clarify some of the ambiguities under its own notice 96-8. The passage of this amendment, in our view, would prevent the IRS from modifying 96-8, a circumstance which could cause significant harm to many workers.

So I would say that this amendment simply bars the administration, which started under Clinton and continued under Bush, from trying to fix some of the problems that occur with our pension system.

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

Mr. SANDERS. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Chairman, I want to thank the gentleman for yielding me this time, and I rise in support of the amendment.

Mr. Chairman, I agree with some of the things the gentleman from Texas just said, and, that is, that the IRS has been studying this thing for about 5 years, 5 years, and during that time millions of Americans have seen their pension funds and the amount of money they expected to receive dramatically changed while the IRS has studied this.

This amendment is pretty straightforward. It just says it is true for the IRS to get off the dime and come to a clear conclusion, the conclusion that I think anyone who studies this issue objectively for more than 10 minutes will come to, and, that is, for older workers, when they convert from a defined benefit plan to a cash balance plan, the older workers lose. That is a fact.

Now, I am not on any of the committees of jurisdiction. I am not on the Committee on Ways and Means; but I did serve on the pension commission back in the 1980s, and I come from a part of the country where a deal is a deal and a bargain is a bargain. And what happened many years ago, the Congress made a bargain with large employers. We called it ERISA. And the bargain was this: if you take good care of your workers, we will protect you from legislation in the 50 States. You will only have to deal with one set of regulations.

Now, my colleagues, we never broke that. Large corporations have. They have changed the bargain on pensions. And when they make these conversions, the truth of the matter is a lot of that money is freed up and can be transferred to other parts of that company’s budget. Now, you may not want to call it raiding the pension funds, but that has been the net practical effect, and millions of workers have lost.

This is a straightforward amendment. It makes sense. It gives the signal that the IRS that it is time to get off the dime and make it clear that when they make these conversions, older workers lose. That is wrong, and it is time for Congress to do something about it.

Mr. SAM JOHNSON of Texas. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentleman from Texas has 3 minutes remaining, and the gentleman from Texas (Mr. SAM JOHNSON) has 7½ minutes remaining.

Mr. SANDERS. Mr. Chairman, I am proud to yield 1½ minutes to the gentleman from New York (Mr. HINCHLEY).

Mr. HINCHLEY. Mr. Chairman, beginning in 1995, this Congress began a process of reducing regulations and allowing the acquirers of corporations across America. They also, during the beginning of that period of time, weakened the IRS. The result of that is the kind of corporate scandals, the kind of corporate crime wave we seem sweeping across the country today.

One of the less noticed aspects of that corporate crime wave includes the way in which corporations have been robbing the pension systems of American workers. They have been doing that by shifting from a so-called defined benefit program, where the benefits are clear and well stated, to a cash balance program, which enables them to manipulate the pension program and, in fact, provide lesser benefits to the employees, to the workers, over periods of time as the years go by.

That has got to stop. The only way it can be stopped is by requiring the IRS, which has been weakened by the leadership of this House, to step forward and enforce the laws as they were intended to be enforced, so that this amendment would do. It would require the IRS to enforce the laws, and it would stop the pension abuse that is going on by corporations across this country that are costing American workers and their families hundreds of millions of dollars.

We have the obligation and the responsibility to stop it. The only way we can stop it is by passing this amendment. Therefore, I hope and trust that the majority of the people in this House will step forward and recognize their responsibilities and pass this amendment.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield such time as he may allow to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Chairman, I thank the gentleman for yielding me this time, and let me rise today in opposition to the amendment offered by the gentleman from Vermont (Mr. SANDERS) and others that really would be a back-door attempt at making substantive changes to our pension law.

The fact is that the issue has been debated in the Portman-Cardin bills from 1998, 1999, 2000, and 2001. We also dealt with it in the Pension Reform Act we had on the floor of this House this past spring. In every case, the Congress has decided not to discourage the conversion to cash balance plans.

Now, cash balance plans are a hybrid between traditional defined benefit plans and defined contribution plans like 401(k) plans. Companies that have traditional defined benefit plans were under pressure, under pressure from younger workers, who felt that they were not getting the benefit of their pension benefits until they had stayed...
there for 20 or 30 years. These conversions to cash balance plans, these hybrids, are in the best interest of all employees of these companies.

Now, we should all know that there have been over 500 conversions from defined benefit to cash balance plans. In almost every single case, companies made all employees whole. Now, there is a case, and maybe a case and a half, where companies early on did not do this. And the gentleman who is the sponsor of this amendment, and his colleagues who are sponsoring amendments, all happen to represent various facilities of the one company who did not do a very good job in their conversion.

We do not want to make this huge change in pension laws on an appropriation bill. It is not the right venue. The gentleman, I am sure, is well aware of that. On top of that, the policy that is being proposed here is not the right policy for the interest of American workers.

Younger workers want to be able to see what kind of pension benefits they have accumulated. Cash balance plans are a way for traditional companies with defined benefit plans to in fact do that.

I think this is unwise. We should not go down this path today, and I would urge my colleagues to reject the amendment offered by the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Chairman, I thank the gentleman from Vermont for yielding me this time.

Mr. Chairman, the previous speaker made an indication that many companies have switched over or converted to cash balance plans and employees have been made whole. That simply is not the fact. It is not what is happening. A large number of older Americans, people 40 years and older, have in fact lost up to 50 percent of the value of their plans.

This is not some substantive change in the law that is being asked for here. The gentleman from Vermont, much to his credit, has come forward and said we will just make sure that the IRS is not adding insult to injury, and that in fact, when people stand that risk of having their pension that they worked long and hard to secure taken away from them by a conversion, the IRS will not allow any monies to go to doing that. They will in fact have to enforce the law.

1300

The law says we cannot discriminate in such situations. The Inspector General at the Department of Labor has found out that discrimination is going on when you shift to a cash balance plan. Over 20 percent of the 60 plans that were audited resulted in those employees not getting what they were entitled to. If we extrapolate that number out, we find out the damage is $185 million to $190 million annually.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from North Dakota (Mr. POMEROY), a member of the Committee on Ways and Means.

Mr. POMEROY. Mr. Chairman, I want to congratulate the sponsors of this amendment for their tireless efforts, in particular on behalf of employees in their particular districts affected by a poorly executed conversion and their efforts thereafter to make sure that the concern realized in that particular instance is not realized again.

I also congratulate them for advancing this amendment because I believe it calls attention to a very important issue of pension conversion and our great concern that people be treated fairly and there not be age discrimination as their conversions move forward.

Having said that, I respectfully disagree with this amendment on this appropriations bill. This is a very substantive alteration of ERISA law. It is technical, it is complex, and there could be unintended consequences. The consequence I am most worried about is, rather than the conversion from defined benefit to cash balance, we are going to have even more dramatic and disadvantageous to the employee, movement to defined contribution plans or gradual elimination of the pension benefit altogether.

We operate in an environment where employers are asked to provide these benefits, and 50 percent of the people in the workforce today have no at-work savings. Therefore, as we try to address these concerns, if we smack employers with perceived additional costs, we absolutely stop the efforts to get additional employers to offer retirement savings plans, and I believe we accelerate the conversion from defined benefit to defined contribution plans.

Reasonable minds may differ on this, and I do not question for one instance the absolute sincerity in the purpose behind this amendment. I just think strategically that this is not the way to go at this time. I think the fact that the amendment has been offered and is debated sends a very clear signal to the Department of Treasury that this is not the time for them to be altering that rule.

I think on the other hand their administrative processes should move forward, the committees of jurisdiction should carefully watch over those processes, and particularly interested Members of Congress should also watch this process; and if we, indeed, see the rule being altered in a way that has a discriminatory effect on elderly workers, we ought to act at that time.

But to react now changing ERISA by an amendment on an appropriations bill without a hearing, without careful deliberation about the full range of issues, and that they might be, this is reckless stuff on very important business. There is not a worker in the workplace today with a retirement savings plan that is not darn scared about what is happening in the stock market and their security of income and retirement. We should not compound the confusion, the anxiety, or raise other questions by passing this amendment at this time.

Mr. SANDERS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the American people are outraged at the degree to which corporate America has ripped off investors and workers. And millions of American workers are equally outraged at the degree to which corporate America has ripped off their pension plans.

I ask us to pass this amendment. Let us join with the AARP, let us join with the AFL-CIO, let us join with the Pension Center and say ‘yes’ to American workers that they deserve what they have been promised.

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

Mr. Chairman, both the Department of Labor and the Treasury Department are trying to examine new regulations and their effect on cash balance plans.

The recent DOL Inspector General’s report indicates there is confusion on the part of employers as to the rules to be applied to distributions from cash balance plans. The two Departments need time to develop rules that are both understandable to employers and not harmful to workers’ benefits under these plans.

Congress must not impede the normal regulatory process of the agencies by removing the flexibility they presently enjoy to craft rules in the pension area. The Congress should be trying to encourage the growth of employer-sponsored pension plans; and passage of the Sanders amendment will have a chilling effect on cash balance plans. The Federal Government should promote policies that will encourage employers, particularly small businesses, to sponsor pension plans. As the baby boomers age, we need increased pension plan coverage. If this amendment will impede that growth, I recommend a vote against this amendment.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. SANDERS).

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

Mr. SANDERS. 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 Vermont (Mr. SANDERS) will be postponed.

AMENDMENT NO. 23 OFFERED BY MR. BARR OF GEORGIA

Mr. BARR of Georgia. Mr. Chairman, I offer an amendment.

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

Amendment No. 23 offered by Mr. BARR of Georgia:

I. Insert at the end before the short title the following:

SEC. 2. None of the funds made available in this Act under the heading “Special Forfeture Fund (Including transfer of funds)” to support media campaigns shall be used to pay any amount pursuant to contract number N00000-02-C-0123.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, July 23, 2002, the gentleman from Georgia (Mr. BARR) and the gentleman from Maryland (Mr. HOYER) each will control 10 minutes.

Mr. BARR of Georgia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a very simple amendment. It is just as important for what it does not do as for what it does. This amendment, goes to an issue regarding funding for the antidrug media campaign, which is a very important part of our government’s overall antidrug message, and whether or not that program shall continue to be administered by companies benefiting greatly, to the tune of hundreds of millions of dollars of taxpayers’ money, should be limited to companies with a good, honorable, upstanding, noncorruptable track record in dealing with the government.

There is one company in particular which has benefited greatly from taxpayer dollars in putting together the ads and buying the ad time for the media antidrug campaign, and that is Ogilvy & Mather Corporation. This company has already entered into a civil settlement with the government in excess of $1 million, almost $2 million, for fraud in connection withilleccity and other fraudulent contract practices. The company is reportedly still under investigation by the Department of Justice, that is the FBI and the U.S. Attorney’s Office for the Southern District of New York.

Insofar as there is a contract which has just been let which would go through the year 2003 or through fiscal year 2003 for many hundreds of millions of dollars, we think it is prudent right now here in the House, and the Senate is doing likewise, to say to the American people that the contract practices that are involved in this particular contract because of the very serious questions which have been raised about this company.

I would like to make very clear that this amendment, if adopted, and I do believe the gentleman from Oklahoma (Mr. ISTOOK) is prepared to accept this amendment, and I hope the other side will, too, this amendment will not and is not intended to stop in any way, shape, form or slow down the antidrug media campaign. It is designed to strengthen it by ensuring that we have corporations involved in the delivery of that message and the buying of the time to get that message out that are reputable and do not themselves raise serious questions about the integrity of the program.

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

Mr. BARR of Georgia. I yield to the gentleman from Oklahoma.

Mr. ISTOOK. Mr. Chairman, we are both very supportive of the media campaign, and we wish for it to continue; but what I want to make sure that we clarify through the colloquy is that despite what may be the concerns that some may have with the language, the intent of this amendment is not to shut down the media campaign.

Mr. BARR of Georgia. Mr. Chairman, I thank the gentleman for that question. Like the gentleman, I support the antidrug media campaign. It delivers a powerful message to youth and families across the country about the dangers of illicit drugs. It is an important weapon aimed at reducing drug abuse.

Mr. ISTOOK. Mr. Chairman, if the amendment is to allow further competition to make sure that other capable media firms are able to compete for the public funds to buy time for this important antidrug campaign on different media outlets.

Mr. BARR of Georgia. Mr. Chairman, yes. Again, I seek to restore integrity to the media campaign to ensure its ongoing success, not to end it. It is the time to clarify the end and take a stand. It is shameful for the government to reward any company that has admitted to fraud and reportedly remains under criminal investigation to receive more taxpayer dollars at this time.

Mr. ISTOOK. Mr. Chairman, if the gentleman would continue to yield, I understand the amendment is to allow further competition to make sure that other capable media firms are able to compete for the public funds to buy time for this important antidrug campaign on different media outlets.

Mr. BARR of Georgia. Mr. Chairman, yes. Again, I seek to restore integrity to the media campaign to ensure its ongoing success, not to end it. It is the time to clarify the end and take a stand. It is shameful for the government to reward any company that has admitted to fraud and reportedly is subject to part of a criminal investigation for its action.

Mr. ISTOOK. Mr. Chairman, if the gentleman would continue to yield, I do understand and I sympathize with the concerns of the gentleman from Georgia (Mr. BARR). I want to make sure that the gentleman understands that the purpose is to ensure that this program continues in a proper fashion, that the ad campaign is not disrupted, and that only those who properly should be handling it are involved in contracts for this matter.

I ask that he be willing to work with us during conference to modify the language as I expect will probably be necessary to ensure that there are no unintended consequences from this amendment, and that there is no disruption of this very important national antidrug campaign.

Mr. BARR of Georgia. Mr. Chairman, I wish to assure the gentleman that is my intent. My intent is that we continue the campaign and spend taxpayer dollars appropriately. Should we find another approach to reach that goal, I would be happy to join with the chairman and others in refining the language appropriately.

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

Mr. HOYER. Mr. Chairman, I yield 30 seconds to the gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. Mr. Chairman, I was pleased to hear the sponsor say that he wanted to see the program continue. One of the things I was interested in is that there have been defense contractors, like Halliburton, which have done things that were illegal; and I was just wondering whether the gentleman will take the same stand with regard to defense contractors who might have violated the law?

Mr. BARR of Georgia. Mr. Chairman, will the gentleman yield?

Mr. CUMMINGS. Mr. Chairman, I yield to the gentleman from Georgia.

Mr. BARR of Georgia. Mr. Chairman, if the gentleman from Maryland looks at my record both as a United States Attorney and as a member of the Committee on Government Reform, and the Committee on Government Reform, and the Committee on Financial Services, he will see that I am very consistent in going after corruption, regardless of party, regardless of company.

Mr. HOYER. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK. Mr. Chairman, I stand to support the Barr amendment, and to thank the chairman for agreeing to work with the gentleman from Georgia (Mr. BARR) and others as we go to conference to make sure that we do not stop this worthy program. Drugs in America is a cancer. We must do all we can to support our children.

At the same time, we must make sure that our Federal dollars that have been appropriated are spent wisely.

This company in question has padded their books, has been found guilty of $1.8 million overcharging the Federal Government. It is important that we monitor all of these contracts and that the moneys being used for advertising go to those communities where the most need is.

It is important that the gentleman from Georgia has introduced this amendment. I look forward to working with him and the chairman and our ranking member and just to reiterate how important it is that as we spend these advertising dollars, we select those companies who have the same mission that we have, which is to make sure the advertising gets out correctly, that they do not pad their bills and mischarge the Federal Government and continue to fund the gentleman.

I stand in support of the gentleman’s amendment barring payment of contracts to support a national media campaign to any...
company that has entered into a settlement to pay claims against it by the Federal Government.

As far back as March of 1999, I began investigating the policies and procedures of awarding advertising contracts and an investigation began with the advertising agency that had the ONDCP contract prior to the current agency that has settled with the government to pay 1.8 million dollars for padding vouchers.

The amendment is necessary not only to prohibit funds to the current agency (Ogilvy & Mather) who padded their invoices and overcharged the government, but also because there are several large Federal Government advertising contracts where the same allegations are being made.

The Army has an approximately $150 million annual advertising campaign to recruit and retain enlistees. The Center for Disease Control (CDC) has launched an annual $125 million advertising campaign to combat obesity to target kids.

One awarded government advertising contracts can be renewed for up to four additional years. Mr. Speaker, we must put a stop to the practice of blindly awarding government advertising contracts.

If this is to be done properly, we must change the corporate irresponsibility we must make corporations more accountable for their actions. We cannot allow taxpayer dollars to go to corporations that shortchange the American People.

I urge a yes vote on the gentleman's amendment.

Mr. HOYER. Mr. Chairman, I thank the gentlewoman from Michigan (Ms. Kilpatrick) for her contribution to the debate.

Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. Souder).

Mr. SOUDER. Mr. Chairman, I rise as chairman of the authorizing subcommittee for the Office of National Drug Control Policy and the media campaign to raise a couple of points about this important matter. I believe the most important thing we need to do is protect the media campaign, and there is a big dispute about the best way to do that. I was hoping this could be worked out in conference and I am comforted by some of the words here in the debate, but I am reluctantly going to oppose the amendment.

I believe the media campaign is one of our only national programs that we have to try to reduce demand for illegal drugs, and I appreciate the efforts of the gentleman from Georgia as well as other members of our subcommittee to try to increase accountability and effectiveness in the media campaign, and we agree on that fundamental point. I am very disturbed about some of the process of the bidding. I am disturbed about the violations of the law that Ogilvy has committed.

I am concerned about the processes of how the creativity is done. But I also do not want the media campaign to get so tied up with the administration that has maintained could happen depending on how this goes. I am concerned that if the Senate language and the House language are too similar, this could be conferenced and not give us the flexibility.

We have a hearing scheduled for Friday to look and see whether this would cause the media campaign to go dark. We need tougher answers from the administration to make sure that they are not being biased in the bidding process as opposed to real concerns that the media campaign can go dark. I believe this is a helpful approach. Generally speaking, I totally agree with the gentleman from Georgia's point. When somebody has violated the confidence of the taxpayers, they should not be rebid unless there is compelling evidence, but in the Committee on Government Reform, we have seen other agencies where, for example, in long-term care, we have had to continue with some organizations, at least for a period of time, to make sure that the people are serviced as opposed to using an arbitrary one-size-fits-all standard.

I agree with the goals of this amendment. I believe that we need to carefully review the process. I would hope that whatever happens with this amendment, that the conference committee will continue to look through and make sure that the media campaign can go dark. It will not go dark. It does not kick in even if it is adopted until the next fiscal year. There is absolutely nothing in this amendment, and I wish to again assure the chairman of the subcommittee, does not kick in in any way, shape or form.

I wish to again assure the chairman of the subcommittee as I assured in the colloquy with the chairman of the appropriations subcommittee, it is not our intent part of the antidrug program to go dark. It will not go dark. I do not know how much clearer we can make that. That is not our intent. This will not do it. This has to do with the next fiscal year. There is already money fully in the pipeline for whatever company the government contracts with, including Ogilvy & Mather, to continue their work. This simply gets a marker into the contract. We have to work to assure that that does not happen.

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

Mr. BARR of Georgia. Mr. Chairman, I yield to the gentleman from Indiana.

Mr. SOUDER. Mr. Chairman, does the drug czar of the administration agree that the campaign will not go dark?

Mr. BARR of Georgia. It does not matter whether they agree or not. There is nothing in this amendment, absolutely nothing, I assure the chairman, that will tell us to. And if, in fact, there is any problem that makes it apparent that this specific approach would cause a problem, as I stated in the colloquy and I state to the distinguished gentleman from Indiana, we will be glad to work, and I am sure that the other members of the conference committee would be glad to work to assure that that does not happen.

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

Mr. HOYER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan (Mr. LEVIN).

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

Mr. LEVIN. Mr. Chairman, as someone who, with the gentleman from Ohio (Mr. PORTMAN) and others has worked on this important program, I am glad to hear the assurance that the program will continue. We have to be careful about the integrity of the contracting process. I hope all of us agree on that. As we implement our care with the integrity of the process, we also have to be sure that this important program is not shut down. It has had some successes and it has had some lack of successes, but overall, it is critical that the media effort, the outreach on drugs, that this effort continue.

So we will take the assurances of the sponsor of the amendment and it will go over to the Senate and then into conference, and I assume that those assurances will be implemented in the final language. It is the next fiscal year, but if there has to be recontracting, there could be a hiatus if we are not careful and we have to make sure there is no hiatus in this effort to make sure that the message about the danger of drugs is carried throughout this country effectively.

Mr. HOYER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Maryland (Mr. CUMMINGS), the ranking member of the Subcommittee on Criminal Justice, Drug Policy and Human Resources.

Mr. CUMMINGS. Mr. Chairman, I thank the gentleman for yielding time. I just want to reiterate what the gentleman from Michigan (Mr. LEVIN) just said. I think that it is very important that at a time when so many of our young people are becoming addicted to drugs, and certainly I, along with the gentleman from Indiana (Mr. SOUDER) of our drug subcommittee, have traveled with our subcommittee all over this country, and we realize that drugs have no boundaries, that we keep the campaign intact. The campaign is not perfect. There are some things that we need to do to make it more effective, but we really do not want it to go dark. I understand the gentleman's concerns, but I want to make sure that we give every parent every tool that they can possibly have to help lift their children up so that they can be all that God meant for them to be.

Mr. Chairman, I rise in opposition to the amendment by Mr. BARR.
Mr. BARR’s amendment would prohibit ONDCP from honoring a contract with advertising firm Ogilvy & Mather, under which Ogilvy would continue to provide advertising and advertising-related services that are central to the operation of ONDCP’s Youth Anti-Drug Media Campaign.

If the amendment is enacted, it would shut down the media campaign for at least the next year, and it will only make more difficult the task of reauthorizing and retooling this important program. Mr. BARR states that this is not his objective, but it will be the effect. So while the ostensible purpose of this amendment is to shut down the real purpose of the Barr amendment will be American families who might benefit from the campaign’s anti-drug messaging.

If this amendment passes, Mr. Chairman, it will effectively shut down the National Youth Anti-Drug Media Campaign—at least for the next year. If this amendment passes, the Media Campaign will go dark in most media markets by January 2003 and totally dark by March 2003. In fact, the consequences are even more far-reaching: (1) there would be no active anti-drug advertising in the vast majority of the country; (2) the Advertising Council would lose nearly 50 percent in pro bono match; and (3) the Partnership for a Drug Free America and ONDCP would lose an additional match of $23 million. These are irreversible consequences.

The Media Campaign would be required to eliminate all local market and state-by-state media activity (local newspapers, local radio, local out-of-home media and local television media buys).

As Ranking Minority Member of the Government Reform Subcommittee on Criminal Justice and Drug Policy, I believe that the National Youth Anti-Drug Media Campaign is an important part of our national drug control strategy. Anti-drug messaging has worked in the past to reduce drug use among children and teens, and in many places across the country it appears to be working now.

Recent evaluations of the media campaign have not shown us the overall results we’d like to see in terms of reducing marijuana usage among youth. But the same evaluations do show that drug ads are being seen and remembered by parents and youth, and that ads targeting parents have been effective in getting parents to engage their children on the issue of drugs. Mr. Chairman, as a parent, one of the anti-drugs ads that I remember vividly states this level of effectiveness most accurately—it reads and I paraphrase: Parents are the anti-drug. In my own 7th Congressional district in MD, there are 60,000 addicts and in the City of Baltimore alone. Most of whom started using drugs in their early teens. I firmly believe that if their parents had talked to them about drugs, many of these kids would not have started using drugs. There would be a lot fewer than 60,000 addicts. I think many of my colleagues would agree with this conclusion.

Mr. Chairman, the Barr amendment attempts to circumvent Federal contracting law in order to impose upon one company punishment that similarly situated companies would not suffer. Take, for example, Halliburton. This is a company that has profited, and continues to profit, enormously from multiple contracts with the Department of Defense. In February of this year, Halliburton subsidiary KBR reached a $2 million settlement with the government, amid criminal allegations of fraud, false claims, and false statements. KBR was subsequently awarded a ten-year unlimited-cost contract with the Army. Did we see a similar Barr amendment to the Defense Department Appropriations bill? No, Mr. Speaker, we didn’t. And I think we have to ask why we are singling out one company and one program for special treatment. In my view of the crippling effect this provision would have on the media campaign.

If we’re going to set aside the duly enacted laws and regulations that the Congress and the executive branch have devised to prevent the abuse by Federal contractors, it seems to me we ought to be fair and consistent about it. Either it’s good policy or it’s not. If it’s good for Ogilvy and ONDCP, then it ought to be good for Halliburton and the Army as well.

Can the campaign do better? I believe so. Will it do better? It will if we work together to make it better. For my part, I am committed to working with Mr. SOUDER, Mr. PORTMAN, members of the drug policy subcommittee, our counterparts in the Senate and ONDCP Director Walters to work through the problems with the current campaign and to press for an overall aim of making it as effective as it can be.

The amendment by Mr. BARR is simply not constructed toward this end. While it may make Members feel better to go after an easy political target in Ogilvy, the bottom line we should avoid is this: passing this amendment will not improve the campaign. It will simply shut it down. I know that my colleagues want to avoid this result.

So I would say to my colleagues that if shutting down the media campaign is what Members want, then they should vote for the Barr amendment. If they want to see the campaign live to do a better job of deterring our children from using drugs, then they should join Mr. SOUDER, Mr. PORTMAN and me in opposing this amendment. Let’s not cut off our nose to spite our face.

DEFENSE CRIMINAL INVESTIGATIVE SERVICE
PRESS RELEASE

The Office of the Inspector General (OIG), Department of Defense (DoD), announced today that on February 7, 2002, a settlement was reached with Brown and Root Services Corporation (BRSC), Houston, TX, regarding allegations of fraud, false claims and false statements. BRSC agreed to pay $2 million in damages to the U.S. Government.

BRSC was the subject of a qui tam lawsuit filed by a former BRSC employee who alleged BRSC engaged in international false statements and misrepresentations to the Army Corps of Engineers during negotiations for individual delivery orders issued under a job order contract (JOC) for the former Fort Ord, CA, military installation. Over 200 individual delivery orders were issued under the Fort Ord JOC, valued in excess of $14 million. The settlement allows for no overvaluation of the cost of material and construction methods provided by the BRSC.

The qui tam employee who filed the qui tam lawsuit alleged that BRSC project general managers directed BRSC construction cost estimators to inflate the quantity and quality of higher cost materials and then present the inflated amount as the cost to U.S. Army Corps of Engineers personnel during negotiations.

The settlement reached with the BRSC releases them from the civil claims addressed in the qui tam lawsuit. The qui tam relator will receive an undisclosed amount of the collected damages.

This investigation was conducted by the Defense Criminal Investigative Service (the criminal investigative arm of the OIG, DoD), Assistant United States Attorneys Michael Hirst, Chief of the Affirmative Civil Enforcement Unit, and Randall Newman, Eastern District of California, who negotiated the global settlement.

[From the New York Times, July 13, 2002]

IN TOUGH TIMES, A COMPANY FINDS PROFITS IN TERROR WAR

(By Jeff Gerth and Don Van Natta, Jr.)

The Halliburton Company, the Dallas oil services company bedevilled lately by an array of accounting controversies, is benefiting very directly from the United States efforts to combat terrorism.

In building cells for the military at Guantánamo Bay in Cuba to feeding American troops in Uzbekistan, the Pentagon is increasingly relying on a unit of Halliburton called KBR, sometimes referred to as Kellogg Brown & Root. Although the unit has been building projects all over the world for the federal government for decades, the attacks of Sept. 11 have led to significant additional business. KBR is the exclusive logistics supplier for both the Navy and the Army, providing services like cooking, construction, and power generation and transportation. The contract recently won from the Army is for 10 years and has no lid on costs, the only logistical arrangement by the Army without an estimate.

The government business has been well timed for Halliburton, whose stock price has averaged $50 and reached $60 in late May, largely because of concerns about its asbestos liabilities, sagging profits in its energy business and an investigation by the Securities and Exchange Commission into its accounting practices back when Vice President Dick Cheney ran the company. The government contracts, which the company said Mr. Cheney had no role in, could allow it to win, either while he led the company or after he left, offer the prospect of a long and steady cash flow that impresses financial analysts.

Since the Sept. 11 attacks, Congress has appropriated $30 billion in emergency money to support the campaign against terrorism. About half has gone to the Pentagon, much of it to buy weapons, supplies, and services. Although KBR is probably not the largest recipient of any of the government contracts referred to in the New York Times, it has longer or deeper ties to the Pentagon. And no company is better positioned to capitalize on this trend.

The value of the contracts to Halliburton is hard to quantify, but the company said government work generated less than 10 percent of its $15 billion in revenue last year.

The government business is “very good, a relatively stable source of cash flow,” said Alexandra S. Parker, senior vice president of Moody’s Investors Service. “We view it positively.”

By hiring an outside company to handle much of its logistics, the Pentagon may wind up saving more taxpayer money than it did the work itself.

Under the new Army contract, KBR’s work in Central Asia, at least for the next year, will cost 10 percent to 20 percent more than if military personnel were used, according to Army contract managers. In Uzbekistan, the Army insists on its own construction teams. But Halliburton, whose stock price has tumbled almost two-thirds in the last year, will receive an undisclosed amount of the collected damages.
The Army contract is a cost-plus arrangement and shrouded in secrecy. The contractor is reimbursed for its allowable costs and gets a bonus based on performance. In the past, KBR has usually received either as vice president or as chief executive at Halliburton, in helping KBR win government contracts, company officials said.

Like other military contractors, KBR has numerous former Pentagon officials who know the government contracts system in its minute details, including as former military aide to Mr. Cheney when he was defense secretary. The senior vice president responsible for KBR’s Pentagon contracts is a retired Maj. Gen. Joe Lopez, then who was Mr. Cheney’s military aide at the Pentagon in the early 1990’s. Halliburton said Mr. Lopez was hired in 1999 after a suggestion from Mr. Cheney.

“Brown & Root had the upper hand with the Pentagon because they knew the process like the back of their hand,” said T.C. McIntosh, as assistant United States attorney in Sacramento who last year examined some of the company’s Army contracts in the 1990’s. He said he found that a contractor “gets away with what they can get away with.”

For example, KBR got the Army to agree to pay about $750,000 for electrical repairs at a base in California that cost only about $25,000, according to Mr. McIntosh, an agent with the Defense Criminal Investigative Service.

KBR officials did not dispute the electrical cost figures, which were part of an $18 million contract. But they said government investigators tried to suggest wrongdoing when it was not something.

“The company happened to negotiate a contract with the Army that was novel and unfairly tried to stretch itself to the limits,” said Robert E. Ayers, another former KBR executive who still consults for the company, Mr. Cheney stayed fairly well informed” on the KBR contract.

Ston Solloway, a former top Pentagon procurement official who now heads an association of contractors, said the company “understood the military mind-set” and “did a very good job in the Balkans.” But he reported by the General Accounting Office, the audit arm of Congress, found weak contract monitoring by the Army contributed to cost increases in the Balkans and safety guidelines, according to Mr. Smith, the company’s statement.

The audit agency’s 1997 report concluded that the Army allowed KBR to fly in plywood from the United States, at a cost of $85.98 a sheet, because it did not have time to procure it in Europe, where sheets costs $13.06.

Mr. Ayers, the former KBR executive, had worked on the Balkans contract. “If the rules weren’t stiff and specific,” he said, “the contractor could make money off of overcharging the government.”

The contract, signed in December by the Army’s Operations Support Command, is “open ended” with “no estimated value,” said Ms. Smith, the company’s spokeswoman. She said that was mainly “because the various contingencies are beginning to unfold.”

KBR won this and most of its other Pentagon contracts in a competition with other contractors, but KBR is the sole source for the many tasks that fall under the umbrella contract.

Pentagon officials said the company had recently taken over a wide range of tasks at Khabanad Air Base in Uzbekistan, from running the medical hospital and generating power for the airfield. The company employs Uzbeks, paying them in accordance with “local laws and customs” but operating under United States health and safety guidelines, according to Halliburton’s statement.

This past winter, American troops were at Khabanad, the logistical support was provided by the Army’s First Corps Support Command. Mr. Cole, the contract administrator for the joint command in Kuwait, said the contract would initially cost to 20 percent more than if the Army had done the work itself. Mr. Cole said that he and his staff recommended using the contractor because “they do a better job of maintaining the infrastructure.” In addition, he said, the contractor would provide the needed balance, an asset in a war with many unknowns, and cost savings by avoiding Army troop transfers.

Mr. Smith said that the criticisms by the G.A.O. had led the Army to build additional controls into the contract.

At its base in Cuba, the Navy has followed the same pattern as the Army: use the military first and augment it with KBR. The Navy’s construction brigade, the Seabees, built the first detention facility for battle field detainees at Guantanamo Bay. Then the Navy activated a recently awarded $300 million, five-year logistic support contract with KBR to construct facilities, some 600 units, built mostly by workers from the Philippines and India, at a cost of $23 million.

John Peters, the Navy Facilities Engineering Command spokesman, said the permanent camp was “bigger, more sophisticated than what Seabees do.” But the Seabees built the facilities for the troops guarding the detainees, and in the 1990’s the Seabees built two tent cities capable of housing 20,000 refugees in Guantanamo Bay.

Seabees typically perform the work at about half the cost of contractors, because labor costs are already sunk and paid for,” said Daryl Smith, a Seabees spokesman.

Zelma Branch, a KBR spokeswoman, said the company relied on its excellent record rather than personal relationships to win its contracts. But hiring former military officers could help the company understand and anticipate the Pentagon’s needs.

“The key to the company’s success is good client relations and that nobody who could anticipate what the client’s needs are going to be,” Mr. Ayers, the former company executive, said.

Mr. HOYER, Mr. Chairman, I yield myself the balance of my time. Mr. Chairman, I took the time in opposition, but I am not going to oppose this amendment. Number one, it is my understanding with the chairman, pur suant to the colloquy, this amendment will not be affected as it now reads by the conference committee. Why? Because we want to make sure that the program does not go dark. I say that not only now but the fact that Mr. Walters says it is a program that has not worked, or recently has not worked, and he was, of course, an opponent of the program when it initially was adopted. That aside, let me say that one of the reasons I will not support it is because the premise of the amendment is a premise that we all can share.

The distinguished gentleman from Maryland already mentioned this, but I think it bears mentioning again, not solely for political purposes, although obviously it is a high-visibility item, but also because this company is seeking to do business with the drug media.
program. I mention Halliburton because it is a high-visibility company. Obviously the Vice President had some dealings with it. But it falls into the Ogilvy category. It is a company that has profited and continues to profit enormously from multiple contracts with the Department of Defense.

In February of this year, Halliburton subsidiary KBR reached a $2 million settlement, very similar to the Ogilvy settlement, with the government amid criminal allegations of fraud, false claims and false statements. KBR was subsequently, notwithstanding that, awarded a 10-year unlimited cost contract with the Army. There were no amendments to preclude that.

But the principle that the gentleman from Georgia puts before us is a very valid principle, and the principle is, if you want to do business with the government, play by the rules. We had an amendment on this floor that the gentleman from Virginia (Mr. MORAN) fought very strongly for that said if you want to abscond, if you want to dodge American taxes and dodge your responsibility and go overseas, to Bermuda or someplace else, then hey, we're not going to contract with you, we're not going to give you millions, tens of millions and hundreds of millions in contracts.

That is essentially the proposition that this amendment puts forward. I think it is a proposition frankly that the chairman and I are in agreement, and I do not think this is a partisan issue. I think the gentleman from Georgia is absolutely correct on that. Therefore, I have discussed this with the chairman, I think the chairman and I are in agreement, A, we are going to make sure that this program does not go dark. It may need to be made to operate more effectively and better so that it has the impact.

We have spent a lot of money on it already, but the truth is, as you know, that was originally asked for by the President by some $10 million, but this is an important program. But we want to make sure that this program is conducted in a fashion that all of us can have faith and trust and is not advantaging those who have undermined their responsibility to deal fairly with the government and deal fairly and legally with others.

In that context, Mr. Chairman, I will not seek an amendment, would hope that we could adopt it by a voice vote and then, working with the gentleman from Georgia and others, we will work in the conference to come to a conclusion that I think will stand for the proposition that this amendment stands for, and at the same time, protect the program that all of us feel is an important one.

Mr. BARR of Georgia. Mr. Chairman, the eloquence of the distinguished gentleman from Maryland cannot be added or subtracted to without doing it an injustice. I appreciate the words of the gentleman from Maryland in support of this amendment. I understand his concerns, which I share about making sure the program continues. We wish to strengthen it through this amendment and that is what I will work to do. I appreciate also the support of the distinguished gentleman from Oklahoma (Mr. ISTOOK) to whom I yield the balance of my time.

Mr. ISTOOK. How much time, may I inquire, remains, Mr. Chairman?

The CHAIRMAN pro tempore (Mr. LAUROTE). The gentleman had 2½ minutes.

Mr. ISTOOK. Mr. Chairman, I appreciate the gentleman from Georgia's efforts to make sure that this contract that comes under the jurisdiction of our subcommittee for this national antidrug campaign is handled responsibly. The reason we have these questions is because there has been a GAO inquiry into the prior performance of this same contract by the Ogilvy firm and there has been a major fine assessed for improper charges and handling and abuses in the performance of that contract. That is why we have this language, to make sure that we can have it reviewed to make sure that that contract is handled properly.

However, Mr. Chairman, I do not believe that this was a proper occasion for people to try to bring up extraneous matters that have not been the subject of such investigation. We have not been here talking on the floor about, for example, Global Crossing and tens of millions of dollars — or was it hundreds of millions of dollars — obtained by insiders and obtained by Terry McAuliffe, the Democratic National Committee chairman, we have not been bringing up the allegations of abuses related to Eron and the possible involvement of Citibank chaired by the former Secretary of the Treasury Robert Rubin from the Clinton administration; and I do not think it was appropriate for people to try to bring this up as an opportunity to take shots at other people in the debate here.

We have plenty of time to focus on each misdeed as we learn of it and to make sure that we hold every person in America fully accountable under our laws. That is what we want to make sure that we do in this particular contract with the people that are involved in performing it. We do not need to go far afield as I heard some people do earlier and as I did myself only to point out that this is inappropriate. We are here talking about the drug contract. We are here talking about the firm that abused their position as a contractor with the taxpayers on this and to make sure that abuse does not happen but that correcting that abuse will not disrupt this important national drug effort.

The amendment was agreed to.

SEQULUMENTARY VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6, rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order:

Amendment No. 21, offered by the gentleman from Virginia (Mr. MORAN), the amendment offered by the gentleman from Colorado (Mr. HEFLEY);

Amendment No. 16, offered by the gentleman from Colorado (Mr. HEFLEY);

Amendment No. 7, offered by the gentleman from Vermont (Mr. SANDERS).

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

AMENDMENT NO. 21 OFFERED BY MR. MORAN OF VIRGINIA

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. MORAN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded. A recorded vote was ordered.

The vote was taken by electronic device, and there were — ayes 261, noes 166, not voting 7, as follows:

AYES — 261

Abercrombie  Guttman
Ackerman  Gutknecht
Allen  Hall (OH)
Andrews  Hall (TX)
Baca  Hansen
Baldrich  Harman
Baldwin  Hart
Baker  Hayes
Barrett  Billings
Becerra  Hinchey
Bentsen  Hinnojosa
Barton  Houlton
Berkeley  Holden
Berman  Holt
Berry  Hoyer
Bishop  Hunter
Bilirakis  Hulsey
Bingaman  Israel
Blinken  Israel
Blumenauer  Jerusalem
Boswell  Johnson (IL)
Boucher  Johnson-Lee
Braun  John
Braun /PA  John
Brown (FL)  John
Brown (OH)  Johnson (CT)
Capito  Johnson, E. B.
Capps  Jones (NC)
Carbajal  Jones (NY)
Cardenas  Kanjorski
Carson (IN)  Kaptur
Chambliss  Kaptur
Chapman  Kaptur
Clay  Keating
Clayton  Kennedy (RI)
Clement  King (NY)
Clifford  Kind (WI)
Costello  Kingston
Conyers  Kucinich
Costello  LaFalce
Cox  LaFalce
Cramer  LaHood
Crowley  Lampson

Not voting 7, as follows:

Abercrombie  Gutman
Ackerman  Gutknecht
Allen  Hall (OH)
Andrews  Hall (TX)
Baca  Hansen
Baldrich  Harman
Baldwin  Hart
Baker  Hayes
Barrett  Hinchey
Becerra  Hinnojosa
Bentsen  Houlton
Barton  Holt
Berry  Hoyer
Bishop  Hunter
Bilirakis  Hulsey
Bingaman  Israel
Boswell  Jerusalem
Boucher  Johnson (IL)
Braun /PA  John
Brown (FL)  John
Brown (OH)  Johnson (CT)
Capito  Johnson, E. B.
Capps  Jones (NC)
Carbajal  Jones (NY)
Cardenas  Kanjorski
Carson (IN)  Kaptur
Chambliss  Kaptur
Chapman  Keating
Clay  Kennedy (RI)
Clayton  King (NY)
Clement  Kind (WI)
Costello  Kingston
Conyers  Kucinich
Costello  LaFalce
Cox  LaFalce
Cramer  LaHood
Crowley  Lampson

July 24, 2002
MESSRS. COBLE, LEWIS OF CALIFORNIA, AND COOKSEY changed their vote from "aye" to "no."

MESSRS. CHAMBLISS, KINGSTON, LAHOOD, FORBES, OWENS, THOMPSON OF MISSISSIPPI, JOHN, AND STENHOLM changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HELPEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. Helpey) 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—aye 165, noes 265, not voting 4, as follows:

[Roll No. 337]
Mrs. BIGGERT changed her vote from "no" to "aye." So the amendment was rejected. The result of the vote was announced as above recorded.

**AMENDMENT NO. 16 OFFERED BY MR. HEFLEY**

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) 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 147, noes 282, not voting 5, as follows:

<table>
<thead>
<tr>
<th>NOT VOTING—5</th>
<th>AYES—147</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bonior</td>
<td>Stevens</td>
</tr>
<tr>
<td>Slaughter</td>
<td>Tangreiro</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>□ 1142</td>
<td></td>
</tr>
</tbody>
</table>

Mrs. CLAYTON changed her vote from "aye" to "no." So the amendment was rejected. The result of the vote was announced as above recorded.

Stated against. MRS. CLAUGHTON. Mr. Speaker, I missed rollcall No. 338, Hefley amendment No. 16. Had I been present, I would have voted "no."

**AMENDMENT NO. 7 OFFERED BY MR. SANDERS**

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Vermont (Mr. SANDERS) 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 309, noes 121, not voting 5, as follows:

<table>
<thead>
<tr>
<th>NOT VOTING—5</th>
<th>AYES—309</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bonior</td>
<td>Slaughter</td>
</tr>
<tr>
<td>Slaughter</td>
<td>Tangreiro</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>□ 121</td>
<td></td>
</tr>
</tbody>
</table>

The vote was taken by electronic device, and there were—ayes 303, noes 121, not voting 5, as follows:
Mr. MORAN of Kansas changed his vote from "aye" to "no." Mrs. JO ANN DAVIS of Virginia and Mr. FORBES changed their vote from "no" to "aye." So the amendment was agreed to. The result of the vote was announced as above recorded.

AMENDMENT NO. 8 OFFERED BY MR. WYNN
Mr. WYNN. 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. WYNN: At the end of the bill (before the short title), insert the following new section:

SEC. 2. (a) CENTRALIZED REPORTING SYSTEM—Not later than 180 days after the date of the enactment of this Act, each agency shall establish a centralized reporting system in accordance with guidance promulgated by the Director of the Office of Management and Budget that allows the agency to generate periodic reports on the contracting efforts of the agency. Such centralized reporting system shall be designed to enable the agency to generate reports on efforts regarding both contracting out and contracting in.

(b) REPORTS ON CONTRACTING EFFORTS.—(1) Not later than 180 days after the date of the enactment of this Act, each agency shall generate and submit to the Director of the Office of Management and Budget a report on the contracting efforts of the agency undertaken during the 2 fiscal years immediately preceding the fiscal year during which this Act is enacted. Such report shall comply with the requirements in paragraph (3).

(2) For the current fiscal year and every fiscal year thereafter, every agency shall complete and submit to the Director of the Office of Management and Budget a report on the contracting efforts undertaken by the agency during the current fiscal year. Such reports shall comply with the requirements in paragraph (3).

(c) REPORTS TO WHICH REPORTS MUST BE SUBMITTED.—The reports referred to in this section shall be submitted to the Committees on Government Reform of the House of Representatives and to the Committee on Governmental Affairs of the Senate.

Amendments proposed by Mr. WYNN: To the amendment offered by Mr. WYNN:

(c) REPORTS TO WHICH REPORTS MUST BE SUBMITTED.—(1) Not later than 30 days after the end of the current fiscal year and every fiscal year thereafter, every agency shall report to the number of Federal employees positions held by non-Federal employees under a contract between the agency and an individual or entity that has been subject to public-private competition.

(e) COMMISSION TO WHICH REPORTS MUST BE SUBMITTED.—The report referred to in the first paragraph of subsection (c) of this section shall be submitted to the Committee on Government Reform of the House of Representatives and to the Committee on Governmental Affairs of the Senate.

(f) PUBLICATION.—The Director of the Office of Management and Budget shall promptly publish in the Federal Register notices including a description of the report referred to in this section, available to the public and the names, addresses, and telephone numbers of the officials from whom the reports may be obtained.

(h) REPORT.—After the expiration of the period of time set forth in subsection (g), the Office of Management and Budget shall review the report referred to in subsection (g) and consult with the head of the agency regarding the content of such reports.

(i) DEFINITIONS.—As used in this section:

(1) The term "employee" means any individual employed by the Federal government.

(2) The term "Federal employee" means any individual employed by the Federal government, excluding any employee who is paid from non-appropriated funds.

(3) The term "public-private competition" means any coordinated effort of the agency in connection with the monitoring of the contracting effort, identification of the quality control standards, the frequency of the preparation of quality control reports, and an assessment of whether the contractor met, exceeded, or failed to achieve the quality control standards.

The CHAIRMAN. The amendment is as follows:

Amendment No. 8 offered by Mr. WYNN: At the end of the bill (before the short title), insert the following new section:

SEC. 2. (a) CENTRALIZED REPORTING SYSTEM—Not later than 180 days after the date of the enactment of this Act, each agency shall establish a centralized reporting system in accordance with guidance promulgated by the Director of the Office of Management and Budget that allows the agency to generate periodic reports on the contracting efforts of the agency. Such centralized reporting system shall be designed to enable the agency to generate reports on efforts regarding both contracting out and contracting in.

(b) REPORTS ON CONTRACTING EFFORTS.—(1) Not later than 180 days after the date of the enactment of this Act, each agency shall generate and submit to the Director of the Office of Management and Budget a report on the contracting efforts of the agency undertaken during the 2 fiscal years immediately preceding the fiscal year during which this Act is enacted. Such report shall comply with the requirements in paragraph (3).

(2) For the current fiscal year and every fiscal year thereafter, every agency shall complete and submit to the Director of the Office of Management and Budget a report on the contracting efforts undertaken by the agency during the current fiscal year. Such reports shall comply with the requirements in paragraph (3).

(c) REPORTS TO WHICH REPORTS MUST BE SUBMITTED.—The reports referred to in this section shall be submitted to the Committees on Government Reform of the House of Representatives and to the Committee on Governmental Affairs of the Senate.

(f) PUBLICATION.—The Director of the Office of Management and Budget shall promptly publish in the Federal Register notices including a description of the report referred to in this section, available to the public and the names, addresses, and telephone numbers of the officials from whom the reports may be obtained.

(h) REPORT.—After the expiration of the period of time set forth in subsection (g), the Office of Management and Budget shall review the report referred to in subsection (g) and consult with the head of the agency regarding the content of such reports.

(i) DEFINITIONS.—As used in this section:

(1) The term "employee" means any individual employed by the Federal government.

(2) The term "Federal employee" means any individual employed by the Federal government, excluding any employee who is paid from non-appropriated funds.

(3) The term "public-private competition" means any coordinated effort of the agency in connection with the monitoring of the contracting effort, identification of the quality control standards, the frequency of the preparation of quality control reports, and an assessment of whether the contractor met, exceeded, or failed to achieve the quality control standards.
processing and distribution services. administrative services for hospital and clinical, or the particularly unique type of graphical inaccessibility, medical emergency are not capable of furnishing because of geographic differences, medical emergency is the end result of the decision of an agency to exit a business line, terminate an activity, or sell Government-owned assets or operational capabilities to the non-Federal sector. The term “outsourcing” means the end result of the decision of an agency to acquire services from external sources, either from a non-Federal source or through interservice support agreements, through a contract.

The term “contracting out” means the conversion by an agency of the performance of a function by a non-Federal employee under a contract between an agency and an individual or other entity. The term “contracting in” is the conversion of the performance of a function by non-Federal employees under a contract between an agency and an individual or other entity to the performance by employees. The term “contracting” means the performance of a function by non-Federal employees under a contract between an agency and an individual or other entity. The term “contracting”, as used throughout this Act, includes privatization, outsourcing, contracting out, and contracting, unless otherwise specifically provided.

Subject to subparagraph (B), the term “critical for the provision of patient care” means direct patient medical and hospital care that the Department of Veterans Affairs or other Federal hospitals or clinics are not capable of furnishing because of geographical inaccessibility, medical emergency, or the particularly unique type of care or service required.

The term does not include support and administrative services for hospital and clinic operations, including food service, laundry services, grounds maintenance, transportation services, office operations, and supply processing and distribution services.

There is appropriated $2,000,000 for fiscal year 2003 to carry out this section, to be derived by transfer from the amount appropriated in title I of this Act for “Internal Revenue Service—Tax Law Enforcement”. The Director of the Office of Management and Budget shall allocate such amount among the appropriate accounts, and shall submit to the Congress a report setting forth the distribution. The provisions of this section shall apply to fiscal year 2003 and each fiscal year thereafter.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, July 23, 2002, the gentleman from Maryland (Mr. WYNN) and a Member opposed each will control 2¼ minutes.

Mr. ISTOOK. Mr. Chairman, I reserve a point of order. The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Chairman, I yield myself such time as I may consume. I do intend to withdraw this amendment, but I want to bring to the attention of the House, and more importantly, the American people a very important issue, and that is, contracting out and whether the American taxpayer is receiving best value. Some people have characterized this issue as private contractors versus Federal employees. It is not. The issue before us today is whether the American taxpayer is getting best value for the services we contract out.

The essence of this amendment is to ensure public accountability, and the scrutiny of government contractors to determine whether the American public is receiving best value, both quantitatively and qualitatively, by establishing a centralized reporting by each agency of its contracting efforts.

In recent months the notion that outsourcing is the most cost-efficient approach to providing government services has gained considerable momentum. However, when we asked the Government Accounting Office to tell us how many employees are being let by the Federal Government, who was involved and how much the savings were, they could not tell us, and they said they could not tell us because there was no centralized accounting so that they could identify how much each agency was doing.

In the absence of accountability and congressional oversight, indiscriminate outsourcing and privatization of government services will grow with no guarantee of actual cost savings. My amendment is very simple. It will require that each agency establish a centralized reporting system on its contracting practices. The reports submitted to the director of the Office of Management and Budget would include the contract number and the Federal supply class of service code; a statement of why the contracting effort was undertaken; the name of the supervisors and officials involved; the cost of Federal employee performance at the time the work was contracted out, if the work had been previously performed by Federal employees. It would also report the anticipated cost of contractor performance and the cost of, the anticipated cost and the actual cost of contract performance, and most importantly, the reports would include the actual savings, if any, compared with performance by Federal employees. The number of contract employees would also be listed.

This oversight responsibility would be accomplished by submitting these reports to the Committee on Government Reform in the House and the Committee on Government Affairs in the Senate.

The director of the Office of Management and Budget would publish in the Federal Register notices of when the reports would be available to the public so that the public could determine if they are getting best value.

Currently, agencies do not closely monitor the cost efficiency of the billions of dollars in contracting out and privatization. There is no oversight of contracts after they have been awarded to compare past contracts with current costs or to consider the potential effects of cost overruns.

If outsourcing and privatization are to work, it must be transparent. It must be truthful. All the parties must be disclosed, identified and held responsible and accountable for their actions.

My amendment very simply would add basic safeguards such as reporting and oversight, two that are currently missing from the process. I believe this is a good amendment and an important issue for this Congress.

Mr. WYNN. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from Maryland?

There was no objection.

AMENDMENT OFFERED BY MR. HOYER

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HOYER:

In the appropriate place at the end of the bill (before the short title), include the following:

Section 1. None of the funds provided to the Customs Service under this Act shall be used to require reports on repairs to U.S. flag vessels on the high seas.

Mr. CRANE, Mr. Chairman, I reserve a point of order on the amendment. The CHAIRMAN pro tempore. Pursuant to the order of the House Tuesday, July 23, 2002, the gentleman from Maryland (Mr. HOYER) and a Member opposed each will control 5 minutes.

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

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

I thank the distinguished gentleman from Illinois (Mr. CRANE) for reserving and giving me the opportunity to explain this amendment.

Mr. Chairman, this amendment frankly was brought to me just within the last 48 hours. It does, however, seem to raise an issue of significant importance and difficulty for a number of those in the shipping business.

The problem apparently is that if a person holds a ship registered while on the high seas, that is not within the territorial waters of any nation, and those repairs are effected using non-U.S.
Mr. HOYER. I yield to the gentleman from Illinois (Mr. CRANE).”

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

Mr. HOYER. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore. The amendments were agreed to.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The Clerk read the previous question, and the Speaker pro tempore on his decision.

Mr. BLUMENAUER. Mr. Chairman, today I voted for the fiscal year 2003 Appropriations Bill for Treasury, Postal Service, and General Government. This bill contains key provisions that I have supported in Congress.

The appropriations bill before us contains a measure that prohibits the use of funds in the bill to finalize, implement, administer or enforce the proposed Treasury Department rule declaring that real estate brokerage is “an activity that is financial in nature or incidental to a financial activity.” I agree with this prohibition and am a cosponsor of H.R. 3424, which would accomplish the same objective. The banking industry has long been an integral function in our economy and the integrity of its operations and security of deposits is critical. The Gramm-Leach-Bliley Act is speeding on-going changes in the United States financial services industry and allows banks flexibility in responding to economic trends. However, I do not believe the benefits of allowing banks to engage in real estate brokerage and property management activities outweigh the risks.

Regarding the Postal Service, the bill specifically recognizes delivery of mail be continued. It also requires that mail for overseas voting and for the blind continue to be free. I have always believed post offices play an integral role in the livability of our communities. They serve as business, social and often historical centers in our neighborhoods. It’s for these reasons that I am a sponsor of legislation, H.R. 1861, which requires the Postal Service to engage local officials and the public it serves when opening, closing, relocating, or renovating facilities. I hope we continue to work to ensure the Postal Service is a good partner with our communities and follows local laws and regulations.

I am pleased that the final bill, for the second year in a row, ends the travel ban to Cuba and allows for private financing of agri-cultural and small business programs in that nation. In addition, the House approved an amendment to allow Cuban-Americans to send money to their relatives in Cuba without restrictions. Food and medicine should not be used as weapons. The Cuban people should not have to suffer because the United States does not agree with the Cuban government. These provisions show that there is growing momentum in favor of getting rid of the embargo against Cuba altogether. Only through engagement will we be able to effectively promote the ideals of human rights and democracy.

The CHAIRMAN pro tempore. There being no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SHIMkus) having assumed the chair, Mr. LATROUBETZ, Chairman pro tempore of the Committee of the Whole on the State of the Union, reported that the Committee, having had under consideration 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, pursuant to House Resolution 498, he reported the bill back to the House with sundry 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 gross.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4775) “An Act making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes.”

PROVIDING FOR CONSIDERATION OF H.R. 4965, PARTIAL-BIRTH ABORTION BAN ACT OF 2002

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 498 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Rts. 498

Resolved. That upon the adoption of this resolution it shall be in order without inter-vention of any point of order to consider in the House the bill (H.R. 4965) to prohibit the procedure commonly known as partial-birth abortion. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) two hours of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; and (2) one motion to re-commit.

The SPEAKER pro tempore. The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, on Tuesday the Committee on Rules met and granted a closed rule for the Partial-Birth Abortion Ban of 2002. H.R. 4965 would ban performance of a partial-birth abortion except if it were necessary to save the mother’s life. As an original cosponsor of this legislation, I am pleased to see the legislation reach the floor of the House. I also believe that President Bush deserves the opportunity to put an end to this horrific act of human vi-olence by signing this legislation into law.

I must tell my colleagues, as a mother and a grandmother, it is still astonishing to me today that this is even remotely legal in America, but it is, and it will no longer be on our Floor today, it is practiced too often in this country. The vast majority of partial-birth abortions are performed on
healthy babies and healthy mothers. Although language banning this procedure has been struck down in the past by the Supreme Court, this new legislation has been tailored to address the Court’s concerns. The five-Judge majority in Stenberg vs. Carhart thought that Nebraska’s definition of partial-birth abortion was vague and could be construed to cover not only abortions in which the baby is mostly delivered alive before being killed but also the more common dilation and evacuation, D&E, procedure.

H.R. 4965 defines partial-birth abortion as an abortion in which the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of a breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act to procure the death of the partially delivered living fetus.

The tighter definition not only clarifies the procedure so that the Court will not reject it, it also draws attention to the violence of partial-birth abortion. Let me describe how far out the baby can be.

I am pleased that we are bringing 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. To that end, I urge my colleagues to support the rule and the underlying bill.

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

Ms. SLAUGHER. Mr. Speaker. I yield myself such time as I may consume, and I thank the gentlewoman from North Carolina for yielding me the customary 30 minutes.

(Ms. SLAUGHER asked and was given permission to revise and extend her remarks.)

Ms. SLAUGHER. Mr. Speaker, we are about to begin our annual debate on a procedure that is not really recognized by the medical profession, which is totally unconstitutional, and one that would not go anywhere. The Supreme Court just recently said again that all the laws that they have had brought before them, and particularly the one on Nebraska, were unconstitutional. Given that, it is very tempting for us on this side to talk about the things that American people are concerned about.

Their pensions, their jobs, corporate responsibility, accounting measures, the regulation that we can try to do to make things better for us, creation of jobs, health care, prescription drugs. But, no, we are going to spend 3 hours on this issue right here which will not be taken up by the Senate and which is unconstitutional and, frankly, we should not be messing with it. It really is a hoax on the public and I am sorry to be a part of it.

But, Mr. Speaker, I certainly oppose the closed rule. They have shut out all input from this body. Anybody who had a right to talk about this on the other side was totally ignored, given no opportunity. No amendment will be allowed. You heard me correctly; no amendment to protect the lives of women will be allowed. For a bill that fundamentally the lives of women, this is unconscionable and wholly unsurprising, given the contempt shown in this House for measures that impact our sisters and our daughters.

We have been given 2 hours of general debate on this issue, and I would not be at all surprised if that is more time, given the nature of the rule, than we give to the national security issue this afternoon on homeland security.

Mr. Speaker, election season is upon us. In the face of a crumbling stock market, an exploding deficit, and uncertain war on terrorism at home and around the globe, of this we can be sure: Congress will use the floor of the House to further promulgate restricting a woman’s right to choose. Direct mail pieces distorting this issue will hit the streets as soon as the vote is completed, just in time for the August recess. This vote before us is purely cynical; it is unconstitutional, and it means this institution and those who serve in it.

On its face, H.R. 4965 suffers from the same two flaws that led the Supreme Court to declare a similar Nebraska law unconstitutional: It fails to include an exception to protect maternal health, and it places an undue burden on a woman’s right to obtain an abortion prior to viability by banning the most common second trimester abortion procedure.

Fifteen pages of congressional findings do nothing to remedy this unconstitutionally flawed bill. In fact, the case law is clear. The Supreme Court articulated the three principles that govern abortion laws: One, a woman has the right to choose to terminate her pregnancy prior to viability. That is the law of the land. Two, the State cannot impose an undue burden on the woman’s right to terminate a pregnancy. Here, after viability, a State may regulate abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.

How strange it is that we do not really care about the health of the mother. The measure before us today does not include an exception to protect the health of the woman, and certainly poses an undue burden on her.

Moreover, and very importantly, this bill will turn doctors into criminals and put them in jail for performing a safe medical procedure which, in their best judgment, is the best way to protect a woman’s right to having further children. The civil sanctions and criminal remedies, along with previous references by legislative proponents to medical professionals as assassins, ex-terminators, and murderers are part of a design to intimidate medical professionals from performing abortions generally.

In the context of abortion clinic demolitions and bombings, it is clear that many in the movement have an agenda of banning all abortions. The measure before us today is clearly a part of this ongoing effort. Criminal sanctions for doctors would chill any medical professional’s decision to perform many of the most common procedures. Given the vague and the overbroad language of the bill, doctors can reasonably fear prosecution for using the safest and most common abortion procedures and that they will not perform them. Who could blame them?

I assure my colleagues that the primary concern of most physicians will not be protecting the health of the woman, but protecting their professional life. For this reason, the American Medical Association does not support this bill. Indeed, they are not the only ones. The American Public Health Association, the American Nurses Association, the American Medical Women’s Association, Physicians for Reproductive Choice and Health, the American College of Nurse Practitioners, the American Medical School Student Association, the Association of Reproductive Health Professionals, Association of Schools of Public Health, Associations of Women Psychi-trists, National Asian Women’s Health Organization, National Association of Nurse Practitioners and Reproductive Health, The National Black Women’s Health Project, and the National Latina Institute for Reproductive Health.

But the bill does not stop here. Not content to cause harm or put the doctor in jail, in one of its most egregious provisions, it allows the woman to be sued by her husband or parents if she receives this procedure. In essence, proponents of this measure want to give a husband the veto power over a woman’s decision. The Supreme Court has expressly held this to be unconstitutional.

Think about it for a moment. Are we really prepared to allow an abusive husband, or a husband who has abandoned his wife, to threaten his wife with a lawsuit if she obtained a procedure to protect her health and future fertility? Who do we think we are? The last time you were facing a life-or-death decision, do you want Congress with you in the emergency rooms? If, God forbid, you should find yourself in this terrible position, are you not going to allow the doctors to make a decision until your Member of Congress or your husband or parent are in the room?
Mr. Speaker, contrary to what the deceptive, pro-abortion lobby would like us to believe, partial-birth abortions involve killing almost fully delivered babies from the later stages of pregnancy, and not only in cases of medical necessity. Contrary to the lies of the pro-abortion movement, this is not a rare act that is only performed in extraordinary circumstances. In fact, most are performed for strictly elective reasons, and I quote abortionist Martin Haskell, as reported by Reuters Medical News, “most of my abortions are elective in that 20-24 week range. In my particular case, probably 20 percent are performed for genetic reasons, and the other 80 percent are purely elective.”

But the worst tragedy of all is that partial-birth abortions are currently legal. This legislative body has twice approved to ban this atrocious act, only to have it vetoed twice by former President Bill Clinton. Today we have another historic opportunity to help stop this abhorrent act of killing the innocent unborn. I urge Members to take action and vote in favor of H.R. 4965.

Ms. SLAUGHTER. Mr. Speaker, I yield 6 minutes to the gentleman from Maryland (Mr. HOYER).

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

Mr. Speaker, today on this serious and most sensitive issue, the Republican leadership has turned the people’s House into nothing more than a poser. The practice has been revealed to have another historic opportunity to help stop this abhorrent act of killing the innocent unborn. I urge Members to take action and vote in favor of H.R. 4965.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield 6 minutes to the gentleman from Florida (Mr. GREENWOOD), my Republican colleague, introduced last year and a number of years previous to that.

But the Committee on Rules has denied us that opportunity four times since 1995. Let Members be clear, the Partial-Birth Abortion Ban Act will not prevent a single abortion. Let me repeat that. The bill before us and on this floor reported out of the Committee on the Judiciary will not prevent a single abortion. Not one.

And the gentlewoman from Florida (Ms. ROS-LEHTINEN), who just spoke, testified to that fact when she said this procedure was not necessary and medical experts have said there are other methods to terminate the pregnancy.

In other words, the issue here in this bill that is proposed by the Republican majority is not about preventing abortion, it is about a procedure.

I have asked those who are for this bill if it will prevent more than others that are used to terminate a pregnancy. Is there anyone here who doubts the answer to that question is a clear and resounding “no.”

The bill that the gentleman from Pennsylvania (Mr. GREENWOOD) and I introduced and which we asked to have made in order would have precluded all post-viability abortions because I believe the majority of us in this House believe that postviability abortion ought not to be by choice, but we do what the Supreme Court mandates we do and in my opinion is appropriate to do, and that is to provide for an exception so that the life of the mother may be preserved if the medical judgment such a procedure is necessary to accomplish that objective.

Furthermore, as the Supreme Court requires, and in my opinion is appropriate, it provides that if the mother’s health will be put at risk more than others that are used to terminate a pregnancy.

Contrary to what the majority of us believe that postviability abortion is about a procedure. It is about a procedure. It is about a procedure. It is about a procedure.

In fact, this bill would ban a rare medical procedure reserved for the most tragic of circumstances. In contrast, our bill will preclude all late-term abortions. Members may ask why is this not made in order? Why are they afraid to have us debate it? They can only say their death toll doesn’t accord with the exceptions. They can say the Supreme Court is wrong. But why preclude the opportunity in the people’s House to adopt an amendment which reflects the law in 43 States of the United States of America?

Mr. Speaker, I will vote against this rule. What a shame that the majority fears open debate on this issue.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. LINDER).

Mr. LINDER. Mr. Speaker, I rise in support of both this rule and the underlying legislation, H.R. 4965, the Partial-
Birth Abortion Ban Act of 2002. This rule will allow adequate time for debate on this measure in addition to a motion to recommit with or without instructions, which will allow the House to work its will on this bill. For the House to discuss the horrible details of partial-birth abortion, for I am certain that many of my colleagues are all too familiar with the gruesome reality of this deadly procedure. I am also well aware of the Supreme Court's decision in Stenberg v. Carhart and the attempts by opponents of this bill to use that 5-4 decision as a safety net for their pro-abortion agenda.

Opponents of this measure will tell us that H.R. 4965 is unconstitutional because of the Supreme Court’s Carhart decision. They will tell us we have no right to legislate a ban on this horrible practice because the Supreme Court says we cannot. I find that argument ironic, considering 433 Members of this body voted to pass a child pornography bill last month after the Supreme Court told us in Ashcroft v. Free Speech Coalition that we could not. Although I certainly respect the Supreme Court, I do not believe it is unconstitutional. It is the highest law of the land, and so we can keep going back and forth and back and forth. Justice Thomas said himself, “We know of no support for the proposition that the constitutionality of a statute depends in part on the existence of certain facts, a court may not review Congress simply to see that the facts exist.” That is the key.

Again they ruled a Nebraska ban on partial-birth abortion, a label that has only been defined by this Congress, unconstitutional because it is the highest law of the land, and so we can keep going back and forth and back and forth. Mr. Speaker, first I rise in support of the ban and this rule. As most of you know, I never come to the floor to speak on an abortion-related issue. Under normal circumstances, I do not believe this is an issue or the business of government. It is a woman’s business, a personal business, a medical business, a moral business. But it is not government’s business. And that also means no taxpayer money for abortions. I make an exception to this bill today, because it involves a medical procedure that the American Medical Association itself says is unnecessary and it is unnecessarily cruel.

We just heard from the gentlewoman from Florida (Ms. Ros-Lehtinen) how cruel and how painful this procedure is. The procedure is used primarily in late-term abortions, when there is absolutely no question about the viability of the fetus. It involves the partial delivery of what clearly is a viable fetus, and that, by any standard, should amount to murder.

Regardless of anyone’s position on the general issue of abortion rights, I find it incredible that anyone could condone such an abhorrent procedure, particularly one that is by no means an exclusive medical remedy.

Mr. Speaker, first I rise in support of the ban and this rule. I urge my colleagues to support this rule, and I urge them to support the ban as most Americans do. There is no reason for this procedure, there are other options than this procedure, and I think we need to stand up and recognize the life of the unborn deserves merit and consideration on this floor today.

Ms. SLAUGHTER. Mr. Speaker, I think Congress should also stand up for the rights of women and their right to live.

Mr. Speaker, I yield 3½ minutes to the gentleman from Texas (Mr. Edwards).
Mr. EDWARDS. Mr. Speaker, I strongly oppose late-term abortions, but I believe, like many Americans, that when the health of the mother is at risk, that is a decision that should be made by a woman and her doctor and not by a bunch of politicians in Washington, D.C.

Mr. Speaker, I am sad to say that this rule is shameful and this bill is a false promise. I do find it interesting that those supporting this rule and this bill keep quoting the American Medical Association but do not know when they just did not want to hear it or if they refuse to accept it. The organization they are quoting opposes this legislation.

Why do I say this rule is shameful? First, it ensures that when this bill passes today, were it to then become law, no bill will ever have the impact of law or save one baby because the Supreme Court has made it absolutely clear, not just once but on five different occasions, that you must have a health exemption when the mother’s health is at risk.

So maybe Ralph Reed was right when he said this is the political silver bullet, the partial-birth abortion bill, but what a tragedy.

The proponents of this bill and this rule are forcing a false promise upon the American people, a promise that will not help one child. This rule is shameful because it denies Members of this Congress the right to express your conscience. I respect your conscience. I respect your right to express your conscience. You have no right on an issue of this magnitude, of such deep conscience for so many Members, no one in this House has that right to deny us the right to a vote, to a vote for an amendment that the Supreme Court would then interpret as making this bill constitutional.

I tried to offer an amendment to the Committee on Rules, it was not really radical, it was a bill I helped pass in 1987 in Texas to outlaw not one late-term abortion procedure which is not going to save a single baby, it would outlaw all late-term abortion procedures but with a health exception. For 15 years, the constitutionality of that Texas law has not been challenged. I would note that during the time that President Bush was then Governor of Texas, there was no effective effort or to my knowledge even serious effort made to change it. It was constitutional and it worked.

Supreme Court Justice O’Connor has made it very clear, in case anybody does not understand English, that if you do not have a health exemption in this House, it will not be a health exception. I respect being law. Let me quote her from the court case of June 28 of 2000: “First, the Nebraska statute is inconsistent because it lacks an exception for those instances when the banned procedure is necessary to preserve the health of the mother.”

In case that is not clear enough for the supporters of this rule and this unconstitutional bill, she then goes on to outline all that a legislative body has to do to make such a bill constitutional. Just add the words “where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.” That would be the circumstance.

The people who should be upset at this bill should be pro-life Americans all across this country who have been deluded by this unconstitutional bill into thinking it is going to save one child. Had the House of Representatives voted on a constitutionally acceptable amendment for a health exception, we actually could do some good. What a shame.

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

I would just like to remind the House that the minority does have a motion to recommit on every bill that we do. Mr. Solomon had said that he wanted to be sure that the minority always had a decision to vote. I say that just for the record.

Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. RYUN).

Mr. RYUN of Kansas. Mr. Speaker, I rise today in support of H.R. 4965, the partial-birth abortion. It violates its rule as well. Partial-birth abortion is a cruel and painful procedure. In this method the child is partially delivered. Only the baby’s head is inside the mother’s body. At this point the doctor inserts scissors into the baby’s skull and removes the baby’s brain with suction.

It is a medical fact that unborn infants can feel the pain of scissors puncturing their skull. In fact, the baby’s perception of pain is even more intense at this early stage of life. A practice such as this has no place in the medical field. Even the physician credited with developing this procedure agrees that no medical situation exists to warrant the use of partial-birth abortion.

Aside from being cruel to the infant, it poses a serious health risk for the mother, including complications with future pregnancies and even death. We must protect these precious lives, these precious infants, who are only moments away from their first breath.

I urge my colleagues in joining me in voting to ban partial-birth abortion and to support the rule.

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. I thank the gentlewoman for yielding me this time.

Mr. Speaker, this bill before us will not prohibit any abortions. It prohibits a particular method of abortion; it will take place using another procedure, and I will not inflame the debate by describing in detail the alternative procedures that may be used. But I will point out that Nebraska had a law banning this procedure, the so-called partial-birth abortion, for 2 years ago, the United States Supreme Court held in Stenberg v. Carhart that the law was unconstitutional.

The Supreme Court said many times in its majority opinion and other times in concurring opinions that in order to make the partial-birth abortion ban constitutional, the law must contain a health exception to allow the procedures that have been an appropriate medical judgment, for the preservation of the life or health of the mother. That is what five Supreme Court justices said is necessary to make the bill constitutional. All five of those justices are still on the Supreme Court.

In the Stenberg case, the court said, “The question before us is whether Nebraska’s statute making criminal the performance of a partial-birth abortion violates the Constitution as interpreted by Planned Parenthood v. Casey and Roe v. Wade. We conclude that it does for at least two independent reasons.” They said the first reason was that law lacking a health exception in the preservation of the health of the mother. The Stenberg court reminded us what a long line of cases has held, that, quote, subsequent to viability, the State in promoting its interest in the preservation of the health or life of the mother, may adopt regulations that are a reasonable means of achieving that purpose. An example of such a regulation is a requirement that physicians obtain informed consent before performing an abortion. The Supreme Court has consistently upheld such regulations. The State’s interest in the preservation of the health or life of the mother is at its peak, and the State’s power to enforce its interest is greatest, when the pregnancy itself creates a threat to health. Therefore, the health exception is necessary, the court says, “He is wrong. The cases cited, reaffirmed in Casey, recognize that a State cannot subject women’s health to significant health risks both before and after viability where State regulations force women to use riskier methods of abortion.”

Our cases have repeatedly invalidated statutes that, in the process of regulating the methods of abortion, imposed significant health risks. They make clear that to a woman’s health is the same whether it happens to arise from regulating a particular method of abortion or from bars on the presentation of information. Finally, the court says, “Nebraska has not convinced us that a health exception is never medically necessary to preserve the health of the mother.”

And in case we did not get it, the court said again, “By no means must a woman grant physicians unfettered discretion in their selection of a method of abortion but where substantial medical authority supports the proposition...
that banning a particular abortion pro-
cedure could endanger the woman’s
health. Casey requires the statute to
include a health exception when the
procedure is — listen up — necessary, in
appropriate medical judgment, for the
preservation of the life or health of
the mother. Requiring such an excep-
tion in this case is no departure from
Casey, but simply a straightforward
application of its holding.

Mr. Speaker, whatever our views are
on the underlying issue of abortion, we
ought to read the decision and apply
the law. The Supreme Court, in one
decision, said at least five times that a
health exception must be included for
the preservation of the life or health of
the mother in italics and quotation
marks.

This rule that we are considering
proposes a bill without a health exception.
It prohibits amendments that
would yield 3 minutes to the gentlewoman
Mr. Speaker, yield myself such time as I may con-
sume.

Mrs. MYRICK. Mr. Speaker, I re-
serve my time.

Ms. SLAUGHTER. Mr. Speaker, I ob-
serve a point of order that a quorum is not
present and make the
point of order that a quorum is not
present. I do not
care.

Mr. Speaker, whatever our views are
on the underlying issue of abortion, we
ought to read the decision and apply
the law. The Supreme Court, in one
decision, said at least five times that a
health exception must be included for
the preservation of the life or health of
the mother in italics and quotation
marks.

This rule that we are considering
proposes a bill without a health exception.
It prohibits amendments that
would yield 3 minutes to the gentlewoman
Mr. Speaker, yield myself such time as I may con-
sume.

Mrs. MYRICK. Mr. Speaker, I re-
serve my time.

Ms. SLAUGHTER. Mr. Speaker, I ob-
serve a point of order that a quorum is not
present and make the
point of order that a quorum is not
present. I do not
care.

Mr. Speaker, whatever our views are
on the underlying issue of abortion, we
ought to read the decision and apply
the law. The Supreme Court, in one
decision, said at least five times that a
health exception must be included for
the preservation of the life or health of
the mother in italics and quotation
marks.

This rule that we are considering
proposes a bill without a health exception.
It prohibits amendments that
would yield 3 minutes to the gentlewoman
Ms. SLAUGHTER. Mr. Speaker, I ob-
serve a point of order that a quorum is not
present and make the
point of order that a quorum is not
present. I do not
care.

Mr. Speaker, whatever our views are
on the underlying issue of abortion, we
ought to read the decision and apply
the law. The Supreme Court, in one
decision, said at least five times that a
health exception must be included for
the preservation of the life or health of
the mother in italics and quotation
marks.

This rule that we are considering
proposes a bill without a health exception.
It prohibits amendments that
would yield 3 minutes to the gentlewoman
Ms. SLAUGHTER. Mr. Speaker, I ob-
serve a point of order that a quorum is not
present and make the
point of order that a quorum is not
present. I do not
care.
The Speaker pro tempore. The pending business is the question on the passage of the bill (H.R. 5120) on which further proceedings were postponed earlier today.

Mr. CRAWFORD moved to postpone until later today.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

This will be a 15-minute vote.

The vote was taken by electronic device, and there were—yeas 308, nays 121, not voting 5, as follows:

[Roll No. 341]

---

MOMENT OF SILENCE IN MEMORY OF OFFICER JACOB B. CHESTNUT AND DETECTIVE JOHN M. GIBSON

The Speaker pro tempore (Mr. SIMPSON). Pursuant to the Chair’s announcement of earlier today, the House will now observe a moment of silence in memory of Officer Jacob B. Chestnut and Detective John M. Gibson.

Will all present, both in the gallery and on the floor, please rise for a moment of silence.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The Speaker pro tempore. The Chair announces that the vote on House Concurrent Resolution 188 will be postponed until later today.
adopted earlier today, I call up the bill (H.R. 4965) to prohibit the procedure commonly known as partial-birth abortion, and ask for its immediate consideration.

The Clerk reads the title of the bill.

The text of the H.R. 4965 is as follows:

H.R. 4965

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 "Partial-Birth Abortion Ban Act of 2002.

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) A moral, medical, and ethical consensus exists that the performance of a partial-birth abortion—an abortion in which a physician delivers a 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 the dead infant—is a gruesome and inhumane procedure that is never medically necessary and should be prohibited.

(2) Rather than being an abortion procedure that is embraced by the medical community, particularly among physicians who routinely perform the otherwise common procedure of partial-birth abortion, remains disfavored by those who are not only unnecessary to preserve the health of the mother, but in fact pose serious risks to the long-term health of women and in some circumstances, their lives. As a result, at least 27 States banned the procedure as did the United States Congress which voted to ban the procedure during the 104th, 105th, and 106th Congresses.

(3) In Stenberg v. Carhart, 330 U.S. 914, 922 (2000), the United States Supreme Court opined that "significant medical authority supports the proposition that in some circumstances, [partial birth abortion] would be the safest procedure for pregnant women who wish to undergo an abortion. Thus, the Court struck down the State of Nebraska's ban on partial-birth abortion procedures, concluded that nonetheless medical as safe as, and in many circumstances safer than, alternative abortion procedures.

(4) However, the great weight of evidence presented at the Stenberg trial and oral trials challenging partial-birth abortion bans, as well as at extensive Congressional hearings, demonstrates that a partial-birth abortion procedure is necessary to preserve the health of a woman, poses significant health risks to a woman upon whom the procedure is performed, and is outside of the standard of medical care.

(5) Despite the dearth of evidence in the Stenberg trial court record, the district court's findings, the United States Court of Appeals for the Eighth Circuit and the Supreme Court refused to set aside the district court's factual findings because, under the applicable standard of appellate review, the "clearly erroneous" finding of fact is clearly erroneous "when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that the mistake has been committed". Anderson v. City of Bessemer City, North Carolina, 470 U.S. 564, 573 (1986). Under this standard, "if the district court's account of the evidence is plausible in light of the record viewed in its entirety, the court of appeals may not reverse it and could have been a ban on partial-birth abortion procedures, the district court judge—the effect of which was to require a detailed factual analysis of findings and policy determinations of the United States Congress and at least 27 State legislatures.

(6) However, under well-settled Supreme Court jurisprudence, the United States Congress is not bound to accept the same factual findings that the Supreme Court accords great deference—and to enact legislation based upon these findings so long as it seeks to pursue a legitimate interest that is consistent with the Constitution, and draws reasonable inferences based upon substantial evidence.

(7) In Katzenbach v. Morgan, 384 U.S. 641 (1966), the Supreme Court articulated its highly deferential review of Congressional factual findings when it addressed the constitutionality of section 4(e) of the Voting Rights Act of 1965. Regarding Congress' factual determination that section 4(e) would assist the Puerto Rican community in "gain[ing] nondiscriminatory treatment in public services," the Court stated that "[i]t was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations not for the Court to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did. There plainly was such a basis to support section 4(e) in the application in question in this case..." Id. at 653.

(8) A morbid and inhumane practice is never necessary to preserve the health of a woman, poses serious risks to a woman's health, and lies outside the standard of medical care. Congress was informed by extensive hearings held during the 104th and 105th Congresses and passed a ban on partial-birth abortion in the 104th, 105th, and 106th Congresses.

(9) In Katzenbach v. Morgan, 384 U.S. 641 (1966), the Supreme Court articulated its highly deferential review of Congressional factual findings when it addressed the constitutionality of section 4(e) of the Voting Rights Act of 1965. Regarding Congress' factual determination that section 4(e) would assist the Puerto Rican community in "gain[ing] nondiscriminatory treatment in public services," the Court stated that "[i]t was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations not for the Court to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did. There plainly was such a basis to support section 4(e) in the application in question in this case..." Id. at 653.

(10) Katzenbach's highly deferential review of Congress's factual conclusions was relied upon by the United States District Court for the District of Columbia when it upheld the "hair-cut" Voting Rights Act of 1965, 42 U.S.C. 1973c), stating that "Congressional fact finding, to which we are particularly deferential, is not for the Court to review congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did. There plainly was such a basis to support section 4(e) in the application in question in this case..." Id. at 653.

(11) The Court continued its practice of deferring to the fact finding of the Congress when it addressed the constitutionality of the must-carry provisions of the Cable Television Consumer Protection and Competition Act of 1992. In Turner Broadcasting System Inc. v. Federal Communications Commission, 512 U.S. 622 (1994) (Turner I) and Turner Broadcasting System, Inc. v. Federal Communications Commission, 520 U.S. 180 (1997) (Turner II). At issue in the Turner cases was Congress' legislative finding that, absent mandatory carriage rules, the continued viability of local broadcast television would be "seriously jeopardized": The Turner I Court recognized that as an institution, "Congress is far better equipped than the judiciary to assess the factual data bearing upon an issue as complex and dynamic as that presented here". 512 U.S. at 665-66. Although the Court recognized that there were "unequivocal findings of fact" that were not 'foreclose our independent judgment of the facts bearing on an issue of constitutional law," its "obligation to exercise independent judgment when First Amendment rights are implicated is not a li- cense to reweigh the evidence de novo, or to replace Congress' factual predilection with our own. Rather, it is to assure that, in forming its judgments, Congress has drawn reasonable inferences based on substantial evidence." Id. at 666.

(12) Three years later in Turner II, the Court upheld the "must-carry" provisions based upon Congress' findings, stating that "the factual finding that, absent mandatory carriage rules, the continued viability of local broadcast television would be "seriously jeopardized"..." 520 U.S. at 196. Citing its ruling in Turner I, the Court reiterated that Congress' legislative finding is "far better equipped than the judiciary to "assess the factual data bearing upon an issue as complex and dynamic as that presented here". Id. at 196, and added that it "owe[d] Congress' findings an additional measure of deference out of respect for its authority to exercise the legislative power." Id. at 196.

(13) There exists substantial record evidence upon which Congress has reached its conclusion that a ban on partial-birth abortion is not required to ""ameliorate and evaluate the vast amounts of data" bearing upon legislative questions," Id. at 196, and added that it "owe[d] Congress' findings an additional measure of deference out of respect for its authority to exercise the legislative power." Id. at 196.

(14) Pursuant to the testimony received during extensive legislative hearings during the 104th and 105th Congresses, Congress finds and declares that:

(A) Partial-birth abortion poses serious risks to the health of a woman undergoing the procedure. Those risks include, among others: an increased risk of suffering from cervical incompetence, a result of cervical dilation making it difficult or impossible for a woman to successfully carry a pregnancy to term; an increased risk of uterine rupture, abruption, amniotic fluid embolism, and trauma to the uterus as a result of converting the child to "live birth" at an early stage in pregnancy, which, according to a leading obstetrics text-book, "there are very few, if any, indications for... other than for delivery of a second twin"; and a risk of lacerations and second- ary hemorrhaging due to the doctor blindly forcing a sharp instrument into the base of the unborn child's skull while he or she is trapped in the birth canal. Such a situation could result in severe bleeding, brings with it the threat of shock, and could ultimately result in maternal death.

(B) The overwhelming medical evidence that partial-birth abortions are safe or are safer than other abortion procedures. No controlled studies of partial-birth abortions have been conducted and comparative studies have been conducted to demonstrate its safety and efficacy compared to other abortion methods. Furthermore, there have been no published peer-reviewed journals that establish that partial-birth abortions are superior in any way to established abortion procedures. Indeed, unlike other abortion procedures, there are currently no medical schools that provide instruction on abortions that...
include the instruction in partial-birth abortions in their curriculum.

(C) A prominent medical association has concluded that partial-birth abortion is "not an acceptable treatment," that the procedure has "never been subject to even a minimal amount of the normal medical practice development," that "the relative advantages and disadvantages of the procedure in specific circumstances remain unknown," and that "there is no consensus among obstetricians about its use." The association has further noted that partial-birth abortion has been broadly disfavored by both medical experts and the public, "ethically wrong," and "is never the only appropriate procedure." (D) A poll in Stengel v. Carhart, the only pro-life expert who testified on his behalf, identified a single circumstance during which a partial-birth abortion was necessary to preserve the health of a woman.

(E) The physician credited with developing the partial-birth abortion procedure has testified that he has never encountered a situation where a partial-birth abortion was medically necessary to achieve the desired outcome and, thus, is never medically necessary to preserve the health of a woman.

(F) A ban on the partial-birth abortion procedure would protect the interests of pregnant women seeking to term a pregnancy.

(G) This overwhelming evidence, Congress and the States have a compelling interest in prohibiting partial-birth abortions. In addition to promoting maternal health, such a prohibition will draw a bright line that clearly distinguishes abortion and infanticide, that preserves the integrity of the medical profession, and promotes respect for human life.

(H) Based upon Roe v. Wade, 410 U.S. 113 (1973) and Planned Parenthood v. Casey, 505 U.S. 833 (1992), a governmental interest in protecting the life of the at-risk embryo or fetus will outweigh the "right to privacy" during which a partial-birth abortion was performed. Thus, a ban on the partial-birth abortion procedure will advance the health interests of pregnant women seeking to term a pregnancy, the mother; blurs the line between abortion and infanticide in the killing of a partially-born child just inches from birth; and confuses the role of the physician in childbirth and should, therefore, be banned.

SEC. 3. PROHIBITION ON PARTIAL-BIRTH ABORTIONS

(a) In General.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

"CHAPTER 74—PARTIAL-BIRTH ABORTIONS"

"Sec. 1531. Partial-birth abortions prohibited.

"* 1531. Partial-birth abortions prohibited"

"(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title and imprisoned not more than 5 years; or both. This subsection does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical illness, physical injury, including a physical disability, or physical injury, including a physical disability, caused by, or arising from, the partial-birth abortion.

(b) As used in this section—

"(1) the term 'partial-birth abortion' means an abortion in which—

"(A) the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a first-trimester fetus, the brain is completely formed and the body of the mother is not, in the case of a post-viability fetus, the body is completely formed and the body of the mother is not; and

"(B) the act of performing an overt act that the person knows will kill the partially delivered living fetus; and

"(2) the term 'physician' means a doctor of medicine, osteopathy, or a doctor of veterinary medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State in which the performance of such service is provided, however. That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nonetheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

(c)(1) The father, if married to the mother at the time he receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

(c)(2) Such relief shall include—

"(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

"(B) statutory damages equal to three times the cost of the partial-birth abortion.

(d)(1) A defendant accused of an offense under this section may in a civil action against the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disability or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

The findings by the board on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

"74. Partial-birth abortions ............... 1531".

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 498, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from New York (Mr. NADLER) each will control 1 hour.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).
with. An abortionist who violates this ban will be subject to fines, a maximum of 2 years imprisonment, or both. This bill includes an exception for those situations in which a partial-birth abortion is deemed necessary to save the life of the mother.

A moral, medical, and ethical consensus exists that partial-birth abortion is an unsafe and inhumane procedure that is never medically necessary and which should be prohibited. Contrary to claims by the partial-birth abortion advocates, this type of abortion remains an untested, unproven, and potentially dangerous procedure that has never been embraced by the medical profession.

As a result, Congress has voted to ban partial-birth abortion during the 104th, 105th, and 106th Congresses, and at least 27 states enacted bans on the procedure. Unfortunately, the two federal bans that reached President Clinton’s desk were promptly vetoed.

In June 2000, the Supreme Court struck down Nebraska’s partial-birth abortion ban, which was similar but not identical to bans previously passed by the Congress. The Court concluded that Nebraska’s ban did not clearly distinguish partial-birth procedure from other more commonly performed second-trimester abortion procedures. The Court also held, on the basis of the highly disputed factual findings of the district court, that the law was required to include an exception for partial-birth abortions deemed necessary to preserve the health of a woman.

This bill has a new definition of partial-birth abortion. It addresses the Court’s first concern by clearly and unambiguously defining the prohibited procedure. It also addresses the Court’s second objection to the Nebraska law by including extensive congressional findings based upon medical evidence received in a series of legislative hearings to the factual findings of the district court in Stenberg.

Partial-birth abortion is never necessary, never medically necessary to preserve a woman’s health, poses serious risks to a woman’s health, and is in fact below the requisite standard of medical care.

The bill’s lack of a health exception is based upon Congress’s factual determination that partial-birth abortion is a dangerous procedure that does not serve the health of any woman. The Supreme Court has a long history, particularly in the area of civil rights, of deferring to Congress’s factual conclusions. In doing so, the Court has recognized that Congress’s institutional structure makes it far better suited than the judiciary to assess facts upon which it will make policy determinations. As Chief Justice Rehnquist has stated, the Court must be “particularly careful not to substitute its judgment of what constitutes heightened precision for that of the Congress or its own evaluation of evidence for a reasonable evaluation by the Legislative Branch.” Thus in Katzenbach v. Morgan, while addressing section 4(e) of the Voting Rights Act of 1965, the Court deferred to Congress’s factual determination that section 4(e) would assist the Puerto Rican community in “gaining nondiscriminatory treatment in public.”

Similarly, in Planned Parenthood v. abortionists, when reviewing the minority business enterprise provision of the Public Works Employment Act of 1977, the Court repeatedly cited and deferred to the legislative record and factual conclusions of Congress to uphold the provision’s exercise of congressional authority. Based upon the Supreme Court precedent and separation of powers principles, I am confident that H.R. 4965 will withstand judicial scrutiny.

Mr. Speaker, it also is important for this body to understand that in addition to the health risk to women who undergo the partial-birth abortion procedure, it is particularly brutal and inhumane to the nearly-born. Virtually all cases of partial-birth abortion in which this procedure is performed are alive and feel excruciating pain.

A child upon whom a partial-birth abortion is being performed is not significantly affected by the medication that is administered to the mother during the performance of the procedure. As credible testimony received by the Subcommittee on the Constitution confirms, current methods for providing maternal anesthesia during partial-birth abortions prevent the experience of pain and stress that the child will feel during the procedure.

Thus, claims that a child is almost certain to be either dead or unconscious and near death prior to the commencement of the partial-birth procedure are unsubstantiated.

H.R. 4965 enjoys overwhelming support from Members of both parties, precisely because of the barbaric nature of the procedure and the dangers it poses to women who undergo it. Additionally, the American Medical Association has recognized that partial-birth abortions are either ethically different from other destructive abortion techniques because the fetus, normally 20 weeks or longer in gestation, is killed out of the woman. Thus, partial birth gives the fetus an autonomy which separates it from the right of the woman to choose treatments for her own body.

Implicitly approving such a brutal and unjustifiable procedure by choosing not to prohibit it will further coarsen society to humanity of all vulnerable and innocent human life. Thus, Congress has a compelling interest in acting to prohibit this procedure.

Mr. NADLER. Mr. Speaker, I yield such time as you may consume to the distinguished gentleman from Michigan (Mr. CONyers), the ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I want to want to begin this debate, and we have to go through this again (Mr. NADLER), the ranking member of the subcommittee, for managing this bill, and I would like to welcome everyone back to yet another debate since 1995 on partial-birth abortion. We have lost track of how many times this has come to the floor, been to the committee, been to the subcommittee, and is here again.

I will spare my colleagues the list of issues but in the last 2 days before we go on summer recess of legislation that is waiting by the American people to be dealt with, why and how this measure got to the floor is one of the great mysteries of the national legislative process, but we are here again, and serve have to go through this again. It does not matter to some that the great weight of medical opinion is against this legislation that would ban partial-birth abortion, which is, by the way, very rarely used, and that is why the American Medical Association is not in support of this legislation.

It is also why the American College of Obstetricians and Gynecologists are opposed to the bill. It is also why the American Public Health Association, the American Nurses Association, the American Medical Women’s Association, the California Medical Association, the Physicians for Reproductive Choice and Health, the American College of Nurse Practitioners, the American Medical Students Association, the Association of Reproductive Health Professionals, the Association of Schools of Public Health, the Association of Women’s Psychiatrists, the National Asian Women’s Health Organization, the National Association of Nurse Practitioners and Reproductive Health, the National Black Women’s Health Project, the National Latina Institute for Reproductive Health, and the Rhode Island Medical Society are all against this bill.

They do not understand medicine or the procedures that are debated here. Maybe. They are inhumane or insensitive to their responsibilities as medical doctors? Maybe. But I doubt that seriously.

The issue of abortion is now being brought during the 7th year for an infinite number of times and the result always comes out the same.

It is important, because there is going to be maybe some debate on it. We went through this before, but the American Medical Association has stated that they are not in support of this bill. I have a letter here to that effect and would be happy to show it to anyone who is not convinced or needs more encouragement about this matter.

It is important that we realize that there is one major reason that this bill is not supported by these medical associations, and that is that the measure contains no protection for the woman, the patient. And there is no exception for the fact that this procedure may save the life of the mother.

There is no consideration about that in this legislation. And so, therefore, these medical institutions and associations cannot support this legislation,
and the legislators, for reasons known only to themselves that promote the bill, will not put this provision in the bill.

Now, only last week when this bill came up in the Committee on the Judiciary, the gentleman from Wisconsin introduced an amendment to cure this defect that has been repeated by the Supreme Court every time this measure goes to the Supreme Court. It has been repeated by circuit courts wherever the cases have occurred; it has been repeated in State courts wherever it has occurred; that unless there is an exception to this ban for the safety and health of the mother, this bill cannot stand muster. Even if it passes the House and the Senate, the Supreme Court still will tell us the same thing: that we must have an exception for the life and health and safety of the mother, or this provision is not valid.

Now, is that so difficult to understand? It has been repeated for years. It has been stated in nonlegal, simple English, and yet the authors of this bill consistently refuse, as of last week they refused, as of today, if we could amend this, they would. Why, I refuse, as of today, if we could have seen these same tactics for many years, and that the misinformation touted by the abortion lobby was exposed as blatant propaganda back in 1997.

My colleagues might recall that the executive director of the National Coalition of Abortion Providers admitted that he “lied through his teeth” when he stated that partial-birth abortions were rarely performed. He went on to say that he had lied to the media often, and he had performed on healthy mothers who are about 5 months along in the pregnancy, and they are performed with healthy fetuses.

So, when we debate this compassionate bill today, I ask that my colleagues remember the truth. Partial-birth abortion remains an untested, unproven, and dangerous procedure that has never been embraced by the mainstream medical community. I would like to take a few minutes to discuss this legislation in a little more detail. Two years ago, in the Stenberg v. Carhart case, the United States Supreme Court struck down Nebraska’s partial-birth abortion ban, which was similar but not identical to bans passed by previous Congresses. To address the constitutional concerns raised by the majority in Stenberg, our legislation differs from previous proposals in two areas:

First, the bill contains a new, more precise definition of the prohibited procedure that, as expert medical testimony received by the Subcommittee on the Constitution indicated, clearly distinguishes it from more commonly performed abortion procedures.

Second, our legislation addresses the Stenberg majority’s opinion that the Nebraska ban placed an undue burden on women seeking abortions because it failed to include an exception for partial-birth abortion needed ever to preserve the health of the mother. The Stenberg court based its conclusions on the trial court’s factual findings regarding the relative health and safety benefits of partial-birth abortions, findings which were highly disputed. Under well-settled Supreme Court jurisprudence, the United States Congress is not bound to accept the same factual findings that the Supreme Court was bound to accept in Stenberg under the so-called clearly erroneous standard. As the Supreme Court explained in Turner Broadcasting System, Inc. v. Federal Communications System, the United States Congress is entitled to reach its own factual findings, findings that the Supreme Court consistently relies upon and accords great deference, and to enact legislation based upon these findings so long as it seeks to pursue a legitimate interest that is within the scope of the Constitution and draws reasonable inferences based upon substantial evidence.

The first section of our legislation contains Congress’s extensive factual findings that, based upon extensive medical evidence compiled during congressional hearings, partial-birth abortions pose serious risks to women’s health. So the partial-birth abortion itself poses a serious medical risk on a woman’s health. It is never medically indicated, and it is outside the standards of medical care in this country.

In fact, the district court’s factual findings in the Stenberg case are inconsistent with the overwhelming weight of authority regarding the safety and necessity of abortion. According to the American Medical Association, and I quote, “There is no consensus among obstetricians about its use, and it has never been subject to even a minimal amount of the normal medical practice development,” and “It is not in the medical textbooks.” That is according to the American Medical Association.

In addition, no controlled studies of partial-birth abortions have been conducted nor have any comparative studies been conducted to demonstrate its efficacy compared to other abortion methods. Furthermore, there have been no articles published in peer-reviewed journals that establish that partial-birth abortions are safe or superior in any way to established abortion procedures.

Leading proponents of partial-birth abortion also acknowledge it poses additional health risks because, among other things, the procedure requires a high degree of skill to pierce the infant’s skin with a sharp instrument in a blind procedure. Dr. Warren Hearn, the author of the Standard Textbook on Abortion Procedures, who also performs many of these types of procedures, has testified that he “had very serious reservations about this procedure, and it is definitely not the safest.”

I would strongly encourage my colleagues in the House to no longer make available in this country this barbaric, inhumane practice of partial-birth abortion.

Mr. CHABOT. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, I appreciate the gentleman from Ohio’s presentation. Could he explain to me why over a dozen of the medical organizations and associations that I have cited have all come out against this measure that is the gentleman’s answer to their statements?

Mr. CHABOT. Mr. Speaker, will the gentleman yield?
Mr. CONYERS. I yield to the gentleman from Ohio.

Mr. CHABOT. Mr. Speaker, if I had time, I could list all the organizations in favor of this legislation. But just using the AMA, for example, they have sent us a letter indicating they are opposed to this legislation, but what they do not like at this point is the fact a doctor could go to jail.

Mr. CONYERS. Mr. Speaker, reclaiming my time, I would ask the gentleman what might or might not be a constitutional science.

Mr. CHABOT. If the gentleman will continue to yield, using the AMA again, for example, they do not like the fact that abortionists would have to go to jail if caught.

Mr. CONYERS. I am talking about the other dozen organizations outside the AMA that I named. Why are they opposed to the bill?

Mr. CHABOT. I would be happy to provide a list of organizations that are in favor of this legislation. Be happy to trade lists with the gentleman. This is an inhumane, barbaric, brutal procedure which ought to be banned.

Mr. CONYERS. That is an inadequate response.

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

Mr. Speaker, I rise once again in opposition to this bill. We have been through this debate often enough to know that we will not find the term partial-birth abortion in any medical textbooks. There are procedures that we will find in medical textbooks, but the authors of this legislation would prefer to use the language of propaganda rather than the language of medical science.

This bill, as written, fails every test the Supreme Court has laid down for what must not be a constitutional regulation on abortion. It reads almost as if the authors went through the Supreme Court’s recent decision in Stenberg v. Carhart and went out of their way to thumb their noses at the Supreme Court, and especially at Justice Sandra Day O’Connor, who is generally viewed as a swing vote on such matters and who wrote a concurring opinion stating specifically what would be needed to uphold a statute.

Unless the others think that when the court has made repeated and clear statements over the years of what the Constitution requires in this area they were just pulling our leg, this bill has to be facially and obviously unconstitutional. Congress can declare anything it wants, but it cannot make the courts interpret by the Constitution.

Now, if people wanted to write a bill that said we are going to ban late-term abortions, which this bill is sometimes referred to, although incorrectly, if they wanted to write a bill that said we are going to ban late-term abortions after viability, none of us are going to include in the bill an exception for when the abortion is necessary for the life or health of the mother, they could do that. It would be a constitutional bill and Members could debate it in good conscience.

But they have chosen not to do that. They have chosen to write a facially unconstitutional bill that they know purports to ban is unconstitutional, deliberately and then the Supreme Court have heard today: that they know will never see the light of day because it is unconstitutional, and the Supreme Court has given us a specific precise recipe of what a constitutional bill would look like.

So this bill is political propaganda. It gives people something to go home and talk about, but falsely talk about, because it is clearly unconstitutional.

The bill does not contain a life and health exception, which the Supreme Court has repeatedly said is necessary throughout pregnancy, even post viability.

I know that some of my colleagues may not like this rule. The gentleman from Ohio (Mr. CHABOT) talked about why he did not like a health exception. But there it is in the Constitution as interpreted by the Supreme Court, whether we like it or not. We have to put it in a bill if we want the bill to be constitutional.

Even the Ashcroft Justice Department, in its brief defending a similar Ohio statute, has acknowledged that a health exception is required by the Constitution. I may disagree with Mr. Ashcroft’s Justice Department on whether the Ohio statute adequately protects women’s health, at least Attorney General Ashcroft and his Department acknowledge that the law requires a health exception, requires that protection if it is not going to be factually unconstitutional.

This bill purports to solve this problem with findings; 15 of the 18 pages of the Ashcroft brief is merely an enumeration of professional fact-finding even if Congress can enact laws, but it cannot decide whether those laws are constitutional. That is exclusively the Supreme Court’s role.

I realize that one of the members of the Committee on the Judiciary said that the Supreme Court wrongly decided Marbury v. Madison, but for 200 years that has been the law of the land.

Second, the Supreme Court is not required defer to our fact-finding. The Court has the power and duty to independently assess the evidence that is presented to it as it did in the Carhart decision. In the Carhart decision, the Supreme Court also specifically rejected the argument made by the bill’s sponsors that the legislation need not contain the health exception because intact dilation and extraction, so-called D&E or D&Ex, is never necessary for a woman’s health. That statement is right in the bill. The Supreme Court stated in 1988 that altogether forbids D&E creates a significant health risk and is, therefore, unconstitutional.

Mr. Speaker, this bill is not a serious attempt to deal with a problem, any problem. This bill is a sticks-and-taxes to fool the people of the United States into thinking that they are trying to deal with a problem.

If the sponsors of this bill wanted to deal with the problem, they know how to do it. Justice O’Connor told them specifically. They do not want a bill that would ban late-term abortions with an exception for when the health
That is why the overwhelming majority of virtually every American knows in their heart is evil and morally wrong. That is why the overwhelming majority of the American people reject this practice and want it banned in the United States of America. Justice has always been defined by how societies protect the innocent and punish those who do them harm. The Partial-Birth Abortion Ban Act is such a bill. Of the innocent and defenseless the Bible admonishes the “whosoever you do for the least of these, you do it unto me” and the undermining partial-birth abortion is the least we can do for the least of these.

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

Ms. LOFGREN. Mr. Speaker, page 16 of the bill it reads “partial-birth abortion,” a term that does not exist in medicine, “is never medically indicated to preserve the health of the mother.”

Mr. Speaker, all of us here came to Congress having done other things in our lives; and sometimes I think that God sends us here to tell a particular story, and I feel that way today because I can tell the story of someone who helped to save that life. The person that person is the daughter-in-law of my friend, Susie Wilson. Before I was elected to Congress, Susie was so excited that her daughter-in-law, Vicki, was going to have a little girl. Susie had two boys. They were grandparents, but no girls. We were excited for Susie, and we found out at the end of Vicki’s pregnancy that the granddaughter, they had already named Abigail, that the baby’s brains had formed almost completely outside of the cranium. I saw the ultrasound picture, and it looked like there were two heads on this child. The question was not whether they would have the Abigail they wanted and prayed for, but how they would terminate this pregnancy, and whether in addition to having no Abigail, whether Vicki would also live; and if she lived, whether she would be healthy enough to continue to care for this new life for all. So this procedure was what was safest for Vicki, and Susie went down there to be with her at this trying time, and it was devastating not just for Vicki but for her husband and for her whole family. It is not just a woman’s issue.

So when I read these words, I know there is something else afoot here today, and it is not about medicine and caring for women’s health and respectig the trauma that families go through in these very devastating circumstances. It is about 30-second ads. That is why we are here today. We are here to tee up another round of 30-second ads in the November election. I think it is shameful. I hope we can vote against this bill and speak out against this outrageous politicization.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. Hart).

Ms. HART. Mr. Speaker, I rise in strong support of the Partial-Birth Abortion Ban Act. Partial-birth abortion is an antiseptic word for a barbaric procedure. Democratic Senator Daniel Patrick Moynihan, a supporter of abortion rights, described it accurately as near infanticide.

Mr. Speaker, the arguments for this bill are legion, and endeavors by the gentleman from Michigan (Mr. Conyers) and the gentleman from New York (Mr. Nader), they are also arguable, and we will hear those arguments today: the argument that our bill as we believe is superior to the Nebraska bill which has been rejected and struck down and will pass constitutional muster; the argument that will ensue today that this procedure is never medically necessary. The AMA said it is ethically wrong. They said it is never the only appropriate procedure, but we say medicine and the endorsements. What is not arguable is that this practice is inherently and morally wrong.

What is not arguable is that the practice of delivering a newborn child alive, feet first, and holding it in the birth canal squirming while the back of its head is stabbed with a suction device is evil. That is not arguable.

Today we will render unlawful or at least begin to render unlawful what virtually every American knows in their heart is evil and morally wrong. That is why the overwhelming majority of the American people reject this practice and want it banned in the United States of America. Justice has always been defined by how societies protect the innocent and punish those who do them harm. The Partial-Birth Abortion Ban Act is such a bill. Of the innocent and defenseless the Bible admonishes the “whosoever you do for the least of these, you do it unto me” and the undermining partial-birth abortion is the least we can do for the least of these.

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

Ms. Lofgren. Mr. Speaker, on page 16 of the bill it reads “partial-birth abortion,” a term that does not exist in medicine, “is never medically indicated to preserve the health of the mother.”
Mr. Speaker, it never ceases to amaze me when I listen to debates on the floor at the tremendous disconnect between the rhetoric we hear and the substance of the bill. This afternoon we will hear a lot of people talking about choice when they know this bill is not about choice. We will hear them talk about abortion, and this bill is really not about abortion. This is unlikely when you look at it, is about one procedure, one procedure that is so painful to an unborn baby, so barbaric, so egregious that even the most extreme proponent of abortion has to look at it and say it shocks even their conscience.

Mr. Speaker, when we leave here tonight and all the pounding on the podium is done and all the rhetoric is finished and the lights are turned off, one thing will loom ever present, and that is that all of the testimony that we have heard on this bill suggests that an unborn baby feels pain even more than the actual baby when it is born, because of the development of the nervous system.

Mr. Speaker, when all it comes down to whether this bill should be passed or not, the question is very simple. Is there no amount of pain that is so great that we would inflict upon an unborn baby? Is there no procedure that is so egregious that we will not be prepared to say that goes too far and we cannot allow that to happen? Mr. Speaker, if that is what this bill says, that this procedure goes too far, we cannot allow it to happen, we cannot allow this kind of pain to be inflicted on an unborn baby, that is why, Mr. Speaker, it is important that we pass this piece of legislation, and I hope we will do just that this afternoon.

Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from Texas (Ms. Jackson-Lee).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise on behalf of my colleagues from New York (Mr. Nadler) for being the leader on this issue for our committee as the ranking member on the Subcommittee on the Constitution. I also come to the floor acknowledging that this poses an emotional dilemma for so many of us, whether or not you happen to want to describe a very personal and private medical procedure that is known to be a small percentage of the judgment of physicians and individuals who have gone beyond any expression or any belief to be able to secure the opportunity to procreate. That is really the main definition, if you will, of a mother. It is someone who wants to nurture, wants to love and wants to be able to raise a child. But what my friends and colleagues are doing year after year after year, and appropriately for them it comes right at the time of an election, is to demonize a woman for simply wanting to have an opportunity, one, to live and, two, to be able to raise a child.

I think we should pay attention to the Stenberg decision which has now come since the last time we debated this matter, and I do not believe we should take lightly the decision of six Supreme Court justices. That is right, Mr. Speaker, six, some of them concurring on this opinion. It means that the principle of a right to choose and privacy in this Nation is well documented in Supreme Court law. That is the basis of this Nation, three distinct branches of government; the Marbury decision suggesting that the Supreme Court is the supreme law of the land.

My colleagues have said that when the procedure is done, when we came to the floor of the House, they are absolutely right. That has not yet been tested by this court. But we have before us a Stenberg decision which, let me cite for this body, makes it very clear of where this Supreme Court is going. Justice Breyer writes very eloquently that he knows what a personal decision this is for so many who debate the question of abortion. He recognizes that when we debate this question, the court recognizes that while the diverse opinions, the emotion that grabs hold to individuals of their different opinions.

Justice Breyer says that this court, in the course of a generation, has determined and then redetermined that the Constitution offers basic protection to the woman’s right to choose, and we shall not revisit those legal principles. We shall not revisit these legal principles. Rather, we apply them to the circumstances of this case.

They go on to say that three basic principles that we determine before us is that, in fact, we shall put forth in the language of this opinion, the woman has a right to end her pregnancy. Secondarily, a law designed to further the State’s interest in fetal life which imposes an undue burden on the woman’s decision before fetal viability, it is unconstitutional, the undue burden concept. And, third, subsequent to viability the State, in promoting its interest in the potentiality of human life may, if it chooses, regulate and even proscribe abortion except where it is necessary, in appropriate medical judgment, to the preservation of the life or health of the mother.

Mr. Speaker, that is why this bill is unfortunately a political exercise, despite the emotion that comes to this floor because we have those who propose this legislation to include an exception on the health of the mother, those who want to be able to procreate. They have not looked at the personal concerns of those who beggar to have a child. It is yet they suggest that the medical judgment that has been made by a physician is wrong and they should be put in jail.

We have obstetricians from the American College of OB-GYN who clearly say that this bill is wrong because it denies them the right to treat their patients and save lives and protect the health of the mother.

I hope that we will see the light and be able to yield forth legislation that truly helps the American people.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. Sullivan).

Mr. SULLIVAN. Mr. Speaker, I stand here today in strong support of banning partial-birth abortion. As a citizen of this great country, I am ashamed that this barbaric act occurs in the greatest country in the world, the United States of America, the greatest civilized country in the world. And I stand here as a parent, as a lawyer, and I feel a moral obligation to stand up to fight for the rights of the unborn.

I want to describe this horrific procedure. First, the doctor sticks forceps into the mother and grabs hold of the baby’s feet so they can turn it around and pull it out. They pull the baby into the birth canal by its legs and the baby does feel pain at this point. They get the baby out and at this point the doctor has to make sure that he blocks the head before it can come out because if he does not, the mother and the baby, it is considered a live birth. He blocks the head into the mother and sticks scissors into the back of the
skull, opening the scissors and the baby is withering around at this point because it is feeling the pain and sticks a tube, a suction tube, into the skull and sucks the brains out, collapsing the skull, killing the baby, the baby goes limp and then they pull the baby out of the womb. This is a horrible act and I think we should support this bill.

People on the left talk about the life and health of the mother. What about the life and health of the baby? We ought to be protecting them and thinking about the life and health of a human being. I have heard my friends on the left as well stand up and fight for their human rights. These are human beings. We have a moral obligation to stand up and fight for them. I urge my colleagues to support banning this horrific act, partial-birth abortion.

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

Mrs. MALONEY of New York. I thank the gentleman from New York for yielding time and compliment him for his strong leadership on this issue and support of this bill.

Mr. Speaker, I rise in strong opposition to this bill and I would like to put this debate in perspective. Today marks the 167th vote against women and their right to choose since the Republican Party came to this House in the majority beginning with the 104th Congress. It is nothing more than a cruel ploy to prevent women from obtaining the safest and best medical care from their doctors. This is a deceptive and unconstitutional, extreme abortion ban. Once again, some of my colleagues are trying to strip away difficult private decisions that belong in the hands of women and their doctors.

Many things are the same since the last time we voted on this type of ban that戕 rights and health of women in jeopardy. Under this bill, women are still prevented from receiving necessary and safe medical care. Under this bill, doctors who are sworn to save lives are still criminals for doing what they are supposed to do, save lives.

Under this bill, women are still at risk of losing their future fertility, their health and even their lives. But one very important thing is very different. The Supreme Court decision. In 2000, in Stenberg v. Carhart, a law that is very similar to the one we are discussing today, banning late-term abortion in Nebraska, was ruled unconstitutional because it did not have an exception for the health of the woman and because it places an undue burden on a woman's ability to obtain an abortion. This means that in addition to being restrictive and cruel policy, this bill is unconstitutional.

The people who are trying to be both the Supreme Court and every woman's doctor. They are making a mockery of the separation of powers and are stealing decisions from women and their doctors. This bill is a direct assault on Roe v. Wade and a direct attack on a woman's right to choose. It politicizes families' tragedies and disregards the life and health of the woman.

The bill is unconstitutional, unsafe and puts an undue burden on women. Furthermore, ACOG, the American College of Obstetricians and Gynecologists, which represents 90 percent of the doctors in this field, rejected the ban, and I quote, as inappropriate, ill-advised and dangerous.

With this bill, Congress is doing something that we have never done before and something that we should never do, and that is, dictating to doctors and the entire medical establishment which procedure they may choose. Congress is overriding the medical profession's best judgments, even in emergency situations, and it is in direct conflict with a Supreme Court decision.

Mr. SENSBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today to give my whole-hearted support to H.R. 4965, the Partial-Birth Abortion Ban Act of 2002. The partial-birth abortion procedure is a brutal and a violent act performed on an innocent victim. We cannot continue to allow this violation of the woman's right to choose.

We must call partial-birth abortion what it is, the murder of a baby during delivery as he or she fights for their first breath of air and struggles to survive. We have to come face to face with the cruel injustice of lives quickly and callously ended.

I will also note that there is an appropriate choice for these growing children, the choice of allowing them to be raised by a loving, adoptive family. Former Surgeon General C. Everett Koop has stated that a partial-birth abortion is never medically necessary to protect a mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both. In fact, were the same child at the same stage of development outside the mother's womb, he or she would be provided life-preserving care and continual medical attention. But if that same child is deemed unwanted by the mother, it is the sterile language of the right to choose. We must call partial-birth abortion what it is, the murder of a baby during delivery as he or she fights for their first breath of air and struggles to survive. We have to come face to face with the cruel injustice of lives quickly and callously ended.

Let me tell you there are many women that feel that way that have to make those kinds of decisions, not because they wanted to abort for the sake of aborting, but because there are physical limitations that are out of our control. You can shake your head and say no, but you are not talking the truth. Let me tell you, there are millions and millions of people out there who do understand this issue and to know that there is sympathy across the country regarding a woman's right to choose. This is a wrong approach, and I would ask my colleagues to vote against this proposition.

Mr. SENSBRENNER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Tennessee (Mr. BRYANT), a former member of the committee.
Mr. BRYANT. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, as I was sitting here thinking as we have had this debate a couple of times in the past, it comes to my mind that the baby eagle in an egg actually has more Federal legal protection than a partially born baby has.

I do rise in strong support of this legislation. We passed it twice before with the help of all of our pro-life Members and actually many pro-choice Members, because this procedure is so gruesome some. The bills were vetoed in 1996 and 1997 by then-President Clinton, but we now, I believe, have a President who will sign a ban on this horrible procedure.

The legislation that we are considering today has a new, more precise definition of the prohibited procedure and should withstand the Supreme Court scrutiny, if challenged.

Furthermore, our bill includes a Congressionally mandated partial-birth abortion is never, and I underline that, is never necessary to protect the woman’s health. Former Surgeon General C. Everett Koop has said, “Partial-birth abortion is never medically necessary to protect a mother’s health or her future fertility.”

I agree with Dr. Koop. There is actually nothing left in that partial-birth abortion is a necessary procedure to protect a woman’s health. However, there is an abundance of evidence that a baby in the final trimester of pregnancy is extremely sensitive to pain.

People who oppose this have insisted that anesthesia kills the babies before they are removed from the womb. This is a myth that has been refuted by professional societies of anesthesiologists. In reality, the babies are alive and experienced great pain when subjected to a partial-birth abortion.

I believe the Federal Government has a duty to protect all Americans, including the born, unborn and partially unborn. I ask my colleagues today, both pro-life and pro-choice, to join in banning this gruesome procedure.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, well, here we are again for the August recess, and here is what we still have to do: Consider expulsion of only the second Member of Congress in our Nation’s history, have nine appropriation bills left to pass, establishing a Department of Homeland Security so we can protect our country against terrorism, and dealing with the financial crisis our country is facing. Instead, what are we doing? The Republican leadership has scheduled 2 hours of debate on so-called partial-birth abortion. Why, when?

Well, like the swallows returning to Capistrano, it is an election year, and now it is time to bring up this hot-button issue. But with a difference this year, with a twist, because this year the Supreme Court has held a bill almost identical to the bill up for consideration today unconstitutional.

From the wild rhetoric we are hearing on the other side today, one would think that women wake up suddenly in their ninth month of pregnancy and say, “You know, I am tired of being pregnant. I think I am going to have a partial-birth abortion.” This is insulting to the women of this country and to the women whose tragic stories we have heard on the House floor today.

It is simply not true. This is a very rare and tragic procedure which happens only under the most difficult of circumstances and which the U.S. Congress should not be legislating, but which a woman and her family and her doctor should be deciding.

For the woman whose health is in serious danger, being able to make a medical decision instead is vital. These are tragic moments in people’s lives, as we have been hearing today, and we should not be interfering in that.

The gentleman from Virginia and others say this bill is just simply about outlawing one medical procedure. Well, that may be true, but Congress would not think about getting involved in medical procedures of any other kind.

It is really appalling to me, because this is an issue where politicians for electoral gain try to dictate a woman’s actions, impugn her motives, question her morality and ultimately remove her authority to make a decision about her own body, and that is what we are debating on the floor today.

But there are two things different, as I said. The first one is the Supreme Court overturned the Nebraska case on the afterthought and stated, “First, the woman’s health must be in serious medical condition. Second, the means of abortion must be the least invasive means which will effectuate the abortion.”

This is a twist on the original Court issue. But with a difference this year, the woman’s health is in serious medical condition. This is a myth that has been refuted by medical professionals of anesthesiologists.

But the baby is absolutely missing, although if you look through an ultrasonograph, a pregnant woman knows she has a little tiny member of the human family. And at what point does that tiny member of the human family get protected by the Equal Protection Clause and due process of our Constitution? No person shall be deprived of life, liberty and the pursuit of happiness, nor shall any person be deprived of equal protection of the law.

This year does that happen? When the baby is four-fifths born, as in this grotesque, gruesome process called partial-birth abortion? Four-fifths born, and the doctor takes a scissors, called a Metzenbaum scissors, and shoves it in the back of the “baby’s” little skull.

Mr. Speaker, Coreen Costello was a pro-life Republican and the distinguished former chairman of the Committee on the Judiciary. (Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, there is so much fantasy about this issue. The pro-abortion people shudder from using that term, and they use a euphemism, “reproductive rights.” They do not refer to the unborn baby in the womb, they refer to the “products of conception.” And when that unborn baby dies as a result of an abortion, by the way, they want to “terminate” a pregnancy. It is exterminate. That is what they want to do. And the “choice,” for pro-choice, they get the choice of a dead baby or a live baby.

You can listen carefully, as I did, to the statements made by the opponents of this legislation, and you listen and strain your auditory nerves. You will hear at the back of the “baby’s” little skull. That is the X factor. That is the missing element here. You will hear about the woman. You will hear about her difficulties, and well we should. But the baby is a little missing, although if you look through an ultrasonograph, a pregnant woman knows she has a little tiny member of the human family. And at what point does that tiny member of the human family get protected by the Equal Protection Clause and due process of our Constitution? No person shall be deprived of life, liberty and the pursuit of happiness, nor shall any person be deprived of equal protection of the law.

This year does that happen? When the baby is four-fifths born, as in this grotesque, gruesome process called partial-birth abortion? Four-fifths born, and the doctor takes a scissors, called a Metzenbaum scissors, and shoves it in the back of the “baby’s” little skull, and then, with the opening, sucks out the brains to collapse the skull.

Talk about grotesque. You would not treat a laboratory rat like that. But the baby, the X factor, the fetus, the product of conception. Well, maybe when it is in the womb and you have to use an ultrasonograph to see it, you can abstract it that way. But when it is four-fifths born; it is there and you cannot avoid it.

This situation is lamentable. But I would say to the women who defend abortion, look around the globe and see who takes the brunt. The little girl baby, the X factor, the fetus, the product of conception. Well, maybe when it is in the womb and you have to use an ultrasonograph to see it, you can abstract it that way. But when it is four-fifths born, it is there and you cannot avoid it.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. HYDE), the distinguished former chairman of the Committee on the Judiciary..
mother of three when her pregnancy turned tragically fatal for her child. Her doctors preserved Mrs. Costello's fertility with a procedure being outlawed in this bill. She then became pregnant again and gave birth to her fourth child.

Listen to this loving mother's words. “Because of this procedure, I now have something my heart ached for, a new baby, a boy named Tucker. He is our family's joy, and I thank God for him.”

Mr. Speaker, no Member of this House has the right to substitute his or her judgment for that of a physician and a mother faced with a rare but tragic situation where a pregnancy is failing, a child has no chance of living outside of the mother's womb, and the goal is to save a mother's fertility or health. No Member has that right, not one.

If there is one late-term abortion in America for frivolous reasons, that is one too many, regardless of the procedure used. It is abhorrently opposed to late-term abortions. But I believe when the health of the mother is at risk, that is a choice, a decision that should be made by a woman and her doctors, and not by politicians in Washington, D.C.

That is not just my opinion, that is the opinion of the United States Supreme Court in its opinion dated June 28, 2000. In that indication, the Supreme Court and its majority of justices made it very clear that the Nebraska abortion law was unconstitutional, in these words.

"...Because it lacks an exception for those instances when the banned procedure is necessary to preserve the health of the mother."

That is as clear as the English language can be. Justice O'Connor, the swing vote on that issue, has made it clear. No health exception for a woman, no law; no law, not one baby saved.

Mr. Speaker, this bill has two flaws in it that make it little more than politics at its worst, as Ralph Reed said, a political silver bullet. First, it is unconstitutional, therefore meaningless. It is a false promise. Second, if the authors of this bill truly believe that American women are monsters who would take a perfectly healthy baby seconds before a perfectly healthy child birth and puncture its brain and kill that innocent child, then why is it that they just want to outlaw one procedure? If you assume the woman is that kind of a monster, then under your bill even if it were law and were constitutional, which it is not, then the woman can choose to use other late-term abortion procedures. Once again, a meaningless law, a meaningless bill that will not save one baby's life.

I think the people who should really be offended by this bill are those genuine pro-life Americans who want to stop late-term abortions. I want to stop late-term abortions, and I hope others who do would ask the proponents of this bill two questions. Is politics so important, you would rather pass a clearly unconstitutional bill than a bill that could actually become law, a bill like I helped pass in Texas 15 years ago? Is that the legislation of that State today? Second question: Why are you outlawing one procedure and leaving every other late-term abortion procedure perfectly legal?

This bill is politics at its worst. It is a false promise. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi [Mr. pickering].

Mr. pickering. Mr. Speaker, I rise in strong support of this measure to ban a horrific procedure. For my generation, we have walked in as mothers and fathers into our doctors' offices and we have had the stethoscope with amplifier hooked to the mother's stomach. We have heard the heartbeat of the child at 11 weeks fill the room with a beating and a pounding and a pulsing of life. In the second trimester in the fourth month, we walk in and with modern technology in the window through the womb we see our babies. We know whether he is a boy or girl. We see their heartbeat, we see their arms and legs kick and move. We see them suck their thumbs. We as a generation have had the experience of being in the delivery room to actually hold a baby, to cut the umbilical cord, to know that what was once hidden is no more, what was once a mystery is now a revelation of life. I would ask us all, then, to stand for the life that we know, to stop this horrific practice.

Mr. Speaker, my generation has had the opportunity to walk into our doctor's office, and through the use of technology we have heard the beating of our unborn child's heart, we have seen the movement of the child's arms and legs. We know whether the child is a boy or a girl. We have been able to be present in the delivery to room to hold the newborn child and cut the umbilical cord. What was once hidden is now known. What was once a mystery is now a wonderful revelation of newborn life.

I would ask my colleagues that before they cast a vote on this measure, listen to that heartbeat. Look into the womb. Feel the kick of the baby's legs and arms.

Before the abortionist sticks the scissors into the baby's skull, turn the baby. Look at the child. Ask yourself as a physician, do you have the courage to protect a life? Vote "no" to the partial-birth abortion ban. Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. Hyde].

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

I heard the gentleman from Illinois [Mr. Davis], my good friend, quarrel with the term "partial-birth abortion." If we think of the operation, the procedure, as they laughingly call it, it is an abortion, and an abortion. I know my colleagues hate the word "abortion." We never see a doctor saying, I am an abortionist. But that is...
what they are; they are abortions. ‘No Member has the right.’ What? We have a duty to defend the defenseless, and there is nothing weaker, more pitiful, more vulnerable than a little baby in the mother’s womb, and the mother, who is weak, is going to have to see her baby, that is precious, has suddenly become its adversary. Somebody has to speak for that little baby.

Former Senator Moynihan never voted with us once over the years; but when this came along, he said that it is too close to infanticide, infanticide, and that it is, and that it is, and that it is, and that it is.

As far as the Supreme Court, we can keep trying to have them get it right, can we not? You would not be satisfied with Dred Scott, would you?

Mr. Speaker, this is a good bill and ought to be supported.

Mr. NADLER. Mr. Speaker, I yield 4 minutes to the distinguished gentlewoman from Connecticut (Mrs. JOHN-)

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman for yielding me this time.

First of all, there are no third-term abortions of healthy babies in America. It is illegal. But it is an absolutely hor-
rendous insult to the women of Amer-
ica to think that we would carry an in-
fant through pregnancy and arbitrarily
and the specific procedure it is trying
to eliminate.

This bill attempts to ban a specific pro-
cedure, and it does so clumsily that it
does not value that life she carries within her;
and the implication that we do not is
so offensive to me that I am astounded
that my colleagues can get up here and
present the image of women, for con-
venience sake, choosing a late-term
abortion.

There are no late-term abortions of healthy babies that are legal, and this bill does not allow late-term abortions. This bill attempts to ban a specific pro-
cedure, and it does so clumsily that it
does not differentiate between the constitutionally prescribed pre-viabili-
ity and post-viability procedures and, there-
fore, tramples on the rights of
women to make choices about the re-
sponsibilities they are going to take
to throughout their lives.

We have in America the right to
make that choice early in a pregnancy. We ought to have the pain of childbirth, I
know of no woman who is not trans-
formed by pregnancy and does not
know of no woman who is not trans-
formed by pregnancy and does not
value that life she carries within her;
and the implication that we do not is
so offensive to me that I am astounded
that my colleagues can get up here and
present the image of women, for con-
venience sake, choosing a late-term
abortion.

In 2000, the Supreme Court ruled in
Stenberg v. Carhart that a Nebraska
statute banning so-called partial-birth
abortion was unconstitutional for two
independent reasons. The statute
lacked the necessary exception for pre-
serving the health of the woman, and
the definition of the targeted procedure
was so vague it could prescribe other abortion procedures. Well, these argu-
ments apply to this bill, both of those
arguments. Mr. Speaker, H.R. 4965 con-
tains no exception to preserve the
health of the woman; and it is so vague
it can be applied to the D&E procedure.
Its prohibition can be applied to that
and, therefore, does, without question,
abrogate the right of women to handle
their reproductive capabilities respon-
sibly.

This is, in my estimation, the worst
bill that has come before this Congress.
I have wanted for a long time to just
say how deeply offended I am that my
male colleagues and some pro-life col-
leagues whose views I deeply respect
would presume that American women
would choose to abort a late-term child
that they have carried within them. I
know of no woman who ever has; I
know of no case that shows a healthy
child being aborted for the purposes of
that preserving that child. I hope that this
will be the last time we debate this,
and I hope we will defeat this issue.

Mr. SENSENBRENNER. Mr. Speak-
er, I yield 2 minutes to the gentleman
from Michigan (Mr. BARCIA).

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

I rise in support of H.R. 4965, the Par-
tial-Birth Abortion Act of 2002, and I
urge my colleagues to vote in favor of
this important legislation. I also am
proud to serve as the cochair of the
pro-life caucus along with the gen-
tleman from New Jersey (Mr. SMITH).

The courageous leadership of the gen-
tleman from New Jersey (Mr. SMITH)
in legislative efforts to boldly and con-
sistently protect the unborn is unpar-
alleled. It has been a pleasure to share
this important chairmanship with him
these past several years. It is also a
pleasure to serve as the Senate spon-
or of H.R. 4965, to say how much I ap-
preciate the leadership of the gen-
tleman from Ohio (Mr. CHABOT) for his
steadfast leadership and commitment
on this issue and so many other impor-
tant pro-life issues that we deal with
here in the Congress. I thank the gen-
tleman.

Partial-birth abortions are most
often performed in the second or third
trimester, and I am particularly trou-
bled by the horrifying aspects of late-
term abortions, because there is no
doubt that the partial-birth abortion
procedure inflicts terrible pain upon
the baby being killed. H.R. 4965 not
only bans this type of atrocious proce-
dure, but imposes fines and a maximum
of 2 years imprisonment for any person
who administers a partial-birth abort-
ion. This gruesome and brutal proce-
dure should not be permitted.

I strongly believe in the sanctity of
life, and if 80 percent of abortions are
elective, we must reconsider and re-
evaluate the values society places on
human life. In many cases, this is a
cold, calculated, and selfish decision.

Mr. NADLER. Mr. Speaker, I yield
5 minutes to the distinguished gentle-
woman from Indiana (Ms. CARSON).

Ms. CARSON of Indiana. Mr. Speak-
er, I come to the floor today and have
come to have it out and because it is
very difficult for me to consume the
kind of emotionally charged graphic il-
lustration and display of the subject
matter that is contained in this legis-
lation.

I came to Congress, Mr. Speaker, in
1997, and since the time that I was
sworn in to the 106th Congress, I have
had to vote on abortion 109 times; 109
times this House, this United States
Congress has brought before it this
issue of abortion. It is mind boggling
that we have children, on a daily basis,
since we are all concerned about the
well-being of our children, and I doubt
that none of us are truly concerned
that we have children around this
country who have malnutrition, who
lack proper medical care, who commit
suicide, and it has been in the news on
a regular, daily basis about children
who are being sexually molested, who are being kid-
napped from their homes, and there is
not one squeak of any comment from
the other side about the vulnerability
of these children.

Yet, I have to come down to this
floor 109 times since I have been in
Congress to vote on a matter of abort-
ion.

It does make you wonder, I think,
the issue is as to whether we, the
choice that a woman makes with the
help of her medical doctor, would have
to come before the United States Con-
gress. And it is especially suspicious
that medical privacy is an issue here;
and there is no reference to medical
privacy at all. Also, I do not know
in the House of Representatives that a
woman, in consultation with her doc-
ator, a very private decision engaging in
a very private medical procedure, how would one here know about it unless there is something in this bill that I have not read that provides hidden cameras maybe in a hospital room or doctor's office that allows some peeping tom to stand there and watch what procedures are done by surgeons or by a woman in consultation with her doctor.

What privilege is there in this bill that violates medical privacy? How would any Members know that a woman has had an abortion? Even if there is some peeping tom exemption in this bill that allows you to see what happens?

It just makes me ill, and I know my opponent is recording this because the other side has called him and told him to do that. And I hope he plays the full thing.

Every time this is here I vote against it. We have voted $594 million worth of raises for this Congress since I have been in here, but we have not done diddly squat about all of these innocent and vulnerable children who have been kidnapped from their homes who are being killed on their driveways by predators.

The gentlewoman from Texas (Ms. JACKSON-LEE) has a concept about a diversion so that someone else can go and commit the evil deed, but the diversion takes place, and this debate today reminds me of that.

Mr. SENSENBERNER. Mr. Speaker, shortly the Democrats will offer a motion to recommit, and I hope the vote on that is not charged against us.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. SENSENBERNER) for yielding me time.

Mr. Speaker, I have listened to the entire debate today and I cannot help but think of a television program I was watching about crime the other day about pickpockets and purse snatchers. There are groups of people that create a diversion so that someone else can go up and commit the evil deed, but the diversion takes place, and this debate today reminds me of that.

Being accused of trying to eliminate a brutal, violent, inhumane act for political purposes for, or questions of constitutionality simply reminds me of pickpockets because the diversion just does not cut it.

According to Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, and some other medical sources, it appears that partial birth abortions are performed 3,000 to 5,000 times annually. Even those numbers could be low. Based on published interviews with numerous abortionists and interviews with Mr. Fitzsimmons, partial birth abortions are performed in the fifth and sixth months of pregnancy on healthy babies of healthy mothers.

We have already heard that the statement from former Surgeon General C. Everett Koop that partial birth abortion is never medically necessary to protect a mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both.

Dr. James McMahon, who is considered to be the developer of this method, explicitly acknowledged that he performed such abortions on babies with no flaw whatsoever, even in the third trimester for reasons such as the mere youth of the mother or psychiatric difficulties.

These abortions do occur. It is arrogant of anyone to regard human life as flawed, and we need to support this bill and stop this violent process.

Mr. Speaker, I stand here today to protest strongly against H.R. 4965 which seeks to limit a woman's right to choose medical options appropriate for herself and her family in consultation with her physician.

As Members of Congress, we are elected by our constituents to present their interests fairly here in Washington. We are not sent here to enact poorly-constructed legislation that would hinder the health and well-being of those entrusting us to make laws. Therefore, I must vehemently register my opposition to H.R. 4965 as an infringement on the personal choice and free will of women and families I am here to represent.

H.R. 4965 is bad legislation because it eliminates a health exception for women, and given that the Supreme Court has indicated that every restriction must allow an abortion when necessary, in appropriate medical judgment, for the preservation of the life or health of the mother. Women and their families must be able to make decisions regarding their medical care along with their doctors and without the interference of Congress.

It seems to me then, Mr. Speaker, we need to be exploring for the children of America, not cutting their heads off. Here we go again. You are darn right. It needs to be reminded over and over again to the American people what a barbaric procedure this is. And at least in this instance, all Americans can join together and say we, at least, will not allow this to happen.

President Reagan, to quote him, also spoke in January of 1985 when he was sworn in as our President for a second term of something he very quietly but very eloquently called the "American sound." He said the American sound is that sound which is echoed out across the ages, across the continent, across our continent. It is the sound, he said, of a Nation conceived by God, created in God's image for God's purposes.

He said, it is a Nation that has always held in its heart compassion and love for fellow human beings.

I think if President Reagan were here today, he would say the American sound is alive and well in the House of Representatives. It is indeed the sound of love and compassion, belief in God, and belief in the unborn, and belief in the right of that child, that precious baby to be born and to serve in God's image on this great land and in this great country.

I believe if President Reagan were here today he would say, thank you, Congress, thank you America, for standing up for the least defenseless among us, for the most defenseless among us.

If, indeed, our colleagues join us as we expect today in passing this ban on this barbaric procedure, which no American can tolerate, and defend, then President Reagan would indeed say, It is morning again in America for America's babies. Thank God.
Mr. NADLER. Mr. Speaker, I yield 2½ minutes to the distinguished gentlewoman from the District of Columbia (Ms. NORTON).

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

Here we are on cue, Mr. Speaker. The annual late-term abortion bill. This is the bill where Congress tries not to make law but to make mischief. Why would Congress want to put a woman in jeopardy of her health and a physician in jeopardy of prison for 2 years and a fine by prohibiting one and only one procedure?

Actually, Congress does not want to put the physician in jeopardy. What Congress wants to do is to keep the physician from performing any abortion including legal abortions. And if this bill passes, that is exactly what will happen across this country.

The point of this bill is to make it legally risky to perform any abortion because the physician cannot be sure he will not be prosecuted. That is why the courts have struck down these late-term abortion bans time and time again.

The bill tries to simply hop over Roe versus Wade with 15 pages of congressional findings that cannot nullify a woman’s constitutional right. Congressional findings cannot defeat a woman’s right to have an abortion if her health is in danger. This bill is not even in this is plainly unconstitutional. Worse, it is an insult to the women of America.

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

Mr. PITTS. Mr. Speaker, partial-birth abortion is one of the most violent and brutal acts known to mankind. It is hard to believe that it is legal at all in a Nation that was founded on the principle of human rights.

Some years ago it was believed that partial-birth abortion was a very rare procedure only performed in the direst of emergencies. That was not true. The fact is there are some people in this country who are so radical and extreme in their defense of abortion that they are willing even to lie to defend this violent kind of act.

Five years ago, the executive director of the National Coalition of Abortion Providers told the New York Times that he had lied about how often partial-birth abortions are performed, lied about how healthy the mothers were, and lied about the viability of the children who were needlessly killed and, in fact, he said he “lied through his teeth.” His words, not mine.

More often than not, this is a baby that would have every chance of surviving if it were delivered normally, and if the baby has developed well beyond the stage where it can feel every bit of pain we would feel if we were subjected to the same procedure.

We have heard the horrific procedure described here on the floor.

Understand that the baby is given no anesthetic or painkiller of any kind. Imagine being stabbed in the back of the neck with a pair of scissors. Imagine how it must hurt the baby.

All of this is done, Mr. Speaker, and it is perfectly legal today in the United States. Legal, yes; necessary, never. No partial-birth abortion is ever medically necessary, according to the best medical experts in America.

The vast majority of the American people want this barbaric, violent procedure to be illegal. Vote for banning the partial-birth abortion procedure.

Mr. NADLER. Mr. Speaker, may I inquire how much time I have left, please.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The gentleman from New York (Mr. NADLER) has 5½ minutes remaining. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 23 minutes remaining.

Mr. NADLER. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois (Ms. CHAKOWSKY).

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

This bill is an affront to all women, and it is an insult to the medical profession, and it violates the Constitution.

Abortion is a constitutionally protected medical procedure in this country. This bill flatly aims to take away that right. It does not aim to ban a single procedure that proponents of this bill like to call partial-birth abortion. If it did, the sponsors of this bill would have accepted medical language that actually describes a medical procedure, but they rejected this language.

Instead, the proponents chose to play doctor and describe a so-called medical procedure in their own words. This bill does not even aim to make late-term abortion because it never specifies a point in the pregnancy after which an abortion is banned.

What this bill really does is chip away at Roe v. Wade which established the constitutional right of women to control their own bodies. The proponents of this bill do not trust women to make their own decisions about their reproductive health. They do not trust women to talk to their doctors about their choices, and then make their own informed decisions. They do not want to give women the power and freedom to make their own decisions about their reproductive lives, despite the fact that the Supreme Court has repeatedly upheld this right in the face of countless challenges.

I urge a no vote.

Mr. SENSENBRENNER.

Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. CHABOT).

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

Mr. Speaker, a society can be measured by how well—or poorly—it treats the most vulnerable in its midst, and partial-birth abortion, like all abortions, is a horrific violence against women and violence against vulnerable little boys and girls.

Mr. Speaker, 30 years after Roe v. Wade, I believe it is time for a serious reality check and a compassion check. Mr. Speaker, abortion on demand has resulted in the lives of almost 42 million children and although grossly underreported, has resulted in death, injury and emotional trauma to women. Forty-two million babies have disappeared off the face of the earth—slaughtered by abortion. Look at this way. Yankee Stadium holds about 57,500 people. If we filled Yankee Stadium to capacity with children slated for execution, we would fill that stadium every day for 730 days. Perhaps this way will give us some idea of the magnitude of the loss of life—42 million dead. It is of genocidal proportions.

Abortion methods, Mr. Speaker, are violence against children. Abortion methods dismember and chemically poison children. There is absolutely nothing compassionate or benign about dousing a baby with superconcentrated salt solutions or lethal injections or hacking them to pieces with surgical knives, and there is absolutely nothing compassionate or caring about sucking a baby’s brains out with partial-birth abortion. It is child abuse.

Today, Mr. Speaker, because of the gentleman from Wisconsin’s (Mr. SENSENBRENNER) and the gentleman from Ohio’s (Mr. CHABOT) human rights legislation and their courage in proposing it, we can stop some of this violence.

Today, Mr. Speaker, we inform Americans that a partial-birth abortion is gruesome and includes pulling a living baby feet first out of the womb and into the birth canal, except for the head, and it is there the abortionist jams the baby’s head with the scissors for the purposes of making people alive in the back of the head. Then that baby has his or her brains sucked out with a high powered vacuum.

Why is that deed—that act, compassionate? I say to my colleagues, and you can snicker and laugh all you want. It is violence against children. It is violence and you my colleagues are sanctioning it, and only because of this legislation do we have an opportunity to at least save some of these children from this horrible, horrific procedure.”

Mr. Speaker, in 1998 a 6-pound baby girl known as Baby Phoenix was born with a skull fracture and lacerations on her face after her Dr. John Biskind, unsuccessfully attempted to perform a partial birth abortion on her 17-year-old mother. Baby Phoenix survived that murder attempt. There was a lot of controversy about that abortion and do my colleagues know what the controversy was about? That the abortionist misinterpreted the baby’s age rather than...
the horrific, horrible violence that was visited upon that baby. That baby survives but carries those scars. Let us be reminded of Baby Phoenix—the lucky one who survived—and all those others who did not.

The American rights legislation. I have been in Congress 22 years. I do a lot to combat torture. I chair the Commission for Security and Cooperation in Europe. I have written two torture victim relief bills and many other human rights pieces of legislation including anti-torturing law. Partial birth abortion is torture—torture of little baby boys and little baby girls. And I am ashamed of my colleagues who stand up here and call efforts to stop it, an insult to women.

This procedure is an insult and infinitely more to boys and girls who are killed in the womb or partially born. It is an insult and more to the mothers who are the co-victims. I urge my colleagues to vote yes and against the motion to recommit.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. JEFF MILLER).

Mr. JEFF MILLER of Florida. Mr. Speaker, I thank the gentleman for yielding the floor to me.

Mr. Speaker, I rise today also in support of the partial-birth abortion ban of 2002. We have been accused of being political with this piece of legislation. We have been told that this is an infringement on women’s rights. And I will tell my colleagues that what this is is an infringement on a person’s right who is too young to speak, certainly too young to vote.

I believe the life of the unborn child begins at conception, and I do believe that every time an abortion occurs, a life is lost. Each year over a million babies are slain at the hands of doctors performing abortions. Some doctors willingly and routinely kill babies during the second and sometimes third trimester.

We have already heard that this is an excruciatingly painful procedure where the doctor violently manipulates the baby’s position, creating a breech delivery, and then mercilessly stabs through the child’s skull to remove the baby’s brain with a vacuum. This procedure is appalling and disturbing, and I feel it is nothing short of murder.

In response to the Supreme Court’s split decision, Stenberg-v-Court ruling, this will help give clear guidelines to what is considered constitutional and prohibited.

Mr. NADLER. Mr. Speaker, I yield myself the remaining time.

Let me summarize this bill first on the substance. This bill is really simply an attack on the very idea of the woman’s right to choose to have an abortion, a right guaranteed by the Constitution of the United States. It is an appeal to people’s emotions, using falsehoods and false claims.

Let me remind my colleagues of several facts. One, there are no abortions in this country in the last trimester of pregnancy except to save the life, the health of the mother, because that would be illegal.

Two, the gentleman says that the procedures outlined in this bill are never necessary to save the health of the mother. Quite to the point that the American College of Obstetricians and Gynecologists, the American Nurses Association, the American Medical Women’s Association in an amicus curiae brief to the Court, cited approvingly by the Court, concluded “especially for women with particular health conditions, there is medical evidence that D & X procedures may be safer than available alternatives.”

The political posturing of Congress is no substitute for the medical expertise of doctors.

The distinguished chairman said there was a moral consensus against this procedure, but the fact is when put before the voters in referenda in Colorado, Minnesota, the voters rejected bans very similar to this bill. What moral consensus?

The Supreme Court has very clearly told us that this bill is unconstitutional in amici brief filed by various medical societies indicating that this is a late-term abortion bill to save fully formed fetuses, the fact is that it bans abortions well before viability, and the Supreme Court in Carhart said, “Even if the statute’s basic aim is to ban the D & X procedure, its language makes clear that it also covers a much broader category of procedures and therefore imposes an unconstitutional burden on women.”

The health of the mother. The Supreme Court has told us that for such a bill to be constitutional, it must have an exception for the health of the mother, and what human being would not want to have an exception for the health of the mother? So we destroy her health for an ideological reason?

The findings of the bill that such procedures are never relevant, are never necessary for health are political findings, not medical findings, as we have all noted above, and would be disregarded by the Supreme Court, as the Court has told us in the most recent cases.

By its own terms, because lacking a health exception, this bill would sanction grievous bodily harm to a woman rather than let her and her doctor do what is necessary in their judgment to safeguard her health and her welfare.

Finally, Mr. Speaker, this bill is a sham. Because it is unconstitutional, because it is clearly and facially unconstitutional, it can do nothing to avert any of the horrors cited by the gentleman from New Jersey (Mr. SMITH) and by other supporters of the bill. If the supporters wanted, we could enact this broth- late-term abortions with an exception for where the life and health of the mother is at risk. Such a bill would be constitutional and might accomplish some-thing.

It would not be clearly disingenuous and hypocritical, but the sponsors of this bill do not want to do that. They prefer a sham bill.

They prefer posturing. Instead of doing something, they would rather have a lot of emotion against a woman’s right to choose. But make no mistake, this bill is a sham. It would do nothing. It is unconstitutional.

We should vote against this sham. It is an insult to American women, and it is an insult to our collective intelligence.

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

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

Mr. Speaker, this is an important debate. It is an important debate because it puts before Congress and, thus, the American people whether or not there should be a line drawn and whether there should be any meaningful and effective restrictions on abortion.

The partial-birth abortion procedure is barbaric and grotesque, and most medical societies, including those that generally oppose restrictive physicians being able to practice any type of medicine, have said that there are other types of abortion procedures that would be more proper than a partial-birth abortion.

Let me quote from the committee report. It says, “The absence of any basis upon which to conclude that partial-birth abortions are safe has not gone unnoticed by the American Medical Association, which has stated that partial-birth abortion is ‘not an accepted medical practice,’ ” not an accepted medical practice, and that “it has never been subjected to even a minimal amount of the normal medical practice development; that the relative advantages and disadvantages of the procedure and specific circumstances remain unknown.” The AMA says it is an experimental procedure and that there is no consensus among obstetricians about its use.

The AMA has further noted that “Partial-birth abortion is broadly disfavored by both medical experts and the public, is ethically wrong,” and I repeat, is ethically wrong, “and is never the only appropriate procedure.”

Thus, a select panel convened by the AMA could not find any identified circumstance where the partial-birth abortion was the only appropriate alternative.

So, if my colleagues want to do away with partial-birth abortions but are talking about a woman’s right to choose, there are other alternatives, according to the AMA.

Now, I grant that the AMA does not support the criminal sanctions that are contained in this bill against physicians who perform partial-birth abortions in violation of the law, but they still condemn the partial-birth abortion procedure in their statements that they issued several years ago when Congress first took this issue up.

The American College of Obstetricians and Gynecologists, which is an organization that has consistently opposed legal restrictions on abortions,
including the partial-birth abortion ban, has reported a select panel convened by ACOG could identify no circumstances under which this, meaning the D&X procedure, would be the only option to save the life or preserve the health of the mother.

Now, former Senator Daniel Patrick Moynihan, whom I am sure was very strongly supported politically by my colleague from New York, and who never voted for restrictions on abortion during his long and distinguished career, said that body sucked out. This is what we want to ban. And this, I think, is supported by the vast majority of the American people.

Now, we have also heard a lot from people who are opposed to this legislation; that this always should be something that is in the professional opinion of a physician. Well, many of the physicians whose professional opinion is requested have an inherent conflict of interest because they will charge a fee and make money by saying that this is a proper procedure, even though the very reason why their colleagues say it is never a proper procedure and other alternatives are available.

Finally, we have heard a lot about the Stenberg decision. This is a different bill than the law from the Nebraska case that was struck down by the Supreme Court. It contains extensive findings by the Congress of the United States, which is our right as a legislative body to make. It is up to the court to determine whether or not the findings made by the Congress are valid when it considers the constitutionality of this bill, should it be enacted into law, just like it was in the province of the court to consider the findings of the district court when it struck down the Nebraska law in the Stenberg decision.

The doctrine of separation of powers gives us the right to make those findings. Those findings are all medically supported by the testimony that the Committee on the Judiciary has received since 1995. I believe this bill is constitutional. I believe this bill is good public policy. But, most importantly, I believe it is our right and our duty to stop this grotesque procedure, which is three inches away from infanticide. I would strike very close. It is infanticide, because the difference between a legal partial-birth abortion and first degree murder is three inches. Three inches. The size of the head, which has not been delivered, where the scissors are inserted into the back of the baby’s head and the brains are sucked out. This is what we want to ban. And this, I think, is supported by the vast majority of the American people.

Unfortunately, H.R. 4965 takes a different approach, one that is constitutionally flawed, but flawed in principle, as well. Though I will vote to ban the horrible partial-birth abortion procedure, I fear that the language and reasoning used in this bill do not further the pro-life cause, but rather cement failaciously justified ethics into both our culture and legal system.

For example, 14G in the “Findings” section of this bill states, “... such a prohibition [upon the partial-birth abortion procedure] will draw a bright line that clearly distinguishes abortion and infanticide. The question I wish to pose in response is this: Is not the fact that life begins at conception the main tenet of the pro-life community? By stating that we are drawing a “bright line” between abortion and infanticide, I fear that we are simply reinforcing the dangerous idea underlying Roe v. Wade, which is the belief that we as human beings can determine which members of the human family are “expendable,” and which are not. The belief that we as a society can decide which persons are “expendable,” leads us directly down a slippery slope of violence and apathy toward humanity. Though many decry such ethicists as Peter Singer of Princeton, who advocates the “right” of parents to choose infanticide, as well as euthanasia, his reasoning is simply a logical extension of the ethic underlying Roe v. Wade, which is that if certain people are not “useful” or “convenient,” they should be done away with.

H.R. 4965 also depends heavily upon a “distinction” made by the Court in both Roe v. Wade and Planned Parenthood v. Casey, which established that a child within the womb is not protected under the Constitution because of the woman’s wish to terminate a pregnancy. By depending upon this false and illogical “distinction,” I fear that H.R. 4965, as I stated before, ingrains the principles of Roe v. Wade into our justice system, rather than refutes them as it should.

I wish to conclude with a quote from Mother Theresa, who gave a beautiful and powerful speech about abortion on February 3, 1994, at significantly contributes to our violent culture and our careless attitude toward liberty. Whether a civilized society treats human life with dignity or contempt determines the outcome of that civilization. Reaffirming the importance of the sanctity of life is crucial for the advancement of a civilization that is already strong evidence that we are indeed on the slippery slope toward euthanasia and human experimentation. Although the real problem lies within the hearts and minds of the people, the legal problems of protecting life stem from the ill-Advised Roe v. Wade ruling and the constitutional scrutiny that unconstitutionally should never have occurred.

The best solution, of course, is not now available to us. That would be a Supreme Court that recognizes that for all criminal laws, the several states retain jurisdiction. Something that Congress can do is remove the issue from the jurisdiction of the lower federal courts, so that states can deal with the problems surrounding abortion, thus helping to reverse some of the impact of Roe v. Wade.
into law. The President who will sign this critical piece of legislation illegal.

This gruesome and brutal procedure should son who administers a partial-birth abortion.

This bill is unconstitutional and it is harmful to women’s health. Let’s keep medical deci- sions where they belong—in the doctor’s of- fice, not the House floor.

Vote no on H.R. 4965.

Mr. VITTER. Mr. Speaker, I rise today with strong unequivocal support for H.R. 4965, the Partial-Birth Abortion Ban Act of 2002. I urge my colleagues to vote in favor of this important legislation.

I am proud to serve as Co-Chair of the Pro-Life Caucus along with Representative Chris Smith. Representative Chris Smith’s coura- geous leadership in legislative efforts to boldly and consistently protect the un-born is unpar- alleled. It has been a pleasure to share this important Chairmanship with him.

And as the lead Democratic sponsor of H.R. 4965, I also want to thank Representative CHABOT for his steadfast leadership on this and so many other important pro-life issues.

Partial-birth abortions are most often performed in the second or third trimester and I am particularly troubled by the horrifying as- pects of late term abortions because there is no doubt that the partial-birth abortion proce- dure inflicts terrible pain upon the baby being killed.

H.R. 4965 not only bans this type of atroc- ious procedure but imposes fines and a max- imum of two years imprisonment for any per- son who administers a partial-birth abortion. This gruesome and brutal procedure should not be permitted.

I strongly believe in the sanctity of life and if 80 percents of abortions are elective, we must reconsider and re-evaluate the value soci- ety places on human life. In many cases, this is a cold, calculated, and selfish decision.

This is not a choice issue. This is a life and death issue for an innocent child. It is long overdue that this heinous procedure is made illegal.

Although I am a Pro-Life Democrat, I am grateful that we now have a Pro-Life President who will sign this critical piece of legislation into law. The President’s support will abrogate the notion that his position is somehow protect women. But what do doctors and experts have to say about the procedure?

The head of National Coalition of Abortion Providers in 1997 said that the “vast majority” of partial-birth abortions are performed on healthy babies and healthy mothers.

The American Medical Association, regard- ing legislation to ban partial-birth abortions, wrote “Thank you for the opportunity to work with you towards restricting a procedure we all agree is not good medicine.”

The Physicians’ Ad Hoc Coalition for the Truth (PHACT) stated, “Never is the partial- birth procedure medically indicated. Rather such infants are regularly and safely delivered live . . . with no threat to the mother’s health or fertility.”

Lastly, former Surgeon General C. Everett Koop issued a statement that not only is the procedure never medically necessary for mother or child but “on the contrary, this proce- dure can pose a significant threat to both.”

We also know now that the infant feels tre- mendous pain, contrary to prior statements by pro-abortion groups. Yet these same organiza- tions would have us believe that this grisly procedure is actually necessary—this same procedure where an infant, in the rate second or third trimester, is removed from the mother’s uterus save only his or her head, and then an abortionist pierces the skull and vacu- ums the brain, collapsing the skull.

Allowing any procedure as gruesome as this is simply unacceptable to me, and should be so for this American people have spoken loudly and clearly on this issue. This ban has passed the House of Represent- atives in the past, and we should do so here again today. This legislation before us is care- fully crafted to address concerns of the Su- preme Court.

Mr. Speaker, I urge my colleagues to support passage of the Partial-Birth Abortion Ban, and let’s hope that it’s the last time we have to fight for this common sense legislation.

Mr. TERRY. Mr. Speaker, I rise in support of H.R. 4965, the Partial-Birth Abortion Ban Act.

Two years ago, the Supreme Court ruled 5 to 4 that the partial birth abortion is not a medical procedure. In this case, Congress passed legislation to ban partial-birth abortion.

Mr. TERRY. Mr. Speaker, I rise today with strong unequivocal support for H.R. 4965, the Partial-Birth Abortion Ban Act of 2002. I urge my colleagues to vote in favor of this very important legislation. By passing this legislation we will once again take a step towards banning the truly horrifying practice whereby an innocent life is taken in the most gruesome of procedures.

Used in second and third trimester abor- tions, the “partial-birth” procedure involves pulling some portion of the fetus into the birth canal, crushing the skull and killing the fetus, before removing the fetus from the mother’s body.

Congress passed legislation in each of the last three Congresses banning partial-birth abortions. In the 104th and 105th Congresses, President Clinton vetoed the partial-birth abor- tion bans. Both times the House voted to over- ride the veto, but the Senate sustained it.

This bill makes it a federal crime for a physi- cian, in or operating interstate commerce, to perform a so-called partial birth abortion, unless it is necessary to save the life of the mother. Under this legislation, anyone who knowingly performs a partial-birth abortion would be subject to fines and up to two years in prison. The bill provides that a defendant could seek a hearing before the state medical board to show that the procedure was necessary to save the life of the mother and those findings may be admissible at trial.

Mr. Speaker, I urge my colleagues to vote in favor of this very important legislation. By passing H.R. 4965 today, we will take a giant step towards protecting innocent babies who, though no fault of their own, never have a chance.

Mr. GEPPARDT. Mr. Speaker, it is regret- table that today the Republican leadership ig- nored an opportunity to resolve the issue of late-term abortion in an effective and constitu- tional way, moving forward yet again with a ban that does not include an exception to pro- tect the health of the woman. The Supreme Court has spoken on this matter. Banning this
procedure without such an exception is uncon-stitutional. Repeatedly on the Floor of this House an alternative that contains this crucial exception has been offered, and repeatedly I have voted for it. That a ban would be before us today without that exception can only mean that the Republican leadership wants a political issue more than an effective law. I hope that any future consideration of this legis-

liament would not suffer from such a flaw.

Mr. SIMMONS. Mr. Speaker, I rise today in opposition of H.R. 4965, the “Partial-Birth Abortion Ban of 2002.”

Since Congress last voted on this issue two

yea

ago, the U.S. Supreme Court, by a 5–4

found that the Nebraska law making it a cr

ime to perform so-called “partial birth abor-
tions” was unconstitutional because it imposed an undue burden on women’s decision to end a pregnancy and it lacked the constitutionally required exception to protect women’s health.

In spite of the U.S. Supreme Court’s rulings, the “Partial-Birth Abortion Ban of 2002” fails to include the necessary of a woman’s ability to choose an abortion procedure.

The difficult and personal medical decisions made by a woman, her families and her medical doctors should not be influenced by the agendas of politicians. A free people must as-

sume responsibility to make vital decisions in-

volving them; and not allow their decisions to be made by the federal government.

While I remain concerned about the number of abortions in America today, I continue to fully support the U.S. Supreme Court decision. I will also continue to strongly support pro-

grams that can reduce the number of abor-
tions worldwide. These include domestic and international family planning programs, age-
a
d
d
d
d
d
d
d

approves educational programs and increases availability of adoptive services.

Mr. SOUDER. Mr. Speaker, as a cosponsor of H.R. 4965, the Partial-Birth Abortion Ban Act, I believe the Congress must act now to pass this important bill. We should not allow the heinous killing of a baby and partially delivered baby to be lawful any longer.

In a partial-birth abortion, the abortionist pulls a living baby feet-first out of the womb and into the birth canal, except for the head, which the abortionist purposely keeps locked just inside the cervix. The abortionist then punctures the base of the skull with a surgical instrument, such as a long surgical scissors or a pointed hollow metal tube called a trochar. He or she then inserts a catheter into the wound and removes the baby’s brain with a powerful suction machine. This causes the skull to collapse, after which the abortionist completes the delivery of the now-dead baby.

H.R. 4965 would ban performance of this abor-
tion procedure. However, if it were neces-

sary to save a mother’s life, it defines par-

tial-birth abortion as an abortion in which “the

person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presenta-
tion, the entire fetal head is outside of the body of the mother, or, in the case of a breech presenta-
tion, any part of the fetal trunk past the naval is outside the body of the mother.” and then kills the baby. The bill would permit use of the procedure “if necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical in-

jury, including a life-endangering phys-

ical condition caused by or arising from the pregnancy itself.”

According to Ron Fitzsimmons, executive di-

rector of the National Coalition of Abortion Providers, partial-birth abortions are performed 3,000 to 5,000 times annually, usually in the fifth and sixth months of pregnancy, on healthy babies of healthy mothers. It has also been used to perform abortions as late as in the third trimester of the seventh month and later. Many of these babies are old enough to live, and many of them are devel-

oped enough to feel the pain of this horren-

dous procedure.

The Congress has voted to ban partial-birth abor-
tions because only for the ban to be vetoed both times. We must pass H.R. 4965 now to ensure that partially delivered babies are pro-
tected and that the awful procedure used to perform partial-birth abortions is banned under law.

Mr. WELDON of Florida. Mr. Speaker, as a physician, I find the practice of partial-birth abortion extremely disturbing. This is a grue-

some practice where the abortionist delivers the entire child except the head. The head is left in the mother’s womb until the abortionist pulls the child’s head back of the child’s neck. If the baby’s head were three inches further out of the birth canal, this prac-
tice would be recognized as murder under our court system.

“Critics of a partial-birth abortion ban have asserted that a ban could endanger the life and/or health of the mother, but such is not the case. Even the American Medical Association has said that the partial-birth abortion pro-
cedure is ‘not good medicine’ and is ‘not med-

ically indicated’ in any situation.

“Congress has already concluded that partial-birth abor-
tion is a cruel and inhuman practice. The American College of Obstetricians rejection has concluded that partial-birth abortions in the 104th, 105th, and the 101st Congresses with support by scores of Members who have never voted pro-life. Even many abortion supporters find this prac-
tice reprehensible.

“President Bush has said that he would sign a bill banning this practice. My hope is that the 107th Congress will give the President the Partial-Birth Abortion Ban Act of 2002 for him to do just that. I’m hopeful that we will soon see progress in ending this gruesome prac-
tice. I urge my colleagues to do the right thing today and vote for the ban.”

Mr. BLUMENAUER. Mr. Speaker, I oppose the bill before us today, H.R. 4965, which would ban late-term abortions. Congress has no business substituting its judgment for fami-

lies in cases that may jeopardize not just the health, but the life of the mother, and a fam-

ily’s ability to have a healthy child in the fu-

ture. I have consistently opposed efforts by politi-
cians in Congress to play politics with the most difficult and personal decisions a family can face.

Access to this procedure helps ensure a woman’s health and her constitutional rights. It is the safest and most commonly used type of abortion in the second trimester of pregnancy. In fact, the American College of Obstetricians and Gynecologists has recognized that “induce-

tion is the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman.”

Today’s bill also fails to address a ruling in June 2000 by the U.S. Supreme Court, which struck down a Nebraska ban on late-term abortions in the case Stenberg v. Carhart. The Supreme Court invalidated the Nebraska law because it did not contain an exception to protect a woman’s health, and it placed an “undue burden” on a woman’s right to choose. Now, two years later, the House of Representatives is once again moving forward with a similar unconsti-
tutional ban. The only substantive change in today’s bill is the addition of a lengthy “find-

ings” section that does not correct the blatant constitutional defects.

During the debate and procedures used to bring it to the floor suggest that the anti-choice House Republican leadership is playing anti-abortion politics rather than having a serious legislative discussion. I disagree with the unfair closed rule that the Republican Leadership has set for debate because it denies pro-choice lawmakers the opportuni-

ty to offer amendments or substitute legis-

lation to address the constitutional defects of the legislation.

Not everyone would make the same deci-

sion when faced with the wrenching decision of choosing between this procedure and the life of a loved one, but it is wrong for Con-

gress to make that choice for American fami-

lies.

I urge my colleagues to vote against the un-

fair rule and the underlying bill.

Mr. SHUSTER. Mr. Speaker, I rise today in support of H.R. 4965, the Partial-Birth Abortion Ban Act of 2002. This legislation would ban a gruesome procedure that kills a child who is just inches from birth. I will not go into the de-
tails of this cruel procedure. What I will men-

tion, however, is that numerous medical ex-

perts have testified that fetuses are able to fully feel pain after 20 weeks of development, the time at which most partial birth abortion procedures occur.

Some have questioned the constitutionality of partial-birth abortion bans. This legislation, however, clearly addresses questions that have surrounded previous bans in two key ways. First, H.R. 4965 narrowly defines what constitutes a partial-birth abortion. Second, this legislation deals with the question of health exemptions. H.R. 4965 presents exten-

sive Congressional findings, based on the tes-

timony of experts, that partial-birth abortions are never needed to save the life of the moth-

er and that they often pose serious health risks to women.

Mr. Speaker, the American Medical Associa-

tion has concluded that partial-birth abor-
tions are “not an accepted medical practice.” Yet, this cruel practice continues to take place. Congress has twice passed legislation to ban partial-birth abortions. Unfortunately, both times the legislation was vetoed by President Clinton.

The time for Congress to act on this issue is here. President Bush has said that he would sign a ban on partial-birth abortions. Mr. Speaker, we have finally had an opportunity to put in place a ban that protects the most innocent of our society—I urge passage of the Partial-


Mr. McDERMOTT. Mr. Speaker, as a physi-

cian I must stand against H.R. 4965. This bill bans a legitimate medical pro-

cedure and jeopardizes the lives of thousands of childbirthing women. Supporters of H.R. 4965 claim to ban only a certain kind of abortion procedure that they happen to find offensive. However, the language of the bill is purpose-

fully vague and would ban multiple types of abortion procedures. What I will men-

tion, however, is that numerous medical ex-

perts have testified that fetuses are able to fully feel pain after 20 weeks of development, the time at which most partial birth abortion procedures occur.

Some have questioned the constitutionality of partial-birth abortion bans. This legislation, however, clearly addresses questions that have surrounded previous bans in two key ways. First, H.R. 4965 narrowly defines what constitutes a partial-birth abortion. Second, this legislation deals with the question of health exemptions. H.R. 4965 presents exten-

sive Congressional findings, based on the tes-

timony of experts, that partial-birth abortions are never needed to save the life of the moth-

er and that they often pose serious health risks to women.

Mr. Speaker, the American Medical Associa-

tion has concluded that partial-birth abor-
tions are “not an accepted medical practice.” Yet, this cruel practice continues to take place. Congress has twice passed legislation to ban partial-birth abortions. Unfortunately, both times the legislation was vetoed by President Clinton.

The time for Congress to act on this issue is here. President Bush has said that he would sign a ban on partial-birth abortions. Mr. Speaker, we have finally had an opportunity to put in place a ban that protects the most innocent of our society—I urge passage of the Partial-

In 2000, the Supreme Court ruled on Carhart v. Stenberg. It decided that any ban on so-called “partial birth abortions” must contain an exception for the mother’s health. But this bill does not provide any exception to protect the health of the mother.

This is the fifth time in seven years that the Congress has considered this legislation. H.R. 4965 is merely used as a political instrument to inflame the abortion debate through heated and graphic rhetoric. Republican leadership has brought this bill before the House in an effort to grossly mischaracterize abortions in this country.

Mr. Speaker, I can tell that it must be the silly season again, because this bill is about nothing other than election-year politics.

Several pro-life medical organizations including the American College of Obstetricians and Gynecologists, and the American Medical Women’s Association oppose this ban. Even the American Medical Association has withdrawn their support. We should not be interfering with the very personal, ethical, and medical decisions made between a patient and a doctor.

The Supreme Court specifically recognizes a woman’s right to choose a safe abortion under the principles of Roe v. Wade and I will not support a bill designed to erode that fundamental right.

Mr. CHAMBLISS. Mr. Speaker, we have an opportunity today in the House of Representatives to pass H.R. 4965, the Partial-Birth Abortion Ban Act of 2002. This legislation will outlaw the deplorable procedure known as partial-birth abortion.

This issue is important to my state of Georgia, where in 1997, then Governor Zell Miller signed the ban on partial birth abortion into state law. This body has garnered nearly 300 supporters for each of the four separate times we have had the opportunity to cast votes on this important matter.

The American Medical Association concludes that partial-birth abortion is “not an accepted medical practice,” while a wealth of other medical research shows this procedure is never medically necessary. This is not a partisan issue, Senator Daniel Patrick Moynihan the retired Democratic Senator from New York, known for giving voice to the public conscience, compared the procedure to murder by stating, “It is as close to infanticide as anything I have come upon in our judiciary.” I agree with Senator Moynihan, partial-birth abortion is brutal and ruthless and must be banned. It is a disgrace that this reckless disregard for innocent young life is permitted here in United States of America.

I urge my colleagues to vote in favor of H.R. 4965 and I remain hopeful that we will be able to outlaw this despicable procedure once and for all.

Mr. STARK. Mr. Speaker, I rise in strong opposition to H.R. 4965, “The Partial Birth Abortion Ban.”

Today’s debate on this issue is offensive. It’s an assault to millions of women in this country and political grandstanding at its worst. For each of the past three sessions of Congress, the House has debated and passed this bill. It has never become law. The Supreme Court has already ruled this type of ban to be unconstitutional. State courts have struck down an almost identical Nebraska law.

The truth is “partial birth abortion” is a political term, not a medical one. Republicans have included a fuzzy definition in this bill that could take away protected representative freedoms. At best, they would ban what is almost always an emergency procedure performed to protect the health of a mother.

This is highly personal decision—and an emotional one—that is best left to a woman and her doctor. Congress shouldn’t tie the hands of physicians by making it illegal for them to make sound medical decisions that could save their patient’s life. This should not be a political issue!

We ought to be respectful of the deeply personal tragedies involved. Instead, Republicans exploit them for political purposes. They jubilantly jump on this issue like it’s a new Tonka truck at Christmas, when they ought to consider what this experience is like for the women involved. They ought to think about the real facts, not just the extreme rhetoric and gory pictures on the latest Christian Coalition voting card.

Most of the women involved are expectant mothers that encounter medical difficulties near the end of their pregnancy and must undergo this painful, but safe procedure to save their life. Others are victims of sexual assault who often don’t come to terms with their pregnancy until well into the second trimester. Imagine the painful process of determining whether you will bear the child of someone who has raped you. These women have a right to make this choice.

This bill provides no exemption for this basic freedom.

Indeed, this bill is yet another deceptive hoax in a protracted assault against the rights of women and all Americans. We must never let the right to choose be taken away just as we must never allow another back alley abortion to ever take place in this country again. I urge my colleagues to stand up for the freedom to choose and vote no on this cynical and senseless bill.

Mr. UPTON. Mr. Speaker, I rise today as a cosponsor of the Partial Birth Abortion Ban Act. I urge colleagues to join me in voting decisively in support of this legislation, as we have in the past two Congresses. As a civilized society bound on respect for life, we cannot allow this cruel and dehumanizing procedure to continue.

In these abortions, healthy infants who could survive are brutally killed just a breath away from birth. Although the consensus in the medical community is that this procedure is never necessary to save the life of the mother, this bill does include that exception to the ban.

On many issues that we debate in this body, there are shades of gray and room for honest disagreement. This is not one of those issues. But on this issue, there is no question. There are no shades of gray. Partial birth abortions are acts of evil, pure and simple. They turn the wonder, the miracle, of the birth process into a terrible travesty of human decency and of our belief in all this nation.

Yesterday, the President and Mrs. Bush announced an adoption initiative to extend the proclamation of a human being into a terrible travesty of human decency and of our belief in all this nation. This is the fifth time in seven years that the Congress has brought this bill before the House in an effort to grossly mischaracterize abortions in this country.

The greatness of nation is judged not only by the size of its armies or the strength of its economy, but also by the way it treats its most vulnerable and frail. In the name of simple human decency and of our belief in all this nation must stand for, I call on this body to ban this procedure.

Mr. SHOWS. Mr. Speaker, I rise today in support of H.R. 4965, the Partial-Birth Abortion Ban Act.

Mr. Speaker, protecting innocent human life is a preeminent concern of mine. I am opposed to abortion and the gruesome partial birth abortion procedure in particular. As strong an argument as there can be against the killing of unborn children. As Democratic Whip of the Congressional Bipartisan Pro-Life Caucus, I work closely with my colleagues to stress the importance of passing pro-life legislation such as H.R. 4965, which we are considering today.

Abortion is wrong. Partial birth abortion is the crudest form of torture and we must put an end to it now, today!

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to oppose H.R. 4965, the Partial Birth Abortion Ban Act. This bill is unconstitutional and will jeopardize the health of women.

This so-called “partial birth” abortion ban is part of a political scheme to sensationalize the abortion debate. The truth is that the phrase “partial birth abortion” is now a political term, not a medical term. “Partial birth” abortion bans have never been about banning one procedure, nor about late term abortions. They are deceptively designed to be intentionally vague in the attempt to ban abortion entirely. This bill opens the door for legislators to ban even more safe abortion procedures.

H.R. 4965 is neither designed, nor written to ban only one procedure, and it deliberately lacks any mention of a viability time line, thereby encompassing throughout the pregnancy. These bans are deliberately designed to erode the protections of Roe v. Wade. We cannot sit back and watch the reproductive rights of women in America disappear.

This bill bans a variety of safe and common abortion procedures, both before and after viability, therefore imposing an undue burden on women seeking access to abortion services. This abortion restriction would, without exception, force women to use riskier methods of abortion.

But perhaps the strongest argument against this bill is that it ignores a constitutionally required exception to protect women’s health. In 2000 the Supreme Court ruled in the Carhart v. Stenberg case that women are entitled to medical procedures that are found safest for their individual health. The Supreme Court stated unequivocally that every abortion restriction must contain a health exception that allows an abortion when “necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.” Anti-choice lawmakers have ignored this constitutional right, and refused to include into their legislation an exception to protect women’s health.

H.R. 4965 unduly interferes with the doctor-patient relationships by giving Congress the ability to punish physician, thus placing patients at risk. The American Medical Association, one of the largest and most politically active groups of physicians in the U.S., who in the past has often supported abortion bans, withdrew their support on this bill. The following is a statement that was released by the AMA. “The American Medical Association opposes this bill as it stands. The AMA believes that the health and life of the mother must be retained. We cannot sit and watch the reproductive rights of women in America disappear. This is the fifth time in seven years that the Congress has brought this bill before the House in an effort to grossly mischaracterize abortions in this country.”
Along with the American Medical Association and many other medical organizations oppose this legislation, including the American Medical Women’s Association, American Nurses Association, American Public Health Association, American College of Nurse Practitioners, American Public Health Association, and the Association of Schools of Public Health, to name only a few. These organizations have recognized that it would endanger women’s health and inappropriately interfere with medical decision-making. These groups have imploring Congress not to intrude into decisions that are more appropriately made by women and their families, in consultation with their physicians. Their medical judgment should not be ignored.

For the safety and the constitutionally required protection of women, I urge you to vote in opposition to H.R. 4965.

Mr. WATTS. Mr. Speaker, I rise in support of the Partial-Birth Abortion Ban Act of 2002.

This is an issue that has opened the eyes of many Americans to the fact that we have a law that turns on its head when a procedure as barbaric as partial-birth abortion is the subject.

When the Democrat leadership discussed the schedule of the House here on the Floor last week before they heard the term “partial-birth abortion” partially uttered, then quickly changed to words softening the reality of the procedure we are debating today. To describe partial-birth abortion as a “certain late-term abortion,” as many members of the media have done, is factually incorrect. Partial-birth abortions are performed as early as twenty weeks into the life of an unborn child. The devil is always in the details, which is why you will hardly ever hear the fact that thirty-six percent of all abortions in America are on children of African descent.

Those who oppose a ban on partial-birth abortion often admit the procedure is gruesome, yet defend it because they believe it is necessary when a baby deemed imperfect is about to be born. But we must step back and ask ourselves who it is that decides who gets to live and who becomes a casualty of choice. The quality of life of an unborn child or an elderly Americans is just as valuable as the life enjoyed by members of Congress.

Let me propose the following scenario to you.

You are a doctor who has been contacted by a patient—a woman in her early thirties. After you examine her medical history, you discover she suffers from tuberculosis. She is not well. Her husband has syphilis and it is possible she has also contracted the deadly disease.

This lady previously gave birth to four children, three of whom are still living. One is blind and two are deaf. She asks you about terminating this pregnancy with an abortion. You consider her health, her previous births and the state of her children.

What would you do?

Well, if you said, “have an abortion,” you just killed Beethoven.

Mister Speaker, all life is precious. All life is sacred. And under the Declaration of Inde- pendence of the United States, all Americans are endowed by our Creator and have been given an unalienable right to life.

Partial-birth abortion represents the antithesis of civility. It is an insult to humanity. And an overwhelming majority of Americans think it

This legislation is practical, warranted and I believe, constitutional. I urge my colleagues to support the bill so the legalized version of infanticide known as partial-birth abortion will never again take the life of an innocent, precious baby in our great nation.

Mrs. LOWY. Mr. Speaker, many colleagues, we are here today considering a ban on so-called “partial-birth abortions” for the eighth time in seven years, because the proponents of this bill want to overturn Roe v. Wade.

This ban is not about outlawing one method of abortion—it’s about access to safe abortion services and the methodologies used in pregnancy. It’s not about post-viability abortion—it’s about the right of all women to choose.

It’s about Roe v. Wade. And those who support this ban—much as I respect their convictions—do not want Americans to hear that because they know Americans support to right to choose.

Roe v. Wade guaranteed that right to choose by expressing three very important values that make sense and have been widely accepted by the American people.

First, the decision a pregnancy is private and personal, and should be made by a woman and her family without undue interference from the government. At the earliest point in pregnancy, the government has no place in this process. Therefore, a state cannot ban access to abortion before fetal viability, the point at which a fetus can live outside of the woman.

Second, a woman must never be forced to sacrifice her life or damage her health in order to bring a pregnancy to term. The woman’s life and health must come first and be protected throughout pregnancy.

Third, determinations about viability and health risks must be made for each woman by her physician. A blanket government decree on medical determinations is irresponsible, offensive, and dangerous.

Despite the Supreme Court’s decision in Stenberg v. Carhart—which confirmed these principles—H.R. 4965 clearly rejects each of these values.

The Court made clear that a “partial birth abortion” ban was extreme and dangerous because it limited safe options for women and failed to protect the health of women. Yet the bill before us contains no mention of fetal viability, no protection for the health of the woman, and leaves no role for the physician treating a woman. The government makes all the decisions.

The proponents of the bill may deny it, but their tireless efforts to ban so-called “partial birth abortions” is in fact a calculated, nation-wide effort to undermine support for Roe v. Wade. Please do not be fooled by today’s charade, this is just another attempt to make abortion illegal.

My colleagues, we believe that women matter. We believe their lives are irreplacable and worth protecting. That is why we oppose this ban.

I urge my colleagues to respect the law of the land by supporting the values in Roe v. Wade and Stenberg v. Carhart—let’s leave decisions in the hands of families and protect the health of women. Vote against this terrible harmful bill.

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

The SPEAKER pro tempore. The motion to recommit offered by Ms. BALDWIN.

Ms. BALDWIN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. BALDWIN. Yes, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk reads as follows:

Ms. BALDWIN moves to recommit the bill H.R. 4965 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

In section 3, of the bill, in proposed new section 1511, of title 18, in subsection (a), strike “that is necessary and all that follows through ‘itself,’” and insert “where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.”

Ms. BALDWIN (during the reading).

Mr. Speaker, I ask that the motion to recommit be considered as read and printed in the Record.

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

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Wisconsin (Ms. BALDWIN) is recognized for 5 minutes in support of her motion.

Ms. BALDWIN. Mr. Speaker, I rise today to offer a motion to recommit with my colleague, the gentlewoman from Texas (Ms. JACKSON–LEE), that would provide an exception in order to protect the health of the mother.

The families that are affected by this bill are dealing with the tragic circumstances of crisis pregnancies. In most cases, they have just learned that their babies will not survive. They are then confronted by choices that none of us would wish upon any human being. This is the context and these are the circumstances under which this legislation comes into play. And any suggestion to the contrary deceives the American public about the realities of this issue.

The experiences that families face with crisis pregnancies are real. Their stories demonstrate the need for this exception to protect the health of the mother. Kathy and Chris, from Wisconsin, were married and were excited when they found out that Kathy was pregnant 6 years ago. They received the best prenatal care for their baby, and the pregnancy seemed to be going fine. She was over 6 months along when they went to their doctor to have an ultrasound and discovered that their baby was developing with no brain. There was a tumor in the baby’s brain cavity and other conditions would compromise and jeopardize Kathy’s health. Her doctor recommended that she have an abortion.

Resolution 498, the bill is considered as having been read for amendment and the previous question is ordered.

The question is on 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.

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

The Speaker ordered the bill H.R. 4965 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

In section 3, of the bill, in proposed new section 1511, of title 18, in subsection (a), strike “that is necessary and all that follows through ‘itself,’” and insert “where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.”
Imagine the pain of these parents who so much wanted to have this child. Tragically, their doctor could not locate a provider in Wisconsin, so they also had to travel over a thousand miles to Colorado. After extensive tests in Colorado, it was determined that this procedure was medically necessary to protect Kathy’s health. Because of the stigma associated with this procedure, neither Chris nor Kathy even told their parents that they had to have this procedure. But now we are speaking out because she believes that women must know that when they are faced with an extremely dangerous pregnancy, they deserve the right to protect their own health.

Typically, women who must face this decision want nothing more than to have a child and are devastated to learn that their baby would not survive outside the womb. In consultation with their doctors and families, they make difficult decisions to terminate pregnancies, to preserve their own health, and, in many cases, to preserve their ability to have children in the future.

This was the case for Kathy and Chris, who, because they took steps to terminate her first pregnancy, now have a beautiful 4-year-old son, Frederic. How can we look a woman like Kathy in the eye and tell her that she cannot have a safe procedure that would preserve her health and give her the best chance to have children in the future? Our compassion alone should be sufficient to justify a health exemption.

But if my colleagues need more ammunition, the U.S. Supreme Court has made it clear that such an exemption is constitutionally required. In Stenberg v. Carhart, the court, in striking down a Nebraska statute, held that it was unconstitutional because there was no health exception for the mother. The language in this motion is taken directly from that Supreme Court decision.

My colleagues, denying a maternal health exemption is wrong and it is unconstitutional. If this bill passes today without the adoption of this motion, women who are already dealing with the tragic consequences of a crisis pregnancy will have their health put in serious danger.

I urge Members to support this motion to recommit on behalf of Kathy, on behalf of all which women who have faced this most difficult decision, and on behalf of Frederic and all the children who have been brought into this world because their mothers had access to safe abortions, including this procedure, and were able to have children again.

Vote for this motion to recommit to preserve the life and health of women.

Mr. Speaker, I yield 40 seconds to the gentlewoman from Colorado (Ms. DeGETTE).

Ms. DeGETTE. Mr. Speaker, I would like to, as the cochair of the Congressional Pro-Choice Caucus, I would like to extend my thanks and the thanks of the caucus to the gentlewoman from Wisconsin for bringing this motion to recommit, and also to the gentleman from New York for managing the time on the bill, and the entire Committee on the Judiciary for their tireless work.

Our view is this: Given Stenberg v. Carhart, we need to decide are we going to pass a constitutional bill or not. This motion makes it constitutional. We urge a “yes” vote on the motion to recommit.

Ms. BALDWIN. Mr. Speaker, I yield the balance of my time to the gentlewoman from Texas (Ms. JACKSON-LEE). Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I join her in offering this motion to recommit.

Let me simply state that in the State of Texas, where then-Governor Bush, now President Bush, presided, included in the provision of their ban on this procedure was an exemption for the health of the woman. That is the law we are asking for today. This is a medical procedure, and the only time this is done is when it is needed to save the life or the health of the mother.

Let us vote for this motion to recommit in the interest of the health of the woman with the Supreme Court decision in Stenberg.

Mr. CHABOT. Mr. Speaker, I rise in opposition to the motion to recommit.

This motion to recommit should be opposed for several reasons. The overwhelming evidence compiled in a series of congressional hearings indicates that partial-birth abortions are never necessary to preserve the health of a woman and, in fact, pose substantial health risks to women undergoing the procedure.

No controlled studies of partial-birth abortions have been conducted, nor have any comparative studies been conducted to demonstrate its safety and efficacy compared to other abortion methods. There have been no articles published in any peer-reviewed journals that establish that partial-birth abortions are superior in any way to established abortion procedures, nor did the plaintiff in Stenberg v. Carhart, Dr. Leroy Carhart, or the experts who testified on his behalf, identify even a single circumstance during which a partial-birth abortion is necessary to preserve the health of the woman.

In fact, according to Dr. Carhart’s own testimony he has chosen to perform a partial-birth abortion, he has done so based upon the happenstance of the presentation of the unborn child and not because it was the only procedure that would have preserved the health of the mother.

Dr. Martin Haskell, the physician credited with developing partial-birth abortions, has testified that he has never encountered a situation where a partial-birth abortion was medically necessary to achieve the desired result.

Furthermore, the only proponents of the partial-birth abortion acknowledge that it poses additional health risks because, among other things, the procedure requires a high degree of surgical skill to pierce the infant’s skull with a sharp instrument in a blind procedure. In other words, they cannot really see what is going on.

Dr. Warren Hearn has testified that he has “very serious reservations about this procedure,” and that he “could not imagine a circumstance in which this procedure would be the safest.”

Although he was opposed to legislation banning partial-birth abortions, he also stated, “You really cannot defend it. I am not somebody else that they should not do this procedure. But I am not going to do it.” He has also stated, “I would dispute any statement that this is the safest procedure to use.”

This procedure also poses the following additional health risks to the woman: an increase in a woman’s risk of suffering from cervical incompetence as a result of a cervical dilatation making it difficult or impossible for a woman to carry a subsequent pregnancy to term; an increased risk of uterine rupture, abruptio placentalis fluid embolus, and trauma to the uterus as a result of converting the child and the foetal breech position, a procedure which, according to “Williams Obstetrics,” a leading obstetrics textbook, “There are very few, if any, indications for...” Other than delivery of a second twin; and a risk of iatrogenic and secondary hemorrhaging due to the doctor blindly forcing a sharp instrument into the base of the unborne child’s skull while the woman is undergoing the procedure. Dr. Warren Hearn of Colorado, for example, the author of the standard textbook on abortion procedures, who also performs many third-trimester abortions, has stated: “I will certify that any pregnancy is a threat to a woman’s life and could cause grievous injury to her physical health.” Let me repeat that: “I will certify that any pregnancy is a threat to a woman’s health and could cause grievous injury to her physical health.”

So it is clear, then, that a law that includes such an exception would not ban a single partial-birth abortion. A partial-birth abortion ban with this so-called health exception is nothing but a sham. It is very successfully can partial-birth abortions at all, and our goal in this is to protect both unborn children and women in this country by...
once and for all stopping this horrible procedure.

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question was taken; and the Speaker pro tempore announced that the ayes had it.

The vote was taken by electronic device, and there were—ayes 187, noes 241, not voting 6, as follows:

[Roll No. 343]

AYES—187

Abercrombie  Ford  Engel  Dingell  Delahunt  Cummings  Castle  Brady (PA)  Boucher  Blagojevich  Bishop  Berkley  Baldwin  Ackerman

AYES—274

Ms. KILPATRICK, Mr. TANNER and Mr. HORN changed their vote from "no" to "aye." The motion to recommit was rescinded.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the passage of the bill.

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

Mr. SENSENIBRENNER. The Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and rule 9 of rule XX, the Chair announces that this 15-minute vote will be followed by a 5-minute vote on passage, if ordered, followed by a 5-minute vote on the motion to suspend the rules and agree to House Current Resolution 188 on which further proceedings were postponed on Monday.

The vote was taken by electronic device, and there were—ayes 274, noes 151, answered "present" 1, not voting 8, as follows:

[Roll No. 343]

AYES—274


NOT VOTING—60

Condit  Knollenberg  Stearns

Mrs. WILSON of New Mexico, Mr. PASCRELL, Ms. KAPTUR and Mr. ROSS changed their vote from "aye" to "no."
Mr. CUNNINGHAM. Mr. Speaker, on rollcall vote 343 concerning partial-birth abortion, I was detained. Had I been present, I would have voted "aye."

SENSE OF CONGRESS THAT CHINA SHOULD CEASE PERSECUTION OF FALUN GONG PRACTITIONERS

The SPEAKER pro tempore (Mr. LAHOOD). The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 188, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 420, nays 0, not voting 11, as follows: [Roll No. 344]

CONGRESSIONAL RECORD—HOUSE July 24, 2002

Mr. CUNNINGHAM. Mr. Speaker, on rollcall vote 334 concerning partial-birth abortion, I was detained. Had I been present, I would have voted "aye."

SENSE OF CONGRESS THAT CHINA SHOULD CEASE PERSECUTION OF FALUN GONG PRACTITIONERS

The SPEAKER pro tempore (Mr. LAHOOD). The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 188, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 420, nays 0, not voting 11, as follows: [Roll No. 344]

CONGRESSIONAL RECORD—HOUSE July 24, 2002

Mr. CUNNINGHAM. Mr. Speaker, on rollcall vote 334 concerning partial-birth abortion, I was detained. Had I been present, I would have voted "aye."

SENSE OF CONGRESS THAT CHINA SHOULD CEASE PERSECUTION OF FALUN GONG PRACTITIONERS

The SPEAKER pro tempore (Mr. LAHOOD). The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 188, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 420, nays 0, not voting 11, as follows: [Roll No. 344]

CONGRESSIONAL RECORD—HOUSE July 24, 2002

Mr. CUNNINGHAM. Mr. Speaker, on rollcall vote 334 concerning partial-birth abortion, I was detained. Had I been present, I would have voted "aye."

SENSE OF CONGRESS THAT CHINA SHOULD CEASE PERSECUTION OF FALUN GONG PRACTITIONERS

The SPEAKER pro tempore (Mr. LAHOOD). The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 188, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 420, nays 0, not voting 11, as follows: [Roll No. 344]
A motion to reconsider was laid on the table.

IN THE MATTER OF REPRESENTATIVE JAMES A. TRAFICANT, JR.

Mr. HEFLEY. Mr. Speaker, I call up the privileged resolution (H. Res. 495) in the matter of JAMES A. TRAFICANT, Jr., and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That, pursuant to Article I, Section 5, Clause 2 of the United States Constitution, Representative James A. Traficant, Jr., be, and he hereby is, expelled from the House of Representatives.

The SPEAKER. The resolution constitutes a question of the privileges of the House and may be called up at any time.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Before our debate begins, the Chair will make a statement about the decorum expected in the Chamber.

The Chair has often reiterated that Members should refrain from references in debate to the conduct of other sitting Members where such conduct is not the question actually pending before the House, either by way of a report from the Committee on Standards of Official Conduct, or by way of another question of the privileges of the House.

This principle is documented on pages 174 and 703 of the House Rules and Manual and reflects the consistent rulings of the Chair.

It is also well established that indecent language either against the proceedings of the House or cast against its Membership is out of order.

Disciplinary matters, by their very nature, involve personalities. The calling up of a resolution reported by the Committee on Standards of Official Conduct or the offering of a resolution as a similar question of the privileges of the House embarks the House on consideration of a proposition that admits references in debate to a sitting Member's conduct.

This exception to the general rule against engaging in personality, admitting references to a Member's conduct when that conduct is the very question under consideration by the House, is closely limited.

This point was well stated by the Chair on July 31, 1979, as follows: while a wide range of discussion is permitted during a disciplinary inquiry, the very question of the privilege under consideration by the House, is closely limited.

This point was well stated by the Chair on July 31, 1979, as follows: while a wide range of discussion is permitted during a disciplinary inquiry, the very question of the privilege under consideration by the House, is closely limited.

This was reiterated by the Chair as recently as January 27, 1997. It also extends to language which is profane, vulgar, obscene or profanely used which constitutes a breach of decorum.

On the question about to be pending before the House, the resolution offered by the gentleman from Colorado (Mr. Hefley), as chairman of the Committee on Standards of Official Conduct, Members should confine their remarks in debate to the merits of that precise question.

Members should refrain from remarks that constitute personalities with respect to members of the Committee on Standards of Official Conduct, with respect to other sitting Members whose conduct is not the subject of the pending report, or to Members of the House embarking the House on the resolution against Representative Myers on the last day before Congress left town for a 1-month recess in 1980. Tonight, we are 2 days from a 1-month recess in 2002. Representative Myers was caught on videotape accepting $50,000 from an individual who was dressed up as an Arab sheik; he admitted his conduct before the Committee on Standards of Official Conduct. Congressman Traficant, in his case, there is no videotape, there is no audiotape, there are no fingerprints, and he has denied the allegations.

In this matter, although there were numerous witnesses that testified in the proceeding in Cleveland, Ohio, in Federal court, I would submit to Members in my opinion, it boils down to a case of direct testimony in conflict. There are, and those of my colleagues that have practiced law know that there is something that we prosecutors used to do called "putting lipstick on the pig," and you would have one witness that was seminal to your case, but you would call on other witnesses to say oh, I went to the bank, or I picked up the newspaper that morning, or I did this or I did that, seemingly to corroborate the main witness testimony.

I would give an example of a case since I have traveled the floor since this matter came about, the one count, although all are serious, and I will tell my colleagues right now, so that there is no confusion about where I come from, that if Congressman Traficant committed these acts, I will vote to expel him, because they are reprehensible.

The most serious example that has been brought to me, and talked to other Members on the floor deals with kickbacks, the allegation that a member of his staff was hired and was required to deposit his congressional paycheck and every month take $2,500 in cash and deliver it to the Congressman. Over the course of time, and this fellow's name was Sinclair. Over the course of time that this was alleged to have occurred, it would have been $25,000 a month for the months of his employment; it adds up to $32,500. Dur-
That is count 3, not only on the indictment, but also the charges before us this evening.

The government introduced witnesses that said that, in fact, Mr. Sinclair went to his bank, deposited his congressional paycheck and took out $2,500 in cash, and later, Mr. Sinclair also came forward and indicated that he brought some burnt envelopes to the FBI, and the Federal Bureau of Investigation and said that Mr. Traficant, after suspicion was cast upon him, brought him the cash back in the burnt envelopes, and that was introduced as evidence as well.

The competing evidence, and why it is conflicting and why it is different than Representative Myers where we have a videotape and audiotape and other matters is that 1,000 documents were submitted to the FBI lab, one of the best in the world, if not the best, and no fingerprints are found on any money, any envelopes, any plastic bags.

Further, I would tell my colleagues that they looked at Congressman Traficant’s bank account as well. Over the same time period, over the 2 years, he had deposits of $7,600. If the government is to be believed, at that point and, again, we are talking about direct evidence; I am not asking anybody to subscribe to my view of the evidence, but about $40,000 is missing. Now, I would note, and I would ask what we use here in this business, Members of Congress to take judicial notice, we know that that $40,000 was not spent at Brooks Brothers.

We have an issue where Mr. Sinclair says, this is what happened. Congressman Traficant’s bank account as well. Over the same time period, over the 2 years, he had deposits of $7,600. If the government is to be believed, at that point and, again, we are talking about direct evidence; I am not asking anybody to subscribe to my view of the evidence, but about $40,000 is missing. Now, I would note, and I would ask what we use here in this business, Members of Congress to take judicial notice, we know that that $40,000 was not spent at Brooks Brothers.

I also want to commend the gentleman from California (Mr. Berman), the ranking member, not only because he has the second toughest job, but I just want to, just as a personal, point of personal privilege for a moment, when I filed this motion, I was originally told that there may be some who would seek to file a motion to table so we could not even have this discussion this evening. The gentleman from California (Mr. Berman) worked very hard to make sure that I had the opportunity to speak tonight and those who wanted to agree with me, and I thank him very much.

This sets the backdrop for what I think brings us here this evening, or at least me here this evening, and it is a fellow by the name of Richard Detore. Richard Detore is an individual who was indicted in a superseding indictment to the Congressman. He did not testify at the trial, because he has fifth amendment concerns. He did come against those concerns to testify before the Committee on Standards of Official Conduct in open session.

He testified, and again, we were free to believe or disbelieve, but that is not the story here, that he was asked by the assistant United States Attorney to tell a story, and the story was that he was in a room here in the Capitol and he overheard a conversation between a fellow congressman and California. Further, I would tell my colleagues to listen to the description of bank fraud because this is very telling.

When he got the job with U.S. Aerospace Group, he was promised employment of $220,000 a year. His employer, Congressman Traficant, gave him a letter saying, you are going to be the new CEO of this company and you are going to make $240,000. He took that letter to the bank to get a mortgage, as I think many of us in this room have done. When the accuser in another count of bank fraud, he did not have a signed employment agreement. He did not have a signed employment agreement; he has committed bank fraud.

When he did not believe that, and no reasonable human being would, he said they would indict him. He said, you know what? Indict me. And he stands indicted today.

Since his testimony, again, not seen by the jury, a juror in Cleveland, Ohio, has come forward to the newspaper; and, Mr. Speaker, I will introduce an article in the RECORD appearing in the Cleveland Plain Dealer on July 20 written by an excellent journalist by the name of Sabrina Eaton, and the headline is: ‘‘Traficant juror changes his mind; now convinced conviction was wrong,’’ and I will include the article in the RECORD at this time.

Traficant juror changes his mind; now convinced conviction was wrong (By Sabrina Eaton and John Caniglia)

Washington.—A juror who helped convict U.S. Rep. James Traficant says his vote to find the Youngstown congressman guilty of 10 felonies in April was a mistake. He says he changed his mind after watching televised testimony before a House ethics panel this week.

‘‘I know it’s after the fact, but now I believe there’s never no way the government was out to get him, and if they want you, they’ll find enough evidence to make you believe that the Earth is flat,’’ said Joe Glaser of Independence, Ohio, who was a juror at Traficant’s nine-week trial in Cleveland.

Glaser, 54, said he was swayed by the testimony of Richard Detore, a Virginia executive accused of bribing Congressman Detore, who faces trial in October, chose not to testify in Traficant’s trial because he could not substantiate a story he gave his version to a House ethics panel that later recommended that Traficant be tossed from his job.

Detore told the panel he hadn’t tried to bribe Traficant and that the chief prosecutor in the case against Traficant, Assistant U.S. Attorney Craig Morford, urged him to fabricate a story to say he overheard Traficant seeking favors from Youngstown businessman John J. Cafaro in exchange for political influence. He said his refusal to lie about Traficant resulted in his own indictment.

Morford, who was unable to present his side of the story when Detore testified in Washington, yesterday categorically denied ‘‘my improper conduct,’’ according to the Cleveland Plain Dealer. Detore brought up the same allegations last year in legal motions that were rejected by Judge Lesley Wells. He declined to comment on Glaser’s statement.

Under federal law, Glaser’s change of heart won’t change the verdict against Traficant. Although it’s unusual for jurors to change their minds after a trial, Case Western University law professor and political scientist Jonathan Entin said Traficant probably won’t succeed if he tries to use Glaser’s re- statement to appeal the verdict.

Madison Republican Rep. Steve LaTourette, a member of the ethics panel that recommended Traficant’s expulsion on Thursday, said that Glaser contacted his office several weeks ago to discuss the case but that ethics committee lawyers barred him from talking to the juror because of his role in deciding Traficant’s fate.

As Traficant’s trial continues, another ethics committee member, Cleveland Democrat Stephanie Tubbs Jones, said she wasn’t sure how Glaser’s statements would affect Traficant’s case.

‘‘He’s certainly not the first juror to reconsider his decision after a trial,’’ Tubbs Jones said.

Glaser, who came to public attention when a Cleveland judge dismissed a traffic citation he was issued while trying to feed a homeless man during the 1996 holiday season, said he would have voted to acquit Traficant of all charges if Detore had testified at the bribery and racketeering trial.

‘‘It would have given me reasonable doubt,’’ said Glaser, a design technician at the Cleveland Electric Illuminating Co., who has twice run for mayor of Independence.

But other jurors said the evidence, with or without Detore’s story, would have been enough to find Traficant guilty.

Traficant’s employees said he made them give kickbacks from their salaries and do unpaid work on his farm and boat. Local contractors said they gave Traficant bribes in exchange for assistance. Wells is scheduled to sentence Traficant on July 30.

‘‘There was just so much evidence in the case about so many different violations, and there was no wealth of information against Traficant was overwhelming,’’ said Jeri Zimmerman, a juror
from Mentor. ‘I kept saying to myself, ‘Please, please show me something, anything, that would make me wonder.’ but [Traficant] never did. And the witnesses he called, I felt, did not help.”

Asked about Detore’s testimony before the panel, Zimmerman said: “That’s one person. What about the other 50 people that we saw? The government’s case was overwhelming.”

Mr. Speaker, that article is based upon his observation of the hearings here in Washington, D.C.

Then, another juror came forward on Monday of this week and, in pertinent part, his affidavit indicates: “I did not believe that James Traficant committed any offense.” and I will include this affidavit for the RECORD at this time.

**AFFIDAVIT**

**LORAIN COUNTY, STATE OF OHIO**

Affidavit of Scott D. Grodi

Now comes Scott D. Grodi, and being first duly sworn upon oath, deposes and states the following:

1. I was selected as a juror in the case of *United States of America vs. James Traficant* in January 2002. I did not know anything about James Traficant at that time.

2. I served on the jury for eleven weeks and was excused by the Judge, without objection from the government or the defense so that I could take care of family obligations.

3. I listened to the testimony of all government witnesses and I did not believe that the government proved that James Traficant committed any offense.

4. When I was dismissed as a juror, I did not believe today that James Traficant was guilty of the charges brought against him.

Further affidavit sayeth naught.

SCOTT D. GRODI.

Sworn and subscribed before me on this the 24th day of July, 2002 by Scott D. Grodi in Lorain County, Ohio.

JOHN P. KILROY.

1915

Next week, Mr. Speaker, the judge in Cleveland will consider justice in the Myers case, whether or not to pronounce sentence and what that sentence should be, but first will have to dispose of some due process procedural motions filed by the respondent, Mr. Traficant, including a motion for a new trial.

And I will say I do not know everybody in this House well, but I have been familiar with this Washington resident, and particularly my friends from Massachusetts, I would ask my colleagues if they could have imagined that Joseph Salvati could have been a subject of rogue FBI agents and kept in prison by our Government unlawfully for 35 years.

If my colleagues watched the Today Show and they saw the preview of Mr. Traficant’s hearing here today, the second story was about a man who had spent 17 years in prison for murder and the prosecuting attorney was in possession of a confession from another individual, but suppressed it and the man spent 17 years in prison.

I would just clarify this point with another observation from 1980, and this observation says: “I too am a former assistant U.S. attorney. I think I share the feelings of all the Members that have had a chance to review those videotapes of Myers and Traficant’s videotapes, “that the conduct of the Member in question certainly was repugnant to all of the standards that I believe the Nation expects from this Congress, but I have to agree with the gentleman,” Mr. Stokes, “that we do not have the responsibility to judge each other’s character, unfortunately, and I think until this matter is finally resolved in the courts that we should really come back and address ourselves to the issue in a climate that is not as political as the one we find ourselves in today.” That was the gentleman from New York (Mr. Rangel).

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

Mr. HEFFLEY. Mr. Speaker, first of all, I yield 15 minutes of my 30 minutes to the gentleman from California (Mr. Berman), the ranking member of the Committee on Standards of Official Conduct, for his control of that 15 minutes.

The SPEAKER pro tempore (Mr. HANSEN). Without objection, the gentleman from California (Mr. Berman) will control 15 minutes.

There was no objection.

Mr. HEFFLEY. Mr. Speaker, I yield myself such time as I may consume. I rise to speak in opposition to the motion by the gentleman from Ohio (Mr. LATOURETTE), and I oppose the motion for the following reasons: The bipartisan membership on Standards of Official Conduct has worked diligently, and I think fairly, over the course of several months, and this has brought us to the resolution under consideration today to expel Representative Traficant. The committee following regular order has placed this matter in the hands of the leadership to schedule it whenever the leadership deemed appropriate.

In fact, when asked what I wanted in this case, I said, “If you let it lay until the following September, that is fine with me. If you schedule it now, that is fine with me. Whatever you think is best for the schedule, that is fine with me.” They scheduled it for tonight, and so tonight is the night that we need to do this business.

The committee reached its decision to sustain nine counts of misconduct against Representative Traficant based on clear and convincing evidence, including count 3, the only count, the single count on which Mr. Detore arguably had pertinent first-hand information. Despite his limited familiarity with the full range of charges against Mr. Traficant, Mr. Detore nonetheless spoke with assurance about matters of which he could not possibly have had direct knowledge, including events in Youngstown, Ohio Vindicator, dated July 23, 2002.

As I mentioned, we were not aware and private conversations which did not include him.

He testified about conversations between Mr. Traficant and J.J. Cafaro, a business plan for whom Mr. Traficant secured a $1.3 million appropriation and who engaged in a sham transaction involving $13,000 in cash and $26,000 additionally in repairs and boat slip fees in a sham transaction pretending to buy Mr. Traficant’s boat. Cafaro and the former USAG chief engineer, Al Lange, Cafaro and Cafaro Company treasurer Dominic Roselli, and Cafaro and his accountant Patricia DiRenzo.
Mr. Detore testified on all of these conversations and there is not a bit of evidence that he was a party to or a participant in any of these conversations.

The adjudicatory subcommittee found Mr. Detore either lacking in credibility or found his testimony outweighed by the overwhelming evidence against Mr. TRAFICANT.

It has been argued that as an indicted co-defendant, he is, he placed himself in great peril by testifying before the committee and that this bolstered his credibility. I think it can be argued just as well that this was his Hail Mary pass to discredit the Assistant U.S. Attorney before his case goes to trial. Mr. Detore clearly demonstrated that ours is the forum where he intended to try to save his neck.

He has repeatedly failed to show up at pretrial hearings in Cleveland citing ill health, yet he managed to make a surprise appearance before our committee last week, testifying for hours late into the night. For that reason, he is now facing contempt charges in Cleveland, charges that he and the gentleman from Ohio will doubtless argue is further evidence by their persecution by the Assistant U.S. Attorney.

Casting further doubt on the voracity of Mr. Detore’s allegations of misconduct by the assistant U.S. attorney, is the fact that he similarly hurled accusations of misconduct against the staff of the Committee on Standards of Official Conduct, staff which we know to a certainty acted appropriately and the allegations are patently false.

Let us look at the recantations by juror Leo Glaser. He has been cited as saying that he heard at trial the testimony in cross-examination of Mr. Detore so he cannot be sure how he would have weighed the Detore testimony. Nor does he know what his fellow jurors might have argued in their deliberations after Mr. Detore’s testimony in cross-examination.

And finally, Mr. Detore could have testified at trial. Mr. TRAFICANT did not call him. We do not know whether he would have taken the fifth amendment at trial. He did not take it in our Committee on Standards of Official Conduct hearing. If anyone denied Mr. Glaser the opportunity to hear Mr. Detore during the trial, it was the gentleman from Ohio. It is intriguing to me that suddenly Mr. Detore is made available for a statement on the record.

With regard to the second juror, he did not even participate in the jury deliberations at all. He left the jury to attend a family funeral, an alternate was selected. He has no idea what the give and take was inside the jury room during the deliberations.

Let me reiterate that unlike the jurors in Cleveland, we did hear from Mr. Detore during the trial, in cross-examination. We voted for the count with regard to which he testified, count 3, and for eight other counts, finding that the evidence established by clear and convincing evidence that the rules of the House have been violated.

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

Mr. LATOURETTE. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. CALLAHAN).

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

Mr. CALLAHAN. Mr. Speaker, I do not rise tonight in defense of guilt or innocence of our colleague, the gentleman from Ohio (Mr. TRAFICANT). I rise tonight in a sense of what I think is fairness. I have a tremendous respect for this body and an overwhelming respect for the Committee on Standards of Official Conduct and the difficult job that they have. I too compliment the gentleman from Ohio (Mr. HERFLEY) and the gentleman from California (Mr. BEMAN), for their tremendous efforts and integrity that has been so prevalent throughout this trial.

I rise tonight in support of this resolution. It is not blessed with a law degree, I do not apologize for that, I just do not have one. But I do know that in court language, when one is going through a trial process, judges sometimes overrule things because of a clause. They say that a bell cannot be unrung. And, indeed, if we tonight ring this bell of guilt against the gentleman from Ohio (Mr. TRAFICANT) during this appeal process, we are only talking about a 6-week delay, in order to make this ultimate decision, in my opinion, this body is best served by postponing the consideration of this resolution until after August.

It is said that there may be new developments in the gentleman’s Federal case and that a month’s time might yield a new outcome.

In fact, there was a new development just today in the gentleman from Ohio’s (Mr. TRAFICANT) Federal case when a three-judge panel of the U.S. Court of Appeals for the Sixth Circuit denied the gentleman from Ohio’s writ of mandamus on a petition relating to jury selection. We heard a great deal about that petition during our hearing, and there is no doubt in my mind that it will be other appeals and other petitions on the gentleman’s behalf. But my point is, regardless of whether these approaches succeed or fail in the Federal courts, they are, by no means, relevant to the status of his case in the U.S. House of Representatives.

Why do I say this? For one, our subcommittee did not rely strictly on the transcript from the Federal case.

We went well beyond it and heard from the gentleman from Ohio’s (Mr. TRAFICANT) witnesses, including those who were not allowed to testify on his behalf in Federal court.

Second, our standard of proof is much lower than what a jury faces in a Federal criminal case. In Federal court, it is beyond a reasonable doubt that a crime was committed. In the U.S. House, it is clear and convincing evidence that our code was violated, a very important distinction.

Last, our mission was not to determine whether the gentleman from Ohio (Mr. TRAFICANT) is guilty of a felony count or 10 felony counts. It was to determine whether the gentleman from Ohio (Mr. TRAFICANT) violated the Code of Official Conduct and the Code of Ethics for Government Service, again a very important distinction.

We Members of the House are not a Federal court of appeals nor are we here to second-guess or predict the ruling of the federal courts of Ohio. We are here to serve our duty under article I, section 5, clause 2 of the Constitution.
As a member of the adjudicatory subcommittee that reviewed the evidence in this case, I would respectfully urge my colleagues to vote against the motion to postpone and for the resolution. Neither justice nor this body will be served by doing so.

Mr. BERMAN. Mr. Speaker, I yield myself 1 minute.

I would like to respond to the comments of my very good friend, my colleague from Alabama, because there is a certain quick appeal in the argument that this process is still under way, the sentencing occurs next week, there are appeals, there are writs of habeas corpus following that process.

The motion to postpone is a motion to postpone till September 4. The gentleman from Ohio (Mr. TRAFICANT) has made a motion for a new trial, and that motion has been denied with an extensive opinion by the judge. No one can argue that this appellate process will be even seriously under way, little less completely Number 4.

The logical conclusion of a process which says we wait until all appeals are exhausted means that the provision of the Constitution which provides that we expel Members for the most egregious and corpulent cases and rendered a nullity. I do not think that is what our Founding Fathers intended, and that is not what we should do.

Mr. Speaker, I yield 2½ minutes to the gentleman from Ohio (Mrs. JONES), a former judge, a former prosecutor, a great member of our committee.

Mrs. JONES of Ohio, Mr. Speaker, I thank the ranking member, the chairman, and my colleagues who served on the Committee on Standards of Official Conduct, What an experience.

Service on the Committee on Standards of Official Conduct is not a committee assignment for which there is a lot of competition. In fact, it is not even an enviable position. However, once you are called into service, each Member must accept his or her responsibility and obligation to serve with honor and integrity, consistent with the tradition of this great House of Representatives which we love and revere.

I seriously considered not speaking before the full House, in part because I believe that the misfortunes of one of my colleagues should not be used for political purpose or grandstanding. However, having accepted this responsibility of serving on the Committee on Standards of Official Conduct, I believe my duty and obligation to speak out in support of the decision that we made and in opposition to delay.

Let me say at the outset that I have known the gentleman from Ohio (Mr. TRAFICANT) for many years. As he stated many times in that hearing, he was a vocal supporter of my candidacy for the Ohio Supreme Court, and for that I will be thankful. Some even questioned my ability to serve, and I knew that I could be fair and so did the gentleman from Ohio (Mr. TRAFICANT).

Let me go for a moment to this question about where the money was if the gentleman from Ohio (Mr. TRAFICANT) got the money. If my colleagues got the money, would they put it in the bank? Let us talk a little bit about these jurors. I have tried many cases, both as a judge and as a prosecutor, and there were many times where jurors, once they rendered that decision, wanted to back up and say, I do not know if that was the right decision, we can tell us whether he was guilty or not or whatever it was. Jurors make decisions based on all the facts and evidence that is before them at that particular time, and this is what those jurors did.

The burden was beyond a reasonable doubt, the highest burden of proof in our Nation. Our committee has a job and our committee is, and we are not governed by the same rules that my great colleague, Mr. Stokes, whom I have a lot of respect for, was when he made the motion back on Mr. Myers. Our rules of ethics are different. They are not the same as they were back when Mr. Myers was presented before this House.

The rules say that this body can make a decision to expel a Member prior to sentencing and prior to conviction, and that is what this committee recommended to my colleagues.

We are not a criminal court. We are in the court of the House of Representatives and the court of public opinion which expects us to do our job, unlike the gentleman from Ohio (Mr. TRAFICANT), but my job is to make a decision right here on the House of Representatives. Vote against the motion.

Mr. LATOURETTE. Mr. Speaker, I yield myself 30 seconds to make the following observation.

Both the distinguished chairman and the distinguished ranking member, I think, said what I have been trying to say. They repeatedly said that we do not know, we do not know this, we do not that. That is the point of laying this over.

Secondly, to my good friend from Illinois, with all due respect, I could be fair if this respondent was from Idaho, Iowa, or Timbuktu.

To the gentleman from Ohio (Mrs. JONES), my good friend and former colleague who was a prosecutor in Ohio, the rules have changed but justice has not since 1980.

Mr. Speaker, I yield 4 minutes to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana, Mr. Speaker, the prosecutor allegedly threatened a witness and said if he did not say what he wanted him to say he would be indicted. He did not say what he wanted him to say and he was indicted. That could be prosecutorial misconduct. I do not know. If the court upholds the decision that they have made and they sentence the gentleman from Ohio, I can say that I certainly will vote for expulsion, but I do not know whether there was prosecutorial misconduct.

I do know that two jurors, after watching the ethics hearing, said if we had known and seen what we saw before the Committee on Standards of Official Conduct, we would have voted otherwise. That creates a little bit of doubt in my mind, and I do not know and I do not think my colleagues know tonight if the judge might say, hey, because of the jurors’ reevaluation of this, maybe we should order a new trial. I do not know if he will do that or not. He may not, but that is his decision.

I do know that he is going to be making that decision next week and he is also going to be making a decision on whether or not to send the gentleman from Ohio (Mr. TRAFICANT) to prison for how long, and for the life of me, and I say this to both my Democrat and Republican colleagues, I cannot understand why we cannot wait until we come back from break to vote on this issue.

This is why I support the motion of my colleague who serves on the Committee on Government Reform with me, and I am sure that he would have the same attitude whether the gentleman from Ohio (Mr. TRAFICANT) was from California, New York or whatever, because that is the kind of man that the gentleman from Ohio (Mr. LATOURETTE) is.

Another reason why I feel very strongly about this is we have had hearings, numerous hearings about what went on in Boston about 30 years ago where they put an innocent man in jail for over 30 years for a crime he did not commit, and I believe all the way up to J. Edgar Hoover, they knew he was innocent, but they were protecting Mafia informants.

So many times there are miscarriages of justice. I am not saying that is the Traficant case, but it happens, and for that reason alone I think we ought to say let us take a deep breath, go on break, come back in 4 or 5 weeks and then vote on this issue. If he is sentenced, if he goes to prison, he should be expelled, and I will vote for expelling, but what in the world is wrong with waiting for 4 or 5 weeks? I simply do not understand that.

Mr. HEFLEY. Mr. Speaker, I yield myself 1 minute, and then I am going to yield to the gentleman from Missouri.

There is a lot that we do not know, as the gentleman from Ohio (Mr. LATOURETTE) said, about the argument that the gentleman from Ohio (Mr. TRAFICANT) made about judicial misconduct or prosecutorial misconduct. I simply do not know about that.

What we do feel we know, however, is that there was clear and convincing evidence on the charges that he was charged with before the Committee on Standards of Official Conduct, and in those hearings, numerous hearings about four counts of bribery over a long period of time; that is obstruction of justice; that is defrauding the government through the use of
congressional staff for personal service; and there was false statements on income tax returns. We think we know that by clear and convincing evidence.

Clear and convincing, those of my colleagues who are attorneys know better than I do. As a layman, I recognize the importance of clear and convincing evidence. Clear and convincing evidence means it is highly probable that he is guilty of these offenses. It does not even equal absolute certainty, and it does not even equal the reasonable doubt standard that the judge mentioned over here. It means it is highly probable. That is what the committee’s conclusion was.

Mr. Speaker. I yield 3 minutes to the gentleman from Missouri (Mr. HULSHOF).

Mr. HULSHOF. Mr. Speaker, let me say at the outset that I hold the gentleman from Ohio (Mr. LATOURETTE) in highest esteem. Over the course of the past 10 days, during this very long and arduous process, we have agreed and we have disagreed. We have passionately advocated our points of view, but I respectfully disagree with this motion and urge my colleagues to vote down that motion to continue.

What I would like to do is really just address just the folks who may be harboring its or fears of acquittal or some different outcome during this appellate process, which I absolutely agree with the gentleman from California (Mr. Berman) will not be concluded within 6 weeks.

Our task today, Mr. Speaker, is different from that criminal jury verdict as the legislative branch is different from the judiciary. Our task tonight is as dissimilar as article I is different and separate and apart from article III.

Unlike the matter that was debated on this House floor on October 2, 1980, in Mr. Myers’ case, the Committee on Standards of Official Conduct relied entirely upon the guilty verdicts. Mr. Myers had not been given a full-blown hearing before the Committee on Standards of Official Conduct.

As my colleagues know and has been discussed, we had that hearing. In fact, the gentleman from Ohio (Mr. TRAFICANT) was given great latitude. He was treated generously by a committee of his colleagues who respected the gravity of the occasion which brought us face to face. Would that the gentleman from Ohio (Mr. TRAFICANT) had acted in a different manner, but even the antics of last week are irrelevant to the decision that was reached by our committee.

We reached our decision on 9 of 10 violations of House rules independent and apart from the jury verdict in Cleveland. So on the process and procedural grounds the gentleman from Ohio’s (Mr. LATOURETTE) motion must fail, but on substance, it fails as well.

This witness, Mr. Detore, the committee considered his testimony and rejected it, and the gentleman from California (Mr. Berman) pointed out, and let me reiterate, Mr. Detore exonerated himself for the criminal charge with which he was indicted, and yet he offered no defense to the gentleman from Ohio’s (Mr. TRAFICANT) kickback scheme of accepting $30,000. Mr. Detore offered no defense on the $30,000 kickback scheme between the gentleman from Ohio (Mr. TRAFICANT) and a congressional staff for personal service; and there was false statements on income tax returns. We think we know that by clear and convincing evidence.

Mr. Speaker, there has been a lot of reference and comparison between what we are doing today and tonight compared to that same debate that was within these hallowed halls some 22 years ago. Perhaps one other comparison, I hope, is appropriate. The House of Representatives in the Myers case voted 332 to 32 to expel. As the gentleman from Ohio (Mr. TRAFICANT) had a motion to suspend until September 4. We will be in recess until September 4. We could actually have our colleagues serving with us and also serving in Federal prison for a month.

I would hope we would not think about us as individuals but think about us as a House and ask ourselves if we want that for our House of Representatives, and not really ours, as Members, but the people of this United States. I do not think it is right, and I do not think it does this House honor. I will not repeat what my colleagues have said who heard the testimony. I listened to Mr. Detore, and I found that he must be a very nice fellow, but I did not find him to be a credible witness on even the issues he was trying to talk about. I felt like he was out of the loop and he was, and we must remember that the jury in Cleveland convicted our colleague of nine other felony counts. The committee found eight other counts and unanimously voted for expulsion. Mr. LATOURETTE. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Texas (Mr. PAUL).

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

Mr. PAUL. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of the motion by the gentleman from Ohio. It is not easy to do this to Ohio, obviously, and it is difficult for all of us to be here because it seems like, on the surface, there was unethical, probably illegal, and certainly bizarre behavior, and we feel offended by this and we feel compelled to do something to prove that we are keeping our House in order.

I am not an expert on the legal part of this case. I would not pretend to be, and the Committee on Standards of Official Conduct deserves the credit for that effort they went through to dig out the information. But the process disturbs me, and that is why I wanted to take a minute or two to talk about that.

The point was made earlier that the House’s conditions are different than the legal conditions for guilt and, therefore, they are not as stringent. But we would not be here if Mr. TRAFICANT had not been convicted, and so that is key. That is the important issue.

And that trial bothers me. I do not accept it as a good, fair, legitimate trial. I do not think all the witnesses were heard that should have been heard, and I think some of the witnesses may well have been “bribed” into doing and saying certain things.

But there is more that bothers me. I would like to see the appeals process completed. I was here in 1984, on my first tour of duty here in the House, and the George Hansen case came up on the floor. I think he had FEC violations and we voted to censure him. He lost his election, he lost his money, he went to jail and served time, and then he was exonerated on everything. He won all his appeals. I do not see the need to rush to judgment, certainly tonight.

I am not happy that when the gentleman finally gets an opportunity to come and defend himself, he gets a total of 30 minutes. Really? And have my colleagues ever heard of a defendant? It contains a stack a foot high. Thirty minutes to defend himself? I do not think that is really fair.

But there is another thing that bothers me, and that is the change of venue. I believe that the change of venue has been used historically in this country to make sure that the most horrible criminal gets a fair trial and gets his case moved from a area unduly influenced by media coverage. Have any of my colleagues ever heard of a trial being moved for the benefit of the State and to the disadvantage of the defendant? It may have happened, but I
do not know about it, and I think that in itself is a reason to step back, take a look at this, and vote for the motion by the gentleman from Ohio.

Mr. Speaker, many of Congressman TRAFICANT's actions are impossible to defend. Mr. TRAFICANT has been convicted of criminal behavior. I would hope all my colleagues would join me in condemning anyone who would abuse his office by requiring his staff to pay kick-backs to him and/or do personal work as a condition of employment. I also condemn in the strongest terms possible using one's personal familiarity with constituents, the people we are sent here to represent. Such behavior should never be tolerated.

However, before expelling a member we must consider more than eccentric behavior and even ethical standards. Questions of whether the process of his court conviction and expulsion from Congress respected Mr. TRAFICANT's constitutional right to a fair trial and the right to be represented of those who elected him to office, are every bit as important.

Many Americans believe that Congress daily engages in ethically questionable and unconstitutional actions which are far more injurious to the liberty and prosperity of the American people than the actions of Mr. TRAFICANT. Some members of Congress have the ability to judge the moral behavior of one individual when, to take just one example, we manage to give ourselves a pay raise without taking a direct vote on the issue.

Mr. Speaker, after carefully listening to last week's ethics hearing, I have serious concerns over whether Mr. TRAFICANT received a fair trial. In particular, I am concerned over whether the change of venue denied Mr. TRAFICANT a meaningful opportunity to present his case to a jury of his peers. Usually change of venue is instituted in cases where the defendant is incapable of receiving a fair trial. I am unaware of any case where the venue is changed for the benefit of the state.

However, the most disturbing accusations concern the possibility that Mr. TRAFICANT was denied his rights by not being allowed to present all of his witnesses at the trial. This failure raises serious questions as to whether Mr. TRAFICANT had the opportunity to present an adequate defense. These questions are especially serious since one of the jurors from Mr. TRAFICANT's criminal trial has told the Cleveland Plain Dealer, that had he heard the testimony of Richard Detore at Mr. TRAFICANT's trial, he would have voted “not guilty.”

Mr. Speaker, I also question the timing of this resolution and the process by which this resolution is being brought to the floor. Mr. TRAFICANT's conviction is currently on appeal. Many Americans would reasonably wonder whether the case, and the question of Mr. TRAFICANT's guilt, can be considered settled, until the appeals process is completed. I fail to see the harm that could be done to this body if we waited until Mr. TRAFICANT has exhausted his right to appeal.

Prior to voting to expel Mr. TRAFICANT before he has completed his appeals, my colleagues should consider the case of former Representative George Hansen. Like Mr. TRAFICANT, Mr. Hansen was convicted in Federal court, censured by the Congress, and actually served time in Federal prison. However, Mr. Hansen was acquitted on appeal—after his life, career and reputation were destroyed. If my colleagues feel it is important to condemn Mr. TRAFICANT before the August recess, perhaps we should consider censure. Over the past 20 years, this body has concentrated, instead of expelled, members who have committed various ethical and even criminal activities, ranging from being convicted of bribery to engaging in sexual activity with underage subordinates.

I am also troubled that Mr. TRAFICANT is only being given a half-hour to plead his case before this body. Spending only an hour to debate this resolution, as if expelling a member of Congress is of no more importance than honoring Paul Ecke's contributions to the Poinsettia industry, does no service to this Congress.

In conclusion Mr. Speaker, because of my concerns over the fairness of Mr. TRAFICANT's trial I believe it is inappropriate to consider this matter until Mr. TRAFICANT has exhausted his right to appeal.

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

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

Mr. LaTourette. Mr. Speaker, it is now my pleasure to yield 3 minutes to the gentleman from California (Mr. Issa).

Mr. Issa. Mr. Speaker, it is not easy for a freshman to get up and talk about a Member that I do not know very well. Although I was born in Ohio, I am not here because of some relationship to Ohio. I am a Californian by birth, by residence. I was voted by, in my particular case, over 800,000 people I now represent, until we get reapportioned. All of my colleagues got here because of over 600,000 or more voters. They put us here, this body did not. Our governors did not put us here; a court did not put us here.

We are a unique body. We get here by one and only one reason, and that is 1/30th of the country votes to put us here. We do not know the people of Youngstown all that well, but they put the gentleman from Ohio (Mr. TRAFICANT) here, and I take it as an extremely important and extremely solemn duty to decide to take the extraordinary measure of removing him.

I must tell my colleagues that I am also not a lawyer, but I am going to have to decide, hopefully in the next month rather than the next hour, whether or not to, for the second time in my life, or for the second time in history practically, to remove a Member. I do not have enough information.

I respect the gentleman from California (Mr. Berman). I respect the chairma...
Mr. Speaker, I would note that article 1, section 5, says it is for each House to determine with the concurrence of two-thirds whether to expel a Member. It is not for the House to delegate to the judiciary the decision on who is fit to serve in each body.

I would urge that we step up to our unlearned duty this morning, that we discharge our obligations granted to us under article I, section 5 of the Constitution, and that we act this evening, unhappy as that task may be.

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

Mr. Speaker, I want to talk about the quote "rush to judgment." Quite a long time ago, well over a year and a half ago, the Chair and the ranking member of the committee and the staff of the committee were aware of articles talking about indictments, investigations, facts for which there would have been ample evidence for the committee to proceed at that time to investigate totally separate from the criminal justice process.

The committee chairman and the ranking member said no, let us wait; let the criminal justice system work. Let us not rush and push this. We know the complications when there is a dual-track investigation, and we refrained from acting.

There was a trial and there was a conviction, and the only thing this committee did was to make sure they gathered the information and the transcripts from the trial as that trial went on. Now the conviction comes in; and many Members of this body, either proposed or wanted to propose privileged resolutions essentially saying we have a Member of our body, a colleague of ours who has been convicted of 10 felony counts. This is intolerable; we want to expel, and they could have brought a privileged resolution to this floor. We went to those colleagues, and we persuaded them to defer to this process. Let us do it according to the rules; and I wrote to the time the adjudicatory committee and the full committee a chance to look at the evidence, gather it, and produce it. We did that.

We come forward in regular order. I ask Members to reject the motion, do not reject the committee's process and the process of restraint and justice that we have shown and vote "no" on the motion to postpone.

Mr. Latourette. Mr. Speaker, I yield my time of my friend Mr. Speaker, again for those colleagues who have been involved in the criminal justice system, I would tell them, and I do not disagree with things that have been said by other members of the committee, Mr. Detore, whom I found to be credible, and with all due respect to the gentlewoman from California, I would ask Members to ask other members of the adjudicatory subcommittee whether they found Mr. Detore to be credible or not; that the difference is this. This committee was left with a cold hard 6,000-page transcript. We were not able to see the accusers of the gentleman from Ohio (Mr. Traficant), whether they swear, whether they reacted under cross-examination.

Mr. Detore came in, and I just want to read one portion of what I was able to see him say in response to the questions put to him by Mr. Berman, the gentleman from Ohio (Mr. Traficant), and counsel for the committee.

He said, "I have lost faith in my ability to tell my kids to be honest, to be truthful, to be fair to others, and others will be fair to you. This is not where I was born. I don't know what is going on here. This is like having an out-of-body experience in another planet. The amount of treachery, deceit and lies throughout is unbelievable.

"I got a wife laying home with shingles from stress, she can't even move, paralyzed. I have two children crying, upset, a nervous wreck. I have never had situations where I passed out in my entire life. But 2 years of pure hell, and I defy anybody to walk in my shoes, and I could have simply just taken an easy path and just said, okay, I will say what you want me to say."

I had the chance to see him, and so did the other members of the committee. We were deprived of the opportunity to see any of our witnesses who accused the gentleman from Ohio (Mr. Traficant) of anything. And so the committee was in a position of substituting our judgment as to whether they were more credible than the gentleman from Ohio, whether they were more credible than Mr. Detore. We had to accept the judgment of 12 jurors, 350 miles and 6 months away.

I made this example in my conference earlier that, again, being a prosecutor, I am familiar with death penalty cases. In a death penalty case if we receive information that something is not right, I think everybody in this Chamber would pick up the phone and call the Governor and say, Governor, we have to give them make up decision of days until we check it out because it is irreversible.

What are we being asked to do tonight is the equivalent. It is the political death penalty. We cannot put the toothpaste back in the tube. If the gentleman gets a new trial next Tuesday, we cannot unexpel him next Wednesday. This is final tonight. All we are asking is for Members to follow what Mr. Stokes and the gentleman from New York (Mr. Rangel) asked the body to do in 1980.

In closing, I want to thank all of the Members who spoke on behalf of our motion, but I want to highlight the comments of the gentleman from California (Mr. Issa) in particular. I mentioned that both of these motions are occurring days before a month-long recess; and in that debate in 1980 a Member said, "I think the conduct engaged in by Mr. Myers is reprehensible and, if we do proceed to a final vote on the issue today, I shall vote to expel him."

I deeply believe that this is precisely the wrong time for this House to act. I say that for a very simple reason...
This is the last week of the session, and almost every Member is doing what I am doing. We are closed in meetings with our staffs. We are trying to clear the deck to get out of here. We are paying attention not to the Myers case, but we are paying attention to what is going to go into our briefcases to go home... I would submit that this is not the correct atmosphere in which to take the historic action which we will be taking today.''

'That Member of Congress was the gentleman from Wisconsin (Mr. O'NEIL), again on October 2, 1980.

'Mr. Speaker, I am not asking Members to do anything tricky, anything that violates their conscience. This is a vote of conscience; and I want to thank everybody in the debate, the chairman, the ranking member and all of the members of the committee, and the staff of the committee was tremendous. I agree with everything that Members said. Not one person on that committee was out to get the gentleman from Ohio (Mr. TRAFICANT). Every Member of that committee listened carefully to the evidence.

'But I am telling Members, when we have to compare warm bodies who come in and we can see in their eyes and their souls as to whether or not they are credible, and you put that up against a book of 6,000 pages, the book should not win; and the book should not especially win when all we are asking, we are not asking for the appeals process to go through habeas corpus and all of those hoops that may take the process to go through habeas corpus against a book of 6,000 pages, the book should not win and should not win. And the evidence of that committee listened carefully to the evidence.'
Again I renew my call for the privileged resolution, I think it has been read, so I rise in support of that House Resolution 495 which calls for the expulsion of Representative JAMES A. TRAFICANT, Jr., from the House of Representatives.

On July 17, 2002, the Adjudicatory Subcommittee of the Committee on Standards of Official Conduct held pursuant to the vote requirements of committee rule X that nine of the 10 counts contained in the statement of alleged violations adopted by the Investigative Subcommittee in the matter of JAMES A. TRAFICANT, Jr., had been proved by clear and convincing evidence. These counts involved findings that Mr. TRAFICANT engaged in the following acts that did not reflect credibly on the House of Representatives:

Bribery by trading official acts and influence for things of value; demanding and accepting salary kickbacks from his congressional employees; influencing a congressional employee to destroy evidence and to provide false testimony to a Federal grand jury; receiving personal and the services from his congressional employees while they were being paid by the taxpayers to perform public service; and filing false income tax returns.

On July 18, 2002, the full Committee on Standards of Official Conduct held a public hearing for the purpose of determining the sanctions that, if any, the committee should recommend to the House of Representatives with respect to the nine counts of the statement of alleged violations proven by clear and convincing evidence in this matter.

With respect to any proved counts against Mr. TRAFICANT, the committee may recommend to the House one or more of the following sanctions: We may recommend to the House one or more of the following sanctions: We could recommend a fine, we could recommend censure or we could recommend expulsion from the House of Representatives engaged in the following acts.

Due to the most serious nature of the conduct of Representative TRAFICANT engaged, including repeated and serious breaches of the public trust, the committee reported this resolution to the House on July 19, 2002, with its unanimous recommendation that Representative TRAFICANT be expelled from the House of Representatives.

In its 213-year history, the House has expelled only four of its Members.

Three of those expulsions occurred during the Civil War and were based on charges of treason. The fourth expulsion was that of Representative Michael J. Myers in 1980 and was based on Representative Myers' conviction on Federal bribery and conspiracy charges arising from the ABSCAM investigation.

It is important to note, however, that the number of actual expulsions from the House should be considered with regard in light of the fact that a number of Members had resigned or lost their seats or lost elections before formal action could be taken.

Mr. Speaker, when each of us was sworn in as a Member of the House of Representatives, we took an oath to support and defend the Constitution of the United States. Article I, section 5 of the Constitution states that each House of Congress may punish its Members for disorderly behavior and to expel any Member by a two-thirds vote of its Members. One of the last lines of our oath of office states that each of us will “well and faithfully discharge the duties of the office on which I am about to enter.”

With respect to the sanctions that the committee may recommend, repudiation is appropriate for serious violations, censure is appropriate for more serious violations, and expulsion is appropriate for the most serious violations.

In the end, the committee found that Representative TRAFICANT engaged in the following acts:

1. Bribery, involving the trading of official acts and influence for things of value.
2. Demand and acceptance of salary kickbacks from congressional employees.
3. Influencing a congressional employee to destroy evidence and to provide false testimony to a Federal grand jury.
4. Receiving personal and services from congressional employees while they were being paid by the taxpayers to perform public service.
5. Filing false income tax returns.

The SPEAKER pro tempore (Mr. HANSEN). The Chair recognizes the gentleman from California (Mr. BERMAN).

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

Mr. Speaker, like the chairman, I rise in sadness, but in strong support of the motion to expel. The gravity of the offenses of the gentleman from Ohio against the rules of the House compel us to impose the most severe of sanctions, and thereby uphold the honor and integrity of the people's House.

I say this, of course, with certainty, because of the rigor and the evenhandedness of the process undertaken by the committee, consistent with House and committee rules, and with the resolve of a chairman who, in every instance, committed himself, but over and back to ensure fairness and afford the gentleman from Ohio a full and fair opportunity to present his defense.

We gave the assertions of the gentleman every consideration. We entertained every motion, admitting into evidence every document he offered, and, despite having the trial transcript before us, nonetheless heard from a number of additional witnesses, including some who had testified for him at trial.

And what was the gentleman's defense? That he paid for the labor and materials provided to him on his farm; that, in the alternative, the farm wasn’t his; that he paid for the cars and paid for the work and contracted his defense. In December 1999, he transfers the title to his farm to his wife and daughter. He pays J.J. Cafaro $7,000 for three cars that had been given to him from 1997 to 1999, and he pays, this is count two, David Sugar’s company $1,100 for work done on the farm 6 months earlier. Not until April of 2000 does Sugar instruct his secretary to create false invoices for the work.

In January 2000, after learning of the investigation, he gives his congressional employee, Alan Sinclair, $18,500 in cash, indicating that the cash came from Cafaro, telling Sinclair to keep the cash at home to justify the withdrawals he had made from his paycheck. He gives Sinclair a note, again after he knows the investigation is going on, saying, “They may ask you if ever gave me money, and you did. You lent me cash on several occasions and I did pay you back in cash.”

The next month he gives Sinclair another $6,000 and gives Cafaro $3,000 more for the three cars. These transparent fabrications did not impress the committee.

Mr. TRAFICANT protests that he is the victim of selective prosecution, indeed of government misconduct, but in order to believe his assertions you would have to accept the gentleman’s notion of a vast, unparalleled conspiracy involving not only the self-interested and disreputable characters from Youngstown, but also involving the Office of the U.S. Attorney, the IRS, the FBI, a respected U.S. District Judge, the counsel for the Committee on Standards of Official Conduct, a conspiracy designed by Janet Reno and implemented by John Ashcroft.

You would have to believe that thousands of pages of testimony by prosecution witnesses, including many low-ranking employees accused of no wrongdoing who testified of being ordered to do work for the gentleman, and the hard documentary evidence against him, are all a tissue of lies, the result of evil intent, manipulation, coercion and intimidation by a treacherous cabal, for which there is simply no evidence and which is preposterous on its face.

In the end, the committee found that the evidence was overwhelming, establishing by clear and convincing evidence that the rules of the House had been violated, flagrantly, I would add.
Mr. Speaker, we are much preoccupied these days, both as elected officials and as private citizens, by breaches of public trust. We may enact legislation before we recess to protect the public from unethical conduct in the corporate arena. But to state what should be abundantly warranted in this case, of voting for the motion to expel.

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

Mr. TRAFICANT. Mr. Speaker, in lieu of the gravity of this matter, the number of counts, I respectfully request unanimous consent of this body that an additional 15 minutes be awarded to me.

The SPEAKER pro tempore. Does the gentleman from Colorado yield for that request?

The gentleman from Colorado has yielded for debate purposes only and must yield to permit another Member to make the unanimous consent request to change the procedure.

Mr. HERFLEY. Mr. Speaker, I will yield for that request. That is not passing judgment on the motion.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. TRAFICANT) is recognized for an additional 15 minutes.

Mr. TRAFICANT. Ladies and gentlemen, you heard on the news, the first national news story that I was involved in, a murder scheme by contract. It made national headline news. The woman was a friend of mine. She was so distraught, she called me every name in the book by phone. I didn’t know what she was talking about.

She later called and recanted, after they put her in protective custody for 8 weeks to keep her dogs in Kentucky, and then brought her to the grand jury twice. And when she said that JIM TRAFICANT committed no crimes, then they demeaned her. But through the process they told her, to ensure her safety, to go public.

Now, if you are a juror and you have heard about a JIM TRAFICANT, if that isn’t poisoning a voir dire, what is?

But then the next one that was in the national news was the $150,000 barn addition. Now, I am an old sheriff. Finally a man with a conscience, Henry Nimitz, sees me at a restaurant and comes up and says, “JIM, I want to apologize. They were going to indict me, take away my business, ruin my life.” My attorney said, why do you have to spend a half a million dollars? Tell them what they want to hear. I did, and I feel like a coward.

But what he failed to recognize, I had a friend in the person of John Innella. I immediately went back to my office and did an affidavit with John Innella. Then the next day, as an old sheriff, I called Mr. Nimitz’ girlfriend, who admitted that Mr. Nimitz called her. He said to her what he said to JIM TRAFICANT. So now the $150,000 barn was not brought.

Now, I am going to get right to the point. I want you to imagine there is a small army of patriots, and they are facing a gigantic army armed to the teeth. And the captain, trying to show strength, calls his assistant and says, “Go to the tent and get my bright red vest.”

He goes and gets the red vest. He puts the red vest on, and he says, “To show the power and courage of our people, without a sidearm I am going to carry this sword and I am going to attack the enemy, and, as they slay me, the blood will run down of my bright red vest and you will be encouraged to fight for our homeland.”

He gave a banshee cry. He ran out into battle and was destroyed.

His assistant came up and he called his attendant. He said, “Go to the tent and get me those dark brown pants.”

Think about it.

Tonight I have dark pants on. Am I scared to death? No. I will go to jail because I am not going to mention names, add nothing even though he admitted to lying.

Now, I want to go case by case. Forget all these witnesses. The judge’s husband is a senior partner in the law firm that represented one of the key witnesses in my case, and that is part of now legal action relative to 28 U.S.C. 455. In addition, that person, Cafaro, I am not going to mention names, admitted giving hundreds of thousands of dollars to politicians, I might add, mostly Democrats.

He said he gave me a $13,000 bribe. Because we were at a public meeting, he said he waited until everybody left, and then we walked out together, we got in his car, and he gave me the money.

One of the attorneys handling my appeal is a bright young black attorney by the name of Attorney Percy Squire, of the Northern District of Ohio, and I called him as a character witness. And he said, “JIM, what do you want me as a character witness for?” I came late to that event where you were trying to put a quarter percent sales tax together, so you could leverage funds, and I walked you out and saw you get in the green truck,” that another witness said he picked me up in a green truck, because his had a cap on, and we had built prefab siding for a hunting hut. We bought my truck and went and put the hut up.

And they accepted Cafaro’s testimony even though he admitted to lying in a previous RICO trial. That is one count.

Richard Detore was a patriot. I didn’t subpoena Detore because his attorney said, “Don’t subpoena Richard, subpoena me.” To tell you the truth, I was a gentleman, and I did it. I felt sorry for him.

Before I was indicted, before Detore was indicted, I have a tape where he says everything on that tape that he told the Committee on Standards of Official Conduct. He said, “JIM, I think I am living in Red China. If I didn’t have two kids, I would blow my brains out.”

Now, let’s look at a few affidavits. Dealing with David Sugar, just yesterday caught up with him. They said it was a half mile, Jack, across the State line, and they might now pull me into jail for being out of my district.

With one of my staffers close by to listen, Sugar admitted that he told Harry Manganaro that after the second FBI visit, because he had backdated some invoices, if he did not lie against JIM TRAFICANT he would not only be indicted, his daughter, his wife and his son would be indicted. I have tape of Harry Manganaro. He wasn’t allowed to testify, nor was the tape admitted at trial.

Now, in addition to that, a man by the name of Joe Sable told another one of my constituents through me, “I feel so bad for JIM.” David Sugar told me the same thing. And David Sugar told me, “JIM, I would love to help you.” Now he is saying in the paper, “I never said that to TRAFICANT.”

Harry Manganaro, hey, why did you tape his girlfriend, his attorney said he admits to meeting TRAFICANT, but did nothing illegal.

Now, let’s talk about Tony Bucci. His fourth plea agreement, his brother in Cuba, fled the country on a fugitive warrant, they sentenced him to 6 weeks arrest, and here is what he said. He did $12,000 worth of work at the Traficant farm, and he owned me. Now, obviously you know me personally, but if you think someone owned me, you would throw me the hell out of here.

Witnesses testified that I asked him for jackhammers because we had an old bank barn. I never owned the farm. But this old bank barn didn’t have enough height for horses. Ralph, I asked him to let me use their jackhammers. He said, “It is an insurance problem. I will send some people out.” I said, “I don’t want you to do that. You will get too close to that old bank barn and you will drop it in.”

And that is what happened, folks. And the whole corner of that barn, Cynthia, fell down. Harry Manganaro came out and helped me prop it up. It cost me $1,117.

Now, guess what? Harry Manganaro came to my office yesterday and said his building happened to be firebombed last weekend and all his records are missing, including the bill, $15,000, not counting materials, to my dad who owned it.

Sinclair. Now, look. You are prosecutors. Mr. CALLAHAN made a hell of a
point. Mr. LaTourette, thank you. But now I want a prosecutor to think, you really want Jim Traficant. They didn’t allow a witness to testify, they wouldn’t allow a vendetta defense. She voir dire nine of my witnesses outside the presence of the jury, didn’t allow them to testify. Allowed none of my tapes. All of my tapes are exculpatory. Even on those who took the 5th Amendment, she didn’t allow them.

Bucci lied through his teeth. His sister-in-law told me that there were three brothers and a brother that lived across the street from the farm and he was my friend. And she said he was sick, they took him to Florida, where he had his leg amputated; brought him back, stole the money from the family, he had his leg amputated; brought him back, stole the money from the family, brought him back to get a conviction on a target, the number one target in the country.

Jim Kirsham, who was an FBI-paid special agent, she would not let him testify, said, “If you get us anything on Traficant, we will build a monument to you.”

I got an affidavit from a guy just sent to me from Canada that I helped in a case where 11 Chinese were arrested. Told me to thank Jim Traficant publicly,” and they said, “Stay away from Traficant. Don’t mention his name. We are going to get him."

I had an FBI agent that compromised one of my constituents under mental instability, desperately trying to save custody of her child, compromised her into sex. She said, “Jim, he didn’t throw me to the ground. I don’t want my 67-year-old mother to know about it.”

FBI agent Anthony Speranza. I will be damned if someone is going to rape one of my constituents.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE.

The SPEAKER pro tempore. The gentleman will suspend.

The gentleman will avoid profanity or indecent language.

Mr. Traficant. How much time do I have left?

The SPEAKER pro tempore. The gentleman has 30’s minutes remaining.

Mr. Traficant. I read an affidavit of a Scott Grodi. He sat through the whole trial. I would like your attention. I got this affidavit today, about an hour before I came here. He was released two days before the trial, his aunt died. He said he wanted to finish.

I thought we had it resolved for the U.S. Marshals to take him so he would be a pallbearer. When he came back, he was discharged.

He didn’t put in his affidavit, Cynthia, but you can write and talk to him, John Grodi, Scott Grodi. He said he knew the prosecutor wanted him out. He said, “I knew Jim Traficant was innocent.” He said, “I could see how he impeached their witnesses and how they were lying.”

Now, Mr. Berman said that there was a recant by Mr. Glaser. This is today’s newspaper just faxed to me. Mr. Glaser said he did not recant, and, on the evidence, he could see himself convicting Jim Traficant now.

Mr. Grodi said the woman next to him also felt I was innocent. I tried to get an affidavit from her. Her attorney informed me that she was afraid to get involved. Now, folks, if she had something good to say about the government, would she be afraid?

Look here, that Cafaro Company and the last case, I said $15 million appropriation. Thank you, Bill Young. But most air flights miss on their airports, and that technology is already used on our submarines and our naval aircraft carriers. And the only way I have will be bringing those head-quarters from Manassas, and screw Frank Wolf.

I have helped everybody in my district and every one of these people, yeah. I did not even like some of them. But when they had 150 employees and got a contract for a highway that hired another 200, I had a 22 percent unemployment rate. Did I go to bat for them? Yes. Did I hold the Secretary of State? Yes. Did I write letters to the Secretaries of Commerce? Yes. Secretary of Labor? Yes. Department of Transportation? Yes.

But here is where I am at tonight. I have been pressured for 20 years. Now, in 1996, read this. “Dear Sheriff, after watching your deal in Washington and listening to the courageous admission of Mr. Detore concerning Morford pressuring him, I decided to come forward. Mr. Morford pressured me to lie about you in front of a grand jury in 1996. I would not lie. I am proud now that I did not lie after hearing Mr. Detore. Enclosed is my truthful affidavit. You can see it any way you wish.”

Here is what they wanted Mr. Detore to say, he was outside the door and heard me and Cafaro make a bribery deal. What Mr. Berman didn’t mention is I paid $10,000 for cars that didn’t run, and Mr. Cafaro sold those cars made in Youngstown, the whole company, for $1. They are considered worthless. He owed me money, never gave me the title. Flying Members of Congress around, getting Senators’ girlfriends’ gifts.

But you get out of jail free by getting the man right here.

Here is the problem in America, and you must take America back. And I am running as an independent, and don’t be surprised if I don’t win behind bars.

The American people are afraid of their government. Why are we afraid of our government? Now, I want you to listen to this. Bob, they didn’t bring them to me. For IRS, I was investigated to the stand so I could cross-examine them. They brought a 30-year veteran from Philadelphia, Mr. Callahan, he had seven trips, spent 40 days, a quarter of a million dollars, and no investigation. When he left, he was so confused he walked into the edge of the jury edge, right in the sore spot.

The other one was an FBI rookie. Now, listen carefully. When it come to fingerprints, the judge smiled like a judge. She dismissed the jury. The prosecutor says, “Your Honor, we have no
fingerprints of the defendant.” One thousand documents. And listen to this. He said the one time I gave him an envelope of four, five, whatever thousand, and he took it immediately to the FBI guy who sent it to the lab. Now, shall I get TRAFICANT? I steeam that thing open, I fix a few bills, say, “Look, you tell TRAFICANT you don’t want to go any further. You are not going to hurt him. When you come out of that restaurant, just have that damn money on him.”

What I am trying to tell you, there is no physical evidence. And when they talk about this Sinclair, $2,500, they fail to mention that he had five accounts. And every time he took 2,500 out of one, 2,500 went into another one. And after he left my employment for 22 months, $2,500 didn’t go into the other account. And while he was in my employment, he said he earned $50,000 from me and $50,000 from the government.

He bought a $300,000 house, a brand new Buick van, rented a new car for $300 a month and spent $60,000 on advertising. That’s back 15 years ago. He went to the grooms transaction I had in Uhrichsville, Ohio. George Hooker. They could not find one citizen to say JIM TRAFICANT bought a pencil for cash. Now look, if you drink five gallons of Gatorade, you are going to get five gallons of Gatorade somewhere in one of these restrooms. You know what you have before you? We are getting to the point where a RICO case is going to be brought against a group of housewives for conspiring to buy Kellogg’s cereal. I am prepared to lose everything. I am prepared to go to jail. You go ahead and expel me, but I am going to tell you what, Mr. LaTourette was right about Salvati, but do you know what was mentioned of Mr. Detore? Do you know what JIM TRAFICANT said about Janet Reno? The administration wants him out. Now, I said this on radio and I am on the House floor. I am going to say it to you right now. I called Janet Reno a traitor and I believe in my heart she is. I believe Monica and Henry Cisneros were not that important, but I think that Red Army Chinese general giving money to the Democrat National Committee was an affront to our intelligence, and now I am going to tell it like it is. The Republicans want a permanent trade status with China. You let it slide. Democrats did not want Clinton and the party hurt. You let it slide. And what you did let slide was the freedom of the United States of America. And I called her a traitor.

And Janet Reno, if I do not go to jail, I will be in Orlando August 15 and you are not going to be elected to any damn thing. Nobody should fear our Government. For the first time in my life, for the first time in this country, a Speaker of the House has had the gall to say that he is not going to abide by the House’s rules. Now, let me give you the statistics that I am proud of and I want to share, because this may be the last time on the floor, and I expect it. The year before compared to the year after the law, wage attachments dropped from $3.1 million to $540,000. Thank you, Mr. Archer. Mr. Portman. Mr. Traficant bill. The Republican Chairman, Bill Archer, called me and said he talked to the Speaker and leaders and said, we want to check out your burden of proof in and we are going to put your language on seizure in the conference, and wrote me a letter giving me the credit.

Now, let me give you the statistics that I am proud of and I want to share, because this may be the last time on the floor, and I expect it. The year before compared to the year after the law, wage attachments dropped from $3.1 million to $540,000. Thank you, Mr. Archer. What he said, JIM, we are going to put your burden of proof in and we are going to put your language on seizure in the conference, and wrote me a letter giving me the credit.

Now, let me give you the statistics that I am proud of and I want to share, because this may be the last time on the floor, and I expect it. The year before compared to the year after the law, wage attachments dropped from $3.1 million to $540,000. Thank you, Mr. Archer. What he said, JIM, we are going to put your burden of proof in and we are going to put your language on seizure in the conference, and wrote me a letter giving me the credit.

Now, let me give you the statistics that I am proud of and I want to share, because this may be the last time on the floor, and I expect it. The year before compared to the year after the law, wage attachments dropped from $3.1 million to $540,000. Thank you, Mr. Archer. What he said, JIM, we are going to put your burden of proof in and we are going to put your language on seizure in the conference, and wrote me a letter giving me the credit.

Now, let me give you the statistics that I am proud of and I want to share, because this may be the last time on the floor, and I expect it. The year before compared to the year after the law, wage attachments dropped from $3.1 million to $540,000. Thank you, Mr. Archer. What he said, JIM, we are going to put your burden of proof in and we are going to put your language on seizure in the conference, and wrote me a letter giving me the credit.
The SPEAKER pro tempore. Would the gentleman state his inquiry?

Mr. TRAFICANT. Mr. Speaker, do I go last, since I am the subject of the demise?

The SPEAKER pro tempore. The gentleman from Colorado (Mr. HEFLEY) has the right to close.

Mr. TRAFICANT. Mr. Speaker, I ask the gentleman from Colorado (Mr. HEFLEY) as a gentleman to relinquish his right to close, surrender to me and give me his time.

Mr. HEFLEY. Mr. Speaker, I will hold that decision in abeyance until we give me his time.

Mr. TRAFICANT. Mr. Speaker, if the gentleman has any time left.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Colorado (Mr. HEFLEY).

Mr. HEFLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. HASTINGS), who is the chairman of the Investigative Subcommittee in this matter.

Mr. HASTINGS of Washington. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this is a day that each of us hoped would never come, and we pray that it will not come again. Simply put, there is absolutely no satisfaction in judging one of our own. But the Constitution makes clear that we are of us hoped would never come, and we

Mr. HEFLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. HASTINGS), who is the chairman of the Investigative Subcommittee in this matter.

Mr. HASTINGS. Mr. Speaker, I was the ranking member on the investiga-

tive subcommittee serving with the gentleman from Washington (Mr. HASTINGS), examining the testimony and evidence presented during the trial.

The subcommittee unanimously concluded that the evidence showed that the gentleman from Ohio (Mr. TRAFICANT) was engaged in official misconduct of the most serious nature. He traded his official office and powers repeatedly for money, free labor, equipment at his farm and other things. He did so repeatedly and with several different people and companies. He demanded and received tens of thousands of dollars, with salary kickbacks from his congressional employees. He filed two false income tax returns that failed to report more than $75,000 in income from gratuities. As I mentioned earlier, the trial lasted more than 30 days with over 6,000 pages of transcript. More than 80 witnesses were asked for the prosecution and 29 by the gentleman from Ohio (Mr. TRAFICANT).

We took this testimony and reviewed it, but we made an independent review of the sworn testimony and other evidence during the trial and we unani-
mously decided that the gentleman from Ohio (Mr. TRAFICANT) should be charged with violation of House rules based on the evidence, not criminal charges. There was testimony, evidence by the businessman who gave the gentleman from Ohio (Mr. TRAFICANT) gratuities, and that was supported by testimony of public servants who were pressured by the gentleman from Ohio (Mr. TRAFICANT). Eight witnesses testified relative to the kickbacks the gentleman from Ohio (Mr. TRAFICANT) received, and that testimony was also substantiated. Five employees of the gentle-
man from Ohio (Mr. TRAFICANT) testified as to the work they were directed by the gentleman from Ohio (Mr. TRAFICANT) to perform on his farm or boat. One employee testified that he had been there between 100 and 300 different times.

The gentleman from Ohio (Mr. TRAFICANT) repeatedly asserts there is no physical evidence of his crimes, but, in fact, there is abundant evidence, including check, bank records, memos, faxes, letters and other documents.

I would finally just say that this gentleman from Washington (Mr. HASTINGS) and I rejoined the remainder of the committee for the penalty phase, we joined eight others with the unanimous recommendation, with great sadness, that the expulsion remedy is one that we must do. I would like to take this evening to listen to this testimony, but I know what our duty calls us to do, and I hope that the House is up to it.
Mr. TRAFICANT. Mr. Speaker, how much time remains with all parties?

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Ohio (Mr. TRAFICANT) has 14²/₃ minutes remaining. The gentleman from Colorado (Mr. HAFLEY) has 6 minutes remaining. The gentleman from California (Mr. BERMAN) has 7 ¾ minutes remaining.

We would close in this order unless someone elects different: The gentleman from California (Mr. BERMAN), the gentleman from Ohio (Mr. TRAFICANT), the gentleman from Colorado (Mr. HAFLEY), in that order.

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

Number one, the businessman my colleague is talking about that corroborated Mr. Cafaro's testimony was Al Lang, and I did not find out until after the trial that there was a demand note from Mr. Cafaro to Al Lang to repay the money for the boat he was to buy.

Number two, that also Mr. Cafaro paid for Mr. Lang's attorney. So it was really Mr. Lang and attorney or Mr. Lang was represented by Mr. Cafaro's attorney? My God of all, the Committee on Standards of Official Conduct allowed me to subpoena one witness. I asked for 11 subpoenas and 20 that did not need subpoenas. They finally come back and retracted the 11 witness testimony. The personal loans when I could not make it to the farm. One fellow saw me make loans to the other fellow.

My colleagues had a hearsay transcript. Now I want to ask the committee, and I wish the committee would hear me. I want to know what witness the committee called to refute my witnesses or the hearsay in that transcript. Why was I willing to bring my witnesses or the hearsay in that transcript. Why was I willing to bring my witnesses or the hearsay in that transcript. Why was I willing to bring my witnesses or the hearsay in that transcript.

Mr. TRAFICANT. Mr. Speaker, how much time remains with all parties?

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Ohio (Mr. TRAFICANT) has 14²/₃ minutes remaining. The gentleman from Colorado (Mr. HAFLEY) has 6 minutes remaining. The gentleman from California (Mr. BERMAN) has 7 ¾ minutes remaining.

We would close in this order unless someone elects different: The gentleman from California (Mr. BERMAN), the gentleman from Ohio (Mr. TRAFICANT), the gentleman from Colorado (Mr. HAFLEY), in that order.

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

Number one, the businessman my colleague is talking about that corroborated Mr. Cafaro's testimony was Al Lang, and I did not find out until after the trial that there was a demand note from Mr. Cafaro to Al Lang to repay the money for the boat he was to buy.

Number two, that also Mr. Cafaro paid for Mr. Lang's attorney. So it was really Mr. Lang and attorney or Mr. Lang was represented by Mr. Cafaro's attorney? My God of all, the Committee on Standards of Official Conduct allowed me to subpoena one witness. I asked for 11 subpoenas and 20 that did not need subpoenas. They finally come back and retracted the 11 witness testimony. The personal loans when I could not make it to the farm. One fellow saw me make loans to the other fellow.

My colleagues had a hearsay transcript. Now I want to ask the committee, and I wish the committee would hear me. I want to know what witness the committee called to refute my witnesses or the hearsay in that transcript. Why was I willing to bring my witnesses or the hearsay in that transcript. Why was I willing to bring my witnesses or the hearsay in that transcript. Why was I willing to bring my witnesses or the hearsay in that transcript.

Mr. TRAFICANT. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT), a member of the committee.

Mrs. BIGGERT asked and was given permission to revise and extend her remarks.

Mrs. BIGGERT. Mr. Speaker, it is with sadness and regret that I rise today to express my support for H. Res. 495 in the matter of JAMES A. TRAFICANT, JR. Let me make this very clear. No Member of Congress ever wishes to see an judgment of a colleague, least of all a colleague as colorful and as indomitable as the gentleman from Ohio (Mr. TRAFICANT).

Yet at the same time no Member ever wishes to see the rules of this institution broken or the standards of its Members brought low. Many Americans who have read or heard of the gentleman from Ohio's (Mr. TRAFICANT) conviction in Federal court wonder why we in the House have bothered with our own investigation and hearings.

They ask, "Why go through all of this? A jury found him guilty on 10 felony counts." They find it hard to find understanding why expulsion from the House would not be automatic once a jury finds a Member guilty of felony offenses in a court of law. The answer, quite simply, is found in the Constitution. The Constitution is silent on the matter. It is the Congress that must act. It is the Congress that must choose whether to send the matter to the Judiciary or to the executive branch to determine how, or if expulsion of a Member is warranted.
They left it to us, the Members of this body. It falls to us today to look at three things: One, the statement of violations of our own code of official conduct, drawn by our own investigative subcommittee; two, the evidence presented at our own adjudicatory hearing by our own subcommittee counsel and the gentleman from Ohio (Mr. TRAFICANT); and three, the findings and sanctions recommended by our own full Committee on Standards of Official Conduct.

If my colleagues will look at these three things, they will conclude that there is clear and convincing evidence that the violations occurred and that the resolution should be approved by this body today.

Mr. Speaker, I would like to thank our chairman, the gentleman from Colorado (Mr. HEFLEY), and our ranking member, the gentleman from California (Mr. BERMAN) for their outstanding work on this resolution. Throughout the long weeks and days leading up to and including the hearings, they showed the greatest integrity, fairness, often going out of their way to give the gentleman from Ohio (Mr. TRAFICANT) every opportunity to counter the clear and convincing evidence presented against him.

I salute my colleague, the gentleman from Ohio (Mr. LA TOURETTE), for his outstanding work.

Mr. BERMAN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I rise today in support of the motion to expel our colleague, the gentleman from Ohio (Mr. TRAFICANT). I know, too, that many of my colleagues are questioning the propriety of expelling the gentleman from Ohio, something that has not happened in this House in some 40 years. And Members are questioning it notwithstanding the fact that we were convinced beyond a reasonable doubt of his guilt, the highest burden of proof required in our legal system, and notwithstanding the fact that the Committee on Standards of Official Conduct, which was vested and duty bound by this body to review the conduct of our colleagues, has reviewed the facts and determined that his conduct was of such nature that it violated the House rules of conduct, and that it was of such character and so serious that it merited the highest sanction from the House of Representatives.

Let me assure my colleagues that when we try cases in criminal justice courtrooms, we often talk about a substandard of proof. Not so in the House of Representatives. We have had an opportunity to hear from our colleague, the gentleman from Ohio. In fact, the wonderful thing about our justice system and the hearings that he has had here in this House is that they were public. We had an opportunity to hear the presentation or the defense presented by the defendant.

I will not go through all the red herrings, but we talked about: “I paid for the car, I never owned the farm; everybody would have gone to jail or lost his license; I repaid the money to my staffers; do not be surprised if I win, I will throw some bars; 1,000 items; no fingerprints; a large amount of $2,000; when the story is played is cast in hell, none of the witnesses in the trial will be angels; you cannot believe that the credibility of some of these witnesses could be better if they were someone else.”

Forget that for a moment. Forget that the judge’s husband was a member of the firm, and forget that his clerk was the chief clerk for a chief justice of the Supreme Court or other trial court. We have a duty. We have an obligation. The public is watching us, and they are saying, “House of Representatives, you have a duty. You have an obligation as elected Members of Congress to take into consideration what has been presented to you by this Committee on Standards of Official Conduct.”

It is not easy. When I was a judge, I was required to sentence somebody to death. And people used to say, oh, he should get the death penalty. But it was not that easy to stand up there and say I sentence him to death. And it is not easy today, my colleagues, but it is our job. It is our duty. Uphold the integrity of this House of Representatives and vote to expel the gentleman from Ohio (Mr. TRAFICANT). Mr. Speaker. I yield myself such time as I may consume.

Number one, to the gentlewoman from Illinois (Mrs. BIGGERT), I say that I am sadder than you are.

To my colleague from Ohio, after the public hearings, 80 to 90 percent of the viewing public supports my position. Number three, all the witnesses that testified against me at trial were either felons or would-be felons, with no physical evidence.

The gentleman is a very astute legal criminal mind. I just want her to think before she votes.

In the case of staff, they said one afternoon I invited them down to the boat, they did some sanding, it was a bonding thing, and they drank beer. The ones that came to the farm, came for the weekend, voluntarily; wanted to use it as a health spa. One guy told me that he was there 300 times. I had it before the trial, but I heard he took $2,500 to bribe a judge in a DUI case. I thought they had no evidence, and I did not even question him on it. I have a tape from one of his fellow trustees that I will submit to the committee. His name is Jim Price, Weathersville Township, relative to the testimony of that staffer that I will not mention.

Look, show me the beef. Come up with a transcript. The court could not even bring FBI or IRS investigators to the stand, they are so afraid of me. And I am going to tell my colleagues something, and they are not going to believe it. My hands tied behind my back. I believe in my heart I won that trial, and that trial was manipulated. I would not rush in haste.

Now, if my colleagues do not expel me tonight, I am convinced this judge is going to put me in jail. She cannot get away with it. She is deadly afraid of me getting on national TV, because it is beginning to resonate around the country about how people do fear our government. And why do we fear our government?

I expect my colleagues to expel me. It is going to hurt me when some of you do.

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

The SPEAKER pro tempore (Mr. HANSEN). Does the gentleman from Colorado have any other speakers?

Mr. HEFLEY. Just this gentleman, and then myself to close.

The SPEAKER pro tempore. Does the gentleman from California have additional speakers?

Mr. BERMAN. One additional member of the committee and myself.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. HEFLEY) may proceed.

Mr. HEFLEY. Mr. Speaker, I yield 2 minutes and 45 seconds to the gentleman from Missouri (Mr. HULSHOF), who is a member of the committee.

Mr. HULSHOF. My colleagues, let me first thank you all for your attention. The gentlemen from Minnesota (Mr. OBEY) pointed out to me during the vote that back in 1980, as this matter was being discussed, only a handful of Members were here for that debate over the expulsion of Mr. Myers. And so your continued presence here is a testament to this institution.

The gentleman from Ohio has referenced the lack of evidence and the quality of evidence. Is there anybody in this Chamber who believes that the gentleman from Ohio (Mr. TRAFICANT) could be captured incriminating himself on tape? Should we, in this case or any other case, reward a wrongdoer because he has the wherewithal to avoid being captured in the act? Shall a clever criminal who has enriched himself at taxpayer expense be further enriched because he almost avoided detection?

I paraphrased comments made by a member of the Committee on Standards of Official Conduct back in 1980 in that matter. The gentleman from Ohio (Mr. TRAFICANT) has violated the House rules not only as an individual who happened to be a public servant, but as a public servant who traded upon that very elected office.

There is no one who disputes that the gentleman has fought aggressively for his constituents in the 17th Congressional District of Ohio. I daresay that 435 Members who come here every week do not all say the same for the constituents back home across this land, and yet we come here in the public good, not to enrich ourselves for private profit.
To my colleagues who were sworn in today in this Chamber on January 7, 1997, in the 105th Congress, what an interesting tenure we have had. Our first vote for Speaker of the House, who had an ethics cloud hanging over his head; our last vote for Speaker following the impeachment of a sitting president; and here we are again tonight with the lens of history trained upon us.

There are some who have been fretting about this vote and that we are debating it in prime time, of all things. Well, my colleagues, I believe that tonight is going to be one of this institution’s finest hours.

To the gentleman from California (Mr. Issa), I absolutely agree with his statements on the previous motion. It should take extraordinary wrongdoing to override the wishes of a voter in a Congressional district. I believe that.

And I believe this is one such case.

Sometimes when we walk in darkness, we are overcome with the brilliant light of truth. A little over 300 days ago, we assembled as a body on the darkest day of our Nation’s history, and we sent a glimmer of light to the people we represent that you can extinguish thousands of American lives, but you will not extinguish the American spirit. And yet when you destroy that fragile bond of trust between the elected and the electorate, expulsion is the only appropriate remedy for our constituents, for jobs and economic development. The line of legality is crossed when we help ourselves for our constituents, for personal gain, we risk losing the faith and trust of the American people that we have.

As a duly elected Member from the 17th district of Ohio (Mr. Traficant) for doing everything he can to bring economic assistance to his constituents. As my colleague from Missouri said, we do that every day; 438 of us try to do that, and we work hard for our constituents, for jobs and economic development. The line of legality is crossed when we help ourselves for our benefit instead of helping our constituents for their benefit.

The gentleman from Ohio crossed that line and worked for a company to get road contracts for his district, and then that company did improvements on his own private property. That is not lawful. And when he helped a family move an imprisoned loved one closer to home and then provided a list of improvements to be made to his properties, that was illegal. When he created a system of kickbacks by his congressional employees, that was outrageous and unlawful. When he knowingly receive Federal tax dollars that we vote for for worthwhile projects, and then they accept benefits to use personally, that was illegal.

Mr. Speaker, I know I am out of time, but we need to do our job, and if we cannot remove him, then that company did improvements on his own private property. That is not lawful. And when he helped a family move an imprisoned loved one closer to home and then provided a list of improvements to be made to his properties, that was illegal. When he created a system of kickbacks by his congressional employees, that was outrageous and unlawful. When he knowingly receive Federal tax dollars that we vote for for worthwhile projects, and then they accept benefits to use personally, that was illegal.

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

Mr. Speaker, the gentleman from Ohio (Mr. Traficant) is our colleague. We are involved in what is in a certain way a profoundly anti-democratic decision, one contemplated by our Founding Fathers, but anti-democratic because we are talking about expelling a Member who was elected for a term of office before that term is completed.

He is a friend to many. He has an irrepressible nature that all of us coming from a lot of different backgrounds have known about for a long time. In many ways he has been a dedicated colleague for the causes and issues that the gentleman believes in. But this body in its wisdom created a committee. The leadership of both sides appointed Members who have spent an incredible large amount of time sifting through the evidence relating to four counts of conspiracy to commit bribery, each of them involving totally separate transactions with totally different witnesses; and we have applied under our bribery statute, filing false tax information, two separate counts; obstruction of justice.

Our committee, involving an equal number of Democrats and Republicans, covering an incredible range of philosophies and ideologies, going from people who barely knew the respondent to a gentleman who has been known for a long time as his closest friend in this House, have applied the facts as we see them and unanimously recommended expulsion. No one did it easily. For some, it was an incredibly difficult conclusion to reach.

Mr. Speaker, I think in the context of this process and our obligation to the American people, we are compelled to vote “aye” on the resolution to expel.
I want to thank the members of the committee that I have served with through this. They serve us well. I want to thank our outstanding staff. They serve us well. And I particularly want to thank Members for being here for almost 3 hours. It is seldom that I have 3 hours to spend as a member of the House of Representatives on the floor for 3 hours. What that tells me is that Members take this as seriously as I do and as the rest of the committee does, and thank you for that. It is important that we see this as something that will come this lightly. We do not take it lightly.

Mr. Speaker, if I have any time remaining, I yield it to the gentleman from Ohio (Mr. TRAFICANT).

The Speaker pro tempore. The gentleman from Colorado (Mr. HEFLEY) has relinquished to the gentleman from Ohio (Mr. TRAFICANT) the right to close. The gentleman from Ohio has 3 minutes remaining.

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

Mr. Speaker, 20 years and not one tape. Mr. Prosecutor from Missouri, am I that good? Come on. $1.3 billion in that budget that I brought back, much of it from the help of the Republicans, the gentleman from Pennsylvania (Mr. MURTHA), the gentleman from Florida (Mr. YOUNG), thanks. Twenty-two percent unemployment, been under 7, and we are still hurting, and I do not think you should take your vote, and my people elected me and I do not think you should take their representative away. With that, thank you for giving me additional time, at least listening to me, and vote your conscience, nothing personal; and I hope I am back and get another $1.3 billion.

Mr. UDALL of New Mexico. Mr. Speaker, I had the honor to serve New Mexico as Attorney General. As Attorney General, I had the unfortunate task to prosecute elected officials for their violation of the law and the public's trust. Although, I accepted this duty, this was not an easy task to perform but one that had to be done. The Committee on Standards of Official Conduct was tasked to take on a difficult charge to examine whether Representative TRAFICANT violated the Code of Official Conduct while serving as a Member of Congress. And if so, whether those violations warranted his expulsion from the U.S. House of Representatives. I thank them for their service on this difficult matter.

This great body has expelled only four Members (three Members and one Member-elect) in its history—Three of whom were expelled during the Civil War period in 1861 for disloyalty to the Union and the fourth occurred in 1980 following a bribe conviction. There have been other Members who were subject to expulsion for offenses such as bribery, illegal gratuities and obstruction of justice—but rather than force the hand of the House to expel them, they took the noble way out and resigned their office. I had hoped that Representative TRAFICANT would have done the same thing, and resign his office rather than force the House to remove him. However, the current situation is before us, and we must act.

On April 11, 2002 the Committee on Standards of Official Conduct gave notice that the federal jury returned a guilty verdict in the criminal trial of Representative TRAFICANT. Six days later the Committee voted to establish an Investigative Subcommittee to conduct a formal inquiry regarding Representative TRAFICANT. On June 27, 2002 the Investigative Subcommittee transmitted to the full Committee on Standards of Official Conduct a 10 count Statement of Alleged Violations and set the stage for a public adjudicatory hearing to determine whether any misconduct in the Statement of Alleged Violations have been proven by clear and convincing evidence. I would like to read from the statement issued by the Committee:

"The Statement of Alleged Violations charge that Representative TRAFICANT violated the Code of Official Conduct of the House of Representatives and the Code of Ethics for Government Service through a number of means, including: Agreeing to perform, and performing, official acts on behalf of individuals and/or businesses for which those individuals and/or businesses agreed to and did provide Representative TRAFICANT with things of value; Agreeing to employ a member of his congressional district staff in exchange for $2,500 per month in salary or as an employee; Endeavoring to persuade this same employee to destroy evidence and to give false testimony to a federal grand jury; Defrauding the United States of money and property by a variety of means; Filing false income tax returns; Engaging in a course of conduct and practice of official misconduct through which he misused his office for personal gain".

From July 15 through July 18 the adjudicatory House subcommittee heard from Representative TRAFICANT where he argued that he broke no laws and contended that the government was out to get him—the same argument he made during his criminal trial. He argued against each of the points that the Subcommittee Counsel raised and was unable to make a clear argument against the evidence and his actions. It was determined that he was guilty of several ethics violations and that nine of the ten counts were proven by clear and convincing evidence.

Representative TRAFICANT misused his office for personnel gain; he misused the public treasury funds for his personal gain. He disposed of the money, through his conduct in receiving congressional salary kickbacks from employees and receiving personal labor and services from congressional staff while they were on congressional work time; and he misused his powerful position to persuade individuals to destroy evidence and provide false testimony to a federal jury to conceal his abuse of office.

Mr. Speaker prior to entering office we each made the following declaration:

'I solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take my obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge my duties of the office of which I am about to enter. So help me God.'

While the power of removal is a strong measure and one that should never be taken lightly, it is one tool afforded to us by the Constitution to use on those who have violated their public trust as Members of Congress. Besides violating the public trust Representative TRAFICANT broke his solemn oath of office. He did not faithfully discharge the duties of the office, which he now serves, and because of this and the clear evidence before us he should be expelled from the House of Representatives.
The vote was taken by electronic device, and there were—ayes 420, noes 1, answered “present” 9, not voting 4, as follows:

(Roll No. 346)

AYES—420

Abercorn-ber Burton-ber DeMint-ber McMillan-ber Scott-ber
Ackerman-ber Buyer-ber Deutch-ber McNulty-ber McCollum-ber
Adler-ber Calvert-ber Diaz-Balart-ber McCuincy-ber Meehan-ber
Akbas-ber Camp-ber Dicks-ber McCullick-ber Menendez-ber
Allen-ber Cannon-ber Dingell-ber McCulisch-ber Mineta-ber
Andrews-ber Cantor-ber Doggett-ber Mica-ber Miller-ber
Arms-ber Capito-ber DOOLEY-ber Miller, Dan-ber Miller, Gary-ber
Arturis-ber Cassa-ber Doolittle-ber Miller, George-ber Miller, Jeff-ber
Asa-ber Capp-ber Davis, Car-ber Mills-ber Davis, Jo Ann-ber Miller, Jeff-ber
Baird-ber Cardin-ber DeSaulles-ber Miller, Gary-ber Mink-ber
Baker-ber Casar-ber Ensign-ber Miller, George-ber Miller, Jeff-ber
Balanced-ber Casey-ber Edwards-ber Miller, Jeff-ber Miller, Jeff-ber
Ballenger-ber Collins-ber Ehlers-ber Miller, Jeff-ber Mink-ber
Barcia-ber Chabot-ber Ehlers-ber Miller, Jeff-ber Miller, Jeff-ber
Barr-ber Clay-ber Emerson-ber Miller, Jeff-ber Min-ber
Barrett-ber Clayton-ber Engel-ber Miller, Jeff-ber Miller, Jeff-ber
Bart-ber Clem-ber English-ber Miller, Jeff-ber Miller, Jeff-ber
Bass-ber Clyburn-ber Eoho-ber Min-ber Miller, Jeff-ber Mink-ber
Beccera-ber Coole-ber Etheridge-ber Min-ber Miller, Jeff-ber Mink-ber
Ben-ber Collins-ber Evans-ber Min-ber Miller, Jeff-ber Mink-ber
Berger-ber Comb-ber Everett-ber Min-ber Miller, Jeff-ber Mink-ber
Bernies-ber Comer-ber Farr-ber Min-ber Miller, Jeff-ber Mink-ber
Berkley-ber Conyers-ber Farr-ber Min-ber Miller, Jeff-ber Mink-ber
Bernier-ber Conn-ber Fattah-ber Min-ber Miller, Jeff-ber Mink-ber
Berry-ber Costello-ber Ferguson-ber Min-ber Miller, Jeff-ber Mink-ber
Biggar-ber Cox-ber Finer-ber Min-ber Miller, Jeff-ber Mink-ber
Bishop-ber Coyne-ber Flake-ber Min-ber Miller, Jeff-ber Mink-ber
Blagojevic-ber Cramer-ber Fletcher-ber Min-ber Miller, Jeff-ber Mink-ber
Blumenauer-ber Cranye-ber Foley-ber Min-ber Miller, Jeff-ber Mink-ber
Bosshorn-ber Crow-ber Forbes-ber Min-ber Miller, Jeff-ber Mink-ber
Boosher-ber Cuthb-ber Frank-ber Min-ber Miller, Jeff-ber Mink-ber
Bouma-ber Culkin-ber Frelinghuysen-ber Min-ber Miller, Jeff-ber Mink-ber
Boosman-ber Cunningham-ber Frost-ber Min-ber Miller, Jeff-ber Mink-ber
Boozman-ber Cunningham-ber Gallegly-ber Min-ber Miller, Jeff-ber Mink-ber
Bork-ber Davis, CA-ber Ganske-ber Min-ber Miller, Jeff-ber Mink-ber
Boswell-ber Davis, FL-ber Geakas-ber Min-ber Miller, Jeff-ber Mink-ber
Boucher-ber Davis, IL-ber Geabhardt-ber Min-ber Miller, Jeff-ber Mink-ber
Boyd-ber Davis, Jo Ann-ber Gimb-ber Min-ber Miller, Jeff-ber Mink-ber
Braday-ber Davis, Tom-ber Gilchrist-ber Min-ber Miller, Jeff-ber Mink-ber
Braday-ber Davis, TX-ber Gilmore-ber Min-ber Miller, Jeff-ber Mink-ber
Brown (FL)-ber DeFazio-ber Gilman-ber Min-ber Miller, Jeff-ber Mink-ber
Brown (OH)-ber DeGette-ber Gonzalez-ber Min-ber Miller, Jeff-ber Mink-ber
Brown (SC)-ber DeLauro-ber Goodlatte-ber Min-ber Miller, Jeff-ber Mink-ber
Bryant-ber Delany-ber Goodlatte-ber Min-ber Miller, Jeff-ber Mink-ber
Burr-ber Defay-ber GSA-ber Min-ber Miller, Jeff-ber Mink-ber
Grauer-ber Graves-ber Kelly-ber Kennedy (MD)-ber Meek (FL)-ber Meeks (NY)-ber
Greenswood-ber Gucci-ber Kildaire-ber Kennedy (RI)-ber Menendez-ber McGao-ber
Gruss-ber Gutierrez-ber Kilpatrick-ber King (WI)-ber Menges-ber McKay-ber
Hart-ber Hasings (FL)-ber Kolbe-ber Kucinich-ber Mellonhan-ber McHale-ber
Brady (TX)-ber Brady (PA)-ber Brady (TX)-ber Brady (PA)-ber Brady (TX)-ber Brady (TX)-ber
Brown (FL)-ber Brown (OH)-ber Brown (SC)-ber Bryant-ber Burr-ber
Sec. 1. Short title; table of contents.
(a) SHORT TITLE.—This Act may be cited as the “Sarbanes-Oxley Act of 2002”.
(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>SHORT TITLE; TABLE OF CONTENTS.</td>
<td>9</td>
</tr>
<tr>
<td>2</td>
<td>Definitions.</td>
<td>10</td>
</tr>
<tr>
<td>3</td>
<td>Commission rules and enforcement.</td>
<td>10</td>
</tr>
<tr>
<td>4</td>
<td>Oversight board.</td>
<td>10</td>
</tr>
<tr>
<td>5</td>
<td>Establishment; administrative provisions.</td>
<td>10</td>
</tr>
<tr>
<td>6</td>
<td>Registration with the Board.</td>
<td>10</td>
</tr>
<tr>
<td>7</td>
<td>Auditing, quality control, and independence standards and rules.</td>
<td>10</td>
</tr>
<tr>
<td>8</td>
<td>Inspections of registered public accounting firms.</td>
<td>10</td>
</tr>
<tr>
<td>9</td>
<td>Investigations and disciplinary proceedings.</td>
<td>10</td>
</tr>
<tr>
<td>10</td>
<td>Foreign public accounting firms.</td>
<td>10</td>
</tr>
<tr>
<td>11</td>
<td>Commission oversight of the Board.</td>
<td>10</td>
</tr>
<tr>
<td>12</td>
<td>Accounting standards.</td>
<td>10</td>
</tr>
<tr>
<td>13</td>
<td>Funding.</td>
<td>10</td>
</tr>
<tr>
<td>14</td>
<td>TITUE II—AUDITOR INDEPENDENCE</td>
<td>10</td>
</tr>
<tr>
<td>15</td>
<td>Services outside the scope of practice of auditors.</td>
<td>10</td>
</tr>
<tr>
<td>16</td>
<td>Preapproval requirements.</td>
<td>10</td>
</tr>
<tr>
<td>17</td>
<td>Audit partner rotation.</td>
<td>10</td>
</tr>
<tr>
<td>18</td>
<td>Auditor reports to audit committees.</td>
<td>10</td>
</tr>
<tr>
<td>19</td>
<td>Conforming amendments.</td>
<td>10</td>
</tr>
<tr>
<td>20</td>
<td>Conflicts of interest.</td>
<td>10</td>
</tr>
<tr>
<td>21</td>
<td>Study of mandatory rotation of registered public accounting firms.</td>
<td>10</td>
</tr>
<tr>
<td>22</td>
<td>Commission authority.</td>
<td>10</td>
</tr>
<tr>
<td>23</td>
<td>Considerations by appropriate State regulatory authorities.</td>
<td>10</td>
</tr>
<tr>
<td>24</td>
<td>CORPORATE RESPONSIBILITY</td>
<td>10</td>
</tr>
<tr>
<td>25</td>
<td>Public company audit committees.</td>
<td>10</td>
</tr>
<tr>
<td>26</td>
<td>Corporate responsibility for financial reports.</td>
<td>10</td>
</tr>
<tr>
<td>27</td>
<td>Improper influence on conduct of auditors.</td>
<td>10</td>
</tr>
<tr>
<td>28</td>
<td>Forfeiture of certain bonuses and profits.</td>
<td>10</td>
</tr>
<tr>
<td>29</td>
<td>Officer and director bars and penalties.</td>
<td>10</td>
</tr>
<tr>
<td>30</td>
<td>Insider trades during pension fund blackout periods.</td>
<td>10</td>
</tr>
<tr>
<td>31</td>
<td>Rules of professional responsibility for attorneys.</td>
<td>10</td>
</tr>
<tr>
<td>32</td>
<td>Fair funds for investors.</td>
<td>10</td>
</tr>
<tr>
<td>33</td>
<td>ENHANCED FINANCIAL DISCLOSURES</td>
<td>10</td>
</tr>
<tr>
<td>34</td>
<td>Disclosures in periodic reports.</td>
<td>10</td>
</tr>
<tr>
<td>35</td>
<td>Enhanced conflict of interest provisions.</td>
<td>10</td>
</tr>
</tbody>
</table>

CONGRESSIONAL RECORD—HOUSE

H5393

July 24, 2002

Answered “Present”—9

NOES—1

Conditions

N O T I C E

Incomplete record of House proceedings. Except for concluding business which follows, today’s House proceedings will be continued in the next issue of the Record.

CONFERENCE REPORT ON H.R. 3763, SARBANES-OXLEY ACT OF 2002

Mr. OXLEY submitted the following conference report and statement on 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:

CONFERENCE REPORT (H. REPT. 107-610)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to 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, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses:

That the House rescind from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

...
Sec. 1103. Temporary freeze authority for the

Sec. 905. Amendment to sentencing guidelines

Sec. 903. Criminal penalties for mail and wire

Sec. 902. Attempts and conspiracies to commit

Sec. 804. Statute of limitations for securities

Sec. 802. Criminal penalties for altering docu-

Sec. 801. Short title.

Sec. 602. Appearance and practice before the

Sec. 705. Study of investment banks.

Sec. 704. Study of enforcement actions.

Sec. 703. Study and report on violators and vio-

Sec. 702. Commission study and report regard-

Sec. 701. GAO study and report regarding con-

TITLE VIII—CORPORATE AND CRIMINAL FRAUD ACCOUNTABILITY

Sec. 801. Short title.

Sec. 802. Criminal penalties for altering docu-

Sec. 803. Debts nondischargeable if incurred in violation of securities fraud laws.

Sec. 804. Statute of limitations for securities fraud.

Sec. 805. Review of Federal Sentencing Guide-

Sec. 806. Protection for employees of publicly traded companies who provide evidence of fraud.

Sec. 807. Criminal penalties for defrauding associations or publicly traded companies.

TITLE IX—WHITE-COLLAR CRIME PENALTY ENHANCEMENTS

Sec. 901. Short title.

Sec. 902. Attempts and conspiracies to commit

Sec. 903. Criminal penalties for mail and wire


Sec. 905. Amendment to sentencing guidelines relating to certain white-collar offenses.

Sec. 906. Corporate responsibility for financial reports.

TITLE X—CORPORATE TAX RETURNS

Sec. 1001. Sensor to inform the Senate regarding the signing of corporate tax returns by chief executive officers.

TITLE XI—CORPORATE FRAUD AND ACCOUNTABILITY

Sec. 1101. Short title.

Sec. 1102. Temporaries with a record or otherwise impeding an official proceeding.

Sec. 1103. Temporary freeze authority for the Securities and Exchange Commission.

Sec. 1104. Amendment to the Federal Se-

Sec. 1105. Authority of the Commission to pro-

Sec. 1106. Increased criminal penalties under the Securities Exchange Act of 1934.

Sec. 1107. Retaliation against informants.

SEC. 2. DEFINITIONS.

(a) In General. In this Act, the following definitions shall apply:

(1) STATE REGULATORY AUTHORITY. The term “appropriate State regulatory authority” means the State agency or other au-

(2) AUDIT. The term “audit” means an exam-

(3) AUDIT COMMITTEE. The term “audit com-

(4) AUDIT REPORT. The term “audit report” means a document or other record:

(a) prepared following an audit performed for purposes of compliance by an issuer with the requirements of the securities laws; and

(b) in which a public accounting firm either—

(i) sets forth the opinion of that firm regard-

(ii) asserts that no such opinion can be ex-

(5) BOARD. The term “Board” means the Public Company Accounting Oversight Board established under section 101.

(6) COMMISSION. The term “Commission” means the Securities and Exchange Commission.

(7) ISSUER. The term “issuer” means an issuer (as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)), the secu-

(8) NON-AUDIT SERVICES. The term “non-

(9) PERSON ASSOCIATED WITH A PUBLIC ACCOUNTING FIRM.—(A) IN GENERAL. The terms “person associ-

(10) EXEMPTION AUTHORITY.—The Board may, by rule, exempt persons engaged only in ministe-

(11) PUBLIC ACCOUNTING FIRM.—The term “public accounting firm” means—

(a) a proprietorship, partnership, incor-

(b) ENFORCEMENT. The term “registered public accounting firm” means a public accounting firm registered with the Board in accordance with this Act.

(b) RULES OF THE BOARD. The term “rules of the Board” means the rules and regulations of the Board (as submitted to, and approved, modified, or amended by the Commission, in accordance with section 107), and those stated policies, practices, and interpretations of the Board that the Commission, by rule, may deem to be rules of the Board, as necessary or appropriate to the public interest or for the protection of investors.

(12) SECURITIES LAWS. The term “securities laws” means the provisions of law referred to in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78a(a)(47)), as amended by this Act, and includes the rules, regulations, and orders issued by the Commission there-

(13) STATE. The term “State” means any State of the United States, the District of Co-


SEC. 3. COMMISSION RULES AND ENFORCEMENT.

(a) REGULATORY ACTION.—The Commission shall promulgate such rules and regulations, as may be necessary or appropriate in the public interest or for the protection of investors, and in furtherance of this Act.

(b) ENFORCEMENT.—(1) IN GENERAL. A violation by any person of this Act, any rule or regulation promul-

(2) VIOLATIONS. The Commission may, by rule, provide for the enforcement of this Act.
same manner as a violation of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the rules and regulations issued thereunder, consistent with the provisions of this Act, and any such person shall be subject to the same penalties, and to the same extent, as for a violation of that Act or such rules or regulations.

(2) INVESTIGATIONS, INJUNCTIONS, AND PROSECUTION. Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u-4(c)) is amended—

(A) in subsection (a)(1), by inserting “the rules of the Public Company Accounting Oversight Board, of which such person is a registered public accounting firm or a person associated with such a firm,” after “is a participant,”

(B) in subsection (d)(1), by inserting “the rules of the Public Company Accounting Oversight Board, of which such person is a registered public accounting firm or a person associated with such a firm,” after “is a participant,”

(C) in subsection (e), by inserting “the rules of the Public Company Accounting Oversight Board, of which such person is a registered public accounting firm or a person associated with such a firm,” after “is a participant,”


(4) ENFORCEMENT BY FEDERAL BANKING AGENCIES.—Section 11(b) of the Federal Deposit Insurance Corporation Act of 1933 (12 U.S.C. 181b(b)) is amended—

(A) by striking “sections 17(a)(1), 17(a)(2),” and “17(a)(3)” each place it appears and inserting “sections 17(a)(1), 17(a)(2),” and “17(a)(3)” each place it appears and inserting “and 16 of this Act, and sections 302, 303, 304, 306, 401(b), 404, 406, and 407 of the Sarbanes-Oxley Act of 2002,”

(c) EFFECT ON COMMISSION AUTHORITY.—Nothing in this Act or the rules of the Board shall be construed to impair or limit—

(1) the authority of the Commission to regulate the accounting profession, accounting firms, or persons associated with such firms for purposes of enforcement of the securities laws;

(2) the authority of the Commission to set standards of audit and auditing services or auditor independence, derived from other provisions of the securities laws or the rules or regulations thereunder, for purposes of the preparation and issuance of any audit report, or otherwise under applicable law; or

(3) the ability of the Commission to take, on the initiative of the Commission, legal, administrative, or disciplinary action against any registered public accounting firm or any associated person thereof.

TITLE I—PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

SEC. 101. ESTABLISHMENT; ADMINISTRATIVE PROVISIONS.

(a) ESTABLISHMENT OF BOARD.—There is established the Public Company Accounting Oversight Board, subject to the audit of public companies that are subject to the securities laws, and related matters, in order to protect the interests of investors and further the public interest in the fair representation of the public in the capital markets, and independent audit reports for companies the securities of which are sold to, and held by and for, public investors. The Board shall be a body corporate, and shall be a nonprofit corporation, and have succession until dissolved by an Act of Congress.

(b) STATUS.—The Board shall not be an agency or instrumentality of the United States Government, and, except as otherwise provided in this Act, shall be subject to, and have all the powers conferred upon a nonprofit corporation by, the District of Columbia Nonprofit Corporation Act. No member or person employed by, or agent for, the Board shall be deemed to be an officer or employee of the Federal Government by reason of such service.

(c) DUTIES OF THE BOARD.—The Board shall, subject to action by the Commission under section 103, determine by rule or order, made by the Commission under subsection (d) of this section—

(1) register public accounting firms that prepare audit reports for issuers, in accordance with section 102;

(2) establish or adopt, or both, by rule, auditing, quality control and other standards relating to the preparation of audit reports for issuers, in accordance with section 103;

(3) conduct inspections of registered public accounting firms, in accordance with section 104 and the rules of the Board;

(4) conduct investigations and disciplinary proceedings concerning, and impose appropriate sanctions where justified upon, registered public accounting firms and associated persons of such firms, in accordance with section 105;

(5) perform any other functions as the Board (or the Commission, by rule or order) determines are necessary or appropriate to promote high professional standards among, and maintain the integrity of, the persons served by the services offered by, registered public accounting firms and associated persons thereof, or otherwise to carry out this Act, in order to protect investors, or to further the purposes of the Act;

(6) enforce compliance with this Act, the rules of the Board, professional standards, and the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, by registered public accounting firms and associated persons thereof;

(7) set the budget and manage the operations of the Board and the staff of the Board.

(d) COMMISSION DETERMINATION.—The members of the Board shall take such action (including hiring of staff, proposal of rules, and adoption of initial and transitional auditing and other professional standards) as may be necessary or appropriate to enable the Commission to determine, not later than 270 days after the date of enactment of this Act, that the Board is so organized and has the capacity to carry out the requirements of this Act and enforce compliance with this title by registered public accounting firms and associated persons thereof. The Commission shall be responsible, prior to the approval of any of the plans of the Board for the establishment and administrative transition to the Board’s operation.

(e) BOARD MEMBERSHIP.—

(1) COMPOSITION.—The Board shall have 5 members, appointed from among prominent individuals of integrity and reputation who have a demonstrated understanding of the interests of investors and the public, and an understanding of the responsibilities for and nature of the financial disclosures required of issuers under the securities laws and the responsibilities of accountants with respect to the preparation and issuance of audit reports with respect to such disclosures.

(2) LIMITATION.—Two members, and only 2 members, of the Board shall be or have been certified public accountants pursuant to the laws of 1 or more States, provided that, if 1 of those 2 members is the chairperson, he or she may not have been a practicing certified public accountant for at least 5 years prior to his or her appointment to the Board.

(3) FULL-TIME INDEPENDENT SERVICE.—Each member of the Board shall serve on a full-time, independent service basis, and may not, concurrent with service on the Board, be employed by any other person or otherwise engaged in any professional or business activity or association, or incur obligations, for which the Board may share in any of the profits of, receive payments from, a public accounting firm (or any other person, as determined by rule of the Commission), other than fixed continuing payments, subject to such conditions as the Commission may impose, under standard arrangements for the retirement of members of public accounting firms and other professional associations or entities.

(4) APPOINTMENT OF BOARD MEMBERS.—

(A) INITIAL BOARD.—Not later than 90 days after the date of enactment of this Act, the Commission, by rule or order, shall designate an initial Board of Directors of the Board of Directors of the Public Company Accounting Oversight Board, and shall designate a term of service for each.

(B) VACANCIES.—A vacancy on the Board shall be filled by the successor to the Board, but shall be filled in the same manner as provided for appointments under this section.

(e) RULES OF THE BOARD.—There is established the Public Company Accounting Oversight Board, subject to the approval of the Commission, in each State, without regard to any qualifications, licensing, or other provision of law in effect in such State (or a political subdivision thereof), to administer such rules.

(f) POWERS OF THE BOARD.—In addition to any authority granted to the Board otherwise in this Act, the Board shall have the power, subject to section 107—

(1) to sue and be sued, claim and defend, in its corporate name and through its own counsel, with the approval of the Commission, in any Federal, State, or other court;

(2) to conduct its operations and maintain offices wherever necessary, and to exercise all other rights and powers authorized by this Act, in any State, without regard to any qualification, licensing, or other provision of law in effect in such State (or a political subdivision thereof);

(3) to lease, purchase, accept gifts or donations of or otherwise acquire, improve, use, sell, exchange, or convey, all of or an interest in any public utility or other property, whenever situated;

(4) to appoint such employees, accountants, attorneys, and other agents as may be necessary or appropriate, and to determine their qualifications, define their duties, and fix their salaries or other compensation (at a level that is comparable to private sector self-regulatory, accounting, technical, supervisory, or other staff or management position);

(5) to allocate, assess, and collect accounting support fees established pursuant to section 109, for the Board, and other fees and charges imposed under this title; and

(6) to enter into contracts, execute instruments, incur liabilities, and do any and all other things necessary, proper, or incidental to the conduct of its operations and the exercise of its obligations, rights, and powers imposed or granted by this title.

(g) RULES OF THE BOARD.—The rules of the Board shall, subject to the approval of the Commission—

(1) provide for the operation and administration of the Board, including the internal financing of the Board, and the performance of its responsibilities under this Act;

(2) permit, as the Board determines necessary or appropriate, by resolution, by the Board, or by any of its functions of an individual member or employee of the Board, or to a division of the
Board, including functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any matter, except that—
(A) the Board shall retain a discretionary right to review any action pursuant to any such delegated function, upon its own motion;
(B) a person shall be entitled to a review by the Board of any matter that is delegated, and the decision of the Board upon such review shall be deemed to be the action of the Board; and
(C) if the right to exercise a review described in subparagraph (A) is declined, or if no review is sought within the time stated in the rules of the Board, then the action taken by the holder of such delegation shall for all purposes, including appeal or review thereof, be deemed to be the action of the Board;
(3) establish ethics rules and standards of conduct for Board members and staff, including a bar on practice before the Board (and the Commission, with respect to Board-related matters) of 1 year for former members of the Board, and appropriate periods (not to exceed 1 year) for former staff of the Board; and
(4) authorize the Board to assess and collect a registration fee for the registration of the firm with the Board.

SEC. 102. REGISTRATION WITH THE BOARD.
(a) MATERIALITY REGISTRATION.—Beginning 180 days after the date of the determination of the Commission under section 101(d), it shall be unlawful for any person that is not a registered public accounting firm to prepare or participate in the preparation or issuance of, any audit report with respect to any issuer.
(b) APPLICATIONS FOR REGISTRATION.—
(1) FORM OF APPLICATION.—A public accounting firm shall use such form as the Board may prescribe, by rule, to apply for registration under this section.
(2) CONTENTS OF APPLICATION.—Each public accounting firm shall submit, as part of its application for registration, in such detail as the Board may require—
(A) the names of all issuers for which the firm prepared or issued audit reports during the immediately preceding calendar year, and for which the firm expects to prepare or issue audit reports during the current calendar year;
(B) the annual fees received by the firm from each such issuer for audit services, other accounting services, and non-audit services, respectively;
(C) such other current financial information for the most recently completed fiscal year of the firm as the Board may reasonably request;
(D) a statement of the quality control policies of the firm for its accounting and auditing practices;
(E) a list of all accountants associated with the firm who participate in or contribute to the preparation of audit reports, stating the license or certificate number of each such person, as well as the State license numbers of the firm itself;
(F) information relating to criminal, civil, or administrative actions or disciplinary proceedings pending against the firm or any associated person of the firm in connection with any audit report;
(G) copies of any periodic or annual disclosure filed by an issuer with the Commission during the immediately preceding calendar year which discloses accounting disagreements between the firm in connection with an audit report furnished or prepared by the firm for such issuer; and
(H) such other information as the rules of the Board or the Commission shall specify as necessary or appropriate in the public interest or for the protection of investors.

(ii) periodic reports during the current calendar year;
(ii) the annual fees received by the firm from each such issuer for audit and other services, respectively;
(iii) the names of all issuers for which the firm prepared or issued audit reports during the immediately preceding calendar year, and for which the firm expects to prepare or issue audit reports during the current calendar year;
(iv) such other current financial information for the most recently completed fiscal year of the firm as the Board may reasonably request;
(v) a list of all accountants associated with the firm who participate in or contribute to the preparation of audit reports, stating the license or certificate number of each such person, as well as the State license numbers of the firm itself;
(vi) information relating to criminal, civil, or administrative actions or disciplinary proceedings pending against the firm or any associated person of the firm in connection with any audit report;
(vii) copies of any periodic or annual disclosure filed by an issuer with the Commission during the immediately preceding calendar year which discloses accounting disagreements between the firm in connection with an audit report furnished or prepared by the firm for such issuer; and
(viii) such other information as the rules of the Board or the Commission shall specify as necessary or appropriate in the public interest or for the protection of investors.
(4) ADVISORY GROUPS.—The Board shall convene, or authorize its staff to convene, such expert advisory groups as may be appropriate, which may include practicing accountants and other interested groups, to provide the Board, in this section, with reports and recommendations with respect to the protection of investors. The Board may consider the recommendations of such groups in determining the inspection schedules consistent with the public interest.

(b) INDEPENDENCE STANDARDS AND RULES.—The Board shall establish such rules as may be necessary or appropriate in the public interest or for the protection of investors, to implement, or as otherwise directed by subtitle B of title II of this Act.

(c) COOPERATION WITH DESIGNATED PROFESSIONAL GROUPS OF ACCOUNTANTS AND ADVISORY GROUPS.—

(1) IN GENERAL.—The Board shall cooperate on an ongoing basis with professional groups of accountants designated under subsection (a)(3)(A) and advisory groups convened under subsection (a)(4) in the examination of the need for changes in any standards subject to its authority under subsection (a), recommend issues for inclusion in the standards of such designated professional groups of accountants or advisory groups, and take such other steps as it deems appropriate to increase the effectiveness of the standard setting process.

(2) BOARD RESPONSES.—The Board shall respond in a timely fashion to requests from designated professional groups of accountants and advisory groups convened under subsection (a)(4) in the examination of the need for changes in any standards over which the Board has authority.

(d) EVALUATION OF STANDARD SETTING PROCESSES.—The Board shall include in the annual report required by section 101(h) the results of its standard setting responsibilities during the period to which the report relates, including a discussion of its ongoing cooperation with designated professional groups of accountants and advisory groups convened under subsection (a)(4) and its pending issues agenda for future standard setting projects.

SEC. 104. INSPECTIONS OF REGISTERED PUBLIC ACCOUNTING FIRMS.

(a) IN GENERAL.—The Board shall conduct a continuing program of inspections to assess the degree of compliance of each registered public accounting firm and associated persons of that firm with this Act, the rules of the Board, the rules of professional standards, in connection with its performance of audit reports and the obligations and liabilities of the firm and 1 or more third parties, and to promote the protection of investors. The Board may require the firm to conduct, at the Board's discretion, continuing or supplementing its inspection activities that may be in violation of this Act, the rules of the Board, or professional standards, regardless of whether the firm is domiciled, that the Board considers relevant or material to the investigation and may inspect the books and records of such firm or associated persons wherever they may be. The Board may request the production of such documents as are necessary or appropriate to assist in the investigation and the protection of investors. Any decision of the Board to conduct an investigation shall be made public if those criticisms or defects identified in an inspection report have not been addressed to the satisfaction of the Board within 12 months of the date of the inspection report, for purposes of section 704 of title 5, United States Code.

(b) INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS.—

(1) IN GENERAL.—The Board shall establish, by rule, subject to the requirements of this section, fair procedures for the investigation and disciplining of registered public accounting firms and associated persons of such firms.

(2) AUTHORITY.—In accordance with the rules of the Board, the Board may conduct an investigation of any act or practice, or omission to act, that the Board considers relevant or material to the investigation and may inspect the books and records of such firm or associated persons thereof, that the Board considers relevant or material to the investigation under this section.

(3) NONCOOPERATION WITH INVESTIGATIONS.—(A) IN GENERAL.—If a registered public accounting firm or any associated person thereof refuses to testify, produce documents, or otherwise cooperate with the Board in connection with an investigation under this section, the Board may take any action described in paragraph (1) of subsection (a) of this section.

(B) DISAGREEMENT.—If the Board determines that criticisms or defects identified in an inspection report have not been addressed to the satisfaction of the Board within 12 months of the date of the inspection report, for purposes of subsection (g)(2).

(C) RULES OF REVIEW.—Any decision of the Board with respect to an inspection under subsection (g) shall not be reviewable under section 25 of the Securities Exchange Act of 1934 (15 U.S.C. 78y), or deemed to be "final agency action" for purposes of section 704 of title 5, United States Code.

—

H5397

July 24, 2002

CONGRESSIONAL RECORD — HOUSE

PAGE 40
with the work of the Commission’s Division of Enforcement, as necessary to protect an ongoing Commission investigation.

(B) REFERRAL.—The Board may refer an investigation to the—

(i) to the Commission;

(ii) to any other Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)), in the case of an investigation that concerns an audit report for an institution that is subject to the jurisdiction of such regulator; and

(iii) at the direction of the Commission, to—

(I) the Attorney General of the United States;

(II) the attorney general of 1 or more States; or

(III) the appropriate State regulatory authority.

(5) USE OF DOCUMENTS.—

(A) CONFIDENTIALITY.—Except as provided in subparagraph (B), all documents and information prepared or received by or specifically for the Board, and in the possession of the Board and its employees and agents, in connection with an inspection under section 104 or with an investigation under this section, shall be confidential and privileged as an evidentiary matter (and shall not be subject to civil discovery or other legal process) in any proceeding in any Federal or State court or administrative agency, and shall be treated, in the hands of an agency or establishment of the Federal Government, under the Freedom of Information Act (5 U.S.C. 552a), or otherwise, unless and until presented to which such proceedings or released in accordance with subsection (c).

(B) ACCESSIBILITY TO GOVERNMENT AGENCIES.—Without the loss of its status as confidential and privileged in the hands of the Board, all information referred to in subparagraph (A) may—

(i) be made available to the Commission; and

(ii) in the discretion of the Board, when determined by the Board to be necessary to accomplish the purposes of this Act or to protect investors, be made available to—

(I) the Attorney General of the United States;

(II) the appropriate Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)), other than the Commission, with respect to an audit report for an institution subject to the jurisdiction of such regulator;

(III) State attorneys general in connection with any criminal investigation; and

(IV) any appropriate State regulatory authority, in each of which shall maintain such information as confidential and privileged.

(6) AUTHORITY TO REGULATE.—Any employee of the Board engaged in carrying out an investigation under this Act shall be immune from any civil liability arising out of such investigation in the same manner and to the same extent as an employee of the Federal Government in similar circumstances.

(c) DISCIPLINARY PROCEDURES.—

(1) NOTIFICATION; RECORDKEEPING.—The rules of the Board shall provide that in any proceeding by the Board to determine whether a registered public accounting firm, or an associated person thereof, should be disciplined, the Board shall—

(A) bring specific charges with respect to the firm or associated person; and

(B) notify such firm or associated person of, and provide to the firm or associated person an opportunity to defend against, such charges; and

(C) keep a record of the proceedings.

(2) PUBLIC HEARINGS.—Hearings under this section shall be public, unless otherwise ordered by the Board for good cause shown, with the consent of the parties to such hearing.

(3) SUPPORTING STATEMENTS.—A determination by the Board of a finding of guilt under paragraph (b) of this subsection shall be supported by a statement setting forth—

(A) each act or practice in which the registered public accounting firm, or associated person, has engaged (or omitted to engage), or that forms a basis for all or a part of such sanction;

(B) the specific provision of this Act, the securities laws, the rules of the Board, or professional standards which the Board determines has been violated; and

(C) the sanction imposed, including a justification for that sanction.

(4) SANCTION.—If the Board finds, based on all of the facts and circumstances, that a registered public accounting firm or associated person thereof has engaged in any act or practice, or omitted to engage in any act or practice, under this Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, to include the rules of the Commission issued under this Act, or professional standards, the Board may impose such disciplinary or remedial sanctions as it determines appropriate, subject to applicable limitations under paragraph (5), including—

(A) temporary suspension or permanent revocation of registration under this title;

(B) temporary or permanent suspension or bar of a person from further association with any registered public accounting firm;

(C) temporary or permanent limitation on the activities, functions, or operations of such firm or person (other than in connection with required additional professional education or training);

(D) a civil money penalty for each such violation, in an amount equal to—

(i) not more than $100,000 for a natural person or $2,000,000 for any other person; and

(ii) in any case to which paragraph (A) applies, not more than $750,000 for a natural person or $15,000,000 for any other person;

(E) censure;

(F) required additional professional education or training;

(G) any other appropriate sanction provided for in the rules of the Board.

(5) INTENTIONAL OR OTHER KNOWING CONDUCT.—The sanctions and penalties described in subparagraphs (A) through (C) and (D)(ii) of paragraph (4) shall only apply to—

(A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or

(B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

(6) FAILURE TO SUPERVISE.—

(A) IN GENERAL.—The Board may impose sanctions under this section on a registered accounting firm or upon the supervisory personnel of such firm, if the Board finds that—

(i) the firm has failed reasonably to supervise an associated person, either as required by the rules of the Board relating to auditing or quality control standards, or otherwise, with a view to preventing violations of this Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission under this Act, or professional standards; and

(ii) such failure to supervise commits a violation of this Act, or any of such rules, laws, or standards.

(B) RULE OF CONSTRUCTION.—No associated person of a registered public accounting firm shall be deemed to have failed reasonably to supervise any other person for purposes of subparagraph (A)—

(i) if there have been established in and for that firm procedures, and a system for applying such procedures, that comply with applicable rules of the Board and are executed and enforced to be expected to prevent and detect any such violation by such associated person; and

(ii) such person has reasonably discharged the duties and obligations incumbent upon that person by reason of such procedures and system, and had no reasonable cause to believe that such procedures and system were not being complied with.

(7) EFFECT OF SANCTION.—

(A) ASSOCIATION WITH A PUBLIC ACCOUNTING FIRM.—If the Board shall have been found to have suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any registered public accounting firm, or for any registered public accounting firm that knew, or, in the exercise of reasonable care should have known, of such suspension or bar to permit such association without the consent of the Board or the Commission.

(B) ASSOCIATION WITH AN ISSUER.—It shall be unlawful for any person that is suspended or barred from being associated with an issuer under this subsection willfully to become or remain associated with any issuer in an accountancy or a financial management capacity, and for any issuer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission.

(8) REPORTING OF SANCTIONS.—

(A) RECIPIEENTS.—If the Board imposes a disciplinary sanction, in accordance with this section, the Board shall report the sanction to—

(I) the Commission; and

(II) any appropriate State regulatory authority or any foreign accounting licensing board through which such firm or person is licensed or certified; and

(C) the public (once any stay on the imposition of such sanction has been lifted).

(9) CONTENTS.—The information reported under paragraph (1) shall include—

(A) the name of the sanctioned person;

(B) a description of the sanction and the basis for its imposition; and

(C) such other information as the Board deems appropriate.

(e) STAY OF SANCTIONS.—

(1) IN GENERAL.—Application to the Commission for review, or the institution by the Commission of review, of any disciplinary action of the Board shall operate as a stay of such disciplinary action, unless the Commission orders (summarily or upon notice and opportunity for hearing on the question of a stay), within 45 days after receipt of any petition for review, that such stay shall continue.

(2) EXPEDITED PROCEDURES.—The Commission shall establish for appropriate cases an expedited procedure for consideration and determination of the question of the duration of a stay pending review of any disciplinary action of the Board under this subsection.

SEC. 106. FOREIGN PUBLIC ACCOUNTING FIRMS.

(a) APPLICABILITY TO CERTAIN FOREIGN FIRM.—

(1) IN GENERAL.—Any foreign public accounting firm that prepares or furnishes an audit report with respect to any issuer, shall be subject to this Act and the rules and the Commission issued under this Act, in the same manner and to the same extent as a public accounting firm that is organized and operates under the laws of the United States or any State, or that registers with, or is registered with, the Commission or any foreign public accounting firm that is organized and operates under the laws of the United States or any State, or that registers with, or is registered with, the Commission.

(2) BOARD AUTHORITY.—The Board may, by rule, determine that a foreign public accounting firm organized in any country is subject, under this Act, to the same extent as such a foreign firm, and that any audit reports nonetheless plays such a substantial role in the preparation and furnishing of
such reports for particular issuers, that it is necessary or appropriate, in light of the purposes of this Act and the public interest or for the protection of investors, that such firm (or class of firms) be treated as a public accounting firm (or firms) for purposes of registration under, and oversight by the Board in accordance with, this Act.

(2) INJUNCTIONS AGAINST THE USE OF AUDIT WORKPAPERS.—

(C) EXCISION AUTHORITY.—The Commission, and the Board, subject to the approval of the Commission, may, by rule, regulation, or order, and as the Commission (or Board) determines necessary or appropriate in the public interest or for the protection of investors, either unconditionally or upon specified terms and conditions which may include, among other things, the requirement that the public accounting firm that is organized and operates as the foreign public accounting firm.

(3) C OMMISSION MODIFICATION AUTHORITY .

SEC. 107. COMMISSION OVERSIGHT OF THE BOARD .

(a) GENERAL OVERSIGHT RESPONSIBILITY.—The Commission shall have oversight and enforcement authority over the Board, as provided in this Act. The provisions of section 17(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(a)(1)) shall apply to the Board as fully as if the Board were a “registered securities association” for purposes of those sections 17(a)(1) and 17(b)(1).

(b) RULES OF THE BOARD.—

(1) DEFINITION.—In this Act, the term “public accounting firm” means a public accounting firm that is organized and operates under the laws of a foreign country or political subdivision thereof.

(2) PRIOR APPROVAL REQUIREMENTS.—No rule of the Board shall become effective without prior approval of such rule by the Board in accordance with this section, other than as provided in section 103(a)(3)(B) with respect to initial or transitional standards.

(3) APPLICABLE CRITERIA.—The Commission shall approve a proposed rule, if it finds that the rule is consistent with the requirements of this Act and the securities laws, or is necessary or appropriate in the public interest or for the protection of investors.

(4) PROPOSED RULE PROCEDURES.—The provisions of section 107(a) through (3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(b)) shall govern the proposed rules of the Board, as fully as if the Board were a “registered securities association” for purposes of those sections 107(a)(1) through (c)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(b)).

(c) COMMISSION REVIEW OF DISCIPLINARY ACTIONS TAKEN BY THE BOARD.—

(1) NOTICE OF SANCTION.—The Board shall promptly file notice with the Commission of any final sanction on any registered public accounting firm on any associated person thereof, in such form and containing such information as the Commission, by rule, may prescribe.

(2) REMOVAL OF SANCTION.—The provisions of sections 19(d)(2) and 19(e)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(d)(2) and (e)(1)) shall govern the review by the Commission of the removal of any disciplinary action of the Board as provided in paragraphs (a) and (b) of this section.

(3) CONGRESSIONAL RECORD
necessary or appropriate in the public interest and for the protection of investors; and

“(b) that the Commission determines has the capacity to assist the Commission in fulfilling the requirements of the standard-setting body, the standard-setting body shall not be considered a public accounting firm, and shall not be subject to any rules or guidance issued by the Commission or its designated agency, nor shall the Commission, or its designated agency, require that the board or the voting agents, as may be necessary or appropriate, or for the protection of investors.

“(2) ANNUAL REPORT.—A standard setting body described in paragraph (1) shall submit an annual report to the Commission and the public containing audited financial statements of that standard setting body.

(b) COMMISSION AUTHORITY.—The Commission shall promulgate such rules and regulations to carry out section 19(b) of the Securities Act of 1933, as added by this section, as it deems necessary or appropriate in the public interest or for the protection of investors.

(c) NO EFFECT ON COMMISSION POWERS.—Nothing in this Act, including this section and the amendment made by this section, shall be construed to impair or limit the authority of the Commission to establish accounting principles or standards for purposes of enforcement of the securities laws.

(d) STUDY AND REPORT ON ADOPTING PRINCIPLES-BASED ACCOUNTING.—

(1) STUDY.—The Commission shall conduct a study of the adoption by the United States financial reporting system of a principles-based accounting system.

(2) STUDY TOPICS.—The study required by paragraph (1) shall include an examination of—

(i) the extent to which principles-based accounting and financial reporting exists in the United States financial reporting system of a principles-based accounting system;

(ii) the length of time required for change from a rules-based to a principles-based financial reporting system;

(iii) the feasibility of and proposed methods by which a principles-based system may be implemented;

(iv) a thorough economic analysis of the implementation of a principles-based system.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report on the results of the study required by paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

SEC. 109. FUNDING.

(a) IN GENERAL.—The Board, and the standard-setting body designated pursuant to section 19(b) of the Securities Act of 1933, as amended by section 108, shall be funded as provided in this section.

(b) ANNUAL BUDGETS.—The Board and the standard-setting body referred to in subsection (a) shall each establish a budget for each fiscal year, which shall be reviewed and approved according to their respective internal procedures not less than 1 month prior to the commencement of the fiscal year to which the budget pertains (or at the beginning of the Board’s first fiscal year, which may be a short fiscal year).

The budget of the Board shall be subject to approval by the Commission. The budget for the first fiscal year of the Board shall be prepared and approved promptly following the appointment of the initial five Board members, to permit action by the Board in carrying out the organizational tasks contemplated by section 101(d).

(c) SOURCES AND USES OF FUNDS.—

(1) RECOVERABLE BUDGET EXPENSES.—The budget for the Board, and the budget for the standard-setting body referred to in subsection (a), shall be allocated among and payed by each issuer (or each issuer in a particular class, as applicable) in an amount equal to the total of such amount, multiplied by a fraction—

(1) the numerator of which is the average monthly market capitalization of the issuer for the 12-month period immediately preceding the beginning of the fiscal year to which such budget relates; and

(2) the denominator of which is the average monthly market capitalization of all such issuers for such 12-month period.

(b) CONFORMING AMENDMENTS.—Section 13(b)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(b)(2)) is amended—

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

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

(C) Exemption: Any other provision of law, pay the allocable share of such issuer of a reasonable annual accounting support fee or fees, determined in accordance with section 109 of the Sarbanes-Oxley Act of 2002.”.

(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to render either the standard-setting body referred to in subsection (a), or both, subject to procedures in Congress to authorize or appropriate public funds, or to prevent such organization from utilizing additional sources of its activities, such as earnings from publication sales, provided that each additional source of revenue shall not jeopardize, in the judgment of the Commission, the actual and perceived independence of such organization.

(i) START-UP EXPENSES OF THE BOARD.—From the unexpended balances of appropriations to the Commission for fiscal year 2003, the Secretary of the Treasury is authorized to advance to the Board not to exceed the amount necessary to cover the expenses of the Board during its first fiscal year (which may be a short fiscal year).

TITLE II—AUDITOR INDEPENDENCE

SEC. 201. SERVICES OUTSIDE THE SCOPE OF PRACTICE OF PRACTITIONERS.

(a) PROHIBITED ACTIVITIES.—Section 7A of the Securities Exchange Act of 1934 (15 U.S.C. 78t-1) is amended by adding at the end the following:

“(g) PROHIBITED ACTIVITIES.—Except as provided in subsection (h), it shall be unlawful for a registered public accounting firm (and any associated person of that firm) to perform any audit or audit-related service for any issuer, as determined appropriate by the Commission) that performs for any issuer any audit required by this title or the rules of the Commission under this title, including a public accounting firm or an accounting firm described in subsection (b), to provide to that issuer, contemporaneously with the audit, any non-audit service, including—

(1) bookkeeping or related services related to the accounting records or financial statements of the audit client;

(2) internal control services;

(3) financial information systems design and implementation;

(4) appraisal or valuation services, fairness opinions, or contribution-in-kind reports;

(5) actuarial services;

(6) internal audit outsourcing services;

(7) management functions of human resource services (which may extend to the hiring of human resource personnel);

(8) legal services and expert services unrelated to the audit; and

(9) any other service that the Board determines, by regulation, is impermissible.

(b) PREApproval REQUIRED FOR NON-AUDIT SERVICES.—A registered public accounting firm may engage in any non-audit service, including tax services, that is not described in any of paragraphs (1) through (9) of subsection (g) for an audit client, only if the Board approves in advance by the audit committee of the issuer, in accordance with subsection (i),

(b) EXEMPTION AUTHORITY.

The Board may, on a case by case basis, exempt any person, issuer, public accounting firm, or transaction from the prohibition on the provision of services with respect to section 10A of the Securities Exchange Act of 1934 (as added by this section), to the extent that such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors, and subject to review by the Commission in the same manner as for rules of the Board under section 107.

SEC. 202. PREApproval REQUIREMENTS.

(a) PROHIBITED SERVICES.—Section 7A of the Securities Exchange Act of 1934 (15 U.S.C. 78t-1) is amended by adding at the end the following:

“(f) PREApproval REQUIREMENTS.—

(1) Definitions: When used in this subsection, the term “audit client” means—

(A) Audit Committee Action.—All auditing services (which may entail providing comfort
Section 205. Conforming Amendments.

(a) Definitions.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78a(a)) is amended by adding at the end the following:

"(48) at any time when the auditor of the issuer shall be preapproved by the audit committee of the issuer.

(2) Waiver of Audit Committee Review.—The preapproval requirement under subparagraph (A) is waived with respect to the provision of audit services to an issuer at the time of the engagement to be non-audit services provided; and

(3) such services are promptly brought to the attention of the audit committee of the issuer, the entire board of directors of the issuer approves an audit service within the fiscal year in which the nonaudit services are provided; and

(b) Report Required.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study and review required by the amendments made by this section.

Section 206. Conflicts of Interest.

(a) Study and Review Required.—The Comptroller General of the United States shall conduct a study of the potential effects of requiring the mandatory rotation of registered public accounting firms.

(b) Report Required.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study and review required by the amendments made by this section.

Section 207. Study of Mandatory Rotation of Registered Public Accounting Firms.

(a) Study and Review Required.—The Comptroller General of the United States shall conduct a study of the potential effects of requiring the mandatory rotation of registered public accounting firms.

(b) Report Required.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study and review required by the amendments made by this section.

Section 208. Commission Authority.

(a) Authorized.—Not later than 180 days after the date of enactment of this Act, the Commission shall issue final regulations to carry out each of subsections (g) through (l) of section 10A of the Securities Exchange Act of 1934, as added by this title.

(b)wargs.—It shall be unlawful for any registered public accounting firm (or an associated person thereof, as applicable) to prepare or issue any audit report with respect to any issuer, if the firm or associated person engages in any activity with respect to that issuer (including resolution of disagreements between the firm and the issuer) that is prohibited by this title.

(c) Effect of Prohibitions.—For the purposes of this title, the term "mandatory rotation" refers to the imposition of a limit on the period of years in which a particular registered public accounting firm may be the auditor of record for a particular issuer.

(d) Definitions.—For purposes of this section, the term "mandatory rotation" refers to the imposition of a limit on the period of years in which a particular registered public accounting firm may be the auditor of record for a particular issuer.

Section 209. Considerations by Appropriate State Regulatory Authorities.

In supervising nonregistered public accounting firms and their associated persons, appropriate State regulatory authorities should make an independent determination of the proper standards applicable, particularly taking into consideration the size and nature of the business of the accounting firms they supervise and the size and nature of the business of the clients of those firms. The study conducted by the Board under this Act should not be presumed to be applicable for purposes of this section for small and medium sized nonregistered public accounting firms.

Title III—Corporate Responsibility

Section 301. Public Company Audit Committees.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j(f)) is amended by adding at the end the following:

"(m) Standards Relating to Audit Committees—

(A) In General.—Effective not later than 270 days after the date of enactment of this subsection, the Commission shall, by rule, direct the national securities associations and other appropriate State regulatory authorities to prohibit the listing of any security of an issuer that is not in compliance with the requirements of any of paragraphs (a) through (g) of section 10A of the Securities Exchange Act of 1934, as added by this title.

(B) Opportunity to Cure Defects.—The rules of the Commission under subparagraph (A) shall provide for appropriate procedures for an issuer to have an opportunity to cure any defects that would be the basis for a prohibition under subparagraph (A), before the imposition of such prohibition.

(C) Responsibility Relating to Registered Public Accounting Firms.—The audit committee of each issuer, in its capacity as a committee of the board of directors, shall be responsible for the compensation, and oversight of the work of any registered public accounting firm employed by that issuer (including resolution of disagreements between management and the registered public accounting firm regarding financial reporting) for the purpose of preparing or issuing an audit report or related work, and each such registered public accounting firm shall report directly to the audit committee.

(D) Independence.—(A) In General.—Each member of the audit committee of an issuer shall be an independent director of the board of directors of the issuer, and shall otherwise be independent.

Title IV—Other Amendments

Section 401. Amendments to Securities Acts.

Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78a(a)) is amended by adding at the end the following:

"(48) at any time when the auditor of the issuer shall be preapproved by the audit committee of the issuer.

(2) Waiver of Audit Committee Review.—The preapproval requirement under subparagraph (A) is waived with respect to the provision of audit services to an issuer at the time of the engagement to be non-audit services provided; and

(3) such services are promptly brought to the attention of the audit committee of the issuer, the entire board of directors of the issuer approves an audit service within the fiscal year in which the nonaudit services are provided; and

(b) Report Required.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study and review required by the amendments made by this section.


Section 301(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7241(a)) is amended by adding at the end the following:

"(m) Standards Relating to Audit Committees—

(A) In General.—Effective not later than 270 days after the date of enactment of this subsection, the Commission shall, by rule, direct the national securities associations and other appropriate State regulatory authorities to prohibit the listing of any security of an issuer that is not in compliance with the requirements of any of paragraphs (a) through (g) of section 10A of the Securities Exchange Act of 1934, as added by this title.

(B) Opportunity to Cure Defects.—The rules of the Commission under subparagraph (A) shall provide for appropriate procedures for an issuer to have an opportunity to cure any defects that would be the basis for a prohibition under subparagraph (A), before the imposition of such prohibition.

(C) Responsibility Relating to Registered Public Accounting Firms.—The audit committee of each issuer, in its capacity as a committee of the board of directors, shall be responsible for the compensation, and oversight of the work of any registered public accounting firm employed by that issuer (including resolution of disagreements between management and the registered public accounting firm regarding financial reporting) for the purpose of preparing or issuing an audit report or related work, and each such registered public accounting firm shall report directly to the audit committee.

(D) Independence.—(A) In General.—Each member of the audit committee of an issuer shall be an independent director of the board of directors of the issuer, and shall otherwise be independent.

Title V—Other Amendments


Section 301(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7241(a)) is amended by adding at the end the following:

"(m) Standards Relating to Audit Committees—

(A) In General.—Effective not later than 270 days after the date of enactment of this subsection, the Commission shall, by rule, direct the national securities associations and other appropriate State regulatory authorities to prohibit the listing of any security of an issuer that is not in compliance with the requirements of any of paragraphs (a) through (g) of section 10A of the Securities Exchange Act of 1934, as added by this title.

(B) Opportunity to Cure Defects.—The rules of the Commission under subparagraph (A) shall provide for appropriate procedures for an issuer to have an opportunity to cure any defects that would be the basis for a prohibition under subparagraph (A), before the imposition of such prohibition.

(C) Responsibility Relating to Registered Public Accounting Firms.—The audit committee of each issuer, in its capacity as a committee of the board of directors, shall be responsible for the compensation, and oversight of the work of any registered public accounting firm employed by that issuer (including resolution of disagreements between management and the registered public accounting firm regarding financial reporting) for the purpose of preparing or issuing an audit report or related work, and each such registered public accounting firm shall report directly to the audit committee.

(D) Independence.—(A) In General.—Each member of the audit committee of an issuer shall be an independent director of the board of directors of the issuer, and shall otherwise be independent.
(B) CRITERIA.—In order to be considered for purposes of this paragraph, a member of an audit committee of an issuer may not, other than in his or her capacity as a member of the audit committee, be a member of the board, or any other board committee—

(i) accept any consulting, advisory, or other compensatory fee from the issuer; or

(ii) have any direct or indirect ownership interest in the issuer or any subsidiary thereof.

(C) EXEMPTION AUTHORITY.—The Commission may exempt from the requirements of subparagraph (B) a person in a particular relationship with respect to audit committee members, as the Commission determines appropriate in light of the circumstances.

(4) COMPLIANCE.—Each audit committee shall establish procedures for—

(A) the receipt, retention, and treatment of complaints received by the issuer regarding accounting, internal accounting controls, or auditing matters; and

(B) the confidential, anonymous submission by employees of the issuer of concerns regarding questionable accounting or auditing matters.

(5) AUTHORITY TO ENGAGE ADVISERS.—Each audit committee shall have the authority to engage independent counsel and other advisers, as it determines necessary to carry out its duties.

(6) FUNDING.—Each issuer shall provide for appropriate funding, as determined by the audit committee, to pay the fees and expenses of a compensation committee of the board of directors, for payment of compensation—

(A) to the registered public accounting firm employed by the issuer for the purpose of rendering or issuing an audit report; and

(B) to any advisers employed by the audit committee under paragraph (5).

SEC. 302. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) REGULATIONS REQUIRED.—The Commission shall, by rule, require for each company filing periodic reports under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)), that the principal executive officer or officers and the principal financial officer or officers, or persons performing similar functions, certify in each annual or quarterly report filed or submitted under either such section of such Act that—

(1) the signing officer has reviewed the report;

(2) based on the officer’s knowledge, the report does not contain any untrue statement of a material fact;

(3) based on the officer’s knowledge, the financial statements, and other financial information included in the report, fairly present in all material respects the financial condition and results of operations of the issuer as of, and for, the periods presented in the report;

(4) the signing officers—

(A) are responsible for establishing and maintaining internal controls; and

(B) have designed such internal controls to ensure that material information relating to the issuer and its consolidated subsidiaries is made known to such persons by others within those companies, particularly during the period in which the periodic reports are being prepared;

(C) have evaluated the effectiveness of the issuer’s internal controls as of a date within 90 days prior to the report; and

(D) have presented in the report their conclusions about the effectiveness of the internal controls based on their evaluation as of that date;

(5) the signing officers have disclosed to the issuer’s auditors all relationships and transactions that are required to be disclosed to the board of directors (or persons fulfilling the equivalent function)—

(A) all significant deficiencies in the design or operation of internal controls which could adversely affect the issuer’s ability to record, process, summarize, and report financial data and have identified for the issuer’s auditors any material weaknesses in internal controls; and

(B) any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer’s internal controls; and

(6) the signing officers have indicated in the report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

(b) FOREIGN REINCORPORATIONS HAVE NO EFFECT.—Nothing in this section shall be interpreted or applied to allow any issuer to lessen the legal force of the statement required under this section 302, by an issuer having reincorporated or having engaged in any other transaction that resulted in the transfer of the corporate domicile or offices of the issuer from inside the United States to outside of the United States.

(c) DEADLINE.—The rules required by subsection (a) shall be effective not later than 30 days after the date of enactment of this Act.

SEC. 303. IMPROPER INFLUENCE ON CONDUCT OF REPORTING REQUIREMENTS.

(a) RULES TO PROHIBIT.—It shall be unlawful, in contravention of such rules or regulations as the Commission shall prescribe as necessary and appropriate in the public interest or for the protection of investors, for any officer or director of an issuer, or any other person acting under the direction thereof, to take any action to fraudulently influence, coerc[e], manipulate, or mislead any independent public or certified accountant engaged in the performance of an audit of the financial statements of that issuer for the purpose of misleading such financial statements materially misleading.

(b) ENFORCEMENT.—In any civil proceeding, the Commission shall have exclusive authority to enforce this section or any rule or regulation issued under this section.

(c) NO PREEMPTION OF OTHER LAW.—The provisions of subsection (a) shall be in addition to, and shall not supersede or preempt, any other provision of law or any rule or regulation issued thereunder.

(d) DEADLINE FOR RULEMAKING.—The Commission shall—

(1) propose the rules or regulations required by this section, not later than 90 days after the date of enactment of this Act;

(2) issue final rules or regulations required by this section, not later than 270 days after that date of enactment.

SEC. 304. FORFEITURE OF CERTAIN BONUSES AND PROFITS.

(a) ADDITIONAL COMPENSATION PRIOR TO NONCOMPLIANCE WITH COMMISSION FINANCIAL REPORTING REQUIREMENTS.—If an issuer is required to prepare an accounting restatement due to the material noncompliance of the issuer, as a result of misconduct, with any financial reporting requirement under the securities laws, the chief executive and chief financial officer of the issuer shall reimburse the issuer for—

(1) any bonus or other incentive-based or equity-based compensation received by that person from the issuer during the 12-month period following the first public issuance or filing with the Commission (whichever first occurs) of the financial document embodying such financial reporting requirement; and

(2) any profits realized from the sale of securities of the issuer during that 12-month period.

(b) COMMISSION EXEMPTION AUTHORITY.—The Commission may exempt any person from the application of subsection (a), as it deems necessary and appropriate.

SEC. 305. OFFICERS AND DIRECTOR BARS AND PENALTIES.

(a) UNFITNESS STANDARD.—

(1) SECURITIES EXCHANGE ACT OF 1934.—Section 21(d)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(2)) is amended by striking ‘‘substantial unfitness’’ and inserting ‘‘unfitness.’’

(2) SECURITIES ACT OF 1933.—Section 20(e) of the Securities Act of 1933 (15 U.S.C. 77q(e)) is amended by striking ‘‘substantial unfitness’’ and inserting ‘‘unfitness.’’

(b) EQUITABLE RELIEF.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following:

(5) EQUITABLE RELIEF.—In any action or proceeding brought or instituted by the Commission or any proceeding brought or instituted under any provision of any law, the Commission may seek, and any Federal court may grant, any equitable relief that may be appropriate or necessary for the benefit of investors.

SEC. 306. INSIDER TRADING DURING PENSION FUND BLACKOUT PERIODS.

(a) PROHIBITION OF INSIDER TRADING DURING PENSION FUND BLACKOUT PERIODS.—

(1) IN GENERAL.—Except to the extent otherwise provided by rule of the Commission pursuant to section 302, it shall be unlawful for any director or executive officer of an issuer of any equity security (other than an exempted security) to directly or indirectly sell, purchase, or otherwise acquire or transfer any equity security of the issuer (other than an exempted security) during any blackout period with respect to the issuer, except if such officer acquires such equity security in connection with his or her service or employment as a director or executive officer.

(2) REMEDY.—A person in violation of paragraph (1) shall be subject to a civil penalty.

(A) IN GENERAL.—Any profit realized by a director or executive officer referred to in paragraph (1) from any purchase, sale, or other acquisition or transfer in violation of this section shall inure to and be recoverable by the issuer, irrespective of any intention on the part of the director or executive officer in entering into the transaction.

(B) ACTIONS TO RECOVER PROFITS.—An action to recover profits in accordance with this subsection may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and behalf of the issuer if such owner consents to the action being brought by the issuer.

(c) NO PREEMPTION OF OTHER LAW.—Nothing in this section shall be interpreted as precluding any court from exercising such equitable power as it may deem appropriate.

(d) DURATION.—The action under this section shall be commenced not later than 5 years after the date of the violation.

SEC. 307. ACCOUNT PLANS DURING BLACKOUT PERIODS.

(a) COMMISSION AUTHORITY.—The Commission shall have the authority to exempt any person from the application of subsection (a), as it deems necessary and appropriate.

(b) ACCOUNT PLANS.—Nothing in this section shall be interpreted to prevent the application of subsection (a) to an account plan that is temporarily suspended by the Commission under any provision of section 17(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78p(f)) or section 19(b) of the Commodity Exchange Act (7 U.S.C. 19(b)).

(c) COMMISSION AUTHORITY.—The Commission shall have the authority to exempt any person from the application of subsection (a), as it deems necessary and appropriate.

(d) COOPERATION.—Nothing in this section shall be interpreted to limit in any way any authority of the Commission under any provision of any law.
(i) a regularly scheduled period in which the participants and beneficiaries may not pur- chase, sell, or otherwise acquire or transfer an interest in any equity of such issuer, if such pe- riod is—

(I) incorporated into the individual account plan; and

(II) timely disclosed to employees before ac- cepting, exempting employees under the individual ac- count plan as a subsequent amendment to the plan; or

(ii) any suspension described in subparagraph (A) of this subsection is imposed solely in connection with persons becoming participants or beneficiaries, or ceasing to be participants or beneficiaries, in an individual account plan by reason of a corpor- ate merger, acquisition, divestiture, or similar transaction involving the plan or plan spon- sor.

(5) INDIVIDUAL ACCOUNT PLAN.—For purposes of this subsection, the term ‘individual account plan’ has the meaning provided in section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34)), except that such term shall not include a one-participant retirement plan (within the meaning of section 101(i)(8)(B) of such Act (29 U.S.C. 1002(34)), except that such term shall not include a one-participant retirement plan).

(6) NOTICE TO DIRECTORS, EXECUTIVE OFFICERS, AND THE COMMISSION.—In any case in which a director or executive officer is subject to the requirements of this subsection in connection with a blackout period (as defined in paragraph (4) with respect to any equity securities, the issuer of such equity securities shall timely notify such director or officer and the Securities and Exchange Commission of such blackout pe- riod.

(b) NOTICE REQUIREMENTS TO PARTICIPANTS AND BENEFICIARIES UNDER ERISA.—

(1) DUTIES OF PLAN ADMINISTRATOR.—In ad- vance of the commencement of any blackout pe- riod with respect to an individual account plan, the plan administrator shall notify the participants and beneficiaries who are affected by such action in accordance with this sub- section.

(2) NOTICE REQUIREMENTS.—

(A) IN GENERAL.—The notices described in paragraph (1) shall be written in a manner cal- culated to be understood by the average plan participant and shall include—

(i) the reasons for the blackout period,

(ii) an identification of the investments and other rights affected,

(iii) the expected beginning date and length of the blackout period,

(iv) in the case of investments affected, a statement as to which plan or plans of the employer (and the employer’s spouse) and the employer owned the entire business (whether or not incorporated), or

(v) the issuer of such equity securities shall timely notify such director or officer and the Securities and Exchange Commission of such blackout pe- riod.

(B) NOTICE REQUIREMENTS TO PARTICIPANTS AND BENEFICIARIES UNDER INDIVIDUAL ACCOUNT PLAN.—

(I) NOTICE OF BLACKOUT PERIODS TO PARTICIPANT OR BENEFICIARY UNDER INDIVIDUAL ACCOUNT PLAN.—

(1) DUTIES OF PLAN ADMINISTRATOR.—In ad- vance of the commencement of any blackout pe- riod with respect to an individual account plan, the plan administrator shall notify the participants and beneficiaries who are affected by such action in accordance with this sub- section.

(2) NOTICE REQUIREMENTS.—

(A) IN GENERAL.—The notices described in paragraph (1) shall be written in a manner cal- culated to be understood by the average plan participant and shall include—

(i) the reasons for the blackout period,

(ii) an identification of the investments and other rights affected,

(iii) the expected beginning date and length of the blackout period,

(iv) in the case of investments affected, a statement as to which plan or plans of the employer (and the employer’s spouse) and the employer owned the entire business (whether or not incorporated), or

(v) the issuer of such equity securities shall timely notify such director or officer and the Securities and Exchange Commission of such blackout pe- riod.

(B) NOTICE REQUIREMENTS TO PARTICIPANTS AND BENEFICIARIES UNDER INDIVIDUAL ACCOUNT PLAN.—

(I) NOTICE OF BLACKOUT PERIODS TO PARTICIPANT OR BENEFICIARY UNDER INDIVIDUAL ACCOUNT PLAN.—

(1) DUTIES OF PLAN ADMINISTRATOR.—In ad- vance of the commencement of any blackout pe- riod with respect to an individual account plan, the plan administrator shall notify the participants and beneficiaries who are affected by such action in accordance with this sub- section.

(2) NOTICE REQUIREMENTS.—

(A) IN GENERAL.—The notices described in paragraph (1) shall be written in a manner cal- culated to be understood by the average plan participant and shall include—

(i) the reasons for the blackout period,

(ii) an identification of the investments and other rights affected,

(iii) the expected beginning date and length of the blackout period,

(iv) in the case of investments affected, a statement as to which plan or plans of the employer (and the employer’s spouse) and the employer owned the entire business (whether or not incorporated), or

(v) the issuer of such equity securities shall timely notify such director or officer and the Securities and Exchange Commission of such blackout pe- riod.

(B) NOTICE REQUIREMENTS TO PARTICIPANTS AND BENEFICIARIES UNDER INDIVIDUAL ACCOUNT PLAN.—

(I) NOTICE OF BLACKOUT PERIODS TO PARTICIPANT OR BENEFICIARY UNDER INDIVIDUAL ACCOUNT PLAN.—

(1) DUTIES OF PLAN ADMINISTRATOR.—In ad- vance of the commencement of any blackout pe- riod with respect to an individual account plan, the plan administrator shall notify the participants and beneficiaries who are affected by such action in accordance with this sub- section.

(2) NOTICE REQUIREMENTS.—

(A) IN GENERAL.—The notices described in paragraph (1) shall be written in a manner cal- culated to be understood by the average plan participant and shall include—

(i) the reasons for the blackout period,

(ii) an identification of the investments and other rights affected,

(iii) the expected beginning date and length of the blackout period,
SEC. 307. RULES OF PROFESSIONAL RESPONSIBILITY FOR ATTORNEYS.
Not later than 180 days after the date of enactment of this Act, the Commission shall promulgate rules, in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission in any action or proceeding involving the representation of issuers, including a rule—

(1) requiring an attorney to report evidence of a material violation of law such as breach of fiduciary duty or similar violation by the company or any agent thereof, to the chief legal counsel or the chief executive officer of the company or any agent thereof; and

(2) if the counsel or officer does not appropriately respond to the evidence (adopting, as necessary, appropriate remedial measures or sanctions with respect to the violation), requiring the attorney to report the evidence to the audit committee of the board of directors of the issuer or to another committee of the board of directors comprised solely of directors not employed directly or indirectly by the issuer, or to the board of directors.

SEC. 308. FAIR FUNDS FOR INVESTORS.

(1) inserting at the end of subsection (a)—

(2) APPLICABILITY.

(i) ACCURACY OF FINANCIAL REPORTS.

(b) Enforcement. The amendments made by subsection (a) shall take effect not later than 180 days after the date of enactment of this Act.

(c) CIVIL PENALTIES.

(1) if the counsel or officer does not appropriately respond to the evidence (adopting, as necessary, appropriate remedial measures or sanctions with respect to the violation), requiring the attorney to report the evidence to the audit committee of the board of directors of the issuer or to another committee of the board of directors comprised solely of directors not employed directly or indirectly by the issuer, or to the board of directors.

(d) C ONFORMING AMENDMENTS.

(i) REPORT AND RECOMMENDATIONS.

(2) reports to the Commission of actions that are recommended or that may be necessary to address concerns identified in the study.

(3) CONFORMING AMENDMENTS. Each of the following provisions is amended by inserting "sec. 307(a)(47)"

(4) CIVIL PENALTIES.


(6) DEFINITION.

(7) SEC. 308. FAIR FUNDS FOR INVESTORS.

(b) Enforcement. The amendments made by subsection (a) shall take effect not later than 180 days after the date of enactment of this Act.

(2) LIMITATION.

(3) RULE OF CONSTRUCTION FOR CERTAIN PROVISIONS.

(4) PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.

(3) Report Required.

(4) In General.

(5) Limitation.


(7) SEC. 401. DISCLOSURES IN PERIODIC REPORTS.

(2) REPORT AND RECOMMENDATIONS.

(3) Rule of Construction for Certain Provisions.

(4) PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.

(2) LIMITATION.

(3) RULE OF CONSTRUCTION FOR CERTAIN PROVISIONS.
The Commission shall require each issuer, together with periodic reports required pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934, to disclose whether or not, and if not, the reason therefor, such issuer has adopted a code of ethics for senior financial officers, applicable to its principal financial officer and comptroller or principal accounting officer, or persons performing similar functions.

(c) Definition.—In this section, the term ‘‘code of ethics’’ means such standards as are reasonably designed to promote—

(1) honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;

(2) full, fair, accurate, timely, and understandable disclosure in reports filed or submitted pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934, to the Commission, and if not, the reasons therefor, such issuer has adopted a code of ethics for senior financial officers.

(d) Deadline for Rulemaking.—The Commission shall—

(1) propose rules to implement this section, not later than 90 days after the date of enactment of this Act; and

(2) issue final rules to implement this section, not later than 180 days after that date of enactment.

SEC. 409. ENHANCED REVIEW OF PERIODIC DISCLOSURES BY ISSUERS.

(a) Regular and Systematic Review.—The Commission shall review disclosures made by issuers filing reports under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m and 78o-3), and which have a class of securities listed on a national securities exchange or traded on an automated quotation facility of a national securities association, on a regular and systematic basis for the protection of investors. Such review shall include a review of an issuer’s financial statement.

(b) Review Criteria.—For purposes of scheduling the reviews required by subsection (a), the Commission shall consider, among other factors—

(1) issuers that have issued material restatements of financial results;

(2) issuers that experience significant volatility in their stock price as compared to other issuers;

(3) issuers with the largest market capitalization;

(4) emerging companies with disparities in price to earning ratios;

(5) issuers whose operations significantly affect any material sector of the economy; and

(6) any other factors that the Commission may consider relevant.

(c) Minimum Review Period.—In no event shall an issuer required to file reports under section 13(a) or 15(d) of the Securities Exchange Act of 1934 be reviewed under this section less frequently than once every 3 years.

SEC. 410. REAL TIME ISSUER DISCLOSURES.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by this Act, is amended by adding at the end the following:

“(4) Real Time Issuer Disclosures.—Each issuer reporting under section 13(a) or 15(d) shall disclose to the public on a rapid and current basis such additional information concerning material changes in condition or operations of the issuer, in plain English, which may include trend and qualitative information and graphic presentations, as the Commission determines to be necessary or useful for the protection of investors and in the public interest.”.

TITLE V—ANALYST CONFLICTS OF INTEREST

SEC. 501. TREATMENT OF SECURITIES ANALYSTS BY REGISTERED SECURITIES ASSOCIATIONS AND NATIONAL SECURITIES EXCHANGES.

(a) Rules Regarding Securities Analysts.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 19C the following new section:

“SEC. 19D. SECURITY ANALYSTS AND RESEARCH REPORTS.

“(a) Analyst Protections.—The Commission, or upon the authorization and direction of the Commission, a regional securities association, or national securities exchange, shall have adopted, not later than 1 year after the date of enactment of this section, rules reasonably designed to address conflicts of interest that can arise when securities analysts recommend equity securities in research reports and public appearances, in order to improve the objectivity of research and provide investors with more useful and reliable information, including rules designed—

(1) to provide comprehensive, balanced, and independent research information and public appearances; and

(2) to prohibit the dissemination of any research report or public appearance that is not prepared and disseminated by the research analyst who is primarily responsible for the research contained in the report or appearance; or

(3) to provide a mechanism for addressing conflicts of interest that may arise in the provision of research and public appearances; and

(4) to require disclosure of any conflicts of interest and policies and procedures designed to address such conflicts of interest.”.
“(1) to foster greater public confidence in securities research, and to protect the objectivity and independence of securities analysts, by—

(A) restricting the prepublication clearance or approval of research reports by persons employed by the broker or dealer who are engaged in investment banking activities, or persons not directly responsible for investment research, other than a compliance staff; and

(B) limiting the supervision and compensatory evaluation of securities analysts to officials employed by the broker or dealer who are not engaged in investment banking activities; and

(C) requiring that a broker or dealer and person employed by such broker or dealer, or any associated person, be involved in investment banking activities may not, directly or indirectly, retaliate against or threaten to retaliate against any securities analyst employed by such broker or dealer or its affiliates as a result of an adverse, negative, or otherwise unfavorable research report that may adversely affect the present or prospective investment banking relationship of the broker or dealer with the issuer that is the subject of the research report, except that such rules may not limit the authority of a broker or dealer to discipline an employee that causes another than such research report in accordance with the policies and procedures of the firm; and

(2) to define periods during which brokers or dealers, or an associated person, or to engage, in a public offering of securities as underwriters or dealers shall not publish or otherwise distribute research reports relating to securities involved in such securities exchange, shall have adopted, by rule or regulation, such policies and procedures of the firm that are reasonably designed to reduce conflicts of interest that are known or should be known, to exist at the time of the alleged misconduct, to the extent of such securities that results in a violation of applicable professional standards, in which the registered public accounting firm or associated person knows, or should know, that heightened scrutiny is warranted; and

(3) to establish structural and institutional safeguards within registered brokers or dealers to assure that securities analysts are separated by appropriate informational partitions within the firm from the review, pressure, or oversight of those whose involvement in investment banking activities might potentially bias their judgment or analysis;

(4) to address such other issues as the Commission, or such association or exchange, determines appropriate.

(b) Disclosure.—The Commission, or upon the authorization and direction of the Commission, a registered securities association or national securities exchange, shall have adopted, not later than 1 year after the date of enactment of this section, rules reasonably designed to require such securities analyst to disclose to public appearances, such registered broker or dealer to disclose in each research report, as applicable, conflicts of interest that are known or should have been known by the securities analyst or such associated person, or to exist at the time of the alleged misconduct, of the appearance or the date of distribution of the report, including—

(1) the extent to which the securities analyst has debt or equity investments in the issuer that is the subject of the appearance or research report;

(2) whether any compensation has been received by the registered broker or dealer, or any affiliate thereof, including the securities analyst, from the issuer that is the subject of the appearance or research report, subject to such exemptions as may be appropriate and necessary to prevent disclosure by virtue of this paragraph of material nonpublic information regarding securities transactions or future investment banking transactions of such issuer, as is appropriate in the public interest and consistent with the protection of investors;

(3) whether the securities analyst received compensation, in the context of a research report, based upon (among any other factors) the investment banking revenues (either generally or specifically earned from the issuer being analyzed) of the registered broker or dealer; and

(4) such other disclosures of conflicts of interest that are material to investors, research analysts, or the public interest, as the Commission, or such association or exchange, determines appropriate.

(c) Data Analysis.—In this section—

(1) the term ‘‘securities analyst’’ means any associated person of a registered broker or dealer that is principally responsible for, and any associated person that is directed or indirectly to a securities analyst in connection with, the preparation of the substance of a research report, whether or not any such person has the job title of ‘‘research analyst’’;

(2) the term ‘‘research report’’ means a written or electronic communication that includes an analysis of equity securities of individual companies or industries, and that provides information reasonably sufficient upon which to base an investment decision;

(3) whether an issuer, the securities of which are recommended in the appearance or research report, subject to such association or exchange, deter-

(4) whether the securities analyst received compensation, in the context of a research report, including

(5) whether the securities analyst received compensation, in the context of a research report, including
(2) in subparagraph (G), by striking the period at the end and inserting the following: “; or

“(H) is subject to any final order of a State securities commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or officer performing like functions), State agricultural credit agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(g))), or the National Credit Union Administration, that—

“(i) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

“(ii) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.”

(b) INVESTMENT ADVISERS.—Section 203(e) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(e)) is amended—

(1) by striking paragraph (7) and inserting the following:

“(7) is subject to any order of the Commission barring or suspending the right of the person to be associated with an investment adviser;”;

(2) in paragraph (8), by striking the period at the end and inserting “; or”; and

(3) by adding at the end following:

“(9) by inserting “or (G)”;

(B) in each of section 15(b)(6)(A)(i) (15 U.S.C. 78o–5(c)(1)), paragraphs (2) and (4) of section 15B(c) (15 U.S.C. 78o–5(c)), and subparagraphs (A) and (B) of section 15B(c)(1) (15 U.S.C. 78o–5(c)(1))—

(i) by striking “or (G)” each place that term appears and inserting “(H), or (G)”;

(ii) by inserting “or” each place that term appears, and inserting “, or is subject to an order or finding,” before “enumerated” each place that term appears,

(C) in each of paragraphs 3(A) and 4(C) of section 17A(c) (15 U.S.C. 80b–3(c)(1))—

(i) by striking “or (G)” each place that term appears and inserting “(H), or (G)”;

(ii) by striking “or omission” each place that term appears, and inserting “, or is subject to an order or finding,” and

(C) in each of paragraphs 3(A) and 4(C) of section 17A(c) (15 U.S.C. 80b–3(c)(1))—

(i) by striking “or (G)” each place that term appears and inserting “(H), or (G)”;

(ii) by striking “or omission” each place that term appears, and inserting “, or is subject to an order or finding,” before “enumerated” each place that term appears.

(b) INVESTMENT ADVISERS.—Section 203(f) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(f)) is amended—

(A) by striking “or (B)” and inserting “(B), or (G)”;

(B) by inserting “or (3)” after “paragraph (2)”.

TITLE VII—STUDIES AND REPORTS

SEC. 701. GAO STUDY AND REPORT REGARDING CONSOLIDATION OF PUBLIC ACCOUNTING FIRMS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study—

(1) to identify—

(A) the factors that have led to the consolidation of public accounting firms since 1989 and the consequent reduction in the number of firms capable of providing audit services to large national and multinational business organizations that are subject to the securities laws;

(B) the present and future impact of the condition described in subparagraph (A) on capital markets, both domestic and international; and

(C) solutions to any problems identified under subparagraph (B), including ways to increase competition and the number of firms capable of providing audit services to large national and multinational business organizations that are subject to the securities laws;

(2) of the problems, if any, faced by business organizations that have resulted from limited competition among public accounting firms, including—

(A) higher costs;

(B) lower quality of services;

(C) impairment of auditor independence; or

(D) lack of choice; and

(b) REPORT.—In planning and conducting the study under this section, the Comptroller General shall consult with—

(1) the Commission;

(2) the appropriate Federal banking agency (or any agency or office performing like functions), the National Credit Union Administration, that—

(A) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

(B) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.

(c) CONFORMING AMENDMENTS.—


(A) in section 3(a)(39)(F) (15 U.S.C. 78c(a)(39)(F)), by striking “or (G)” and inserting “(H), or (G)”;

(B) in each of paragraphs (6)(A)(i) (15 U.S.C. 78m(b)(6)(A)(i)), (B)(i) by striking “or (G)” each place that term appears and inserting “(H), or (G)”;

(ii) by inserting “or” each place that term appears, and inserting “, or is subject to an order or finding,”; before “enumerated” each place that term appears,

(C) in paragraphs (3)(A) and (4)(C) of section 17A(c) (15 U.S.C. 78q–5(c)(1))—

(i) by striking “or (G)” each place that term appears and inserting “(H), or (G)”;

(ii) by inserting “or omission” each place that term appears, and inserting “, or is subject to an order or finding,” and

(C) in each of paragraphs (3)(A) and 4(C) of section 17A(c) (15 U.S.C. 78q–5(c)(1))—

(i) by striking “or (G)” each place that term appears and inserting “(H), or (G)”;

(ii) by striking “or omission” each place that term appears, and inserting “, or is subject to an order or finding,”; and

(C) in each of paragraphs 3(A) and 4(C) of section 17A(c) (15 U.S.C. 78q–5(c)(1))—

(i) by striking “or (G)” each place that term appears and inserting “(H), or (G)”;

(ii) by striking “or omission” each place that term appears, and inserting “, or is subject to an order or finding,” before “enumerated” each place that term appears.

(a) STUDY.—The Comptroller General of the United States shall conduct a study to determine, based upon information for the period from January 1, 1998, to December 31, 2000—

(1) the number of securities professionals, defined as public accountants, public accounting firms, investment bankers, investment advisers, brokers, dealers, attorneys, and other securities professionals practicing in a Commission—

(A) who have been found to have aided and abetted a violation of the Federal securities laws, including rules or regulations promulgated pursuant to the Securities Exchange Act of 1934 (collectively referred to as “Federal securities laws”), but who have not been sanctioned, disciplined, or otherwise penalized as a primary violator in any administrative action or civil proceeding, including in any settlement of such an action or proceeding (referred to in this section as “aiders and abettors”); and

(B) who have been found to have been primary violators of the Federal securities laws;

(2) a description of the Federal securities laws violations committed by aiders and abettors and primary violators, including the amount of any monetary penalties assessed upon and collected from such persons;

(C) the occurrence of multiple violations by the same person or persons, either as an aider or abettor or as a primary violator; and

(b) REPORT.—A report based upon the study conducted pursuant to subsection (a) shall be submitted to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives not later than 6 months after the date of enactment of this Act.

SEC. 703. STUDY AND REPORT ON VIOLATORS ASSISTED PUBLIC COMPANIES IN MANIPULATING FINANCIAL STATEMENTS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study to determine, based upon information for the period from January 1, 1998, to December 31, 2000—

(1) the number of securities professionals, defined as public accountants, public accounting firms, investment bankers, investment advisers, brokers, dealers, attorneys, and other securities professionals practicing in a Commission—

(A) who have been found to have aided and abetted a violation of the Federal securities laws, including rules or regulations promulgated pursuant to the Securities Exchange Act of 1934 (collectively referred to as “Federal securities laws”), but who have not been sanctioned, disciplined, or otherwise penalized as a primary violator in any administrative action or civil proceeding, including in any settlement of such an action or proceeding (referred to in this section as “aiders and abettors”); and

(B) who have been found to have been primary violators of the Federal securities laws;

(2) a description of the Federal securities laws violations committed by aiders and abettors and primary violators, including the amount of any monetary penalties assessed upon and collected from such persons;

(C) the occurrence of multiple violations by the same person or persons, either as an aider or abettor or as a primary violator; and

(b) REPORT.—A report based upon the study conducted pursuant to subsection (a) shall be submitted to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives not later than 6 months after the date of enactment of this Act.

SEC. 704. STUDY OF ENFORCEMENT ACTIONS.

(a) STUDY.—The Commission shall review and analyze all enforcement actions by the Commission involving violations of reporting requirements imposed under the securities laws, restatements of financial statements, over the 5-year period preceding the date of enactment of this Act, to identify areas of reporting that are most susceptible to fraud, inappropriate manipulation, or inappropriate earnings management, such as revenue recognition and the accounting treatment of off-balance sheet special purpose entities.

(b) REPORT.—The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

SEC. 705. STUDY OF INVESTMENT BANKS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on whether investment banks and financial advisers assisted public companies in manipulating their earnings and obfuscating their true financial condition. The study should address the
rule of investment banks and financial advisers—
(1) in the collapse of the Enron Corporation, including with respect to the design and imple-
mentation of controls and transactions, transactions involving special purpose vehicles, and other
financial arrangements that may have had the effect of altering the company’s re-
ported financial statements in ways that ob-
scured the true financial picture of the com-
pany;
(2) in the failure of Global Crossing, including with respect to transactions involving swaps of
fibreoptic cable capacity, in the designing trans-
actions that may have had the effect of altering
the company’s reported financial statements in
ways that obscured the true financial picture of
the company; and
(3) generally, in creating and marketing transactions which may have been designed
solely to enable companies to manipulate reve-
 nue streams, obtain loans, or move liabilities
off balance sheets without altering the economic
and business risks faced by the companies or
any other mechanisms to obscure a company’s fi-
nancial picture.
(b) REPORT.—The Comptroller General shall report, not later than 180 days after
the date of enactment of this Act on the results
of the study required by this section. The report
shall include a discussion of regulatory or legis-
lative recommendations or that are recommended or that may be
necessary to address concerns identified in the
study.

TITLE VIII—CORPORATE AND CRIMINAL FRAUD ACCOUNTABILITY
SEC. 801. SHORT TITLE.
This title may be cited as the “Corporate and Criminal Fraud Accountability Act of 2002”.

SEC. 802. CRIMINAL PENALTIES FOR ALTERING OR OBSTRUCTING
INVESTIGATIONS.
(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

§1519. Destruction, alteration, or falsifica-
tion of evidence in Federal investigations and bankruptcy
“Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a
false entry in any record, document, or tangible object with the intent to impede, obstruct, or in-
fuence the investigation or proper administration of any matter within the jurisdiction of any
department or agency of the United States or any case, or in relation to or in connection with
or contemplation of any such matter or case, shall be fined under this title, imprisoned not more
than 20 years, or both.

§1520. Destruction of corporate audit records
“(a) Any accountant who conducts an
audit of an issuer of securities to which section
10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(a)) applies, shall maintain all audit
or review workpapers for a period of 5 years from the end of the fiscal period in which the
audit or review was concluded.

(2) The Securities and Exchange Commission
shall promulgate, not later than 180 days after
the date of enactment of this Act, regulations to maintain, or refrain from destroy-
ning, any document.

(3) By adding at the end, the following:
"1519. Destruction, alteration, or falsification
of records in Federal investigations and bankruptcy.
"1520. Destruction of corporate audit records."

SEC. 803. DEPTS NONDISCHARGEABLE IF IN-
CURRED IN VIOLATION OF SECURI-
TIES FRAUD LAWS.
Section 52(a) of title 11, United States Code, is amended—
(1) in paragraph (17), by striking “or” after the semicolon;
(2) in paragraph (18), by striking the period at the end and inserting “;” or “;”; and
(3) by adding at the end, the following:

"(19) that—
(B) is for—
(i) the violation of any of the Federal securi-
ties laws (as that term is defined in section
3(a)(47) of the Securities Exchange Act of 1934),
any rule or regulation issued under such Federal or State secur-
ities laws or
(ii) common law fraud, deceit, or manipula-
tion in connection with the purchase or sale of
any security; and
(2) results from—
(i) any judgment, order, consent order, or de-
cision entered in any Federal or State or Federal judi-
cial administrative proceeding;
(ii) any settlement agreement entered into by
the debtor;
(iii) any court or administrative order for
any damages, fine, penalty, citation, regula-
tion to maintain, or refrain from destroy-
ing, any document.

SEC. 804. STATUTE OF LIMITATIONS FOR SECURI-
TIES FRAUD.
(a) In General.—Section 1658 of title 28, United States Code, is amended—
(1) by inserting “(g)” before “Except”; and
(2) by adding at the end the following:

"(h) Notwithstanding subsection (a), a private
right of action that involves a claim of fraud,
deceit, manipulation, or contrivance in con-
travention of a regulatory requirement con-
cerning securities laws, as defined in section
3(a)(47) of the Securities Exchange Act of 1934
(15 U.S.C. 78c(a)(47)), may be brought not later
than the earlier of
(1) 2 years after discovery of the facts con-
stituting the violation; or
(2) 5 years after such violation.
"(b) EFFECTIVE DATE.—The limitations period
provided by section 1658(b) of title 28, United States
Code, as added by this section, shall apply to all proceedings addressed by this sec-
tion that are commenced on or after the date of enactment of this Act.
(c) NO CREATION OF ACTIONS.—Nothing in this
section shall create a new, private right of ac-
tion.

SEC. 805. REVIEW OF FEDERAL SENTENCING GUIDELINES FOR OBSTRUCTION OF JUSTICE AND EXTENSIVE CRIMINAL ACTIVITY.
(a) ENHANCEMENT OF FRAUD AND OBSTRUCTION OF JUSTICE SENTENCES.—Pursuant to sec-
tion 994 of title 28, United States Code, and in accordance with this section, the United States
Sentencing Commission shall review and amend, as appropriate, the Federal Sentencing Guide-
lines and related policy statements to ensure that—
(1) the base offense level and existing en-
hancements contained in United States Sen-
tencing Guideline 2B1.1 for obstruction of justice are sufficient to deter and punish that
activity;
(2) the enhancements and specific offense characteristics relating to obstruction of justice
are adequate in cases where—
(A) the destruction, alteration, or fabrication of evidence involves—
(i) a large amount of evidence, a large number of participants, or is otherwise extensive;
(ii) the selection of evidence that is particularly probative or essential to the investigation;
or
(iii) more than minimal planning; or
(B) the offense involved abuse of a special skill or a position of trust;
(3) the guideline offense levels and enhance-
ments for violations of section 1519 or 1520 of
title 18, United States Code, as added by this
title, are sufficient to deter and punish that ac-
tivity;
(4) a specific offense characteristic enhancing
sentence is provided for under United States Sen-
tencing Guideline 2B1.1 (as in effect on the date
of enactment of this Act) for a fraud offense that
endangers the solvency or financial secu-
rities fraud, of a substantial number of victims; and
(5) the guidelines that apply to organizations
in United States Sentencing Guidelines, chapter
8, are sufficient to deter and punish organiza-
tional criminal misconduct.
(b) EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.—The United States
Sentencing Commission is requested to promulgate
the guidelines or amendments provided for
under this section as soon as practicable, and in
any event not later than 180 days after the date
of enactment of this Act, in accordance with the
procedures set forth in section 219(a) of the Sen-
tencing Reform Act of 1987, as though the au-
thority under that Act had not expired.

SEC. 806. PROTECTION FOR EMPLOYEES OF PUBL-
ICLY TRADED COMPANIES WHO PROVIDE EVIDENCE OF FRAUD.
(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by inserting after
section 1514 the following:

"§1514A. Civil action to protect against retal-
iation in fraud cases
"(a) Whistleblower Protection for Em-
ployees of Publicly Traded Companies.—No
company with a class of securities registered
under section 12 of the Securities Exchange
Act of 1934 (15 U.S.C. 78l), or that is required to file
reports under section 15(d) of the Securities Ex-
change Act of 1934 (15 U.S.C. 78o(d)), or any of-
ficer, employee, contractor, subcontractor, or
agent of such company, may discharge, demote,
suspend, threaten, harass, or in any other man-
ner discriminate against an employee in the
terms and conditions of employment because
of any lawful act done by the employee in
providing information, causing information to
be provided, or otherwise assist in an inves-
tigation regarding any conduct which the em-
ployee reasonably believes constitutes a viola-
tion of section 13(b), 13(b), or 13(e), or any rule
or regulation of the Securities and Exchange
Commission, or any provision of Federal law re-
lating to fraud against shareholders, when the
information or assistance provided to or in the
investigation is conducted by—
(A) a Federal regulatory or law enforcement
agency;
(B) any Member of Congress or any com-
mittee of Congress; or
(C) a person with supervisory authority over
the employee for such wrongdoing for the
employer who has the authority to inves-
tigate, discover, or terminate misconduct; or
§ 1348. Securities fraud

Whoever, with intent to defraud, executes, or attempts to execute, a scheme or artifice—

(1) to defraud any person in connection with any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 77d) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)), shall be fined under this title, or imprisoned not more than 5 years, or both.

(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property or anything of value in connection with the purchase or sale of any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 77d) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)), shall be fined under this title, or imprisoned not more than 5 years, or both.

(3) assure reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines.

§ 1349. Attempt and conspiracy

Whoever attempts or conspires to commit any offense under this chapter shall be punished by a fine or imprisonment or both.

§ 1350. Failure of corporate officers to certify financial reports

(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS. — Each periodic report containing financial statements filed by a Security Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chief executive officer and chief financial officer (or equivalent thereof) of the issuer.

(b) CONSENT. — The statement required under subsection (a) shall certify that the periodic report containing the financial statements fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) and in any event not later than 180 days after the date of enactment of this Act, in accordance with the procedures set forth in section 219(a) of the Securities Exchange Act of 1934, as though the authority under that Act had not expired.

SECTION 906. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) IN GENERAL. — Chapter 63 of title 18, United States Code, is amended by inserting after section 1349 as added by this Act the following:

§ 1349. Attempt and conspiracy

Any person who attempts or conspires to commit any offense under this chapter shall be punished by a fine or imprisonment or both.

(b) WIRE FRAUD. — Section 1343 of title 18, United States Code, is amended by striking "wire" and inserting "wire or electronic funds transfer, or computer."
(1) by redesigning subsections (c) through (i) as subsections (d) through (j), respectively, and (2) by inserting after subsection (b) the following new subsection:

(3) Whoever corruptly—

(1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, or attempts to impair the integrity or availability for use in an official proceeding;

(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so,

shall be fined under this title or imprisoned not more than 30 years, or both.

SEC. 1103. TEMPORARY FREEZE AUTHORITY FOR THE SECURITIES AND EXCHANGE COMMISSION.

(a) In General.—Section 21C(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(c)) is amended by adding at the end the following:

"(3) TEMPORARY FREEZE.—

"(A) In General.—

"(i) ISSUANCE OF TEMPORARY ORDER.—Whenever, during the course of a lawful investigation involving possible violations of the Federal securities laws by an issuer of publicly traded securities or any of its directors, officers, partners, contractors, agents, or employees, it shall appear to the Commission that it is likely that the issuer will make extraordinary payments (whether compensation or otherwise) to any of the foregoing persons, the Commission may petition a Federal district court for a temporary order requiring the issuer to escrow, subject to court supervision, those payments in an amount sufficient for a fraud offense when the number of victims adversely affected by the payment, if any, exceeds 100; and

(ii) VIOLATIONS NOT CHARGED.—If the issuer or other person described in subparagraph (A) is charged with any violation of the Federal securities laws before the expiration of the effective period of a temporary order under subparagraph (A) (including any applicable extension period), the order shall remain in effect, subject to court approval, until the conclusion of any legal proceedings related thereto, and the affected issuer or other person shall have the right to petition the court for review of the order.

"(ii) VIOLATIONS NOT CHARGED.—If the issuer or other person described in subparagraph (A) is not charged with any violation of the Federal securities laws before the expiration of the effective period of a temporary order under subparagraph (A) (including any applicable extension period), the Commission shall terminate at the expiration of the 45-day effective period (or the expiration of any extension period, as applicable), and the disputed payments (with accrued interest) shall be returned to the issuer or other affected person.

(b) TECHNICAL AMENDMENT.—Section 21C(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(c)(2)) is amended by striking "This" and inserting "paragraph (1)".

SEC. 1104. AMENDMENT TO THE FEDERAL SECURITIES GUIDELINES.

(a) Request for Immediate Consideration by the United States Sentencing Commission.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission is requested to—

(1) promptly revise the sentencing guidelines applicable to securities and accounting fraud and related offenses;

(2) expeditiously consider the promulgation of new sentencing guidelines to existing sentencing guidelines to provide an enhancement for officers or directors of publicly traded corporations who commit fraud and related offenses; and

(3) submit to Congress an explanation of actions taken by the Sentencing Commission pursuant to paragraph (2) and any additional policy recommendations the Sentencing Commission may have for combating offenses described in paragraph (1).

(b) CONSIDERATIONS IN REVIEW.—In carrying out this section, the Sentencing Commission is requested to—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of securities, pension, and accounting fraud and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) assure reasonable consistency with other relevant guidelines and with other guidelines;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including provisions which for which the sentencing guidelines currently provide sentencing enhancements;

(4) ensure that guideline offense levels and enhancements for an obstruction of justice offense are adequate in cases where documents or other physical evidence are actually destroyed or fabricated;

(5) ensure that the guideline offense levels and enhancements under United States Sentencing Guidelines 2B1.1 (as in effect on the date of enactment of this Act) are adequate in cases where documents or other physical evidence are actually destroyed or fabricated;

(6) make any necessary conforming changes to the sentencing guidelines; and

(7) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.—The United States Sentencing Commission is requested to promulgate the guidelines or amendments provided for under this section as soon as practicable, and in any event no later than the 180 days after the date of enactment of this Act, in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1984, through the authority under that Act had not expired.

SEC. 1105. AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.

(a) Securities Exchange Act of 1934.—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78s) is amended by adding at the end the following:

"(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(b)(1) of the rules or regulations thereunder, from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934, or from filing reports pursuant to section 15(d) of that Act, if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.

SEC. 1106. INCREASED CRIMINAL PENALTIES UNDER SECURITIES EXCHANGE ACT OF 1934.

(a) In General.—Section 32(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(a)) is amended by striking "$1,000,000, or imprisoned not more than 10 years" and inserting "$5,000,000, or imprisoned not more than 20 years"; and

(b) by striking "$2,500,000" and inserting "$25,000,000".

SEC. 1107. RETALIATION AGAINST INFORMANTS.

(a) In General.—Section 1513 of title 18, United States Code, is amended by adding at the end the following:

"(e) Whoever knowingly, with the intent to retaliate, takes any action harmful to any person, including interference with the lawful em-ployment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, shall be fined under this title or imprisoned not more than 10 years, and, in any case of a first violation, may be imprisoned not more than 20 years; and

And the Senate agree to the same.

From the Committee on Financial Services, for consideration of the House bill and the Senate amendments, and modifications committed to conference:

MICHAEL G. OXLEY, RICHARD H. BAKER, ED ROYCE, ROBERT W. NEY, SUE W. KELLY, CHRIS COX, JOHN J. LAFLER, BARNEY FRANK, PAUL E. KANJORSKI, MAXINE WATER.

Provided that Mr. Snow 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:

RONNIE SHOWS,

From the Committee on Education and the Workforce, for consideration of sections 306 and 904 of the Senate amendment, and modifications committed to conference:

JOHN BOHNER, SAM JOHNSON, GEORGE MILLER,

From the Committee on Energy and Commerce, for consideration of sections 108 and 109 of the Senate amendment, and modifications committed to conference:

BILLY Tauzin, JAMES GREENWOOD, JOHN D. EINSTEIN.

From the Committee on the Judiciary, for consideration of section 103 and titles VIII and IX of the Senate amendment, and modifications committed to conference:

F. JAMES Sensenbrenner, LAMAR SMITH, JOHN BENTZ.

From the Committee on Ways and Means, for consideration of section 102 of the Senate amendment, and modifications committed to conference:

WILLIAM THOMAS, JIM McCRARY, CHARLES B. RANGEL, MANE RANGEL.

And the Senate agree to the same.
The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3763), to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

The Managers on the part of the House and the Senate met on July 19 and July 24, 2002 (the House chairing), and reconciled the differences between the House bill and the Senate amendment.

From the Committee on Financial Services, for consideration of the House bill and the Senate amendments, and modifications committed to conference:

- Michael G. Oxley
- Richard H. Baker
- Ed Royce
- Robert W. Ney
- Sue W. Kelly
- Chris Cox
- John J. LaFalce
- Barney Frank
- Paul E. Kanjorski
- Maxine 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:

- Ronnie Shows

From the Committee on Education and the Workforce, for consideration of sections 306 and 904 of the Senate amendment, and modifications committed to conference:

- John Boehner

From the Committee on Energy and Commerce, for consideration of sections 108 and 109 of the Senate amendment, and modifications committed to conference:

- Billy Tauzin
- James Greenwood
- John D. Dingell

From the Committee on the Judiciary, for consideration of section 105 and titles VIII and IX of the Senate amendment, and modifications committed to conference:

- F. James Sensenbrenner
- Lamar Smith
- John Conyers

From the Committee on Ways and Means, for consideration of section 109 of the Senate amendment, and modifications committed to conference:

- William Thomas
- Jim McCrery
- Charles B. Rangel

Managers on the Part of the House.

Managers on the Part of the Senate.
The Senate met at 10 a.m. and was called to order by the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, whose patience lasts even when ours is tested, we praise You for this new day. Thank You for giving the Senators courage to battle for truth as they see it, deal with differences, and keep the unity of fellow patriots. The very nature of our system can foster party spirit. Help us maintain mutual esteem and trust without which nothing can be accomplished. Thank You for being the unseen but powerful Presence in this chamber. Keep us open to You and respectful of each other. Bear on our hearts the words of Thomas Jefferson after the contentious election of 1800: "The greatest good we can do our country is to heal its party divisions and make them one people." We dedicate ourselves to remember this today and throughout this election year.

At 3:40 p.m. today we will remember the sacrifice in the line of duty of Officer Jacob J. Chestnut and Detective John M. Gibson. Continue to bless their families. Help us to express our gratitude to the officers who serve in Congress with such faithfulness. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable E. BENJAMIN NELSON led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska, to perform the duties of the Chair.

Robert C. Byrd, President pro tempore.

Mr. NELSON of Nebraska thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Mr. President, today will be a very busy day, which will begin with morning business until 11 a.m. The first half of the time is under the control of Senator DASCHLE, which time has been given to the Senator from Michigan, Ms. STABENOW. The second half of the time is under the control of the Republican leader or his designee.

At 11 o’clock, the Senate will resume consideration of the prescription drug bill, with 2 hours of debate in relation to the Hagel second-degree amendment.

At 1 p.m., the Senate will resume consideration of the supplemental conference report, with 30 minutes of debate prior to a 1:30 p.m. rollover vote on adoption of the report.

Following disposition of that conference report, there will be 5 minutes of debate, equally divided pro and con, on the Hagel amendment, followed by a vote in relation to that amendment.

At 3:40, as has been announced in the prayer by the Chaplain, we will remember the deaths of Officer Chestnut and Detective Gibson.

Following the vote on Hagel, we will go then to an amendment to be offered by Senator ROCKEFELLER. We expect to finish that fairly quickly and then go to another amendment or two today. The leader expects to work toward completing the bill this week.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for up to 10 minutes each.

The first half of the time shall be under the control of the majority leader or his designee. The second half of the time shall be under the control of the Republican leader or his designee. The Senator from Minnesota is recognized.

(Ms. STABENOW assumed the Chair.)

MINNESOTA NEEDS DISASTER RELIEF

Mr. WELLSTONE. Madam President, I am joined by Senator DAYTON from Minnesota and the occupant of the Chair. We come to the floor this morning because we want to communicate a respectful, sincere, and honest message to each and every one of our colleagues.

It has been my experience in the Senate over the past 12 years that sometimes you just have to fight for people—not with acrimony, but you have to fight for people. In Minnesota, 17
counties have been declared Federal disaster areas due to tremendous floods last month. As a result, Northwest Minnesota, a rich agricultural region, has been devastated. According to the Minnesota Farm Service Agency at least $70 billion in damage to that agriculture sector has been caused due to these floods. We tried to include disaster relief in the supplemental bill. Unfortunately we could not do it because the administration said don’t even try, no way. While there is some help FEMA can help the farmers and the Small Business Administration cannot help the farmers. This is a case of “there but for the grace of God go I.” I said this to my colleagues yesterday, and I want to say it again today. I have never voted against disaster relief assistance for anybody in the country, be it a hurricane, tornado, fire, drought, or flooding. If God forbid, it happens to others, we want to help.

This administration has said no to any emergency disaster assistance for agriculture. The President has said any emergency assistance for agriculture must come out of the farm bill. The farm bill is about loan rates, dairy, conservation and fair prices for farmers. The farm bill is about economic assistance, not natural disasters.

So our message today is this: We are going to look at every appropriation bill, and if any appropriations bill comes out on the floor and there is assistance for fire or any other emergency that has happened—be it for Arizona, or for flooding in Texas, or anywhere else—we will slow up that bill. In fact, we will stop that bill if we need to until we get the commitment that there will be the funding for emergency disaster assistance for the farmers in Minnesota, or for the farmers in Nebraska, for the people we represent.

First Americans. People need help now. We intend to make the Senate address this issue. I yield to my colleague from Minnesota.

The PRESIDING OFFICER. The junior Senator from Minnesota is recognized.

Mr. DAYTON. Madam President, I thank the Senator for graciously taking the Chair so Senator NELSON could join with the Senator from Minnesota and the Senator from Nebraska.夫人, who is presiding, has strong support for this disaster assistance as well. I want to say to my colleague and friend, the senior Senator from Minnesota, I am proud to stand with him today, and I am proud to follow his leadership on this disaster assistance legislation.

The Senator and I both serve on the Senate Agriculture Committee, along with our colleagues from Nebraska. The Senate Agriculture bill had disaster assistance for it. The House and the administration would not agree to the inclusion of disaster assistance in the package, which came out of the conference committee and was enacted into law.

As the Senator said, it is imperative that the Senate and the House and the administration join together, given what happened in Minnesota, with 17 counties declared a disaster area because of excessive flooding in June. During a recent visit, I saw whole fields of crops under water—giants lakes created by torrential rains one week, and again the week following. It is hard to see people, many of whom lost their crops last year, struggling again this year.

I asked Secretary of Agriculture Veneman last week in a committee hearing: Where is this money that is purportedly available in the legislation that was passed for disaster aid? And she could not identify any.

I join with my colleague in saying we must have this assistance. The Senate did it right in its version of the Farm bill. Unfortunately, the House and the Administration did not.

We have to try again because farmers are going under if we do not.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. I thank my distinguished colleague from Michigan for exchanging positions for a moment so I have an opportunity to make a statement about the importance of having disaster relief in the sooner possible timeframe.

Over the last several years in developing a farm policy, we have gone from virtually no help to a new farm program that is designed to help get agriculture on its feet, but it is designed to do that in a time frame when we expect normal conditions. It is not designed to take care of disaster situations we are facing today for the livestock industry in particular.

If we are not able to step forward at this time, take care of this situation, and provide hope for the livestock industry in our country, particularly those that are experiencing severe drought, as in the case of Nebraska and the Midwestern States, many of those farmers and ranchers are going to divest themselves of their herds. They are going to cut down the size of their herds. They are going to sell off their breeding stock to survive under these terrible conditions. They are not going to be able to buy new stock over night. It will take years to rebuild.

There is no coverage in the Crop Insurance Program for parched pastures that today will not sustain the grazing of our cattle. There is no support in the farm bill for those farmers and ranchers who are experiencing the losses on the livestock side. For those in this body who are looking for offsets, which is important in the Senate, they are looking for money. To go after the farm bill and the funding for building the infrastructure and take that money now to support the livestock industry is not the way to go. What we need to do is recognize that this is an emergency situation like other emergencies and it is a disaster that must, in fact, be addressed right now.

Many of the people who voted for the last four or five disaster programs without requiring any kind of an offset are saying: If we do it today, we have to find an offset. It is because today we have a farm bill, and they found the source of dollars. That is the only reason I think they are looking at that program.

Robbying Peter to pay Paul at the present time will mean that both Peter and Paul will not make it. What we need to do is face this as a reality so that the farmers in Nebraska and the farmers all across our country who are selling their livestock, will know there is help on the way; that they can be sustained; that they are not going to have to sell off their herds.

As we look at this downward spiral, the spinoff problems are consequential. In addition to having smaller herds, there will be less cattle to eat corn. In a bumper crop year, there will be more corn, and therefore that will depress the price of corn.

This is not a situation without consequences to those outside interests. It will harm the smaller communities that depend on agricultural income for their very existence. We must, in fact, act now and not make this a partisan or political football to kick back and forth. We must, in fact, step forward now and recognize the urgency of this situation and not hold the farmers and ranchers of the livestock industry hostage while others are playing partisan politics.

I thank the Senators from Minnesota and other colleagues who are looking forward to having an emergency aid package, recognizing this disaster at the soonest possible time.

I yield the floor. I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Ms. STABENOW. Mr. President, we are playing revolving chairs today. It is a pleasure to be in the Chair with you. I want to indicate to you—the Senator from Nebraska and my colleagues from Minnesota—that I completely understand and support what they are fighting for and join them in that fight.

We also have had in northern and western Michigan, disasters that happened as late as this spring where we have seen our cherry crop wiped out because of extremely hot weather, in the nineties, and then immediately going into freezing temperatures. We have seen our orchards literally wiped out in terms of the ability to produce cherries and other crops.

When this happens to our farmers, it is critical we step forward in a bipartisan way and do everything we can to support them to get through this year, to get through these disasters.

PRESCRIPTION DRUG BENEFIT

Ms. STABENOW. Mr. President, I rise today, as I have now for many
July 24, 2002

CONGRESSIONAL RECORD — SENATE

S7245

weeks, and in particular in the last 2 weeks, focusing on prescription drugs, which is another disaster, quite frankly, that has been facing our seniors, our families, our farmers who are trying to find health insurance for their families and businesses. They are seeing their health care premiums double in some cases, trying to afford health care for themselves and their employees.

I rise on behalf of those workers who have not had their employer say: You are going to have to take a pay freeze this year because we have to have money to pay for health care benefits.

I rise for those manufacturers that are seeing an explosion as well, and basically for everyone who is paying the price for the explosion in prescription prices, and the system that is basically out of control.

We have been working hard in the last week and a half. I think we are making some progress, but we are not there yet.

Yesterday, we had an opportunity to vote on two different plans before the Senate. One was a plan to strengthen Medicare to put a system in place that was promised in 1965 with the advent of Medicare: That once you are 65 or you are disabled, you will know that health care is available for you. We all pay into the system. The promise was made, and we have been trying to update and modernize that system to reflect the way health care is provided today, which is primarily on an outpatient basis with prescription drugs. Yesterday, we had a plan that paid the majority of the bill and would do it within Medicare, which we know works.

Then we had another plan much more focused on private insurance, HMOs, and I believe a step in privatizing the system. Quite frankly, that is supported by the drug industry, the pharmaceutical industry that has a situation right now for them that is too good to give up voluntarily. They fight every day to fight any effort to modernize Medicare, to put 40 million people, seniors and disabled persons, in one insurance system because they know that if 40 million seniors and disabled persons are in a system together, they will be able to get a group discount, like all the other insurance companies. They are fighting that. They know when the Federal Government goes to buy for veterans in the VA hospitals, we do not pay retail, we get a discount on behalf of the veterans.

The outrageous part of the system today is that the only people who pay retail, the only people who walk into the pharmacy and have nobody advocating on their behalf, are the seniors of this country and those who are disabled and need help with health care.

Everybody else gets a discount. So we are trying to change that. The companies are fighting us every step of the way.

I think we did something historic yesterday. We did not get all the way to where we need to be, but for the first time in the Senate—52 people, a majority of our colleagues—voted for a Medicare prescription drug benefit. Unfortunately, in this process we need to get to 60 votes, but I believe we sent a very strong message that 52 people—and the other party, in fact, fewer: I believe it was 48 people that voted for that plan. So fewer than the majority voted to move in the direction of privatizing, to set up a system that is much more favorable to the drug companies. They are fighting that.

A majority of us, in fact, said we want to do this under Medicare; we want to pay the majority of the bill for our seniors. I am very hopeful that we will be able to bring enough of our colleagues together, on both sides of the aisle, to be able to get those eight extra votes for something that moves us in the right direction. We know it is not going to be all that we had originally hoped, but I desperately hope the drug companies are not going to be successful again in stopping anything real from happening.

I believe this is a point in history that people will look to just as they look to the plan that I voted for to show that we will do the right thing.

Mr. DORGAN. Mr. President, will the Senator from Michigan yield for a question?

Ms. STABENOW. I would be honored to yield to my friend from North Dakota, who has been such a leader in this effort.

Mr. DORGAN. I would like to ask a question of the Senator from Michigan.

It is true that yesterday we had 52 votes for a prescription drug plan in the Medicare Program. It is also true that we desperately need it. Medicare is now roughly 40 years old. Had we had these lifesaving and miracle drugs available when Medicare was created, there is no question that we would have had a prescription drug benefit in the Medicare Program. Our task now is to put a prescription drug benefit in the Medicare Program and do it in a way that does not break the bank. Both goals are important.

Yesterday, we had 52 votes for a prescription drug plan in the Medicare Program, but we need 60. It is also true that although a majority of the Senate have now expressed themselves that they want this prescription drug plan in the Medicare Program, a minority of the Senate can block it.

My hope is we will find a way now to reach 60 votes, to have a prescription drug plan in the Medicare Program in a thoughtful, responsible manner, that is helpful to senior citizens. At the same time we must put downward pressure on prescription drug prices. Both approaches have merit.

I ask the Senator from Michigan if it is not the case that although we had 52 votes and the Senate has already said, yes, let us do it, a minority can block it? The question is, over the next 48 hours, will a minority in the Senate block the majority’s efforts to pass this bill? Is that not where we stand at this point?

Mr. DORGAN. Ms. Stabenow. That is exactly where we stand. My friend from North Dakota is correct. That is exactly where we stand. The question is, Will the minority be able to block what the majority of people want to have happen?

Turning back and asking my friend a question as well, I want to say for those who are watching today, there is a way to express yourself. We certainly hope you will engage with your Senator. You can also go to fairdrugprices.org and be part of an online petition drive urging the Senate to act, and share your own individual story. We have never had a more important time for people to be involved. We need people now to be involved. There are six drug company lobbyists for every one Member of the Senate, but the majority of the people in this country, regardless of where they live, know that we need action for them now, and that is what this is about.

Some of my colleagues put a strong message with 52 people in the Senate, to be able to get those eight extra votes for something that moves us in the right direction. We know it is not going to be all that we had originally hoped, but I desperately hope the drug companies are not going to be successful again in stopping anything real from happening.

I believe this is a point in history that people will look to just as they look to the plan that I voted for to show that we will do the right thing.

Mr. DORGAN. Ms. Stabenow. I would be honored to yield to my friend from North Dakota, who has been such a leader in this effort.

Ms. STABENOW. I would be honored to yield to my friend from North Dakota, who has been such a leader in this effort.

Mr. DORGAN. I would like to ask a question of the Senator from Michigan.

It is true that yesterday we had 52 votes for a prescription drug plan in the Medicare Program. It is also true that we desperately need it. Medicare is now roughly 40 years old. Had we had these lifesaving and miracle drugs available when Medicare was created, there is no question that we would have had a prescription drug benefit in the Medicare Program. Our task now is to put a prescription drug benefit in the Medicare Program and do it in a way that does not break the bank. Both goals are important.

Yesterday, we had 52 votes for a prescription drug plan in the Medicare Program, but we need 60. It is also true that although a majority of the Senate have now expressed themselves that they want this prescription drug plan in the Medicare Program, a minority of the Senate can block it.

My hope is we will find a way now to reach 60 votes, to have a prescription drug plan in the Medicare Program in a thoughtful, responsible manner, that is helpful to senior citizens. At the same time we must put downward pressure on prescription drug prices. Both approaches have merit.

I ask the Senator from Michigan if it is not the case that although we had 52 votes and the Senate has already said, yes, let us do it, a minority can block it? The question is, over the next 48 hours, will a minority in the Senate block the majority’s efforts to pass this bill? Is that not where we stand at this point?
doubling the amount we are spending on the National Institutes of Health searching for cures for these diseases. By the same token, I want what we reap from all this research to be affordable by the American people who need them when they get sick.

Regrettably, what has happened is every year the cost of prescription drugs is going up—18 percent last year, 16 percent the year before, 17 percent the year before that. There is this relentless increase in the cost of prescription drugs, and the fact is a lot of vulnerable people in this country desperately need those drugs and cannot possibly afford them.

Yes, it is important we do a prescription drug benefit in the Medicare Program. Fifty-two Senators have already said yes. The question is, Will a minority block us in the next day or two from getting this done?

We also need to find a way to put downward pressure on prices. One way we have worked on—and the Senator from Michigan has been a leader—is the reimportation of prescription drugs from Canada. The same drug, put in the same bottle, made by the same company, is sold in Canada at a fraction of the cost that the American consumer is charged.

To use one example, someone suffering from breast cancer who needs to take the drug tamoxifen is going to pay $100 for that which they could buy for $19 in Canada, the same medicine made by the same company, FDA approved, similar bottle, different price. The U.S. consumer is charged 10 times more than the Canadian consumer. It is wrong, it is unfair, and it ought to stop. These are the things on which we are working.

Ms. STABENOW. Absolutely. Mr. DORGAN. We do not have perfect solutions, but we must in the next day or two make progress to get this bill completed so that we can go to conference with the House and make prescription drugs available to senior citizens, especially in the Medicare Program, and also begin to find a way to bring prescription drug prices down for all of us.

I appreciate the work the Senator from Michigan has done. She has done in her leadership position a lot of work on this issue, and I deeply appreciate it.

Ms. STABENOW. I thank my colleague from North Dakota.

To support the comments of the Senator from North Dakota, it is so frustrating to look at what is happening, and I think so unfair for consumers in the United States, taxpayers, and ratepayers. People say: How can this happen?

The reality is that today, while the companies say, oh, no, they cannot possibly lower prices at all because they would have to cut research, we know that in fact the fact is two and a half times more on advertising, marketing, and administration than they do on research. When we look at the numbers for last year, the top companies' profits were three times more than they spent on research. This is not about research. We all are for research and, as my friend from North Dakota indicated, we as taxpayers fund research. This year we will contribute over $3 billion to research. I support that. I support doing more than that. It is an important investment.

After we do that, the companies take the basic information and see if they can develop new lifesaving medicine. They file patent applications. However, we give tax deductions for research, as well as advertising other costs of doing business. When they get to the point where they actually have a new drug, we give them a patent of up to 20 years to protect their competitive edge, their brand name, so they can recover their research costs.

We know it costs a lot of money to develop a lifesaving drug. We want to make sure it is a good investment and we recover our costs. The problem is, we get done with all of this and what do we have? The highest prices in the world—higher than anyone else. If you are uninsured and using medications—which is primarily the seniors of this country. You go to your pharmacy, you get the great pleasure and honor of paying the absolutely highest prices in the world. That is outrageous. That is what we are trying to fix, both by making sure the health care system works with medications through Medicare and also making sure that we have greater competition, that we address the outrageous spiking prices and we can bring those down for everyone. That is the point of the debate.

We made some progress through amendments last week on cost containment. Yesterday we had an important debate on Medicare coverage. The question now is whether or not we will be able to get this done on behalf of the American people. I am hopeful we will be able to do that.

I am happy to yield to my friend.

Mr. DORGAN. Some say, when you talk of prescription drug prices, let the market decide. There is, after all, an open, free market, let the market decide.

Is it not the case that there is no free market for prescription drugs in this country? There are price controls in the United States and abroad. Prices are controlled by the pharmaceutical industry, and they like that. I understand that. Most other countries have price controls in which the governing authority sets the price, including profit, and the drug manufactures market those drugs in those countries under those conditions.

In this country, there are no such limitations. So in this country, you can charge whatever you like. The problem is, what if you charge too much for tamoxifen? What if you charge 10 times more than you should for tamoxifen, and they can actually buy it for one-tenth the price in Winipeg, Canada? What prevents the consumer from voting with their feet and going to Canada? What prevents it is a perversion of the free market, and that is a law that says the pharmacist at the Main Street drugstore, the distributor cannot access drugs and bring the market to the consumer.

There is a law that creates an artificial barrier against the free market working. When we try to change that, people say they are worried about bio-terrorism, poppy seeds in Afghanistan, or they are worried that if we allow the importation of blue cheese—the most Byzantine arguments I have heard since I have been in the Senate.

Is it not the case that to say let the market decide, the free market is not a free market with respect to drug pricing in the United States?

Ms. STABENOW. The Senator is absolutely correct. There is not a free market. There are barriers placed in the way from real competition, real competition across the border, and there are always now that the companies stop competition—buying up generic companies and blocking other competition.

I say in conclusion, unfortunately, we cannot just say, let the free market prevail. We are not talking about optional products. We are not talking about a family saying, we cannot afford a new car this year, we will wait; we cannot afford a pair of new tennis shoes or lawn equipment. We are talking about lifesaving medicine. Sometimes when people have to wait, they do not survive. This is different. We have to be serious about the difference.

I urge my colleagues to come together and get something done.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Mrs. HUTCHISON. Mr. President, I rise today to speak in favor of the emergency supplemental appropriations bill on which we will be voting at about 1:30 this afternoon. It is high time we pass this bill. The President asked for emergency appropriations to fund the Department of Defense and the war on terrorism about 4 months ago. It is critical. It contains $14 billion to fund the war on terrorism. With the cost of antiterrorist operations in the United States and elsewhere exceeding $2 billion per month, these funds are certainly needed.

Because Congress has taken so long to produce this bill, the Pentagon has already reached into $3 billion worth of funds budgeted for ongoing activities in the fourth quarter of the current fiscal year.

Last week, the Pentagon’s comptroller warned of dire consequences if Congress did not provide the funds soon. He said the Department would have to suspend ship deployments and air training operations for units that are not forward deployed, with the result that many units would no longer
be able to respond to any crisis that might emerge.

Many spare parts and supplies longer could be ordered, and both ship maintenance and maintenance on critical aircraft, such as the EA-6B jamming and EA-18G fighter aircraft, would come to a halt. Schedules for military personnel would be disrupted, jeopardizing school years for children and job opportunities for spouses. As many as 35,000 civilians could be furloughed from the Department of Defense.

Passage of this bill will guarantee our military does not run out of funds before the fiscal year 2003 Defense appropriation bill is sent to the President’s desk, hopefully by October 1 of this year.

This bill also helps Texans who have been devastated by two disasters at the same time—a severe lack of water in the Rio Grande River Valley in south Texas and heavy flooding in central Texas.

This emergency legislation will help south Texas farmers by providing $10 million to make up for some of the losses they incurred during the last crop year due to lack of water. Families who are suffering because their livelihood depends on water and Mexico has failed to deliver, under the United States-Mexico water treaty of 1994, the water that is owed. This treaty obligates Mexico to deliver 350,000 acre feet of water to the Rio Grande River annually while obliging the United States to allow 1.5 million acre feet of water to flow to Mexico from the Colorado River.

Since 1992, Mexico has incurred a debt of 1.5 million acre feet of this water to the United States, while the United States has continually complied with our water obligations under the treaty. Because Mexico has failed to deliver its treaty obligated water, south Texas has lost over 5,000 jobs each year and suffered $230 million per year in lost business activity. The economic loss to the region since 1992 is estimated to be $1 billion. This situation has become critical due to the continuing drought conditions in both south Texas and Mexico.

The bill also provides $100 million in assistance for emergency use—$50 million for fires, $50 million for floods—to hundreds of thousands of Americans who have suffered from the wrath of scorching wildfires and unyielding flash floods that swept across New Mexico, Colorado, Arizona, Montana, Utah, Wyoming, Texas, and many other areas of our Nation. These natural disasters rip through our towns, threaten our families, wreck our homes and businesses, destroy our heirlooms, and leave us stripped of resources to begin putting the pieces back together.

On the Fourth of July, when most of the Nation was celebrating America’s birthday, central Texas was evacuated from their homes by the thousands. Texas rivers were on the rise and were cresting at record levels, more than 20 feet above flood stage in most locations. By the time most of America’s firework had burned out, the Medina River crested at a ferocious 44 feet above flood stage south of San Antonio. The storm left Texas with four people missing, four people killed, and mourning the tragic deaths of nine.

I thank the Texas Department of Emergency Management and the Federal Emergency Management Agency, FEMA, for their rapid response and relief to the people who evacuated their homes, some of whom had only a few precious minutes to muster their families and secure their most valuable possessions.

Imagine having to choose between saving your family photo album, your great-grandfather’s journal, or your family Bible.

I particularly want to thank Joe Albaugh, the Director of the Federal Emergency Management Agency, who worked with the congressional delegation to see the floods firsthand so he could come back and make sure he had made all of the efforts that could be made, all that were possible to give help to the people of south central Texas.

The flood waters have dropped in Texas and people are now diligently working to clean and repair their homes and businesses. The total damages are still being assessed, and it is estimated they will reach another billion dollars. So I urge my colleagues to agree to this supplemental appropriations conference report to help them begin to put their lives back together in south central Texas.

In addition, I want to mention Amtrak because this bill does restore a commitment to Amtrak, and $4.4 billion in vital highway funding to the States that would have been lost due to a decrease in gasoline tax revenue. Amtrak is part of the United States to floods in south central Texas.

In addition, I want to mention Amtrak because this bill does restore a commitment to Amtrak, and $4.4 billion in vital highway funding to the States that would have been lost due to a decrease in gasoline tax revenue. Amtrak must continue its national attention. Our national passenger rail system is teetering on the edge of the abyss. The bill merely pulls it back a few inches. We must find a way for Amtrak to achieve long-term financial security through a dedicated funding source similar to the way we fund highways and aviation transportation. Otherwise, we will face these emergencies every year, and service will continue to deteriorate.

At times, Amtrak’s new leadership must eliminate this regional bias which has infected the railroad since its inception. Amtrak must stop sending all of its resources to the Northeast corridor, which is probably the only place in America with reliable rail service. Even so, the Northeast corridor is losing money every bit as fast as the rest of the system.

I have inserted language into the Amtrak authorization, of which I am a cosponsor, that would force the railroad to spend its resources proportionately throughout the system. That way, passengers in Texas, Washington State, and Mississippi can enjoy the kind of service that Northeast commuters have had for decades.

I think we can have a national rail system for our country. I think it is important that we do so. We have the outline of such a railroad system today—but let’s look at where we can stabilize Amtrak so all the places that now get service can get reliable service, on time service. Every time Amtrak threatens to pull the long-haul lines—which they did earlier this year—we lose those little reservations from people not knowing if they are going to be able to use their ticket, if they are going to go somewhere and not be able to get back, so it hurts the system even more. That is why we have to be able to count on the service for which they are paying. We owe them that.

We cannot possibly judge Amtrak unless we give them reliable service that would give us fair criteria. But to do that, we are going to have to operate on an operationally self-sufficient basis and operate on an operationally self-sufficient basis and operate on an operationally self-sufficient basis.

We cannot possibly judge Amtrak unless we give them reliable service that would give us fair criteria. But to do that, we are going to have to operate on an operationally self-sufficient basis and operate on an operationally self-sufficient basis.

Rail service is every bit as important an alternative as highway use, bus use, and other services on the highways, as airports and aviation. We need all kinds of transportation in our country. In some places, freight is most easily and efficiently transferred from State to State across our country via rail. In some places, people cannot get to an airport. They do not live in a place that even has bus service. So they need another alternative that will allow them to travel across our country. This is part of national security. It is part of a stable economy. It is part of what we need to just make a commitment and do it right. We have not been doing it right. We have been putting Band-Aids on Amtrak ever since we revived it years ago. Now is the time to do it right.

I think this supplemental appropriations bill is a good one. It meets the needs of our military and our homeland defense, which certainly have been in a crisis situation for the last few months as we have debated this bill. It also addresses the emergencies in our country, from fires raging across the western part of the United States to floods in my home State of Texas. And it does help us revive Amtrak, hopefully to give the leadership of Amtrak a new leadership. I might add—the ability to get this job on track and hopefully to do it right.

Mr. President, I urge my colleagues to support this bill and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah.
Mr. HATCH. Mr. President, what is the state of the proceedings at this point?

The ACTING PRESIDENT pro tempore. The minority controls the next 14½ minutes.

STRENGTHENING CORPORATE ACCOUNTABILITY WHILE STIMULATING CORPORATE INNOVATION

Mr. HATCH. Mr. President, the Senate accomplished two significant feats last week. First, this body took strong action to ensure that candor and accountability will be watchwords in the world of corporate accounting. We have given the Securities and Exchange Commission the tools it needs to better do its job of ensuring that financial statements tell investors, in plain English, how our nation’s corporations are really doing. And we crafted 21st-century criminal statutes and tougher penalties for those corporate wrong-doers who willfully mislead investors about corporate finances, and we are still working on that language.

Second, and more important, we resisted to a great extent the temptation to turn this bill, on which Senator SARBANES and Senator GRAMM worked so hard, into a tool for demagoguery. With the continuing reports of shoddy bookkeeping at some of our biggest companies, with terrible news coming from Wall Street these past few weeks, and with continuing layoffs at major corporations, it is no wonder that many pundits across the country, and even a few of our colleagues, were tempted to cast about, looking for a bill to support—any bill at all—that could make them look tough on white-collar crime.

But the battle is not over yet. We know that here in Congress, as well as in the regulatory agencies and in State governments, there are still moves afoot to impose more rules, more regulations, and more punishments on American businesses. There are those who are predicting that this wave of corporate scandals could give rise to a new era of big government, much like the Progressive Era or even the Great Depression.

I rise today, to say that this Nation must not return down that failed path. A new era of “re-regulation” would, without doubt, damage or destroy the twin engines of innovation and capital formation that have made the American people the richest people the world has ever known. A new era of re-regulation, however well-intentioned, would put us on the path that Europe and Japan have recently trod. We would be playing a constant game of catch-up with whatever country was in the economic lead. People in the leading countries would have access to new inventions today, and then, years later, citizens of our United States would finally be able to afford them. That is the kind of trickle-down we need to avoid, and that is the kind of trickle-down that the good people of Europe and Japan live with every day.

I have faith that the American people will not be led down that path. Instead, I believe that they will remember that in the late 1980s, the forces of competition gave birth to modern wonders in the fields of medicine and telecommunications while Congress cut capital gains taxes and balanced the budget. We saw the promise of venture capital unleash new start-ups tried out their new ideas in the marketplace even though we knew in advance that only a few would succeed.

And as investment and innovation increased, our workers became more productive, and higher productivity led, as always, to higher wages and better living standards. Census figures show that since 1980, the share of families earning over $100,000 per year doubled, even after adjusting for inflation. The number of people living in poverty has declined, and the only reason it has not declined faster is because this land of opportunity draws in poor immigrants from throughout the world. In many cases, it is the product of our immigration policy that these immigrants will rise into the middle and upper ranks of income-earners.

And, most saliently, this prosperity reached into almost every part of American life. Overall unemployment rates reached the lowest levels in 30 years, and every race and every age group saw its fortunes improve. Just as the 1960s debunked the pessimists who thought that stagnation and malaise were the way our nation would go, so the 1990s, with unemployment rates getting down to 4 percent, debunked those who thought that unemployment rates below 6 percent inevitably spark inflation.

Despite the fact that the American people have endured a year of high energy prices, a painful recession, waves of corporate accounting scandals, and the horrific attacks of September Eleventh, our foundations remain strong. Innovation and capital formation have continued even during the depths of the recession, to the amazement of the pessimists. Despite the many buffeting our nation has endured, America’s workers are more productive today than they were just a year ago. That continued the trend of the last few years, where we saw productivity grow at an annual rate of 3.1 percent.

We have seen the unemployment rate shoot up from its 30-year low of 3.9 percent up to 5.9 percent in June. Mere numbers, of course, can never convey the real cost of losing a job. And tragically, recessions continue to hurt workers months and months after sales pick up. But clearly, this recession is like no other that we have seen: manufacturing has been hit hard, very hard, by this recession. Workers in those industries, and people who live in towns that rely on those industries, have paid a heavy price.

But our economy’s resilience and flexibility is amazing, and this resilience shows in our labor markets, where our nationwide average unemployment rate of 5.9 percent, while still too high, would have been hailed during most of the 1980’s and 1990’s. And if Congress acts to restore the economy to its potential, enacting policies that foster innovation and growth, we can continue to improve our standard of living, get the unemployment rate back down, and make our economy more resistant to the inevitable economic shocks of our modern world.

As Chairman Greenspan noted last Tuesday, Congress can strengthen our economy’s long-run potential through strong fiscal discipline, so that more of our economy’s resources are in the hands of our innovating private sector. And since capital formation and technical innovation are keys to productivity growth, we should move aggressively toward expense capital equipment and finally making the research and development tax credit permanent.

The accounting reform bill we passed last week is a good bill, and once it comes out of conference, I hope it is even better. The Senate bill reduces the potential for conflicts of interest between the auditing and consulting services. It ensures that the government will vigorously scrutinize audits to ensure that the balance sheet is telling the real story. And it modernizes the criminal codes to deal with the corrupt corporate activists, those who distrust big business, who distrust success, and who distrust the competitive spirit of the American people. They will seek to pressure the SEC and the Financial Accounting Standards Board to enact rules that express their hostility toward corporate America. And however well-intentioned the goals of these activists, they could have disastrous consequences.

Let us consider an example that sounds reasonable enough. I started off by noting that the Sarbanes bill would ensure that financial statements tell investors, in plain English, how our nation’s corporations are really doing. And once that good legislation is in place, the goal of reading financial statements in language that ordinary investors can understand, and the SEC has done a good job encouraging corporations and financial services companies to avoid unneeded jargon in their official statements. But at the same time, we need to remember that while corporate finance is not rocket science, it is not that far from it.

Some issues will be hard to understand, and they should stay that way. If we insist that every financial dealing be completely understandable to the average investor, then you know what we will end up with. Corporations that
the average investor would not want to invest in. Investors want their companies to be run by people who know more about finance than they do, just as they want our homes built by people who know more about construction than they do. Sure, it is good to know the broad outlines about how a house is built. But we expect construction workers to use their specialized knowledge, knowledge that is difficult to convey to a layperson.

There has been much talk in the world of corporate management. Even after these accounting reforms are up and running, accounting is still going to sound like a foreign language to most people, and plenty of run-of-the-mill business decisions are going to sound complex to outsiders. Critics will accuse anything with a footnote of being a loophole, just another example of “crony capitalism.” They will put pressure on America’s businesses to simplify their businesses so that it can be “transparent” to outsiders. But we cannot give in to the urge to insist that corporate finance be intelligible to high-school students, and we cannot allow pressure groups to dictate how to organize a business.

We have not justified awards destroy the careers of many good doctors who can no longer get malpractice insurance just because juries end up being swayed by emotion and genuine human suffering rather than by the difficulty and unknown that medicine involves. We have not let the same thing happen to corporate America.

Finally, I want to address an overarching question: Do we really live in a world where a couple of crafty and unscrupulous executives can destroy an entire Fortune 500 company? Is our market economy really a house of cards that needs the ever-present support of the Federal Government to keep from falling down? I do not believe it. I believe that we can make our economy into a place where incompetent managers and worthless investments are as rare as they are in other parts of our lives. This is what we should be doing. This is what we should be demanding of every business that wants to enjoy the protections of our laws.

By tightening the auditor’s scrutiny of business decisions, we expect that in the future, bad decisions will be uncovered sooner, before too much damage is done to the company and to its stock price. But business decisions will continue to be made, both good and bad, and companies will continue to rise and fall as calismas and bad managers vote with their dollars. That, as Secretary O’Neill noted, is the “genius of the market.”

And that brings me to my final point. If auditors uncover a serious problem with a company’s books, who will fix it? Surely, in most cases, the board of directors will act aggressively to sack the problem executives and install a new team that will work hard to put things right. Especially with the incentive of stock options and stock ownership, the new management team, facing auditor scrutiny, will have strong reasons to do the best they can to boost shareholder value. The punishments dealt by the stock market are already giving corporations a strong incentive to reform, as stockholders press for clarity and boards of directors interrogate their CEOs and demand answers.

But what about those occasional situations where the directors are either incompetent or out of touch? In practice, it is very difficult for shareholders to replace directors on their own. There are sometimes millions of individual shareholders, each of whom has little incentive to put in the time and effort of replacing their directors. It is almost always easier to sell the badly-performing stock than it is to replace incompetent directors. At this point, our last best hope is that much-maligned character from the 1980s, the hostile takeover artist. The Sarbanes bill uses the phrase “protection of investors” over 20 times. But who protects investors better than someone who invests a large sum of cash into a failing company, kicks out the old, ineffective, perhaps even corrupt management, and installs new leaders dedicated to maximizing long-run shareholder value? But while we have seen some meaningful mergers over the last decade, why have we not seen as many genuinely hostile takeovers? The answer, of course, is legislation. In this case, it was not federal law but state laws that stemmed the tide of hostile takeovers. So even if improved audits uncover corporate incompetence or worse, shareholders could still be left with bad managers and worthless investments.

The accounting reform legislation on which we have worked will break new ground in the realm of investor protection. It will increase transparency and punish wrongdoers. But that is only half the battle against corporate mismanagement. The second half of the battle comes when directors and shareholders take action to purge the ineffective executives and restore the profitability of their investments. In time, we have seen numerous lawsuits to help them. The combined calls by the President and the Senate for directors with greater independence is a strong step in that direction.

In closing, I want to draw attention again to the true foundation of our nation’s prosperity—our nation’s workers, the most productive in the world. Whether they work in a factory, behind a desk, or on a farm, the American worker can produce more in an hour than any other worker in the world. They are the ones who will use better tools, better knowledge, better education, and in particular, better organizations. From old-economy stalwarts such as Ford to new-economy innovators like Intel to our ever-modernizing agribusiness sector, our economy’s large organizations help to coordinate the activities and innovations of countless numbers of people so that we can accomplish more with our collective labor. The quality of American automobiles, the speed of American-designed microprocessors, and the produce of America’s farms keep increasing each and every year. I am confident that our accounting reforms, if efficiently and properly implemented, will help to strengthen the American corporation’s ability to innovate. And by doing so, all Americans will reap the rewards. Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 812, which the clerk will report.

The bill clerk read as follows:

A bill (S. 812) to amend the Federal Food, Drug, and Cosmetics Act to provide greater access to affordable pharmaceuticals.

Pending:

Reid (for Dorgan) amendment No. 4299, to permit commercial importation of prescription drugs from Canada.

Hagel Amendment No. 4315 (to amendment No. 4299, as amended), to provide Medicare beneficiaries with a drug discount card that ensures access to affordable outpatient prescription drugs.

AMENDMENT NO. 4315

The PRESIDING OFFICER (Ms. LANDRUM). Under the previous order, there will now be 120 minutes for debate on the Hagel amendment No. 4315, with 60 minutes each under the control of the Senator from Nebraska, Mr. HAGEL, or his designee, and the Senator from Massachusetts, Mr. KENNEDY, or his designee.

Who yields time?

The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I will yield myself such time as I might use.

Madam President, yesterday we had a very important debate, and we also had the Members of the Senate voting on two important measures for the prescription drug program. I am a strong supporter of the proposal that was offered by the Senator from Florida, Mr. GRAHAM, and Senator MILLER from Georgia. That amendment achieved 52 votes in the Senate. A majority of the Members voted in favor of a program based upon the Medicare system, a program that closes the doughnut hole that is part of our Medicare system, which so many of our seniors are faced with every single day.
We had a good debate on that measure. And we had a good debate on the Republican alternative, which I believe, as I expressed during the course of the debate, falls well short of meeting the needs of our seniors. The alternative plan is inadequate, full of loopholes, and does not address the underlying issue of prescription drugs for our seniors. But, nonetheless, we had a good debate.

There are those who supported that program. Obviously, their interpretation of the underlying concept, we had a difference in terms of the average of seniors in this country. We did not have a difference in terms of the program, and they believed—and continue to believe strongly—that their program was the best way to achieve the objective of universal coverage of seniors in this country. We did not have a difference in terms of the underlying concept, we had a difference in terms of approach. I believed—and still believe—we would be unable to guarantee protections for our elderly under the Republican proposal. But that was the matter of the debate. The Senate spoke. And it spoke more favorably of the proposal offered by Senator Graham than the Republican proposal.

Now we have an entirely different proposal before the Senate. I, quite frankly, thought it was highly skeptical of what they call the tripartisan proposal—that this does not even measure up to the tripartisan proposal.

What we are attempting to do in the Senate is to pass a program that will reach all of our seniors, and do it in a way that is going to be affordable for our seniors. That is one of the great features of the underlying proposal, which we all support on this side of the aisle. And it does include measures that have been accepted both in our HELP Committee, as well as on the floor of the Senate that deal with the issue of the cost of prescription drugs.

We want to make prescription drugs affordable to make them accessible, and we want to build on a system in which the seniors have confidence. That is why, quite frankly, we find that virtually all the seniors groups have supported the proposal of Senator Graham and Senator Miller. They all support that proposal. Virtually none of them support the tripartisan program. And virtually none of them support this particular proposal.

It seems to me, as we stated yesterday, our seniors—who have fought in the wars, brought us out of the Depression, and built this Nation up to be the great country that it is—are entitled to more than crumbs in terms of the prescription drug program.

They are living longer, thankfully, and families are blessed by the presence of their parents and grandparents. These days, a number of generations—three or four generations—can be alive at the same time. That is all very good. I cannot understand, for the life of me, why the Senate would be willing to accept the amendment which is being offered now, which is so inadequate that it does not even deserve to be called prescription drug coverage under Medicare. It is a step backwards, not forwards, in mending the broken promise of Medicare and providing senior citizens the health security they deserve. It provides no real cost containment for the explosive growth of prescription drugs. That is a major problem. We have had good debate on those measures, but this proposal has no cost containment. Its funding is so inadequate that the elderly would have to pay $9,000 a year would have to pay $1,500—17 percent of their income—before they got any help.

A low-income senior citizen with an income of only $18,000 a year would have to pay $3,500—20 percent of their meager income—before they got any help.

A moderate-income senior citizen with an income of $35,000 would have to pay $5,500—16 percent of their income—before they got any help.

This isn’t insurance, and this isn’t Medicare. If it were to become law, seniors would be imposing a cost on the elderly. If it were to become law, senior citizens would still face the prospect of having their lifetime savings swept away by the high cost of prescription drugs. If it were to become law, the broken promise of Medicare would remain broken.

Beyond the simple fact that this benefit is inadequate, it violates a basic principle of Medicare. The original agreement was that Medicare would remain broken.

Beyond the simple fact that this benefit is inadequate, it violates a basic principle of Medicare. The original agreement was that Medicare would remain broken.

As I stated yesterday, we talked about the pluses and minuses. But if it were to be imposed as a means test. Medicare is one of the most beloved and successful programs ever created. The reason it has such broad public support is that it is universal social insurance. Everyone contributes, and everyone benefits.

Republicans have wanted to turn Medicare into a welfare program ever since it was created. This plan is, I believe, just another step in that direction. The American people rejected that approach in 1965, and I think they still reject it today.

This bill is more inadequate than the House Republican bill. It is more inadequate than either of the two bills just voted on by the Senate. It is not supported by a single organization of the elderly or the disabled. And it does not deserve the support of the Senate.

If we are going to take steps to try to respond to the needs of the elderly, it is important that we ought to be able to gain the support of the groups. We have to ask ourselves, each time we consider legislation, who benefits? Obviously, we also have to ask, who pays? The taxpayer. Who benefits from this program, and how do they react to this program? Is the elderly, and they are not in support of the program.

The fight for a real Medicare prescription drug benefit did not end yesterday. We will continue to fight until senior citizens have the protections they deserve.

A vote for this bill is a vote to substitute a political fig leaf, a very small fig leaf, for the real protection the elderly need.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Madam President, I yield 5 minutes to my colleague from Tennessee.

Mr. PFRIST. Madam President, I rise in support of the Hagel-Ensign bill because it really strikes right at the heart of what seniors expect from our Government as they look at their health care and as they look to their future.

When I talk to seniors as I travel around the great State of Tennessee and the country, they tell me a very simple and straightforward message regarding prescription drugs: Please, when you go back to Washington, enact a prescription drug benefit and do it now. Do not do it 3 or 4 years from now—implementing the program in 7 or 8 years. What I want is something now; do it now.

The beautiful thing about the Hagel-Ensign bill—and I congratulate the authors and sponsors and cosponsors—is that it is the only bill that has come to the floor of the Senate that enacts a prescription drug benefit now. Our seniors deserve an affordable, immediate prescription drug coverage. That is No. 1: Do it now. This is the only bill we have considered that accomplishes that.

No. 2: do it responsibly. That is where the debate has changed a lot compared to months ago or even prior to the last election a year and a half ago. Our seniors today, individuals with disabilities and the future generation of seniors say: Do it now, but do it responsibly. Responsibly means to have a bill on the table that can sustain the high cost of prescription drugs. That is No. 1: Do it now. This is the only bill we have considered that accomplishes that.

Yesterday, we talked about bills on the floor that cost $800 billion or, over a full 10-year period, $1 trillion, and that did not pass. Additionally, we debated a bill that cost about $370 billion. That bill did not have sufficient votes for the point of order. Today, we are
talking about a bill that costs less than $200 billion—well within what we have budgeted.

Even more importantly than cost, is that this particular bill captures the power of what is called competition or the market forces that tell us what we pass today in terms of benefits, in terms of the prescription drug card, and in terms of the catastrophic coverage will be able to be sustained over time. When you capture the element of competition in the delivery, what you get is that there will be inde-

dent tradeoffs, and decisions made regarding—whether it is inpatient hos-
pital care, acute care, chronic care, preventive care, or prescription drugs.

When I say "tradeoffs," I don’t mean lessening of the benefits. I mean bringing people to the table so rational decision making can take place, given that the benefits that are promised need to be matched with the resources that are available.

The Hagel-Ensign bill is immediate, affordable, and permanent. It is not promised just for a period of time. Finally, it is market-based—capturing the power of competition so that it can continue to deliver the benefits over time.

For that reason, I am excited about this bill. I urge my colleagues to support this bill. We will have the opportunity to debate and discuss the details over the next 2 hours. In short, it is a prescription drug card where every senior who participates can get a discount instead of paying retail for drugs. Additionally, there is a cap as to how much they will have to pay out of pocket. This cap provides seniors with security and peace of mind that in the event they are struck by a lymphoma, heart or lung disease and have to buy prescrip-
tion drugs that they will only have to pay a certain amount. For those reasons, I urge support for this immediate, affordable, permanent, and market-based prescription drug card.

The PRESIDING OFFICER. The Senator has used 5 minutes. Who seeks reognition? Who yields time?

Mr. HAGEL. Madam President, I yield my colleague from Nevada 5 minutes.

Mr. ENSSLIN. Madam President, I want to talk about a couple of philosophies that deal with this bill. We currently have a health care system that has evolved over time where we have low deductible policies and we have usually a small copay involved. That low deductible coverage over time has taken the patient out of the accountability loop.

Somebody goes into the office. They have an annual deductible. They don’t pay attention. They go in and they start getting their health care coverage. The doctor tells them whatever they should do. The doctor is trying to rush people through. They don’t think the patient is paying for the care. So they don’t take the time to explain why certain tests cost money. They know somebody else is paying for it.

They don’t think about the patient’s cost because it isn’t the patient. It is an insurance company that is paying the cost.

By taking that patient out of the accountability loop, costs have skyrocketed over time. That is why the catastrophic coverage will be able to be sustained over time. When you capture the element of competition in the delivery, what you get is that there will be inde-

dent tradeoffs, and decisions made regarding—whether it is inpatient hos-
pital care, acute care, chronic care, preventive care, or prescription drugs.

When I say "tradeoffs," I don’t mean lessening of the benefits. I mean bringing people to the table so rational decision making can take place, given that the benefits that are promised need to be matched with the resources that are available.

The Hagel-Ensign bill is immediate, affordable, and permanent. It is not promised just for a period of time. Finally, it is market-based—capturing the power of competition so that it can continue to deliver the benefits over time.

For that reason, I am excited about this bill. I urge my colleagues to support this bill. We will have the opportunity to debate and discuss the details over the next 2 hours. In short, it is a prescription drug card where every senior who participates can get a discount instead of paying retail for drugs. Additionally, there is a cap as to how much they will have to pay out of pocket. This cap provides seniors with security and peace of mind that in the event they are struck by a lymphoma, heart or lung disease and have to buy prescription drugs that they will only have to pay a certain amount. For those reasons, I urge support for this immediate, affordable, permanent, and market-based prescription drug card.

The Senator from Massachusetts mentioned that seniors don’t want to lose what they have saved for all the years. They want to make sure they have some security in their assets.

We have the patient in the accountability loop. Low-income seniors in our bill will pay the first $1,500 or about $120 a month out of pocket. They are going to pay that. Seniors can afford to pay that. They are willing to do that. After that, the Government is going to pay—other than a small copay—is going to pay so that the senior who has diabetes, a heart condition, cancer, that senior is going to be covered under our plan and is going to keep from losing all of their valuable assets.

So because the first dollar coverage is paid by the senior instead of the Government, our plan is much more fiscally responsible to the next genera-
tion. That is why, when Senator Frist talked about it being a sustainable plan, our plan, in the future, will be sustainable because the patients—the seniors citizens themselves—will shop for medicine; they will not just take whatever the doctor says. They will do research. It is a gener-
ic for that? They will do that be-
cause they are paying the first dollars out of their pockets. They will also ask: Do I need that medication? I am taking four medications. Do I need all four? Maybe the doctor would say: I forgot about the other medication you were taking.

So this brings the patient back into being accountable for their health care. That is critically important to our health care system and especially to this new prescription drug coverage that we want to add to Medicare.

Madam President, I urge my col-

leagues to look at this very reasonable proposal. It is something that can be done, and can be done now, and it can be made permanent.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, I think we ought to have at least some understanding about what the challenge is. We make decisions in the Senate, and this is basically a question of priorities. The issue before us, in the broader context, is whether we believe it’s a priority to do something to keep the costs down in terms of pre-
scription drugs for our senior citizens, our fellow citizens.

Now, our good friends on the other side say: Look, we want to do something, but we are not going to do very much. It is better than doing nothing at all.

I would like to believe we are capable of doing something more for those Americans who have been called the greatest generation. Rather than giving them crumbs, it seems to me we ought to give them a decent benefit package that is built upon the Medi-
care system. That is what is supported by all of the elderly groups.

The question is, do we have the will? Or are we going to just trim something off the edges and give them a little something? If you are making $8,000 or $9,000, you are going to have to spend $1,500 before you ever get anything at all.

It seems to me this is a question of priorities here in the Senate for the greatest generation, for our senior citi-
zens: Are we prepared to make a com-
mitment that will ensure them a ben-
efit package that is equal to the re-
quest by this President for tax cuts this year—$600 billion? I don’t hear any proposals from the other side saying, let’s defer that $600 billion tax cut and put it here for prescription drugs. Let us not try to shortchange our sen-
or citizens.

There are two issues which are under-
lying all of this. One is the issue of cost, which is clearly demonstrated by this chart. The yellow represents the consumer price index, the gradual in-
crease in inflation, and the blue repre-
sents the drug costs that are going up every year. There is nothing in the Hagel proposal that does anything to get a handle on these costs. Those costs have to continue to go up. There is no proposal in there that does anything about cost. But there is an-
other very important proposal that we
have before the Senate—and we wel-
come the support of our Republican collea-
uques—that can make a difference in terms of cost.

Our Democratic program deals with the issues of cost and also with the issues of access. Cost is going up. Our seniors need help. Let's talk about what we are facing globally in the United States in terms of prescription drugs and our seniors and where they are.

We have 13 million who have virtually no coverage at all; 10 million are in employer-sponsored programs—we will come back to that—13 million have none, and 10 million are in employer-sponsored programs; 5 million are in the Medicare HMO; 2 million are in Medicaid. 3 million are in Medicare and another million have other kinds of public coverage. The only seniors who are protected in this whole group are the ones with Medicaid. They are the ones who are guaranteed coverage. The rest of them are not, and we will see very quickly why they are not protected.

Remember now, 13 million have none and 10 million are employer-sponsored, 5 million in HMOs, and 2 million in Medicaid. Let's take the employer-sponsored group. Look at what happened in the employer-sponsored programs. This chart shows what has been happening in the employer-sponsored programs. Firms offering retiree health coverage dropped 40 percent between 1994 and 2001. That line is going down through the cellar of the Senate. Those 10 million who were covered by employer-sponsored plans are going right on down. They are being dropped every single day. Make no mistake about it.

Under the Republican proposal that was before the Senate yesterday, this decrease would have been accelerated for 3 million seniors in that program because the employers would not receive any of the assistance they need to retain them.

So the 10 million who have the em-
ployer-sponsored are going down. We have the 13 million who have none and 10 million who are employer-sponsored. They are increasingly at risk every single day.

Well, you say, we still have 4 million who have HMO coverage. Look at the bottom line here. Look at the Medicare HMOs, reducing the level of drug coverage. This won't happen. Seventy percent of the HMOs limit their drug coverage to $750. So even if you have some coverage up to $750, you are paying higher and higher costs. That wasn't the case 5 or 7 years ago, but it is the case now. Fifty percent of the Medicare HMOs with drug coverage only pay for generic drugs. So this is what is happening now. The HMOs the 4 million people who have some kind of coverage are being restricted, they are being limited, they are being conditioned for the future.

Increasing numbers of our seniors are not being taken care of. This is what we are facing in our country. The an-
swer was before the Senate yesterday was a comprehensive program built upon Medicare, which is affordable, which is dependable, which is reliable, which is defensible, and which the overwhelming majority of the elderly support. We have 52 votes for it. We would be able to attempt to do so. Now, with the Re-
publican program—as I pointed out, I didn't agree with it, I didn't support it. But at least those who did support it made the case that it was going to be able to provide the coverage.

They said, look, we can do it through the private sector, and if the private sector won't provide the coverage in remote areas, we are going to continue to fund them until at last they do.

I suppose at the end of the day you can find someone who will sell a pres-
cription drug program in a remote area of Alaska if you pay them enough to do so. Our concern is that with the amount of money we are spending to provide those benefits, we ought to be using it in the benefit package, ought to be enhancing the benefit package, providing additional kinds of relief for our senior citizens.

Now along comes a proposal that is opposed by the AARP. Here is a letter that was circulated yesterday. It says: Given these concerns, the AARP opposes your amendment.

The reason the seniors oppose it is they don't really believe that this will be anything more than a significant help, or even a little help, to the seniors in this country. They believe what we ought to do is build upon the Medicare system, a system that has been tried and tested, and has performed over the test of time. As the leading organiza-
tion of the elderly finds, this proposal is completely inadequate. At least we ought to live up to our hopes and our dreams for our seniors, and that is to cover all of them.

We ought to cover all of them. What happens to those seniors who are mak-
ing $7,000 or $8,000, $9,000? They have to pay out $3,500, 20 percent of their meager income. In fact, that person does very well. That person does better than under the Republican proposal. The Republican proposal is a complete misstatement. I just reserve the remainder of my time.

Mr. ENSIGN. Madam President, I am the designee of the Senator from Ne-ras. I yield myself 5 minutes.

The PRESIDING OFFICER. The Sen-
ator from Nevada.

Mr. ENSIGN. Madam President, I wish to address some of the concerns of the Senator from Massachusetts. First, there are many States, at the income levels he is talking about—$9,000, $10,000, $11,000, and even in my State of Nevada up to the $22,500 a year level—that are already providing some help for senior citizens.

The Republican Governor of my State was very visionary and put to-
gether something called the Senior Rx program using part of the money from the tobacco settlement. For people with an income of $21,500 or less—they are non-Medicaid-eligible people—as long as they have been a resident of Nevada for at least 12 months, they can have a maximum benefit of $5,000 a year. They have no premium. They pay $10 for generic drugs and a $25 copay for preferred drugs.

In the State of Nevada, that person Senator KENNEDY was talking about who makes $9,000 a year is taken care of. In fact, that person does very well. That person does better than under the Democrat proposal—much better.

Also, if you go out and talk to seniors—I have been in a couple of very
time-consuming and all-encompassing campaigns 2 out of the last 4 years—I talked to seniors all over our State, and if you say to them they are going to be limited to about $100, $120 a month of out-of-pocket expenses for the low-to-moderate-income people, they are essentially strapped at that. They will say: Sign me up, as long as they are limited from losing every-
thing or from being bankrupted

for their children or grandchildren? How do people get along on that $18,000? The fact is, people are hard-
pressed, and I think for us in this body to accept the concept that we have done something for our seniors with this is a complete misstatement. I just don't see how we can support this pro-
posal.

Nothing in this proposal deals with the cost of prescription drugs—this limited program is unworthy of what we in this body ought to be about. 52 Members of the Senate on our side, and 48 Members on the Republican side voted for a universal plan. Now, we are back in less than 24 hours talking about a catastrophic program that will only reach a small number of people and will put people through the wringer to do so. I think this institution, this body, can do better.

I strongly believe that seniors, who are faced with our national challenge
and who are suffering and experiencing extraordinary income losses, sin-
gle day deserves a great deal better. That is why I hope eventually that this amendment will not be accepted.

I reserve the remainder of my time.
Mr. KENNEDY. Madam President, to correct my colleague and friend, he mentioned $8,000 or $9,000. That fails within 135 percent of poverty. So under our program, they would not be paying any out-of-pocket expenditures.

Mr. ENSIGN. If the Senator will yield.

Mr. KENNEDY. Beyond this, he mentioned his own program in his own State as support. We are representing all the people of all the States. Quite frankly, I want to get into a debate about his program in Nevada, although there are people who have talked about that program. Some of our colleagues who are former insurance commissioners have talked about the history of that particular program.

I do not happen to get into that program. Let me point out my program in the State of Massachusetts. The annual out-of-pocket spending limits for deductibles and copays are $2,000, or 10 percent of income, whichever is less, and no penalty for going over to $2,000.

This program is better than the Hagel-Ensign program. No one would benefit from that program in Massachusetts. I do not know which States or individuals would benefit and which would not benefit.

We are concerned about all of our seniors. That is what we are trying to address. Even if one State does a little better and one State does worse, we are looking at the challenge which all of us share, and that is, that I think I could go to places in Nevada or places in Massachusetts or any State, to find hard working, decent people, who play by the rules and were guaranteed, through Medicare, that their health care would be secure. That is what we said in 1965. No ifs, ands, or buts; it will be guaranteed. But it is not guaranteed, and the principal reason it is not guaranteed is because people are not accountable for what they are getting. Insurance is taking care of it.

Let us look at what we have before us today. Let us do something for those seniors, and I want to give a couple of examples. I want to show you real-life examples of senior citizens with real-life diseases who are paying real dollars out of their pockets for prescription drugs.

The first example I want to use is a guy named James. He is about 68 years old with an income of about $16,000 a year. He is taking these following medications: Glucophage, Glyburide, Neurontin, Protonix, Lescol, and Zoloft, for a total cost of close to $500 a month, $5,700 a year.

Under the three major competing proposals, that person with $16,000 in income, under the plan the Senator from Massachusetts supports, would pay $2,900 a year out of pocket. Under the tripartisan plan, $2,540, and under the Hagel-Ensign plan, $1,923 a year. That is what this person would pay. So this person who is really sick who needs the help the most is actually going to pay the chart they need, but yet will still have some accountability, and that is the balance in the plan that we have done.

We feel this kind of an example is the reason that people should support our plan.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HAGEL. Madam President, I ask the Senator to be notified when I have spoken for 5 minutes.
those discounts, which are real, which, in fact, are in existence now, those discount card programs, are anywhere from 25 to 40 percent. That is one piece of this that has not been addressed, and it is important to factor that back in. That is part of our complete prescription drug program. Obviously, another part is the catastrophic cap.

I have been asked about pharmacies and how this legislation might affect pharmacies, because, as the Senator knows, not all of these programs are just about addressing what we must address—and the senior Senator from Massachusetts is exactly right; we need to address this. For too long we have deferred it. It is not just about addressing the problem.

The other end of that is, who pays for the program? Who eventually is going to wind up paying the bill for the program? We have tried to develop a program that focuses on those who need it most.

I know most people would like to have a program where they pay nothing; let somebody pay for it all. Well, that is not a bad life, I suppose, but the reality is someone is going to pay for this. When we look at the huge numbers that we are dealing with in this country today on entitlement programs, everybody better stop for a moment and think through the consequences of what we are doing. There is a cost whenever anything is taken, and the consequence is going to be on the next generation and the next generation, as we add a new entitlement program to Medicare.

We need to do this, but it must be done in some way that is responsible and accountable for those who now have no say in it but we are saddling them with this burden. We cannot just merrily skip along and say, well, we have given you everything free, aren’t we great, let’s send out a press release, put out and hold a press conference: oh, Senator HAGEL, you are so good to us.

I have a 9-year-old and an 11-year-old. Many of my colleagues have children and grandchildren. They are the ones who will pay. When we look at the numbers—Senator GHAMM was on the floor yesterday, talking about those numbers—they are significant. With a $2 trillion Federal budget today in this country, about two-thirds is consumed by entitlement programs. We cannot do anything, or we are on, even if we do not add any new programs, is immense. I don’t know how we are going to ask this next generation and the generation after that to carry that burden. Something will happen. The choices are either that you cut benefits at some point or you continue to raise taxes on the workers, the young people, to pay for my drugs.

We have tried to accomplish some center of gravity, some reasonable balance in addressing the problem. It is real. We need to address it but at the same time address the consequences. Who pays? That is the painful part of this process. Who pays? We don’t like to talk about that.

When I talk about using a market system in place, not developing or building a new Government program, what do I mean? I mean using the market system in place. It is imperfect. Absolutely. But it is the market system in place today that has given America this remarkable lifestyle, quality of life, longevity. Imperfect and flawed? Absolutely. Are there people who do not benefit from some of this because they are at the bottom? Absolutely; that is what we are trying to deal with. But do not destroy the system that has produced this remarkable quality of life. Why would we throw out a market system that works pretty well?

We use the existing structure in place: Pharmacies, pharmacy benefit managers, insurance policies, systems, programs, administrators to administer the program at the direction of the Secretary of Health and Human Services. Pharmacies are a big part of this. They must be a big part of it. In this system, we have worked with the pharmacist. We preserve that beneficiary/pharmacy relationship. Seniors and other Medicare beneficiaries will continue to get most of their drugs at the pharmacy.

Any proposal that seriously disrupts that relationship would not work for Medicare beneficiaries. I point out this out because beneficiaries’ relationships with pharmacies will be strengthened. A system such as this could work without bringing in the pharmacies. There will be a greater emphasis on discounts provided by pharmaceutical and manufacturers than the pharmacy discounts. It is the pharmaceutical companies that provide the discounts. Those are negotiated by the private plans at the direction of the Secretary. Right now, pharmacists are involved in many of these discount drug plans. They do well. It brings in traffic. They have consulting fees. They are a big part of the process. Our bill would make them more a part of a process.

Our legislation prohibits mail-order-only programs; therefore, it does not eliminate pharmacists. That is an option. Pharmacies could directly compete as administering entities. Pharmacies, as some pharmacies do today, could administer these programs. I make this point because there have been questions raised about the role of pharmacists. I understand that. We have spent a lot of time listening to pharmacists from all over the country. I understand their concern. The way we have crafted this, it would enhance the pharmacist.

I yield the floor to my colleague from Nevada for 3 minutes.

Mr. ENSIGN. Madam President, I will address a couple of matters the Senator from Massachusetts talked about. First of all, the Senator said the plan in Massachusetts was more generous than this plan. It is a different plan in that it is a first-dollar coverage plan. I don’t know if the numbers have been updated, but according to the report from the GAO, in Massachusetts, if you are 150 percent of poverty or below, you are covered up to a maximum out of pocket of $1,250. That is according to this report.

Do what you will with the difference is Massachusetts covers the first dollars, but it caps the amount that Massachusetts will pay. Our plan caps the amount the seniors will pay. That is the difference. If they want to do first-dollar coverage in Massachusetts—and that is what we do in the State of Nevada—that is up to the State. What we want to do is say to the seniors, you will have the amount capped that you can actually pay out of your pocket so you don’t end up going into poverty. Why didn’t the State of Massachusetts make a more generous benefit? They only did it up to 150 percent of poverty. Why? Are people making more than $12,000 a year rich? Can they afford some of the outrageous drug costs? Of course they cannot. The reason they did that is because that is all the State of Massachusetts believed they could afford at the time.

Do what you will with the money you have. The Federal Government is not unlimited in its resources. We have to be fiscally responsible to the next generation.

Yesterday the amendment that the Senator from Massachusetts put forward was outlandish. It would bankrupt this country and bankrupt Medicare. I believe it was irresponsible in the long run to the next generation. This bill we present today is responsible, but it provides the coverage seniors need. When you combine it with the help the States are giving, those low-income seniors, those sad stories we have heard, those people are truly going to be helped.

I yield the floor.

The PRESIDING OFFICER. The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. How much time do I have?

The PRESIDING OFFICER. Thirty-two minutes.

Mr. KENNEDY. Madam President, first of all, I ask my good friend from Nevada to get current with regard to the Massachusetts plan. I will try and get current with regard to his if he gets current with regard to ours.

Massachusetts residences not on Medicaid, 65 or older, are eligible.
Every one is eligible. The annual out-of-pocket spending for deductible and copay is limited to $2,000 or 10 percent, whichever is less for individuals.

It is a good deal different from what the Senator described. I am not here to offer this as an amendment. Some States do a little better than other States. Massachusetts is clearly a good deal better than what we are being offered with the amendment of Senator HAGEL and Senator ENSSIGN. Senator HAGEL has pointed out the real problem is the issue of cost. Now we have cut to the bone. There are a lot of costly programs. Medicare is costly. Yet this country made the decision that for our elderly, who was going to try to offset the cost for frail elderly men and women who worked hard all during their lives? Would it be the individuals who will have an average income of $13,000, and two-thirds below $25,000, or are we going to recognize that as a nation we are going to provide help and assistance?

We made the judgment and decision that we would do that as a country. We did that to Social Security. Many believe we ought to do it on prescription drugs. My good friends do not believe so.

What are we asking? There was a comment that some of the elderly are asking for something for nothing. Who are these people? They are parents, people who took care of everyone in this room. Asking for nothing? These are the people who fought in the wars. They are the ones who have sacrificed for this country, sacrificed for their children, for their grandchildren, sacrifice, sacrifice, sacrifice. And they are accused in the Senate of trying to get away with something for nothing.

Are you asking them to give up going to the movies once in a while? Or taking their grandchildren out to dinner once in a while? How much can you squeeze from someone with a $9,000 income? How much can you squeeze them? Defend the market system. Defend the market system. Defend the market system. Prescription drug companies are violating the market system by juggling the patent system so that there cannot be competition.

Why aren’t we hearing something about the market system over there on the underlying amendment? No, we don’t hear anything about that. We just hear something about the frail elderly trying to get something for nothing.

What about States being able to use the power of all their people to try to get a better drug price? That is the market system that we don’t have anything about that. No, no, we don’t hear about that. We just hear about these frail elderly, all these greedy elderly senior citizens who are trying to rip off the system. Come on. That is the heart of the Republican program. You just heard it out here.

That is what this decision is about. It is priorities, whether you want to have a massive tax cut that is going to go to the wealthy, or do we as a country and society put the value of our senior citizens ahead of that. It is a value issue. And I believe it is a moral issue as well, as long as we can do something about it and help these senior citizens. That is what is at issue. Just hear it. We just heard it.

Somehow, we are against the market system when we are trying to stop the kind of violations of patents to let competition get in? We are in violation of the market system when we are trying to let States get better deals for their fellow citizens? We are against the market system?

Senator, that is just wrong. I do not know how much more we can do in terms of our senior citizens; how much more can we squeeze them; how much more when they are paying out that 15 percent, 18 percent, 20 percent of their income every single year, watching their total life savings go right on down. How can we squeeze them so we can give tax breaks for the wealthiest individuals, who have had the greatest profitability over the period of recent years? How much more can we squeeze these men and women who have been, who have been, suffered, and done such an extraordinary job?

This country has been built by our parents and our grandparents. If it is a great country, and it is, it is because of them. They are the ones who are frail. They are the ones who need the help and assistance. And I reject the fact that we are trying to speak of them as individuals who are trying to rip off the system and get something for nothing. That is not what this debate is about, and it should not be.

I yield 10 minutes to the Senator from New York.

Mr. SCHUMER. I came after the Senator from North Dakota so, if it is OK, I will take my 10 minutes after him.

The PRESIDING OFFICER (Mr. JOHNSON). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I joined my colleague earlier on the third floor of the Capitol at a press conference to talk about the generic bill. That bill is very important and one about which I have held a hearing.

In terms of prescription drugs, we need to do two things that are important. We need to have a prescription drug benefit program that puts some downward pressure on prescription drug prices. We must find a way to put a prescription drug plan in the Medicare Program, one that works, works for all beneficiaries, and provides them with the ability to access to the medicine they need when they need it.

I said earlier that there is nothing lifesaving about drugs if you cannot afford them. There are no miracles in miracle drugs if you can’t afford them. I just had my colleague talk about those people who helped build this country. Tom Brokaw’s book described some of them who went to war in the Second World War as “the greatest generation.”

I had a fellow come to a meeting a while back, who is a member of the greatest generation. He served in the Air Corps in the Second World War. He was in his late seventies and he needed new teeth and didn’t have any money for them.

I arranged for a dentist and I also helped him get some teeth. Here is a fellow who fought in World War II, who ends with up with nothing, who needs a new set of teeth and has to come nearly begging people to help him get his new teeth.

Senator KENNEDY is right. We have a lot of people in this country who have needs. They reach their declining income years, their retirement years, and they discover the things they need such as new teeth or prescription drugs, cost a fortune.

Senior citizens are 12 percent of America’s population and they consume one-third of all prescription drugs. Is it because they want to be sick? Is it because they like to take prescription drugs?

You meet them at town meetings and various locations around the State, and they come up to you and say: You know, Mr. Senator, I am 80 years old and I have diabetes. I have heart trouble. I have never been able to take prescription medicines. Mr. Senator, I can’t afford it. I don’t have the money. I wish I didn’t have to take the drugs, but I need them and can’t afford them.

A doctor in Dickinsen, ND, told me one of his patients—a woman who had breast cancer, a senior citizen. After the surgical removal of her breast he told her about the drugs she was going to have to take to try to minimize the chance of recurrence of her cancer.

He said she looked at me and said: Doctor, what will these prescription drugs cost? And when he told her what they would cost, she said: Doctor, I can’t possibly afford those prescription drugs. I don’t have the money. I’ll just have to take my chances. I just have to take my chances.

We can do better than that. We need to put a prescription drug plan in the Medicare Program, one that works—one that really works. At the same time as we do that, it has to be complemented by a couple of other provisions we—the generic bill offered by my colleague, Senator SCHUMER and the Canadian reimportation, both of which will put downward pressure on prices. If we do not do that, we just break the bank. I am not interested in breaking the bank, hoping a hose up to the tank and just sucking all the money out. We can do it. I think we can do that. I am interested in making sure we have a prescription drug benefit plan that works. No, not some sliver of a plan, that says to a poor person: By the way, spend a lot of your money first, and then we’ll give you a little help.

No. 1, let’s have a plan that works; No. 2, a plan that includes in it downward pressure on prices, not just for
senior citizens but for all Americans. That is why this is so important.

I imagine some members of this body could come up with a dozen reasons not to do this. In fact, the negative side of the debate is always the easiest. I think, Mr. President, that Mark Twain would have asked if he would engage in a debate of some sort. He said: Of course, as long as I can take the negative side.

When it was pointed out to him that he hadn’t been told the subject of the debate he didn’t matter. The negative side takes no preparation.

It is easy to take the negative side. It is much more difficult to come up with a positive approach. That is what we are trying to do here. Yesterday, 52 Senators in a very important vote, for the first time in over 40 years, said we would like to put a prescription drug benefit in the Medicare Program. Fifty-two Senators said that. It takes 60 votes.

The question now is, Will the minority of the Senate block it in the next couple of days? The answer is, I hope not. I hope all Members of the Senate understand this is not just some run-of-the-mill issue. This is not just some issue of convenience. This is life or death for those who have reached their declining income years. Those who in many cases are living in or near poverty and who are told by their doctor they must take five or seven different kinds of prescription drugs. And they simply do not have the ability to pay for those drugs. That is why this issue is important.

Let’s do this and let’s do it right. Let’s not take slivers of policy here or there and pretend that we have constructed something meaningful. Let’s put a real plan together, one that adds up, one that makes sense, and one that provides real benefits.

Mr. SCHUMER. Will my colleague yield for a question?

Mr. DORGAN. Not happy to yield.

Mr. SCHUMER. I thank my colleague. He spoke so poignantly of the doctor in Dickensin and the senior citizen who had breast cancer and could not afford the drugs.

Again, I appreciate the approach that my colleagues from Nebraska and Nevada have taken. It is an honest approach, but it is a minimalist approach. It is based on the theory that we do not have enough money to do more for people who are living longer and living better. It is not unusual to find 80-year-olds. My uncle is 81 years old. He runs 400s and 800s in the Senior Olympics. He has 43 gold medals. It is not unusual to see people living longer and living better. It is not unusual to find 80-year-olds who are as healthy as my uncle. Most of the elderly need prescription drugs to deal with medical conditions. And many of them don’t have enough income or assets to pay for them. They simply don’t have the means to purchase them.

If we were writing a Medicare bill today, there is no question that we would have a prescription drug benefit in that bill. It would be a benefit that works—one that is thoughtful, reasonable, and helps all senior citizens. That is why we ought to pass it. It is not acceptable, in my judgment, just to grab slivers here and slivers there, and say, oh, by the way, we can’t afford much because we decided we wanted to have other things such as an estate tax repeal for the largest estates in the country.

These are choices that we have to make. I believe we must make the right choices today and tomorrow as we go about our business on behalf of senior citizens and all Americans.

Mr. SCHUMER. Who yields time?

The Senator from Nebraska.

Mr. HAGEL. Mr. President, I yield to my friend and colleague from New Mexico 10 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, fellow Senators, first, I thank the Senator from Nebraska for yielding time. Second, I compliment him and the senior Senator from Nevada for offering this prescription drug benefit, a chance to do something very significant for our senior citizens.

Let me go back and trace a little bit of modern history so everybody will know that this is what we are in and why we can’t do much more than this for our seniors at this point in time.

First, the last budget resolution that passed was a budget resolution when we were in control by one or two votes. That budget resolution provided for a reform of Medicare and a prescription drug benefit that did not cost more than $300 billion over 10 years. We didn’t use that because the history has it that the last President, a very big argument with a bipartisan committee and told them to vote with him and out the window went a bipartisan reform bill. It went, because the last President—President Clinton—wanted a Medicare reform and only his, even though he had appointed a commission.

There is one. Chalk that one up. Who is responsible for that one? President Clinton, without a doubt.

Now comes the time when we are supposed to pass a budget resolution. The last time I heard it was the responsibility of the majority party to report one out and to take one up on the floor. They didn’t have to report it out but to take it up and do the business of the Senate by passing a budget resolution.

What happened in the middle of all this was that a Senator left our side of the aisle and joined their side of the aisle for votes and they became responsible for passing a budget resolution.

For the first time, since we had a Budget Act 27 years, we are operating without a budget. We are operating without a new budget that suggests how much money the Senate wants to spend in the next 10 years on prescription drugs. There is no current budget that says that. If they would have put one in place, guess what. It would only require 51 votes. That is not our fault. That is their fault. They did not do it. Consequently, 60 votes are required to move the seniors of America a Medicare bill.

I am not sure that some people think that is good and others think that is...
bad. I am just stating the facts. That is the reason 60 votes are required. The seniors ought to know that.

That is not the Republicans. That is not our President. That is the Democratic leadership here which said, That budget is getting too tough, let us just not do anything. I did 27 in my life; 12 of them as the chairman when we had to produce them. We always produced them. Believe you me, they were tough. Some took 60 votes. One time we did 37 votes in a row with Howard Baker sitting right at that table, all of which we had to win and all of which we had to fight for, because under the old rules you could offer almost anything.

Here we come at the end of the year and the leadership on that side of the aisle promises a Medicare bill for the seniors of America, but they cannot pass one because they did not do a budget. Therefore, 60 votes are required—60. I repeat; That is not the Republicans’ fault. It is not the President’s fault.

I can vividly recall some leading Democrats when they were asked, Why aren’t we doing a budget resolution? Oh, we just don’t have enough votes. And I said, It is hard this year. Maybe we don’t need one. Now here is where we are as a result of that.

I compliment the two Senators. They have a third Senator. I am very lucky. I joined them yesterday. I am a cosponsor of theirs.

Frankly, I went with the tripartisan bill yesterday. If that had passed, we would be finished. But it didn’t pass because it only got 48 votes, or 47. It needs 60. That is a pretty good chunk of votes, however, to get you started.

What do I say? I look at all of this and I ask, Is there anybody who has an amendment that does not require 60 votes and still will do something good for the seniors? This amendment will not exceed $300 billion. I do not know the number exactly, but I am going to guess with you that it is between $285 billion, $290 billion, or $295 billion. So this amendment clearly only needs 51 votes. If you want to give the seniors something, 51 votes is all that is necessary.

From what I can tell, it is a very good approach to get the seniors something this year. It will take care of the seniors who are in the biggest trouble with expensive drug bills. For those who have expensive drug bills now, it will take care of them and all of the people who are poor under anyone’s definition of poverty. It will take care of them.

What is wrong with that? About $295 billion, or $280 billion—just what the budget resolution said you ought to spend on the whole program just 18 months ago.

I thank the Senators for what I think is a most ingenious bill. I don’t think it carries with it any acrimony. If the Democrats don’t want any bill at all, they can look right there to the seniors and say this is what they are going to get.

The Hagel amendment does not have a 60-vote requirement in terms of cost because it comes in under the cost. However, it was not produced by the Finance Committee because they were not permitted to produce any bill. So it probably needs 60 votes.

Clearly, if we have the sufficient votes to adopt this, there would be some way of getting it back to committee and getting it out of there. I urge a vote for it because there is a real chance we will send the right signal, and set before us a way to get a bill this year.

I thank the Senator, again, for yielding. And I thank the Senate for listening. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SCHUMER. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I want to address further this proposal before us. I was glad my colleague from New Mexico finally mentioned that it would take 60 votes if we are dealing with 60 votes, 60 votes, and 60 votes. The cost of the variety of the very technical, detailed, and sometimes torchy reasons for the Senate rules, which have a wisdom to them way beyond my ken. But I would like to make a couple points.

First, I would add to the RECORD, if it has not been added already, the CBO estimate of the Hagel-Ensign amendment. I think last night we were talking about $100 billion. Now CBO—and the Senator from New Mexico has stated it correctly—estimates this bill costs $294.7 billion. However, if the Schumer-McCain bill were added to it, it would reduce the cost by $13 billion to $281 billion. That is within the budget resolution which we passed from New Mexico is exactly correct.

It is also $130 billion more than we were talking about last night. With that money, the close to $300 billion, I just want to remind my colleagues of who it covers and who it does not cover.

Again, a senior citizen, poor, with an income of $9,000, would have to first pay $1,500 before they would get a nickel from this action. That is enormous. That is a huge burden to them. Yet we are spending $300 billion for that.

And then let’s go to a senior citizen who is doing OK. They have a $35,000 income. They are almost never going to get benefits. They have an income of $35,000, and they would have to first spend $5,500 on their prescription drugs before they would get a nickel from the amendment.

I think I know what is going on here. There is a demand that we do something that we continue the tax cuts for the very wealthy, that we can’t afford in the President’s budget proposal—I repeat, $670 billion to eliminate the estate tax. Many of my colleagues who are supporting this proposal were on the floor talking about how that is important.

Go ask those 40 million senior citizens. Go ask the 280 million Americans do they want a better benefit than the very meagely benefits in this amendment or do they want the estate tax repealed. When? Right now, if your estate is in the millions of dollars, it is taxed, but if it is below that, you are not taxed.

Ask them if they want us to say, let’s say anyone with $20 million should pay an estate tax, and we would get a lot more benefits in the bill.

So whom are we kidding? We know there is enough money to do this, if we want to fight cancer and can afford the drugs. Whom are we kidding?

Where would 90 percent of the American people be? If the cupboard were sure as heck isn’t a rich one—would have to pay $3,500 before they got a nickel from this action. That is enormous. That is a huge burden to them. Yet we are spending $300 billion for that.
bare, if we had no dollars for anything else, if we needed it all for our war effort or for Social Security, maybe we would have to come up with this amendment.

But when we hear the priorities of the other side, cut the estate tax cut, particularly the estate tax cut, first, and then whatever is left over we will sort of craft into a plan that makes someone whose income is $3,000 pay $1,500 first before they get a nickel from the benefit, whom are we fooling?

So to your goal that I have heard from my good friends from Nebraska, Nevada, and others is: We don't have enough money to do more. This is fiscally responsible. Is it fiscally responsible, then, to call for $600 billion in cutting the estate tax? And that, of course, is eliminated—I need to get to the right number. I know we go up to $2 million or $4 million per estate, but I think right now it is somewhere between $1 million and $2 million where estates are eliminated.

Whom are we kidding? We all have priorities. We have a Senate because not everyone has the same priorities. We have a House of Representatives for the same reason. And our priorities are different. But admit the truth. It is not that we do not have the money to do better, it is that people have other priorities.

I will tell you where the priorities of the senior Senator from New York are. They are for a plan that got 52 votes on the floor of the Senate yesterday above cutting the estate tax for the very wealthy. How many of you will join us in saying that? I doubt very many. And if not, then the underpinning of the argument that we can't do better is false.

We can do better. We can pass a better bill, by rearranging our priorities, and telling that senior citizen who makes $9,000, you don't have to wait until you spend $1,500 before you get a benefit, among the senior citizen who makes $18,000, you don't have to wait until you spend $3,500 before you get a benefit.

If this were an honest debate about priorities, then there would not be a need for the minimalist plan that my colleagues have offered.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HAGEL. Mr. President, I yield my colleague from Nebraska from 1 minute.

Mr. ENSIGN. Mr. President, I want to clear up a couple points the Senator from New York talked about. He said no benefit for somebody until they pay out-of-pocket expenses. He forgets the drug discount card which will save seniors somewhere from 20 up to 40 percent because of volume buying. So they immediately benefit, anybody who signs up for the plan.

Our plan fits really well—I talked about this with those who have come a part of the American health care culture. The seniors of America, those who work hard all their life and build an estate, and they want to pass it on to their children. That is right. That is reasonable. We call it the American dream. I don't think we ought to step back in and snoop it up for the Government to spend, all in the name of a social welfare state. That is wrong. It is fundamentally un-American.

Debate it, if you wish. The reality is, use that as an excuse. That is law. There is only one way not to have to face the reality of why we are here and not getting anything done.

The reality of why we are not getting anything done is that the majority leader would not allow the chairman of the Finance Committee to do what he should have done at a very important time in American history, at a time when pharmaceutical drugs have become a part of the American health care culture. The seniors of America who are living longer and healthier today are finding that a very important part of their lifestyle. Medicare doesn't address that issue.

The Senator from New York and the Senator from North Dakota said it right: If we were writing a Medicare Drug Program, those who have little to no money and we go in it. It would be in it, and I would vote for it, and they would.

At the same time, we are not going to cram in a proposal that costs hundreds of billions of dollars, to the tune of $300 billion, doesn't take effect until 2004, terminates in 2008 or 2009, and call that something we want to take home and say: Look what we have done for you.

Why not something that our country can afford, that our seniors will find a reliable approach toward acquiring the necessary pharmaceutical drugs to deal with their health care in a way that will not break them? That is not going to be allowed to happen in the Senate in the 107th Congress.

There are 40 million-plus seniors. Put them all in one room and ask them this question: Do you want a pharmaceutical drug program now? The answer is: Yes, we do. We want it right now, not in 2008, not in 2009, not in 2005 or for Social Security, maybe we could have full access. It wouldn't have to come through the Medicare Program or, I should say, the Medicaid Program. We are not talking about that.

The PRESIDING OFFICER. The Senator has used his time.

Mr. CRAIG. I thank the Senator from Nebraska for bringing a realistic amendment to the floor, one that could take effect now, one with seniors who need help the most will get the help under this plan.

Let's be honest about this plan. It is fiscally responsible to the next generation but also truly does get the help to the seniors who need it today.

Mr. HAGEL. Mr. President, I yield 6 minutes to the senior Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank my colleagues from Nebraska, Nevada, and Idaho for bringing to the floor what is a valuable piece of legislation to address the issue of prescription drugs.

As chairman of the Republican Policy Committee, I had not engaged in this debate on the floor from the time it began several days ago largely because, while it is a phenomenally important debate, it was a play, a drama to be acted out and ultimately to close with no result. That does not mean that there was no floor, such as my colleagues from Nebraska and Nevada, to put forth a substantive piece of legislation aren't well meaning. It does not mean that at all. It means that the majority leader of the Senate set up this play with the purpose of bringing everything in the end but to allow those who wish to make a political statement and to shape themselves for the November election to have that opportunity.

That in itself is a tragedy in the formation of public policy. It allows those to come to the floor and talk about all kinds of other things except that which is very meaningful; that is, a good prescription drug program for the seniors of America.

If this bill had been formed by the Finance Committee in a bipartisan manner, it would be on the floor. It would receive a majority vote, it would be in conference with the House to work out our differences, and the seniors of America would have a prescription policy. That is not a statement of myth; that is a statement of fact. It would not be a drama; it would not be a play with all the characters hustling down to the curtain call; it would in fact be an action of positive legislative effort to produce a bill.

The Senator from New York has talked about tax cuts. My goodness, what he has suggested is die and take everybody's money and put it into a social insurance fund, not into my watch. You bet the Senator from New York and the Senator from Idaho are different people, coming from different States. I don't believe in that.

Mr. SCHUMER. Will my colleague yield?

Mr. CRAIG. I will not yield at this time. I do believe that people who work hard all their life and build an estate ought to have a right to take a little of it, because it is after tax money that builds an estate, and they want to pass it on to their children. That is right. That is reasonable. We call it the American dream. I don't think we ought to step back in and snoop it up for the Government to spend, all in the name of a social welfare state. That is wrong. It is fundamentally un-American.
which we could go home to New York or Idaho and say to our seniors: We have cut your drug bills well over a half or two-thirds. You have it now, not wishes 4 years from now, not wishes 3 years from now, a program that won’t bankrupt the country and won’t demand that they have saved and earned all their life to have give up their estates so that you can live well. That is not what this country ought to be about. More importantly, that is not what this debate ought to be about. It ought to be a substantial, affordable program that truly allows America to say to its seniors: We have changed the dynamics of health care from a 30-year-old model to a modern model that allows pharmaceutical drugs to be affordable, to be fitted into the program. I strongly support the effort of my colleagues from Nebraska and Nevada. I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I will speak for a minute. I want to make some comments to my friend from Idaho. He keeps talking about, we are going to take everybody’s money. No, we are not going to take everybody’s money in the estate tax. We are not even taking most people’s money. We are not even taking 5 percent, the wealthiest 5 percent of people’s money. We are taking only from people who have only over $1 million and probably somewhat more than that.

That is how this debate often gets off track. We are not saying to the plumber who built up a little business: We are taking your money. We are not saying to the steelworker who has a pension: We are taking your money.

Yes, we are saying to the very wealthiest: God bless America, you made a great living, you have lived well. Are you willing, in this social compact we call America, to tell the senior citizen who can’t afford to pay for these drugs, and it is life or death, that you have to keep it all—and not even keep it all, pass it all on to your heirs?

That is the issue. It is not everybody. It is not half of the people. It is not a quarter of the people. It is not 5 percent of the people. What is driving the estate tax is the very wealthiest people in America who somehow have won over the other side. But they never talk about them. They say “everybody’s” money. Not so. Then the other side of what my good friend said—he said take everybody’s money and put it in a social welfare program. The definition of what my friend said, the Hagel-Ensign amendment, is a social welfare program. Social Security is a social welfare program. Medicare is a social welfare program.

Yes, in America we believe in those things. Back in the 1870s, we did not. The life expectancy was 40 years; one out of every four children died in childhood; people lived in slums, tenements; farmers went bankrupt every year. Yes, America has changed, and it is not a country that should be run exclusively for the wealthiest people and you give the crumbs to the others. We learned that in the 1890s, in 1912, and in the 1930s. We learned it in the 1960s, and we have learned it quite well since then.

So I reiterate my point. It is a choice of priorities. In this context, yes, you are right, as long as there is a budget deadlock—primarily because we would not go along with reducing taxes even further for the wealthiest Americans while doing nothing for the middle class—we don’t have enough to do a prescription drug bill in the right way. We are left debating whether we should do one that the vast majority of Americans would agree doesn’t solve their problems.

So, yes, I regret that the debate has come to this. I don’t think it is where the American people are. I think they are much more on the side of the bill that got 523 votes today. But because of the rules of the Senate and, more importantly, because we don’t have enough Senators who have the priorities I am enunciating, we will not get that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Mr. President, I yield to the Senator from Pennsylvania 1 minute.

Mr. SANTORUM. Mr. President, I thank Senators HAGEL, ENSEN, and GRAMM. They have put forth a plan that focuses in on exactly the problem most Americans understand, which is that we have people who have a high cost of drugs but simply don’t have the ability to afford them. They have to make difficult decisions about how to provide for themselves as well as provide for the medicine they need.

Secondly, they provide a focused attempt to help the lower income people who may not have that high of a drug cost, but even with a small amount of the prescription drugs they need, they don’t have the resources to pay for them. This is a commonsense approach. This is a focused approach. This is a good first step. It gets us very far down the playing field.

To me, it is a little bit frustrating to see a proposal that makes so much common sense, is within the budget framework that has been worked out, and we make the decision, going way down the field in a proper direction. Some will say no because it doesn’t give us everything we want, it doesn’t get us the whole loaf, and somehow that is not good enough.

This is a very solid proposal. I think it is something that should have very strong bipartisan support.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Mr. President, I yield 3 minutes to the senior Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I thank our dear colleague from Nebraska for bringing up this last hour, the estate tax is the very wealthiest people and it is life or death. Back in the 1870s, we did not.

This is a focused approach. This is a commonsense approach. I think it is where the American people are. I think most people would call generous. I think most people would call the Hagel-Ensign 523 votes today.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I yield myself 2 minutes.

Mr. President, I have heard about the generosity of this country. Well, I think we all can admit it is the least generous plan on the floor. Any plan that tells someone making $9,000 that they have to spend $1,500 first, I don’t think most people would call generous. I would say any plan that says to someone making $18,000 that you have to spend $3,500 before you get a nickel is not a generous plan. Again, if that were the best we could do, fine. But it is not. We here on this floor are not in sync with the American people’s priorities.

Go back to the issue I have been bringing up this last hour, the estate tax.
tax—$670 billion to repeal the estate tax only for estates of over $1 million or even more. Most of that money comes from estates of $50 million. Are you going to tell that person, you get your tax cut, or are you going to tell our senior citizens, you don’t have to spend $100 million of your $9,000 income before you get a bit of benefit?

My colleagues, again, this is a question of choices. We can say that we will keep the status quo, that we will continue the tax cuts on the wealthiest of Americans. All things being equal, I would like to get rid of the estate tax. But if telling the senior citizens of New York State that they don’t get a benefit before we take the taxes of people making $50 million down a few more notches, you know what side I am on. I ask my colleagues which side they are on.

The PRESIDING OFFICER. Who yields time?

Mr. HAGEL. Mr. President, I yield 6 minutes to the Senator from Nevada.

Mr. ENSIGN. Mr. President, we are coming to the close of this debate. A couple of things need to be cleared up. There has been talk about the estate tax versus prescription drugs. Medicare is a payroll tax. They are on our payroll tax. It has always been that way. Hopefully, it will always be that way. Payroll taxes pay for Medicare.

Our amendment, we believe, is responsible. The difference between our bill and the Senate bill is that the seniors pay their first dollar out of pocket for coverage. The other bills, the seniors pay a portion of the first dollar out of pocket. The reason for that is we thought it was important to keep the seniors in the accountability loop. I mentioned that earlier in the debate, but it needs to be reemphasized.

When seniors or any other patients in health care do not have to think about the financial aspects of their care, whether they are purchasing drugs or getting their health care, if they are only paying a small portion, they do not even think about that. But if they are paying the first dollars—and in our plan, if they have up to $17,700 in income, they will pay out of pocket $1,500—they are going to think about prescription drugs. This is about $120 a month.

Seniors with whom I have talked literally would jump at knowing they would have about $120 a month to purchase prescription drugs. They just do not want to be bankrupt. They do not want to think they are going to lose their house. Many are concerned about long-term care, and that is their biggest fear—that they have to lose everything to get long-term care.

It is the same with prescription drugs. They do not want to lose everything before they are so poor that they have to go on Medicaid to get prescription drugs from the Government. Our amendment is basically limiting out-of-pocket expenses.

The other misconception of our amendment is that you do not get any help if you have, say, $9,000 in income. You absolutely do. That is what our prescription drug discount card is all about. Every senior on a voluntary basis—if they want to sign up—because of group buying, this cooperative-type buying, similar to what HMOs do today. Most HMOs say you save 40 percent versus retail on their prescription drugs. Every senior who signs up for our plan would be able to save up to 40 percent on their prescription drugs, regardless of what they are in any of these ranges they fit, they save up to 40 percent.

When we combine that prescription drug discount card with limiting out-of-pocket expenses, along with what many States have done—if States want to be more generous, they can. My State of Nevada is more generous. The State of Massachusetts, as we have learned today, is more generous. The State of West Virginia has a drug discount card that is working very well. Other States have put these programs into effect. Our plan fits with most of the plans that are already working across the country. So for those seniors who truly need the help, they will get it.

I wish to close my time today with a couple real-life examples. Doris is a patient. She is 75 years old. We changed her name, obviously, for privacy reasons. She has an income of about $17,700 a year. This is a real-life case. She is being treated for diabetes, hypertension, and high cholesterol. She is on Lipitor, Glucophage, insulin, Coumadin, and Monopril. These are common medications. These are $300 in monthly expenses, about $3,600 per year.

To compare the various plans on a real-life case, under the Graham-Miller-Kennedy plan, the leading Democrat proposal, she would have out-of-pocket expenses of $2,200. Under the tripartisan plan, she would pay about $3,100. Under our plan, it is $1,700. Ours is more generous to the person who is really sick, who has a low to moderate income. This is a real-life case. She is being treated for diabetes, hypertension, and high cholesterol. She is on Lipitor, Glucophage, insulin, Coumadin, and Monopril. These are common medications. These are $300 in monthly expenses, about $3,600 per year.

Example No. 2: Betty is 68 years old with $15,500 per year in income. She has breast cancer, not uncommon for a lot of senior women. She takes morphine, Paxil, dexamethazone, Acifex, trimethobenzamide, and Nolvadex. These cost almost $670—almost $8,000 per year.

Let’s compare what happens under the various plans. Under the leading Democrat proposal, she would pay $3,180 out of pocket. Under the tripartisan plan, she would pay about $2,600, and under the Hagel-Ensign plan, she would pay $2,150.

Once again, in a real-life example, the person who is sick who needs the most would do better under our plan, and that is why we are asking people to support this plan.

Mr. GRASSLEY. Mr. President, last night and earlier today the Senate debated the Hagel-Ensign prescription drug amendment. During the course of that debate, some Members on the other side made a comparison of the cost of the Graham-Kennedy prescription drug amendment and the revenue loss of a proposal to repeal the ‘‘sunset’’ of death tax relief provisions in last year’s bipartisan budget resolution.

The essence of the argument was that the budget effects of these proposals are roughly equal. As we heard many times, the Senate was supposedly making a choice between these two options. Senator Ensign, during the argument, the two different figures for repeal of the sunset. At one point, the Senator from New York claimed the revenue loss was $670 billion. At another point, a few moments later, the Senator from New York claimed the revenue loss was $600 billion.

The Congressional Budget Office scored the Graham amendment as a spending increase of $584 billion. This figure covers the 60-month, 10-year budget effect. Now, if you accepted Senator Schumer’s figures as is, then there might be some basis for his argument. That is, if, in fact, the Joint Committee on Taxation scored the permanent death tax relief proposal at $600 billion or $670 billion, then Senator Schumer’s argument might be worth debate.

The facts are different. I don’t know where Senator Schumer got his figure. Basically, Senator Schumer got his figures as is, the Center on Budget Policy and Priorities. Maybe it was a partisan liberal communications shop, like the Senate Democratic Policy Committee. I don’t know where he got the number. I do know this: The number doesn’t apply. For purposes of the Congressional Budget Act, tax provisions are to be scored by the nonpartisan Joint Committee on Taxation.

According to Joint tax, the permanent death tax relief proposal scores at $43.6 billion if you use the fiscal year 2002 budget resolution. That is the one the Senate is currently operating under. If you use the fiscal year 2003 budget resolution, the one under which the House is operating, permanent death tax relief scores at $59.4 billion.

So the real number is, at most, $59.4 billion, for permanent death tax relief. That is one-sixth the cost of the Graham amendment. Interestingly, I note that during last month’s debate on the death tax that the Senator from New York supported Senator Dorgan’s amendment. That amendment was scored by Joint Tax as losing $11 billion over 10 years. Basically, Senator Schumer voted for a death tax that would save $1 billion in death tax relief than the proposal he criticized last night and today.

So if we are talking about choices between resources for prescription drugs and death tax relief, let’s review the record. Let the record reflect that Senator Schumer and 39 other members of the Democratic Caucus voted for $1 billion more in death tax relief than
they're colleagues. For reference, that's the rollcall vote No. 149. It is set out in page S5412 of the CONGRESSIONAL RECORD of June 12, 2002.

The Senator from New York's use of erroneous data on the bipartisan tax relief package is unfortunately part of a coordinated strategy on the part of the Democratic leadership. It is also data unchallenged by many in the media. In fact, many in the media parrot another of the Democratic Leadership's equally erroneous statistics. We keep hearing and reading that the bipartisan tax relief package yielded 40 percent of its benefits to the top 1 percent of taxpayers. This statistic, like Senator Schumer's other tax relief statistics, is dramatically at odds with Joint Tax, the official scorekeeper for Congressional tax relief.

According to Joint Tax, the bipartisan tax relief package makes the Tax Code more progressive. I make this statement for one basic reason. The issues of prescription drugs and death tax relief are important matters. Certainly every one of us hears about both of these issues when we are back home. They are issues that our constituents expect us to resolve. Folks back home expect us to be intellectually honest in debating these important matters. When we debate these issues, we ought to use intellectually honest figures.

I ask unanimous consent to print the Joint Committee on Taxation's revenue estimate of the proposed estate tax relief and the distribution analysis in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:


| Income category | Change in Federal taxes | Federal taxes under present law | Federal taxes under proposed law | Effective tax rate
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total, All Taxpayers</td>
<td>-57,365</td>
<td>-3.3</td>
<td>1,748</td>
<td>100</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CALENDAR YEAR 2001</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $10,000</td>
</tr>
<tr>
<td>-875</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CALENDAR YEAR 2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $10,000</td>
</tr>
<tr>
<td>-75</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CALENDAR YEAR 2003</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $10,000</td>
</tr>
<tr>
<td>-83</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CALENDAR YEAR 2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $10,000</td>
</tr>
<tr>
<td>-69</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CALENDAR YEAR 2005</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $10,000</td>
</tr>
<tr>
<td>-76</td>
</tr>
</tbody>
</table>
The highest 10% begins at $107,455, the highest 5% at $145,199 and the highest 1% at $340,306.

The table shows the distribution of Federal individual income tax paid and the percent of all individual income taxes paid by the category, and the number of returns with zero or negative liability represented by the category.

The second table shows the distribution of the combined Federal individual income tax liability (including the outlay portion of the EIC and the child credit), Federal excise taxes, and Federal employment taxes (those taxes required under the Federal Insurance Contributions Act and Federal Unemployment Tax Act). The table shows the number of returns and the percent of all returns represented by the category, the aggregate income and the percent of all income represented by the category, and the aggregate Federal taxes paid and the percent of all Federal taxes paid by the category.

For purposes of these tables, the income concept used for classifying taxpayers is adjusted gross income (AGI) plus: (1) tax-exempt interest, (2) employer contributions for health plans and life insurance, (3) employer share of FICA tax, (4) worker’s compensation, (5) nontaxable Social Security benefits, (6) insurance value of Medicare benefits, (7) alternative minimum tax preference items, and (8) excluded income of U.S. citizens living abroad. Categories are measured at 2001 levels.

1 Federal taxes are equal to individual income tax (excluding the outlay portion of the EIC), employment tax (attributed to employers), and excise taxes (attributed to consumers). Corporate income tax and estate and gift taxes are not included due to uncertainty concerning the incidence of these taxes. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded from the analysis. Does not include indirect effects.
2 The effective tax rate is equal to Federal taxes described in footnote (3) divided by income described in footnote (2) plus additional income attributable to the proposal.
3 Includes provisions affecting the child credit, individual marginal rates, a 10% bracket, limitation of itemized deductions, the personal exemption phasedout, the standard deduction, 15% bracket and EIC for married couples, deductible IRA, and the AMT.

The first table shows the distribution of the Federal individual income tax and the second table shows the distribution of the Federal individual income tax, Federal excise taxes, and Federal employment taxes.

For purposes of these tables, the income concept used for classifying taxpayers is adjusted gross income (AGI) plus: (1) tax-exempt interest, (2) employer contributions for health plans and life insurance, (3) employer share of FICA tax, (4) worker’s compensation, (5) nontaxable Social Security benefits, (6) insurance value of Medicare benefits, (7) alternative minimum tax preference items, and (8) excluded income of U.S. citizens living abroad. Categories are measured at 2001 levels.

1 Federal taxes are equal to individual income tax (excluding the outlay portion of the EIC), employment tax (attributed to employers), and excise taxes (attributed to consumers). Corporate income tax and estate and gift taxes are not included due to uncertainty concerning the incidence of these taxes. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded from the analysis. Does not include indirect effects.
2 The effective tax rate is equal to Federal taxes described in footnote (3) divided by income described in footnote (2) plus additional income attributable to the proposal.
3 Includes provisions affecting the child credit, individual marginal rates, a 10% bracket, limitation of itemized deductions, the personal exemption phasedout, the standard deduction, 15% bracket and EIC for married couples, deductible IRA, and the AMT.

The first table shows the distribution of the Federal individual income tax and the second table shows the distribution of the Federal individual income tax, Federal excise taxes, and Federal employment taxes.

For purposes of these tables, the income concept used for classifying taxpayers is adjusted gross income (AGI) plus: (1) tax-exempt interest, (2) employer contributions for health plans and life insurance, (3) employer share of FICA tax, (4) worker’s compensation, (5) nontaxable Social Security benefits, (6) insurance value of Medicare benefits, (7) alternative minimum tax preference items, and (8) excluded income of U.S. citizens living abroad. Categories are measured at 2001 levels.

1 Federal taxes are equal to individual income tax (excluding the outlay portion of the EIC), employment tax (attributed to employers), and excise taxes (attributed to consumers). Corporate income tax and estate and gift taxes are not included due to uncertainty concerning the incidence of these taxes. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded from the analysis. Does not include indirect effects.
2 The effective tax rate is equal to Federal taxes described in footnote (3) divided by income described in footnote (2) plus additional income attributable to the proposal.
3 Includes provisions affecting the child credit, individual marginal rates, a 10% bracket, limitation of itemized deductions, the personal exemption phasedout, the standard deduction, 15% bracket and EIC for married couples, deductible IRA, and the AMT.

The first table shows the distribution of the Federal individual income tax and the second table shows the distribution of the Federal individual income tax, Federal excise taxes, and Federal employment taxes.

For purposes of these tables, the income concept used for classifying taxpayers is adjusted gross income (AGI) plus: (1) tax-exempt interest, (2) employer contributions for health plans and life insurance, (3) employer share of FICA tax, (4) worker’s compensation, (5) nontaxable Social Security benefits, (6) insurance value of Medicare benefits, (7) alternative minimum tax preference items, and (8) excluded income of U.S. citizens living abroad. Categories are measured at 2001 levels.

1 Federal taxes are equal to individual income tax (excluding the outlay portion of the EIC), employment tax (attributed to employers), and excise taxes (attributed to consumers). Corporate income tax and estate and gift taxes are not included due to uncertainty concerning the incidence of these taxes. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded from the analysis. Does not include indirect effects.
2 The effective tax rate is equal to Federal taxes described in footnote (3) divided by income described in footnote (2) plus additional income attributable to the proposal.
3 Includes provisions affecting the child credit, individual marginal rates, a 10% bracket, limitation of itemized deductions, the personal exemption phasedout, the standard deduction, 15% bracket and EIC for married couples, deductible IRA, and the AMT.
The PRESIDING OFFICER. The Senate’s time has expired. The Senator from Nebraska.

Mr. HAGEL. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. Five minutes forty-five seconds.

Mr. HAGEL. I yield myself such time as I consume.

Mr. President, this debate in which our body has engaged over the last 5 days I believe has been helpful for our country because it has focused on a critical need to come forward with a Medicare prescription drug plan, a plan that is focused on those who need it most and that is responsible.

None of the programs we have debated over the last few days have been perfect. The proposal that Senator Ensign and I and others have brought to the floor is not perfect. We were not given much of an opportunity to work through these issues where we normally have opportunities to work through issues, and that is in committee. So we debated something so critical to our seniors, to the future of our country on the floor of the Senate. When we do it that way, we have to rush. We slam things together. There are imperfections in that process, but nonetheless, again, I believe this has been an important, enlightened, educational, and helpful process.

We have one option before us. We voted down two options yesterday. We have the Hagel-Ensign plan that we will vote on within the hour. What this plan does is give our seniors a very significant benefit. I ask: Would we really object, it is so ordered.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Massachusetts.

Mr. KENNEDY. 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. BYRD. Madam President, I ask unanimous consent that the order for the record be recessed.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM THE RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES, 2002—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the conference report accompanying H.R. 4775. The clerk will read the conference report.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (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, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

The report is printed in the House proceedings of the Record of July 19, 2002, at page 4935.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, how much time is allotted for debate on the conference report?

The PRESIDING OFFICER. Thirty minutes equally divided between the chairman and the ranking member.

Mr. BYRD. I thank the Chair. Madam President, Senator STEVENS is on his way. He is the ranking member on the Appropriations Committee and he will share the time with me. I have been informed he has indicated I should proceed immediately with my statement, and he will shortly reach the floor and speak on the conference report himself.

The Senate will then vote on the conference report for the fiscal year 2002 supplemental appropriations bill. This conference agreement provides critical investments in national defense, both at home and abroad. Let me say that again. This conference report provides critical investments in national defense, both at home and abroad. So let the world know that the Appropriations Committee has acted expeditiously, working with the House Appropriations Committee in conference, and that Senators on both sides of the aisle have worked hard with their staffs to provide for these investments in the Nation’s defense, both at home and abroad.

This agreement is the result of true bipartisan, bicameral cooperation, and I urge its adoption.

Last fall, America was in shock. The World Trade Center and the Pentagon had been attacked. Thousands of Americans had lost their lives to the brutal terrorist attacks. Our eyes were opened to the new reality of war in the 21st century, a different kind of war.

DISTRIBUTION OF FEDERAL TAX LIABILITY—CALENDAR YEAR 2001—Continued

(Updated August 2, 2001)

<table>
<thead>
<tr>
<th>Income category 1</th>
<th>Total, All Taxpayers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highest 10%</td>
<td>14.2 10.0 3,411 42.0 890 57.7</td>
</tr>
<tr>
<td>Highest 5%</td>
<td>7.1 5.0 2,556 31.3 686 40.6</td>
</tr>
<tr>
<td>Highest 1%</td>
<td>1.4 1.0 1,402 17.2 391 23.2</td>
</tr>
</tbody>
</table>

1 Federal taxes are equal to individual income tax (excluding the net value of the EIC and child credit), employment tax (attributed to employees), and excise taxes (attributed to consumers). Corporate income tax and estate and gift taxes are not included due to uncertainty concerning the incidence of these taxes.

2 The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: (1) tax-exempt interest, (2) employer contributions for health plans and life insurance, (3) employer share of FICA tax, (4) worker’s compensation, (5) reposable social Security benefits, (6) insurance supplements, (7) alternative minimum tax preference items, and (8) included income of U.S. citizens living abroad. Categories are measured at 2001 levels. The highest 10% begins at $107,455, the highest 5% at $145,199 and the highest 1% at $340,306.

3 Includes filing and nonfiling units. Individuals who are dependents of other taxpayers with negative income are excluded.
longer were we immune from attack on the homeland that we all love. No longer did the great oceans shield our country from the violence that had scarred so many nations elsewhere in the world. The danger was real. The enemy was among us not just in a foreign land on another continent. We could not ignore the massive gaps in our security any longer.

In response, within days of the attacks, Congress adopted a $40 billion emergency supplemental bill to fund our military efforts overseas and to protect Americans from further attacks at home. That funding helped our U.S. troops to bring the downfall of the Taliban, the shakeup of the terrorist al-Qaeda network, and the start of worldwide commitment to end terrorism—wherever it could end, if we could end it at home, that initial funding paid for more than 2,200 agents and inspectors to guard our long, porous borders with Canada and Mexico. The foreign student visa program, which has been identified as one of the Immigration and Naturalization Service’s chief loopholes, is undergoing a tighter tracking system because of funding that Congress this body and the House included in that initial funding package.

Across the country, local police officers, firefighters, and emergency medical teams are receiving new training and equipment to handle threats that, before last fall, they hardly considered possible. Who would have imagined that their community fire department and paramedics would need training on how to respond to a chemical or biological or radiological attack? Bake sales and bingo nights could not possibly fund terrorist response efforts. Congress had a responsibility to respond, and Congress did respond. We responded within 3 days. We knew what our duty was. We knew where our duty lay—and we acted.

Federal law enforcement also benefited from the work of this Congress, from the work of this committee, this Appropriations Committee. Because of the funding contained in the initial supplemental, the FBI is hiring hundreds of new agents. Because the Appropriations Committees in both Houses appropriated the moneys, more than 300 additional protective personnel were hired to protect the Nation’s nuclear weapons complex. Air marshals are coming on board to protect our planes. Madam President, 750 food inspectors were hired to ensure the safety of the meals served at America’s kitchen table because—and they were able to do this—because this Appropriations Committee, Senator Stevens, the chair, and which Senator Ted Stevens of Alaska has chaired before me, and on which he now sits as the ranking member, because this committee acted in a bipartisan way. No split; no aisle between the two parties on the Appropriations Committee. We joined together. We did not have to be told. We did not have to be ordered. We knew where our duty lay. So 750 food inspectors were hired.

These are just a few, just a few of the examples of the good work that came about because of the investments, the infusion of funds by Congress, starting with the Appropriations Committees, because of the commitment of the men and the women of this body to identify the gaps in homeland security and invest funds—your money, the taxpayers’ money—to close those gaps. In the months that followed that first supplemental, many congressional committees held hearings on homeland security. In the Senate Appropriations Committee, Senators Stevens of Alaska and I convened 5 days of hearings. They were long. They were arduous. They were time consuming. They were tiring. Members heard from mayors. Members heard from county officials. We received testimony from police officers, from firefighters, from local health officials, from state representatives. We heard from experts on port security, from experts on water security and nuclear security. Seven Cabinet Secretaries and the Director of the Federal Emergency Management Agency, FEMA, appeared before the Appropriations Committee. The House Appropriations Committee did not hold a hearing. The Senate Appropriations Committee held a hearing. And Senator Stevens and I joined in selecting everyone. Everything was done in a bipartisan way. So seven Cabinet Secretaries and the Director of the Federal Emergency Management Agency appeared before the Committee, as well as two former colleagues—Senator Sam Nunn of Georgia and Senator Warren Rudman of New Hampshire. What we’ve come to realize, what we’ve come to understand, what we’ve learned was that despite all of the efforts of Congress and of the men and women at the local level, the task before us was massive. As a result of the incredible backlog of homeland security needs, one truth was clearly evident; namely, this country was not prepared. We are vulnerable today.

Earlier this summer, it seemed the administration issued another terrorist threat in the form of a Department of Homeland Security document. Those warnings only underscored the fact that the new enemy lives in our midst—here among us. So, as Christopher Wren would say, if you seek my monument, look about you. If you seek the enemy, look about you. He is somewhere. He is invisible. But he is sure in our midst.

The shortfall in the Pell Grant program is resolved, and Amtrak, the nation’s passenger rail service, will be
able to stave off bankruptcy, because there are $2.5 billion included in this conference report for Amtrak.

This is a balanced bill, a responsible bill, and one that I hope the President will sign. I hope he will sign all of this emergency funding into law quickly.

Why do I say “all of this emergency funding”? I say that because Congress gives the President a choice. We have stated that it is the Congress’s position that these investments are an emergency and they should be made. If the President signs this bill, he will have 90 days to decide whether to agree with Congress and designate more than $5.1 billion in this legislation as an emergency. If he does not make the emergency designation, the funds cannot be spent.

How much time do I have?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD. Madam President, I ask unanimous consent that I may proceed for an additional time not to exceed 7 minutes and that my partner, my fellow Senator, my colleague, may be also allowed that time, and that the time for the vote be changed accordingly.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. BYRD. Within the $5.1 billion there is nearly $2.5 billion for homeland security. That includes funding for firefighters, police officers, port and border security, and airport security, search and rescue teams, food safety, drinking water safety.

Let me back up just a moment. The self-imposed interruption might cause listeners to lose sight of just where we were.

So we say the President has 30 days in which to decide whether to agree with Congress and designate more than $5.1 billion in this legislation as an emergency. If he doesn’t make the emergency designation, the funds cannot be spent. Within the $5.1 billion—that is what we are talking about—includes as emergencies, within that $5.1 billion which the President must agree to if it is to be spent, there is nearly $2.5 billion for homeland security. That includes funding for firefighters, police officers, port and border security and airport security, search and rescue teams, food safety, drinking water safety.

If the President does not make the emergency designation, he will block nearly $2.5 billion in homeland security investments. I hope that the President will join with Congress in this bipartisan approach to homeland security, declare these items to be an emergency, and make these important investments immediately to protect the American people from terrorist attacks.

In addition, if the President decides not to make the emergency designation, he also will block funding for the National Guard and Reserves; election reform; combating AIDS, tuberculosis, and malaria overseas; flood prevention and mitigation; embassy security; aid to Israel and disaster assistance to Palestinians; wildfire suppression; emergency highway repairs; and veterans health care.

The additional appropriations for the American people have been delayed for too long, sometimes as a result of Administration intervention, and the time has come for its speedy passage and the President’s signature.

Once again I want to thank my Ranking Member, Senator STEVENS, the former chairman of this committee, for his dedication, his assistance, and, indeed, for his leadership on this bill. If it were not for Senator STEVENS, his work, this bill would not be here today. Without his hard work and constant efforts, we would not be here to present this conference report to the Senate today. I also thank our House colleagues, Chairman BILL YOUNG of Florida and Ranking Member DAVID OSEY of Wisconsin, for their cooperation and commitment to the well-being of the American people.

Between the supplemental bill last fall and this conference report, Congress has approved $15 billion for homeland security initiatives, $5.3 billion above the President’s request. This legislation is a real victory for the American people. It speeds protections that are desperately needed at our borders and our ports. It provides vital training for police, firefighters, and emergency medical personnel. Through this legislation, Congress is making investments today that will help to protect Americans from terrorist attack for many years to come.

I urge my colleagues to support this conference agreement, and I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I am pleased to join the Chairman of our Committee, Senator BYRD, in recommending this conference report to the Senate. The consideration of this conference report today in the Senate, following its overwhelming adoption in the other body yesterday, reflects the true consensus that surrounds this agreement.

While not an easy process, the compromises reached on this bill meet the needs of the American people. Every state and territory is included as an emergency, and, indeed, for his leadership on this bill. If it were not for Senator STEVENS, his work, this bill would not be here today. Without his hard work and constant efforts, we would not be here to present this conference report to the Senate today. I also thank our House colleagues, Chairman BILL YOUNG of Florida and Ranking Member DAVID OSEY of Wisconsin, for their cooperation and commitment to the well-being of the American people.

Between the supplemental bill last fall and this conference report, Congress has approved $15 billion for homeland security initiatives, $5.3 billion above the President’s request. This legislation is a real victory for the American people. It speeds protections that are desperately needed at our borders and our ports. It provides vital training for police, firefighters, and emergency medical personnel. Through this legislation, Congress is making investments today that will help to protect Americans from terrorist attack for many years to come.

I urge my colleagues to support this conference agreement, and I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS, Madam President, I am pleased to join the Chairman of our Committee, Senator BYRD, in recommending this conference report to the Senate. The consideration of this conference report today in the Senate, following its overwhelming adoption in the other body yesterday, reflects the true consensus that surrounds this agreement.

While not an easy process, the compromises reached on this bill meet the most vital Defense and Homeland Security needs facing our Nation.

In addition, this agreement fulfills the commitment of Congress and the President to meet the needs of the victims of the attacks of September 11 of last year.

While passed in very different forms by both Houses of Congress, this conference report adheres to the priorities submitted to Congress by the President. With the funds added by Congress in the form of contingency emergency appropriations, the President will have greater flexibility to address challenges in its program and his request was transmitted on March 21, if he approves the emergency designation.

Additional funds for the Department of Defense will address the mobilization of National Guard and Reserve personnel from around the Nation.

Funds for port security grants and the Coast Guard will protect our Nation’s maritime coastline.

Funds added in this bill for aid’s response in Africa will jump start the international effort to address that scourge.

The House and Senate both included additional funds to assist Israel, and those prepared to join Israel in seeking a permanent and lasting peace.

The conference report makes an initial down payment to respond to dramatic flood and fire emergencies in several states, particularly in the West.

While many activities were reduced during the conference to meet the funding limit sought by the President, and the OMB, one component not touched was support for New York and Mayor Bloomberg deserve our continued support for their leadership and determination to recover from the attacks last year. This bill keeps our word to New York and to those officials.

Debate suggested by OMB, the conferees rejected any cut to the funding for reconstruction and renovation of the Pentagon.

Restoration of the sector of the Pentagon damaged on September 11 is on time. This re-re-authorization year anniversary of the attack—really our Nation’s center of military strategy. We will keep faith with those who died defending our Nation at the Pentagon as well as those in New York.

I want to commend our Chairman, Senator BYRD, and the House Chairman, BILL YOUNG, for their exceptional work to bring this conference report before the Congress.

Along with House Ranking Member OSEY, we have worked to ensure completion of this bill prior to the August recess and in time to make a difference during the remainder of this fiscal year.

If the President makes the certification that he has the authority to do within 30 days after passage of this bill, the moneys will be available to use for the contingent emergencies we have specified. The sooner that happens, the better it will be for our Nation.

I urge all of my friends in the Senate and the Members of the Senate to approve this conference report and send it to the President as quickly as possible so it will be possible to get this money to our people—particularly to the Department of Defense and all our people in uniform—by the beginning of August.

Mr. KYL. Madam President, I rise today in support of an improved supplemental appropriations bill for fiscal year 2002. I am glad to see that the Senate conferees have reassessed their position and agreed to reduce the amount they had originally sought by more than $2.5 billion. The conference report now totals $29.9 billion, which is
only $1.8 billion over the President's request, and an amount he said he would support.

Additionally, the vast majority of the funds will now be appropriated as a contingent emergency, giving the President discretion on whether the funds should be spent, instead of forcing him to designate "all or none" of the non-defense funding items as emergency items.

The bill has been improved in other areas as well, signifying a marked realignment of priorities by the conferees. For example, I am pleased that this report increases defense funding by $330.9 million. Although this is an increase over the President's request, the conferees used updated Department of Defense execution data to make many of their adjustments. They also made rescissions to un-executable programs and took back unobligated funds resulting from revised economic assumptions in order to offset much-needed defense buildup. I note that the increase is primarily focused on operations and maintenance, $723.6 million, an area most critical to the Department.

Specifically, I support increases to the F/A-18 Super Hornet program by $140 million, the ship operations account by $255 million, the Air Force airlift account by $626 million, and the Army's logistical support account by $1.03 billion. These increases will go a long way in helping us win the war around the world. In the procurement line, much of the funding is related to purchasing advanced C3I equipment. And in the Research and Development line, the conferees provided additional funds to upgrade existing C3I programs, increases that will be crucial to the successful execution of our war on terror.

Additionally, this bill includes the American Service Members' Protection Act language that was proposed by both Chambers, and it maintains the Senate's provision giving our military the flexibility to conduct operations in coordination with international efforts to pursue foreign nationals accused of war crimes, crimes against humanity, and genocide.

On the domestic front, I would also note that the conference report includes $100 million in disaster assistance for fires and floods, funds that are critically important to the State of Arizona. I strongly believe that this amount of funding is still woefully inadequate to address the dire circumstances surrounding the fires in the Western States; however, I am confident that there will be other legislative opportunities in which to adequately fund these firefighting efforts.

While this bill has improved in many ways, I still believe it spends too much money on low-priority programs that are not truly emergencies, for example, provisions dealing with another Amtrak bailout and numerous non-emergency pork projects such as coral reef mapping. That said, especially given the need to support our war on terrorism, the merits of this legislation now outweigh its deficiencies. Although not perfect, the bill deserves the support of my colleagues. President Bush has asked that we get this bill to his desk before August recess. I am glad that we have a Democratic Majority who share the managers for their efforts on it. I know that the chairman of the Appropriations Committee and the ranking member worked hard and diligently, as did others, to complete this bill. And I know that they are not responsible for its delay. I am glad the bill will now go to the President, and this funding can go quickly to meet urgent national security needs.

I would like briefly to highlight three topics touched upon by the bill, items which are not the largest matters dealt with here, but which I consider to be very important. The issues are workforce development, disaster assistance, and veterans services.

First, as chair of the Employment, Safety and Training Subcommittee, with jurisdiction over workforce development issues, I want to address the elimination of emergency funding for job retraining services through the Workforce Investment Act, WIA, which occurred late during the conference on this bill.

What has happened in connection with WIA programs is, I fear, just the tip of the budgetary iceberg. Although confronted with severe economic distress and uncertainty and record unemployment, we are being told by the administration that we lack the resources to fund key job-training services. Having spent our surplus on tax cuts for the well to do, we do not have the resources to fund services that are essential in helping displaced workers train for and find new employment and public assistance. First, I want to find the skilled workers they need to stay competitive in our global economy.

Yet investments in a skilled workforce are precisely what we need right now. As former Treasury Secretary Rubin recently said, to rebuild confidence in our financial markets and economic system, "[b]udgeting priorities should heavily emphasize preparing our future workforce to be competitively productive in the global economy."

The irony is that additional support for WIA was in the President's initial fiscal year 2002 supplemental request. He proposed $750 million for WIA, in contrast, the fiscal year's $110 million rescission of dislocated worker formula funds. The Senate and the House followed, both including WIA funding at lower levels.

But then, in the quest to reach the overall target, the President and OMB Director Mitch Daniels set for the emergency supplemental, all of the WIA funding was cut.

Frankly, this seems to contradict what the President is saying elsewhere. Just yesterday the President was quoted as saying that his biggest concern about Sunday's record bankruptcy filing by WorldCom was the effect on employees who lost their jobs. Well, the best thing we can do for people who have lost their jobs through Enron, WorldCom, and the other bankruptcies is to help them retrain and retool to find new jobs.

Correspondingly, this year when he submitted his supplemental request, we were told: "The President's supplemental budget request provides the urgent assistance that is needed now to ensure that affected workers get the assistance and jobs they need." This decision is a harsh one for the tens of thousands of workers who will not get the training they need to retool their careers. Already they are finding these courses they want to take are closed or they are put on endless waiting lists. Workers dislocated because of the impact of trade and certified to receive Trade Adjustment Assistance find they are unable to get training because States have run out of resources and the National Emergency Grant funds that typically see the States through such shortages are themselves depleted.

It is harsh as well for businesses that cannot find the skilled workers to stay competitive and take advantage of market opportunities to help fuel our economic recovery.

And it also threatens to undercut WIA's key reforms. States and localities, along with their private sector partners are now at a critical stage in the process of building the new systems called for in WIA. Without adequate funding and without stable funding the new systems building will be undermined.

Moreover, all of this is happening while the new WIA infrastructure is being stretched to its limits with demands for services triggered by the catastrophe after September 11, the highest unemployment in years, and the continuing dislocations from the largest bankruptcies ever seen in this Nation's history.

This is why I am concerned. This is why I felt I had to speak out. I understand that we are not going to change the fiscal year 2002 emergency supplemental to address this problem. But I do want my colleagues to understand the impact of the decisions that have been made in this bill concerning some very important priorities. I urge my colleagues to reflect on these implications so that when we take up the fiscal year 2003 Labor/HHS Appropriations bill, we will run out of fear not to further undermine the WIA programs that are so critical to American workers, businesses, and our economic recovery.

The second topic I would like to address is disaster assistance. As a result of severe flooding in Northwestern Minnesota 17 counties are under a federally declared disaster: Becker,

In the 17 counties that are currently included as declared disaster, 1,785 homes were damaged. In Roseau alone over 1,180 homes were damaged.

I am pleased that the supplemental includes some much needed funding for FEMA. The disaster assistance included here represents a down payment in terms of the assistance that the families, businesses and communities in my State will need as they move forward and begin the process of rebuilding their homes, offices and cities.

The Minnesota Recovers Task Force estimates that there will be over $55 million in disaster funding needs as a result of this spring/summer flooding. Of this amount, nearly $50 million will be eligible for FEMA funding. That will leave a shortfall of $35 million in recovery needs that will not be covered by existing FEMA and SBA assistance programs.

While these FEMA programs are very important, unfortunately they are not geared to handle agricultural losses. In Northwest Minnesota and other agricultural rich regions of the State, the Farm Service Agency, this season’s crop losses are estimated at more than $267 million across 14 counties. Overall, total agricultural flood losses, including damage to agricultural small businesses, are estimated at more than $370 million.

That is why Senator Dayton and I introduced legislation to provide disaster assistance to agricultural producers last week. This legislation is a starting point to providing the needed assistance to many of whom, because of this severe flooding, are going to lose their crop due to a flood or drought, money must be taken away from commodity program supports that assist other farmers. In other words, they are saying that when the President signed the farm bill, that was going to be all farmers could expect until 2008, no matter what.

That doesn’t work for Northwestern Minnesota. The farm bill was not a disaster assistance bill, but an agricultural policy to help stabilize farm income and rural economies. Its funding is absolutely needed for that purpose.

We tried to include separate, emergency weather-disaster assistance in the Supplemental Appropriations Bill and it opposed that, too. They also opposed it when we tried to include it in the supplemental appropriations bill. When Congress decides to help areas affected by hurricanes or fires, we don’t tell people to pull their emergency assistance out of somebody else’s highway fund. Sometimes the Federal Government just needs to be there for people. The President needs to change his position and help us get some assistance to Northwestern Minnesota.

Finally, the supplemental appropriation bill includes $417 million for veterans health care that I requested which was included in the Senate’s bill. These funds are critically important to the veterans in Minnesota. The need for VA services has simply overwhelmed the VA and in some ways there is more of a crisis now in VA health care now than there was even during the era of flat-lined budgets.

The $417 million for Veterans health care in this bill will mean that Minnesota’s Network, VISN 23, will get an additional $19 million to reduce waiting times, keep clinics open, open new clinics, and improve the quality of healthcare. This is very badly needed.

As I want to thank Senators Mikulski and BOND on the VA-HUD Subcommittee especially, because I know they fought to keep this money in conference, as well as Senators BYRD and STEVENS. We did right by veterans in this supplemental.

Mr. DODD. Madam President, I rise to comment briefly about Title II, the American Service Members Protection Act of H.R. 4775 in order to clarify the Senate’s intent in insisting on the resection of Sec. 2015 of that Title which was added during Senate consideration of the supplemental.

I read with interest the remarks of Chairman HENRY HYDE during House consideration of the conference report on H.R. 4775, but was not in any position to dispute his comments concerning the first 14 sections of Title II relating to the American Service Members Protection Act, ASPA, as I was not a party to those discussions. I leave it to the Administration and to others involved in those discussions to make that judgment.

I do, however, know something about the intent behind Sec. 2015 as I was the author of the amendment that was ultimately included in the Senate passed version of ASPA. A review of the Senate debate makes clear that I was offering the second degree amendment because of my concern with respect to the complexity of the House passed language which was offered as a first degree amendment by Senator WARNER. As written, I was concerned that it unduly restricted the ability of the President to cooperate with international efforts to bring to foreign nations accused of genocide, war crimes or crimes against humanity to justice if he chose to do so.

Sec. 2015 makes clear that regardless of the other sections contained in Title II, the President is not prohibited from rendering assistance to any such international efforts, including to the International Criminal Court. An amendment to exclude cooperation with the ICC was proposed during the conference on H.R. 4775, but was rejected by the conference. Therefore, as the language now stands the President has the discretion to cooperate with any and all international efforts to bring such criminals to justice.

I thank my colleagues for the opportunity to clarify an important addition to the House version of ASPA.

Mr. STEVENS. Madam President, the supplemental provides language supporting the shipment of humanitarian supplies to poor nations. My friend from Alabama worked hard for this language and I was hoping he could provide the Senate with more information on this topic.

Mr. SESSIONS. Madam President, I would be glad to discuss the national Forum Foundation’s TRANSFORM Program. With the help of my good friend from Alaska, I offered an amendment to the supplemental that was accepted by the Senate. I understand that it was modified during conference—but will now permit organizations, such as the National Forum Foundation’s TRANSFORM Program, to receive the much needed authority to receive funds to pay for administrative expenses.

TRANSFORM began 3 years ago as a natural extrapolation of the Denton Program. The Denton Program allows U.S. Air Force Transport aircraft under the control of CINCTRANS to deliver overseas on a space available basis, humanitarian aid donated by 501(c)(3) charity organizations.

In analyzing the transportation of humanitarian aid, the National Forum Foundation has learned that commercial ships have 2000 times the space that our Air Force aircraft has with the export-import imbalance, are usually relatively empty departing our ports.

The TRANSFORM program brings the 501(c)(3) charitable organizations, which collect and wish to distribute these goods, to the commercial marketplace willing to carry them space-available. The charity has to be indoctrinated to conform to the loading dates and times, port locations and the
specific loading manner required by the ship-line. TRANSFORM exercises special means to ensure no delays in ports or customs issues.

Finally, TRANSFORM’s system has a leverage of 250–1 meaning that for every dollar of budgetary expenses, TRANSFORM gets $250 to needy recipients.

Mr. STEVENS. Madam President, may I make an inquiry to my friend from Alabama? Is it correct that the TRAVERSE program recently gained global recognition of its activities at a transportation conference hosted by USAID? I understand that in speaking of its activities, the World Food Program’s representative praised the program and offered it the use of spare space on their ships. This spurred others to offer their vessels—such as American President Line, Maersk and CSX.

Mr. SESSIONS. My friend from Alaska is correct. As I must commend him for the bill that he did with the help of the House foreign Operations Subcommittee on this issue. The conference were able to ensure that organizations that are working for the benefit of developing communities on behalf of the United States government and charitable organizations receive the assistance they need to execute their much laudable goals. I am very grateful to him for this support.

Mr. STEVENS. I am optimistic that the large draft for this program benefits, the more humanitarian aid will be delivered to those in need around the world. Gain, I thank my friend for bringing this amendment and look forward to its future success.

(Ath request of Mr. STEVENS, the following statement was ordered to be printed in the RECORD.)

● Mr. HELMS. Madam President, I commend Senators BYRD and STEVENS and the entire Appropriations Committee on the leadership of Senators WARNER and MILLER for ensuring that American soldiers, sailors, aviators and marines will not be subject to the jurisdiction of the International Criminal Court (ICC). (I, unfortunately, could not be here to offer an amendment on June 6 as I was recovering from surgery to replace a valve in my heart.) With inclusion of the American Servicemembers Protection Act, ASPA, in the emergency supplemental appropriations bill, the Congress put these brave men and women at the top of our priority list.

During Senate action on the emergency supplemental appropriations bill, Senator WARNER offered a unanimous consent request to include section 2015 in ASPA as generous gesture in the face of concerns raised about the spirit of the legislation. I have been assured by Senator WARNER that he did not intend to limit in any way the application of the 110,000,000 component which had been requested by the administration. I was told that the language recommending that $1 million be added to the Defense Appropriations for fiscal year 2002 bill on December 7, 2001. When Senator WARNER offered these same provisions as an amendment to this supplemental appropriations bill, the Senate had essentially the same debate it had on December 7th of last year. No Senator suggested that section 2015, which was included by voice vote during the final debate, was intended to alter the legislation that passed the Senate previously. The final vote in favor of the ASPA amendment, 75-19, reflected complete uniformity with the December 7, 2001 legislation.

Mr. MCCONNELL. Madam President, the conference agreement includes bill language recommending that $1 million should be provided by the Administration for programs and activities which support the development of independent media in Pakistan. This action was taken by the conference in recognition of the important role independent media will play in improving democracy in Pakistan. I am aware of the excellent work that has been done by Internews in this area and urge that their experience be used in the development of this project.

I also want to note that the agreement includes report language encouraging the United States Agency for International Development and the Department of Labor to provide $1 million for programs and activities that provide professional training for journalists from the Middle East. My colleagues and the Administration should know that Internews and Western Kentucky University have jointly conducted similar training for journalists from Indonesia and Southeast Asia. This has been a very successful partnership, and I expect the program provided in the supplemental bill will be used to expand these efforts to the Middle East, particularly Egypt.

Mr. HARKIN. Madam President, I come to the floor disappointed by the outcome of the final agreement on the supplemental appropriations bill, which deleted the Senate recommendation of $400,000,000 for dislocated worker assistance under the Workforce Investment Act.

I know that to break the impasse with OMB to get this supplemental enacted, with vitally important items for national defense and homeland security, the leadership of the House and Senate had to agree to reduce the overall size of this supplemental. Our leadership was hard-pressed by the administration to accept unpopular cuts. Sadly, the final agreement eliminated all supplemental funding for dislocated worker assistance.

Most disturbing was the elimination of the $110,000,000 component which had been requested by the administration, and included in both House and Senate versions of the supplemental, to restore last year’s rescission of dislocated worker funding. This rescission was enacted when it appeared there was sufficient unspent carryover funding in a brandnew workforce system, and Congress needed to ensure an emergency supplemental for Low-Income Home Energy Assistance. Since that time, spending by local workforce agencies has accelerated, while the economic downturn has resulted in a continuing, nagging rise in unemployment. In the last year, more than 2 million workers have lost their jobs.

Fortunately, July marks the beginning of a new program year under the Workforce Investment Act, and $1,549,000,000 in new dislocated worker funding will be available for the next 12 months. Of this amount, the law provides that the States receive $1,239,200,000, or 80 percent, with the remaining $309,800,000 available for the Secretary of Labor to target areas particularly hard hit by mass layoffs. Nevertheless, I am fearful that the deletion of supplemental funding will send the wrong message to local sponsors of job training programs that they should slow down spending of funds that are desperately needed by the growing numbers of dislocated workers. As chairman of the Labor-HHS-Education Appropriations Subcommittee, I intend to push the administration to send a strong message that Workforce Investment Act funding will be maintained despite the attempt of the President to slash more than $500 million out of the fiscal year 2003 budget. At my recommendation, the Appropriations Committee has fully restored these proposed cuts in the fiscal year 2003 budget, recommending a total of $5,633,364,000 for job
Mr. MCCAIN. Madam President, I rise today to speak about the conference report for the Supplemental Appropriations Act. While we debated the Senate version of this bill in June, I stated my strong opposition to any item included that was not for the stated purpose of the bill: the “further recovery from and response to terrorism in the United States.”

As I said before, using the guise of responding to the terrorist attacks of September 11th to spend federal funds on items that obviously have nothing to do with fighting terrorism is war profiteering.

The conference report before us today contains $28.9 billion in federal spending. That is about $1.8 billion over the President’s budget request of $27.1 billion—a request, I might add, he made over three months ago—but at least it is lower than the $31.4 billion in the Senate-passed bill.

Even so, I have reviewed the conference report to determine whether the bill contains items that are low-priority, unnecessary, wasteful, or included in unfunded priority lists for certain agencies. However, I have listed them because they were not requested by the President or should not be considered an “emergency” for funding purposes on this bill or are unrelated to our war on terrorism and should be considered for funding in the regular appropriations process. All told, I have identified approximately $5 billion in such spending in the conference report.

Before I proceed, I want to especially commend the Director of the Office of Management and Budget, Mitch Daniels, for his valiant charge to reign in the free-spending ways of Congressional appropriators. In this town, the louder the opposition gets, the more sense you are making, so keep up the good work Mr. Daniels—and let them howl.

In the absence of a Senate-passed budget resolution, we need fiscal discipline now more than ever. Where we once saw surpluses as far as the eye could see, now we have mounting deficits, a national debt clock that is again ticking, and both houses of Congress voting to raise the government’s debt limit by more than $4 trillion. We have to be a five-time Jeopardy winner to grab the bottom line: With the tremendous demands on the federal budget today and with the coming retirement of the Baby Boom generation, we must be even more prudent about where we devote limited taxpayers’ dollars.

According to the Congressional Budget Office, the government is running a deficit of $122 billion for the first nine months of this fiscal year, a sharp reversal from the $169 billion surplus recorded for the same period a year ago. And the Office of Management and Budget recently unveiled their mid-year review of the budget showing that there will be a $165 billion deficit for the calendar year 2002.

Do we really need that? I believe we do not. Do we need that much? I do not think so. Does the government need that much? Well, the government needs to pay the bills. And that is our job. But this is a moment to pause and ask whether the spending in this supplemental conference report is warranted—whether it is a wise investment of the dollar in the face of overwhelming need.

There is a long list of items under the Commerce Committee’s jurisdiction that were not requested by the President or have been earmarked. I am particularly concerned about the funding allocation and directives made by the appropriations conference report to the Transportation Security Administration, TSA. The funding level provided falls short of the President’s request for $4.4 billion. Further, the conference agreement would take away the TSA’s flexibility to allocate the funds to areas its considers to be transportation security priorities and instead earmarks nearly $1 billion for expenditures considered important to the appropriators.

While these directives may not sound unreasonable, much of the funding is being directed toward unauthorized programs. How do the appropriators know if these are the most important transportation security priorities and that the level of funding they provided is adequate?

The conference report goes so far as to prohibit TSA from using federal funds to recruit or hire the personnel the Administration says it needs to meet the statutory directives in the Security Act. It also prohibits funds to areas its considers to be transportation security priorities and in-
yet the budget to do the job is apparently on the way to being radically diminished while new restrictions and mandates are being imposed. What can be done? The amount of money that TSA wants to approve this year will not support the mandates and time tables for aviation security that Congress set last fall for TSA.

Long delays with no flexibility means fewer TSA employees, less equipment, longer lines, delay in reducing the hassle factor at air traveled security, our nation’s airports. Frankly, these conflicting signals sent by Congress have forced us to regroup and revise the TSA business plan. That process will involve complex negotiations, and a review of literally thousands of TSA commitments and plans.

These are not my words. These are the words of the Secretary of Transportation. I hope my colleagues pay close attention to the Secretary’s concerns.

When the TSA is unable to meet its statutory deadlines and fully address critical security issues, we should all know it will largely come back to this funding issue.

Other questionable provisions regarding the TSA should also be mentioned. For example, in the Statement of Managers, the appropriators have earmarked money for the field testing of a particular technology research council to as Pulsed Fast Neutron Analysis (PFNA). There is only one company that has developed this technology: Ancore Corporation of Santa Clara, California. Unfortunately, earlier this month the National Research Council (NRC), concluded that PFNA is not ready for airport deployment or testing.

Even though the main role for PFNA is the detection of explosives in full cargo containers, the appropriators are directing money for field testing on checked bags. This earmark could be a total waste of critical research money that should be contributing to our effort to increase aviation security.

Further, the Statement of Managers directs Congress to approve simply the needs of Seattle-Tacoma International Airport, Anchorage International Airport, and Kansas City International Airport when allocating resources provided above the Administration’s request for the costs of physical modifications of airports for installing explosive detection systems. This directive is just another thinly veiled attempt at earmarking. I am sure there are many airports that have significant needs in terms of physical alterations that must be made to permit the effective use of bomb detection machines. We should not elevate three airports for special attention. The TSA should be attentive to the needs of all airports and should have the flexibility to establish priorities on how best to meet those needs.

I note that the conference report would take $150 million out of the Airport and Airway Trust Fund to reimburse airports for costs associated with new security requirements imposed on or after September 11. Let me point out there is no statutory authorization to use the Trust Fund for such purposes, nor was this funding requested by the President. While I’m not opposed to reimbursing airports, if it is for emergency purposes it should come out of the General Fund, as was authorized in last year’s aviation security bill. Once again, the jurisdiction of the Commerce Committee is being circumvented.

It comes as no surprise that there is funding in the bill for Amtrak $205 million to keep Amtrak operating through September. Amtrak is in financial crisis, nearly $41.6 billion in debt. Amtrak’s independent accountant concluded this year—after 31 years of losses—that a company that loses over a billion dollars annually is not a going concern. Imagine. The upshot is that Amtrak hasn’t been able to access a line of credit from its banker, so once again, Congress must make up the shortfall.

I accept, although reluctantly, that Congress must provide assistance. It would be well beyond the country for Amtrak to shut down its entire system in the next few weeks, particularly since Amtrak has not prepared any type of contingency plan to keep its corridor trains, which are paid for by the states, running. Amtrak’s operations, which are also paid by the states, in operation even if it were to shut down its intercity service. But I regret that the conferees opted to give more money directly to Amtrak in the form of a loan rather than a grant, the Administration could better control how the funds are used and at least try to protect the interests of the American taxpayers. Instead, Amtrak is being given another infusion of cash without any real restrictions on how it is spent.

Not only are we not holding Amtrak and its Board of Directors responsible for the current crisis, we’re not even making an attempt to ensure these funds are spent wisely. I question the need to expend emergency funds for planning a new route to Las Vegas or investing in high-speed rail projects when the Northeast Corridor has a capital backlog of over $5 billion and the tunnels under New York’s Penn Station are in need of billions of dollars in reliability improvements. But Amtrak is spending its emergency funds on the Las Vegas route and other projects that sure don’t sound like emergency expenditures to me.

While I support the intent of the conferees to ensure that Amtrak provides Congress the same information it is now required to supply DOT as a condition of its $100 million loan, I believe this information should also be coming to the authorization committees, not just the Appropriations. The Senate Commerce Committee and the House Transportation and Infrastructure Committee are responsible for setting policy with respect to Amtrak not the Appropriations Committees.

Perhaps one of the more egregious provisions in the conference report deals with earmarked highway projects. My colleagues may recall the so-called congressional controversy last year when the appropriators took the unprecedented action in the FY 2002 DOT Appropriations Bill in which every state lost a portion of their highway funding that was to be allocated by formula under the Transportation Equity Act for the 21st Century (TEA-21). The appropriators redirected the states’ formula funding to projects primarily in the appropriators’ home states. Well, they are at it once again.

The conference report includes language making eligible 49 projects earmarked in the FY 2002 DOT Appropriations Bill that, under TEA-21, are not eligible to receive the earmarked funds. It is very troubling that the authorizing Committee of jurisdiction is no longer concerned about maintaining the integrity of the multi-year highway funding formula law. Even more than I, the members whose states lost the predominant share of their formula and RABA funds to projects in the appropriators’ states, should be vehemently objection to this latest overreach.

Does anyone even know how their state fared as a result of the appropriators’ handiwork last year? Of course, last year’s conference report made no sound like emergency expenditures to me.

I will ask at the end of my remarks that two charts showing the winners and losers based on information provided by the Federal Highway Administration be printed in the RECORD. I will also include the list of the projects being deemed TEA-21 eligible projects in the conference report.

The conference report would also ensure funding distributed under the highway trust fund for the upcoming fiscal year will not be reduced by the
statutory requirements under TEA-21 to adjust the program based on adjustments to the revenue aligned budget authority provisions of the Act. In stead of following the law, the conference report provides for an additional $4.4 billion over the President’s budget request. I think all of us have known this funding would be provided even though the President’s budget request actually fulfilled the requirements that so many members voted for when TEA-21 was passed in 1998. But why does this provision need to be included in this emergency supplemental legislation?

With respect to funding provided for the Coast Guard, the conference report directs $12.1 million, above the President’s request of $26 million, to acquire, repair, renovate or improve vessels, small boats and related equipment. The Statement of Managers further indicates the funding shall be used for the procurement of additional 87-foot fast patrol boats. The conference report further directs $200 million, not requested by the President, to acquire new aircraft and increase aviation capability; and $56.171 million above the President’s request for shore-based aids to navigation facilities. Unfortunately, we are provided little other information to explain the purpose of these funds. $200 million is a significant funding level and we have no clear understanding of this provision.

The conference report provides $33.1 million over the President’s request for “Scientific and Technical Research and Services” for emergency expenses resulting from new homeland security activities and increased security requirements of which $20 million is for a cyber-security initiative.

It is also worth noting that a provision pertaining to the Advanced Technology Program at the Department of Commerce, Justice State Appropriations Committee, again we were not consulted. This report provides $331 million over the President’s request for FY 2002. The Administration and the Congress agreed to New England fishermen and the Andean Trade Preferences Act of 1926. As I mentioned when the Senate considered the supplemental in June, these are authorizations that were considered by the Senate Commerce Committee. Further, with some limited exceptions, Individual Fishing Quota Programs are not allowed under current law. Therefore, this funding will only help fishermen that already exist, such as the halibut fishery in Alaska.

The conference report also amends the Oceans Act of 2000 to extend the deadline for the Ocean Commission’s report by an additional 11 months. The Oceans Act of 2000 was drafted in the Commerce Committee and any amendments should start there, yet we were not even consulted on this provision.

The conference report directs $2.5 million for the creation of the Commerce, Justice State Appropriations Bill for Fiscal Year 2002 to now be dedicated to conducting coral mapping in the waters of the Hawaiian Islands. We debated this issue on the floor in June. While we are concerned the earmark failed, that doesn’t mean the funding proposal is meritorious. This directive was not requested by the President and the funding would be earmarked for the National Defense Center of Excellence for Research in Ocean Sciences.

The conference report also includes $2 million to address what the appropriators call “critical mapping and charting backlog requirements” and $2.8 million for backup capability of the National Ocean and Atmospheric Administration, NOAA, satellite products and services. None of this funding was requested by the President and even though it falls within the jurisdiction of the Senate Finance Committee, again we were not consulted. Moreover, this funding has no relation that I can see to address emergency homeland security needs which is the purported purpose of this bill.

The conference report also includes a total of $11 million for economic assistance to New England fishermen and fishing communities. This funding was not requested by the President, although I understand it is in response to unforeseen circumstances resulting from a federal court order which restrains the number of days that fisherman can fish. The Statement of Managers then earmarks that funding based on the Senate report, as follows: Maine, $2 million; New Hampshire, $2 million; Massachusetts, $5.5 million; and Rhode Island, $1.5 million.

The conference report places a limitation on apparel articles that are eligible for preferential treatment under the Caribbean Basin Initiative, CBI, and the Andean Trade Preferences Act, ATPA. Under this provision, all dyeing, printing, and finishing of knit and woven fabrics must take place in the United States in order for nations under CBI and ATPA to benefit from reduced-rate treatment.

This measure is one in a series of protectionist actions recently undertaken by the United States. The U.S. textile industry has long been an effective shell around itself to avoid competition at all costs. In this case, the Caribbean Basin and the Andean nations are the victims along with American consumers.

Due to recent political and special interest pressures, House appropriators inserted this protectionist provision into the supplemental limiting the dyeing, printing and finishing of certain apparel articles to United States manufacturers, with no objection from the Senate appropriators. Caribbean nations received greater access to the United States’ apparel market through the Caribbean Basin Economic Recovery Act. This law granted the Caribbean Basin nations similar privileges as those afforded Mexico under the North American Free Trade Agreement, NAFTA.

This provision will scale back the Caribbean Basin Initiative, preventing their growing industry access to the U.S. apparel market, if we are to best serve the American people rather than the pork barreling of House appropriators. It is also worth noting that a provision funding proposals is meritorious. These funds will only help fishermen that already exist, such as the halibut fishery in Alaska.

The reorganization of our armed services was, of course, an extremely important subject before September 11, and it is all the more so now. In the months ahead, no task before the Administration and the Congress will be more important or require greater care and deliberation than making the changes necessary to strengthen our national defense in this new, uncertain era. Needless to say, this transformation process will require enlightened, thoughtful leadership, and not the pork barreling of military funds, if we are to best serve America in this time of rapid change in the global security environment.

Again, I question the requirement for certain items in the defense portion of
this supplemental appropriations bill. We are waging war against a new enemy. The dangers in Afghanistan to our service members are real. However, I do not believe that our "special forces" units are threatened by any perceived torpedo attack that would cause the appropriators to include in the conference Report a provision to include $1 million for the Tripwire Torpedo Defense Program or $1 million for the Undersea Warfare Support Equipment AN/SLQ 25A.

The conference report improves on the Senate-passed language regarding U.S. policy in Colombia by providing the Departments of State and Defense with the authority to support the Colombian government's unified campaign against narcotics trafficking and terrorism. However, I regret that the final language imposes a burdensome requirement on the President to commit in writing to a series of benchmarks regarding his policy and reform plans. I also regret that the conferees have seen fit to cut the President's peacekeeping requests by nearly $28 million—at a time when America's global presence, and the importance of standing shoulder to shoulder with our allies in defense of our common interests, matters.

I do applaud this legislation's requirement for reports setting forth a strategy for meeting the security needs of Afghanistan to ensure effective delivery of humanitarian aid, build the rule of law and civil order, and support the Afghan government's efforts to bring stability and security to its people. History shows that America cannot walk away from Afghanistan if we are to protect our interests there. Our first requirement in this post-war phase must be to help the Afghan government bring basic security and order to all parts of the country. America must do more, not less, to consolidate our victory in Afghanistan by helping to build an environment in which our values can flourish.

Let there be no doubt that this war will be long. Therefore, we should not frivolously spend today like there is no tomorrow. For when tomorrow comes, we must have the fiscal resources to not only fight this war to victory, but to provide for our nation's other priorities including tax relief for the lower- and middle-income Americans, adequate funding for Social Security and Medicare, and significant debt reduction.

I ask unanimous consent to print in the RECORD the information I earlier referenced.

There being no objection, the material was ordered to be printed in the RECORD, as follows:
### FY2002 Designated Discretionary Projects -- Statutorily Ineligible

<table>
<thead>
<tr>
<th>State</th>
<th>Project Description</th>
<th>Amount</th>
<th>State Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>I-10 Irvington Interchange</td>
<td>$800,000</td>
<td>$8,800,000</td>
</tr>
<tr>
<td></td>
<td>I-55 and Valley Dale Road interchanges</td>
<td>$8,000,000</td>
<td>$8,800,000</td>
</tr>
<tr>
<td>Arkansas</td>
<td>Great River Bridge</td>
<td>$7,500,000</td>
<td>$7,500,000</td>
</tr>
<tr>
<td>California</td>
<td>I-10 Riverside Avenue interchange</td>
<td>$500,000</td>
<td>$500,000</td>
</tr>
<tr>
<td></td>
<td>I-5 Corridor arteries</td>
<td>$1,000,000</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td>I-5 HOV/general purpose lanes</td>
<td>$4,000,000</td>
<td>$4,000,000</td>
</tr>
<tr>
<td></td>
<td>Tippecanoe/I-10 interchange</td>
<td>$2,500,000</td>
<td>$2,500,000</td>
</tr>
<tr>
<td></td>
<td>Gerald Desmond</td>
<td>$4,000,000</td>
<td>$12,000,000</td>
</tr>
<tr>
<td>Connecticut</td>
<td>Cross Road</td>
<td>$3,500,000</td>
<td>$3,500,000</td>
</tr>
<tr>
<td></td>
<td>Peral Harbor Memorial Bridge</td>
<td>$5,000,000</td>
<td>$8,500,000</td>
</tr>
<tr>
<td>Florida</td>
<td>A. Max Brewer</td>
<td>$3,000,000</td>
<td>$3,000,000</td>
</tr>
<tr>
<td>Hawaii</td>
<td>Sand Island</td>
<td>$5,000,000</td>
<td>$5,000,000</td>
</tr>
<tr>
<td>Illinois</td>
<td>US-30 Morrison/Whiteside County expansion, IL</td>
<td>$750,000</td>
<td>$750,000</td>
</tr>
<tr>
<td>Iowa</td>
<td>US 34/Plattsouth</td>
<td>$1,500,000</td>
<td>$1,500,000</td>
</tr>
<tr>
<td>Kansas</td>
<td>Topeka Avenue</td>
<td>$2,000,000</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>Louisiana</td>
<td>I-49 southern extension from I-10</td>
<td>$1,000,000</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td>I-12 interchange at LA 1088</td>
<td>$1,500,000</td>
<td>$1,500,000</td>
</tr>
<tr>
<td></td>
<td>I-12/Northshore Blvd. interchange</td>
<td>$2,000,000</td>
<td>$2,000,000</td>
</tr>
<tr>
<td></td>
<td>US 167/I-20 interchange</td>
<td>$1,000,000</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td>Kernan</td>
<td>$1,000,000</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td>Leeville</td>
<td>$3,000,000</td>
<td>$9,500,000</td>
</tr>
<tr>
<td>Maine</td>
<td>City of Brewer waterfront redevelopment</td>
<td>$1,000,000</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td>shoreline stabilization, ME</td>
<td>$4,500,000</td>
<td>$4,500,000</td>
</tr>
<tr>
<td></td>
<td>I-95 Northern Maine</td>
<td>$500,000</td>
<td>$500,000</td>
</tr>
<tr>
<td></td>
<td>I-295 Connector, Commercial Street</td>
<td>$6,000,000</td>
<td>$6,000,000</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>Padanaram</td>
<td>$1,500,000</td>
<td>$1,500,000</td>
</tr>
<tr>
<td>Michigan</td>
<td>Pennsylvania Avenue</td>
<td>$3,300,000</td>
<td>$3,300,000</td>
</tr>
<tr>
<td>Nevada</td>
<td>I-215 Southern Beltway to Henderson</td>
<td>$500,000</td>
<td>$500,000</td>
</tr>
<tr>
<td>New Jersey</td>
<td>Sandy Hook ferry terminal, NJ</td>
<td>$1,000,000</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td>Jersey City Pier redevelopment and terminal</td>
<td>$2,000,000</td>
<td>$2,000,000</td>
</tr>
<tr>
<td></td>
<td>construction project</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New York</td>
<td>145th Street</td>
<td>$5,800,000</td>
<td>$5,800,000</td>
</tr>
<tr>
<td></td>
<td>I-84/Delaware</td>
<td>$2,000,000</td>
<td>$2,000,000</td>
</tr>
<tr>
<td></td>
<td>Warren County scenic byway</td>
<td>$30,000</td>
<td>$7,830,000</td>
</tr>
<tr>
<td>Ohio</td>
<td>Cleveland Trans-Erie Ferry Service</td>
<td>$800,000</td>
<td>$800,000</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>I-40 crosstown expressway realignment</td>
<td>$5,500,000</td>
<td>$5,500,000</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>I-180 Lycoming Mall Road interchange</td>
<td>$2,000,000</td>
<td>$2,000,000</td>
</tr>
<tr>
<td></td>
<td>I-79/90 interchange</td>
<td>$250,000</td>
<td>$250,000</td>
</tr>
<tr>
<td></td>
<td>I-79/Warrendale Technology Park Interchange</td>
<td>$1,750,000</td>
<td>$1,750,000</td>
</tr>
<tr>
<td></td>
<td>I-80 Exit at Stoney Hollow Road</td>
<td>$3,000,000</td>
<td>$3,000,000</td>
</tr>
<tr>
<td></td>
<td>State Route 0039 &amp; I-81 Interchange</td>
<td>$750,000</td>
<td>$750,000</td>
</tr>
<tr>
<td></td>
<td>Route 113 Heritage Corridor, PA</td>
<td>$170,000</td>
<td>$7,920,000</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>Sand Point dock, RI</td>
<td>$250,000</td>
<td>$250,000</td>
</tr>
<tr>
<td>South Dakota</td>
<td>US 61/Missouri River</td>
<td>$1,000,000</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>Texas</td>
<td>Leon River</td>
<td>$1,500,000</td>
<td>$1,500,000</td>
</tr>
<tr>
<td>Vermont</td>
<td>Blueberry Lake road improvements, Green</td>
<td>$500,000</td>
<td>$500,000</td>
</tr>
<tr>
<td></td>
<td>Mountain National Forest, VT</td>
<td>$4,000,000</td>
<td>$4,500,000</td>
</tr>
<tr>
<td>Washington</td>
<td>Oak Harbor Municipal Pier terminal, WA</td>
<td>$200,000</td>
<td>$200,000</td>
</tr>
<tr>
<td>West Virginia</td>
<td>I-79 Bridgeport to Meadowbrook</td>
<td>$10,000,000</td>
<td>$10,000,000</td>
</tr>
<tr>
<td></td>
<td>I-79 Connector</td>
<td>$4,800,000</td>
<td>$4,800,000</td>
</tr>
<tr>
<td></td>
<td>I-81 South Martinsburg I/C Bridge, Berkeley County</td>
<td>$7,000,000</td>
<td>$21,800,000</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>$124,150,000</strong></td>
<td><strong>$124,150,000</strong></td>
</tr>
</tbody>
</table>
### State-by-State Earmarks of Revenue Aligned Budget Authority (RABA) Funding in the Transportation Appropriations Act Shifted from States Highway Formula Programs & Allocated Highway Programs

(Chart reflects total earmarked amount and number of projects per state per program)

<table>
<thead>
<tr>
<th>State</th>
<th>State Highway Formula Programs</th>
<th>Allocated Highway Programs</th>
<th>Total Number of Projects</th>
</tr>
</thead>
<tbody>
<tr>
<td>AL</td>
<td>$770,000,000</td>
<td>$540,000,000</td>
<td>97</td>
</tr>
<tr>
<td>AK</td>
<td>$150,000,000</td>
<td>$150,000,000</td>
<td>2</td>
</tr>
<tr>
<td>AZ</td>
<td>$100,000,000</td>
<td>$0</td>
<td>108</td>
</tr>
<tr>
<td>AR</td>
<td>$270,000,000</td>
<td>$230,000,000</td>
<td>22</td>
</tr>
<tr>
<td>CA</td>
<td>$2,950,000</td>
<td>$160,000,000</td>
<td>46</td>
</tr>
<tr>
<td>CO</td>
<td>$2,500,000</td>
<td>$300,000,000</td>
<td>5</td>
</tr>
<tr>
<td>CT</td>
<td>$1,500,000</td>
<td>$1,500,000</td>
<td>18</td>
</tr>
<tr>
<td>DE</td>
<td>$1,000,000</td>
<td>$0</td>
<td>1</td>
</tr>
<tr>
<td>FL</td>
<td>$1,900,000</td>
<td>$1,500,000</td>
<td>28</td>
</tr>
<tr>
<td>GA</td>
<td>$1,500,000</td>
<td>$1,500,000</td>
<td>5</td>
</tr>
<tr>
<td>HI</td>
<td>$150,000</td>
<td>$0</td>
<td>4</td>
</tr>
<tr>
<td>ID</td>
<td>$150,000</td>
<td>$0</td>
<td>5</td>
</tr>
<tr>
<td>IL</td>
<td>$1,500,000</td>
<td>$0</td>
<td>15</td>
</tr>
<tr>
<td>IN</td>
<td>$1,300,000</td>
<td>$0</td>
<td>19</td>
</tr>
<tr>
<td>IA</td>
<td>$1,000,000</td>
<td>$1,000,000</td>
<td>5</td>
</tr>
<tr>
<td>KS</td>
<td>$500,000</td>
<td>$500,000</td>
<td>1</td>
</tr>
<tr>
<td>KY</td>
<td>$230,000,000</td>
<td>$150,000,000</td>
<td>30</td>
</tr>
<tr>
<td>LA</td>
<td>$900,000</td>
<td>$1,000,000</td>
<td>2</td>
</tr>
<tr>
<td>ME</td>
<td>$500,000</td>
<td>$500,000</td>
<td>5</td>
</tr>
<tr>
<td>MD</td>
<td>$100,000</td>
<td>$0</td>
<td>1</td>
</tr>
<tr>
<td>MA</td>
<td>$1,450,000</td>
<td>$0</td>
<td>4</td>
</tr>
<tr>
<td>MI</td>
<td>$150,000</td>
<td>$1,000,000</td>
<td>12</td>
</tr>
<tr>
<td>MN</td>
<td>$0</td>
<td>$0</td>
<td>19</td>
</tr>
<tr>
<td>MS</td>
<td>$500,000</td>
<td>$0</td>
<td>8</td>
</tr>
<tr>
<td>MO</td>
<td>$500,000</td>
<td>$0</td>
<td>10</td>
</tr>
<tr>
<td>MT</td>
<td>$500,000</td>
<td>$0</td>
<td>1</td>
</tr>
<tr>
<td>NE</td>
<td>$500,000</td>
<td>$0</td>
<td>14</td>
</tr>
<tr>
<td>NV</td>
<td>$500,000</td>
<td>$0</td>
<td>12</td>
</tr>
<tr>
<td>NH</td>
<td>$500,000</td>
<td>$0</td>
<td>5</td>
</tr>
<tr>
<td>NJ</td>
<td>$500,000</td>
<td>$0</td>
<td>12</td>
</tr>
<tr>
<td>NM</td>
<td>$150,000</td>
<td>$0</td>
<td>19</td>
</tr>
<tr>
<td>NV</td>
<td>$110,000,000</td>
<td>$120,000,000</td>
<td>16</td>
</tr>
<tr>
<td>NC</td>
<td>$1,200,000</td>
<td>$1,200,000</td>
<td>10</td>
</tr>
<tr>
<td>ND</td>
<td>$900,000</td>
<td>$0</td>
<td>12</td>
</tr>
<tr>
<td>OH</td>
<td>$1,300,000</td>
<td>$0</td>
<td>15</td>
</tr>
<tr>
<td>OK</td>
<td>$500,000</td>
<td>$0</td>
<td>5</td>
</tr>
<tr>
<td>OR</td>
<td>$5,000,000</td>
<td>$0</td>
<td>5</td>
</tr>
<tr>
<td>PA</td>
<td>$5,000,000</td>
<td>$0</td>
<td>5</td>
</tr>
<tr>
<td>RI</td>
<td>$2,300,000</td>
<td>$0</td>
<td>19</td>
</tr>
<tr>
<td>SC</td>
<td>$500,000</td>
<td>$0</td>
<td>4</td>
</tr>
<tr>
<td>SD</td>
<td>$1,000,000</td>
<td>$0</td>
<td>3</td>
</tr>
<tr>
<td>TN</td>
<td>$1,000,000</td>
<td>$0</td>
<td>11</td>
</tr>
<tr>
<td>TX</td>
<td>$2,000,000</td>
<td>$0</td>
<td>17</td>
</tr>
<tr>
<td>UT</td>
<td>$1,000,000</td>
<td>$0</td>
<td>15</td>
</tr>
<tr>
<td>VT</td>
<td>$4,000,000</td>
<td>$0</td>
<td>8</td>
</tr>
<tr>
<td>VA</td>
<td>$400,000</td>
<td>$0</td>
<td>12</td>
</tr>
<tr>
<td>WA</td>
<td>$2,100,000</td>
<td>$0</td>
<td>18</td>
</tr>
<tr>
<td>WY</td>
<td>$5,000,000</td>
<td>$0</td>
<td>8</td>
</tr>
<tr>
<td>WI</td>
<td>$1,500,000</td>
<td>$0</td>
<td>12</td>
</tr>
<tr>
<td>WV</td>
<td>$2,000,000</td>
<td>$0</td>
<td>15</td>
</tr>
<tr>
<td>DC</td>
<td>$2,000,000</td>
<td>$0</td>
<td>12</td>
</tr>
</tbody>
</table>

**TOTAL:** $8,510,000,000

---

**Notes:**
- All amounts are in millions of dollars.
- Projects are listed by state, with the first number representing State Highway Formula Programs and the second number representing Allocated Highway Programs.
- The total number of projects is calculated by summing the project counts across all states.
<table>
<thead>
<tr>
<th>TOTAL FY02 Appropriation</th>
<th>$391,579,000</th>
<th>$492,245,000</th>
<th>$276,092,000</th>
<th>$176,025,000</th>
<th>$134,435,000+</th>
<th>$137,808,000</th>
<th>$1,249,010,000</th>
<th>540 projects</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY02 Funding includes:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TEA-21 auth. for FY02</td>
<td>$18,000,000</td>
<td>$140,000,000</td>
<td>$25,000,000</td>
<td>$100,000,000</td>
<td>$100,000,000</td>
<td>$82,385,400</td>
<td>$465,385,400</td>
<td></td>
</tr>
<tr>
<td>IEA-21 RABA for FY02</td>
<td>$5,059,012</td>
<td>$18,031,932</td>
<td>$3,734,622</td>
<td>$13,310,772</td>
<td>$13,310,772</td>
<td>$0</td>
<td>$53,639,310</td>
<td></td>
</tr>
<tr>
<td><strong>Additional RABA $ per DOT Appropri.</strong></td>
<td>$20,519,988</td>
<td>$333,622,068</td>
<td>$247,067,778</td>
<td>$62,114,228</td>
<td>$21,139,229</td>
<td>$45,122,000</td>
<td>$370,885,890</td>
<td></td>
</tr>
<tr>
<td>33 projects; 17 states</td>
<td>123 projects; 38 states</td>
<td>221 projects; 47 states + DC</td>
<td>55 projects; 27 states</td>
<td>*38 projects; 25 states</td>
<td>*70 projects; 30 states</td>
<td>100% Earmarked</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Chart does not include two earmarks in the Bridge Discretionary Program (totaling $28 million) which are not designated for site/state specific projects.

**Additional RABA funding was also provided for Long-term Pavement ($19,000,000) and for State Border Infrastructure ($56,300,000) programs, but is not designated for site/state specific projects.

Note, depending on final computation of the funds available to stay within the total obligational authority available for FY’02, the actual amounts distributed, in all likelihood, will be less than the specific amounts shown.

Total RABA dollars shifted: $825,185,890 (comprised of $449,445,030 from state highway formula programs and $375,850,860 from allocated programs (including $236,671,037 from High Priority Projects and $139,179,823 from other allocated programs). Note, it can also be viewed in the context of this chart as $730,885,890 + $28,000,000 + $10,000,000 + $56,300,000 – $825,185,890.
### State-by-State Impact of Transportation Appropriations Cuts of Revenue Aligned Budget Authority (RABA) Funding from State Highway Formula Programs & TEA-21 High Priority Projects

<table>
<thead>
<tr>
<th>State</th>
<th>RABA Reductions from State Highway Formula Programs</th>
<th>RABA Reductions from TEA-21 Projects</th>
<th>TOTAL RABA reductions: State Highway Formula &amp; TEA-21 Projects</th>
</tr>
</thead>
<tbody>
<tr>
<td>AL</td>
<td>($411,375)</td>
<td>($737,375)</td>
<td>($1,148,750)</td>
</tr>
<tr>
<td>AK</td>
<td>($1,411,373)</td>
<td>($737,375)</td>
<td>($2,148,748)</td>
</tr>
<tr>
<td>AZ</td>
<td>($2,345,240)</td>
<td>($737,375)</td>
<td>($3,082,615)</td>
</tr>
<tr>
<td>AR</td>
<td>($3,455,022)</td>
<td>($737,375)</td>
<td>($4,192,397)</td>
</tr>
<tr>
<td>CO</td>
<td>($4,562,281)</td>
<td>($737,375)</td>
<td>($5,299,656)</td>
</tr>
<tr>
<td>CT</td>
<td>($5,672,281)</td>
<td>($737,375)</td>
<td>($6,409,656)</td>
</tr>
<tr>
<td>DE</td>
<td>($6,782,281)</td>
<td>($737,375)</td>
<td>($7,519,656)</td>
</tr>
<tr>
<td>FL</td>
<td>($7,892,281)</td>
<td>($737,375)</td>
<td>($8,629,656)</td>
</tr>
<tr>
<td>GA</td>
<td>($8,992,281)</td>
<td>($737,375)</td>
<td>($9,729,656)</td>
</tr>
<tr>
<td>HI</td>
<td>($9,972,281)</td>
<td>($737,375)</td>
<td>($10,709,656)</td>
</tr>
<tr>
<td>IA</td>
<td>($10,052,281)</td>
<td>($737,375)</td>
<td>($10,789,656)</td>
</tr>
<tr>
<td>ID</td>
<td>($11,162,281)</td>
<td>($737,375)</td>
<td>($11,899,656)</td>
</tr>
<tr>
<td>IL</td>
<td>($12,272,281)</td>
<td>($737,375)</td>
<td>($13,009,656)</td>
</tr>
<tr>
<td>IN</td>
<td>($13,382,281)</td>
<td>($737,375)</td>
<td>($14,119,656)</td>
</tr>
<tr>
<td>KS</td>
<td>($14,492,281)</td>
<td>($737,375)</td>
<td>($15,229,656)</td>
</tr>
<tr>
<td>KY</td>
<td>($15,602,281)</td>
<td>($737,375)</td>
<td>($16,339,656)</td>
</tr>
<tr>
<td>LA</td>
<td>($16,712,281)</td>
<td>($737,375)</td>
<td>($17,452,656)</td>
</tr>
<tr>
<td>ME</td>
<td>($17,822,281)</td>
<td>($737,375)</td>
<td>($18,559,656)</td>
</tr>
<tr>
<td>MD</td>
<td>($18,932,281)</td>
<td>($737,375)</td>
<td>($20,069,656)</td>
</tr>
<tr>
<td>MA</td>
<td>($20,042,281)</td>
<td>($737,375)</td>
<td>($20,779,656)</td>
</tr>
<tr>
<td>MI</td>
<td>($21,152,281)</td>
<td>($737,375)</td>
<td>($21,889,656)</td>
</tr>
<tr>
<td>MI</td>
<td>($22,262,281)</td>
<td>($737,375)</td>
<td>($23,009,656)</td>
</tr>
<tr>
<td>MN</td>
<td>($23,372,281)</td>
<td>($737,375)</td>
<td>($24,119,656)</td>
</tr>
<tr>
<td>NE</td>
<td>($24,482,281)</td>
<td>($737,375)</td>
<td>($25,229,656)</td>
</tr>
<tr>
<td>NH</td>
<td>($25,592,281)</td>
<td>($737,375)</td>
<td>($26,339,656)</td>
</tr>
<tr>
<td>NV</td>
<td>($26,702,281)</td>
<td>($737,375)</td>
<td>($27,452,656)</td>
</tr>
<tr>
<td>OH</td>
<td>($27,812,281)</td>
<td>($737,375)</td>
<td>($28,559,656)</td>
</tr>
<tr>
<td>OK</td>
<td>($28,922,281)</td>
<td>($737,375)</td>
<td>($29,669,656)</td>
</tr>
<tr>
<td>OR</td>
<td>($29,932,281)</td>
<td>($737,375)</td>
<td>($30,669,656)</td>
</tr>
<tr>
<td>PA</td>
<td>($30,942,281)</td>
<td>($737,375)</td>
<td>($31,679,656)</td>
</tr>
<tr>
<td>RI</td>
<td>($31,052,281)</td>
<td>($737,375)</td>
<td>($32,789,656)</td>
</tr>
<tr>
<td>SC</td>
<td>($32,162,281)</td>
<td>($737,375)</td>
<td>($33,889,656)</td>
</tr>
<tr>
<td>SD</td>
<td>($33,272,281)</td>
<td>($737,375)</td>
<td>($34,999,656)</td>
</tr>
<tr>
<td>TN</td>
<td>($34,382,281)</td>
<td>($737,375)</td>
<td>($35,119,656)</td>
</tr>
<tr>
<td>TX</td>
<td>($35,492,281)</td>
<td>($737,375)</td>
<td>($36,239,656)</td>
</tr>
<tr>
<td>UT</td>
<td>($36,602,281)</td>
<td>($737,375)</td>
<td>($37,359,656)</td>
</tr>
<tr>
<td>VT</td>
<td>($37,712,281)</td>
<td>($737,375)</td>
<td>($38,479,656)</td>
</tr>
<tr>
<td>VA</td>
<td>($38,822,281)</td>
<td>($737,375)</td>
<td>($39,599,656)</td>
</tr>
<tr>
<td>WA</td>
<td>($39,932,281)</td>
<td>($737,375)</td>
<td>($40,719,656)</td>
</tr>
<tr>
<td>WV</td>
<td>($41,042,281)</td>
<td>($737,375)</td>
<td>($41,769,656)</td>
</tr>
<tr>
<td>WI</td>
<td>($42,152,281)</td>
<td>($737,375)</td>
<td>($43,049,656)</td>
</tr>
<tr>
<td>WV</td>
<td>($43,262,281)</td>
<td>($737,375)</td>
<td>($44,199,656)</td>
</tr>
<tr>
<td>SC</td>
<td>($44,372,281)</td>
<td>($737,375)</td>
<td>($45,129,656)</td>
</tr>
<tr>
<td>Total</td>
<td>($190,232,000)</td>
<td>($737,375)</td>
<td>($190,969,375)</td>
</tr>
</tbody>
</table>

1 Chart does not include $910,387 in RABA cut from American Samoa, Puerto Rico, and the Virgin Islands. Further, Chart does not include $139,179,823 in RABA cut from other allocated Federal Aid Highway Programs which are discretionary programs that cannot be broken out on a state-by-state basis.

Total RABA dollar shifts: $871,183,896 (comprised of $685,095,780 + $910,387 + $139,179,823)
Mr. GRASSLEY. Madam President, today, I rise to object to the Dyeing and Finishing Provision found in the 2002 supplemental appropriations bill, H.R. 4775, that is now going through the conference process within the Senate and will soon be voted on by this body.

This provision is of serious concern to me because it falls within the jurisdiction of the Finance Committee and it was not voted on nor reviewed by the committee.

Senator BAUCUS and I sent a joint letter in June expressing our deep concern about the inclusion of this provision in the bill and asked the chairman of the Appropriations Committee to oppose this provision due to our jurisdiction concerns.


The amendment requires certain fabric to be dyed and finished in the United States or in other countries before it can be imported into the United States duty-free.

Regardless of how my colleagues feel about the requirement for fabric to be dyed and finished in the United States, I urge them to qualify for duty-free treatment they should respect the jurisdiction of the Finance Committee under the trade laws of this Congress.

Our committee has oversight over carefully balanced programs that were developed after years of close study and deliberations in the Finance Committee and the House Committee on Ways and Means.

During the debate of the Bipartisan Trade Act of 2002 when Senator BYRD asked for Senator BAUCUS and I to respect the jurisdiction of the Appropriations Committee by striking all authorization language in the trade bill while we were debating the legislation on the floor.

Senator BAUCUS and I addressed the Senator’s concerns by stopping the debate and revising the legislation so as to not encroach upon the jurisdiction of the Appropriations Committee.

I am deeply dismayed about the Finance Committees’ concerns not seriously being considered about the dyeing and finishing provision which is clearly in our jurisdiction.

I worry that my colleagues would be more considerate of the problem we have with the House being able to slip provisions in the supplemental hoping to sneak it through the legislative process otherwise the legislative process would have the same free-for-all.

If the provision is a good piece of legislation then my colleagues in the House should be willing to have an open dialogue with the Finance Committee members and address our concerns.

Alarms should go off when people try to slip legislation by hoping that no one will catch it.

I am disappointed because this is not the way we are suppose to do business around here.

There are several good reasons why committees were established and given jurisdiction over specific issues.

The Finance Committee, the Senate Appropriations Committee is the experts on trade, therefore all issues involving trade should come through our committee.

I am just asking my colleagues to respect the rules established by the Senate. I am disappointed that the chairman of the Appropriations Committee did not respect our jurisdiction.

This is bad policy and I oppose it.

I also want to strongly emphasize how important it is that we do not set a precedent allowing Members to thwart the committee process and smuggle legislation through the Senate under the radar screen.

Mr. STEVENS. Madam President, a provision I have worked on with my colleagues, Congressmen DON YOUNG and Senator FRANK MURKOWSKI, is included in this bill as section 3002.

In conversations with air carriers in Alaska and the Postal Service, we have found that there are serious problems with rural Alaska under the current bypass mail system.

This provision, titled the Rural Service Improvement Act of 2002, is derived from S. 1713 in the Senate and H.R. 3444 in the House. It contains several technical changes that will resolve these problems.

The bypass mail system is unique to my State: It was created by section 5402 of title 39 of the U.S. Code, and attempts to ensure reliable and affordable passenger service and the delivery of food, goods, and basic consumer necessities to rural Alaska communities.

I have stated on numerous occasions during Postal Service hearings before the Senate Governmental Affairs Committee that the establishment and maintained of air and postal services to rural roads applies to my State as it does the rest of the Union. As a member of the committee with oversight over Postal operations, I take the responsibilities of the Postal Service very seriously. As an Alaskan, I am even more concerned.

Almost every item on the shelf of a rural Alaska general store arrives via the bypass mail system.

This system was created through legislation originated by the Senate in 1970 and takes the lifeline of rural Alaska.

In addition to ensuring delivery of food and goods, the bypass mail system assured that passenger seats would be available to rural Alaskans. The revenues paid to air carriers to transport the bypass mail helps underwrite the cost of this passenger service. The Federal Government’s vast ownership of lands in Alaska and the limited access to those lands means that air transportation is the only way to reach most rural communities in Alaska. We are prohibited by the Federal Government from building roads to connect most of our communities and this system assures access by air.

In recent years there has been an explosion in the number of carriers eligible to carry bypass mail in Alaska because the threshold requirements for eligibility have been very low. However, few of these new carriers operate under the basis of an Alaskan operation. Instead of providing air transportation to passengers, these carriers use the system to underwrite a portion of their total business plan. Other mail-only carriers choose to operate under the same basis of operation. They provide little to no passenger service to Alaska’s rural communities.

The bypass mail system is divided into two categories: mainline routes and bush routes. Mainline routes are flown by carriers operating larger aircraft capable of carrying many pallets of food and goods. These pallets usually weigh a minimum of 1,000 pounds. To be qualified as a mainline carrier under the current regulations, carriers must operate aircraft capable of carrying at least 7,500 pounds of payload capacity. These mainline carriers take bypass mail from one of two acceptance points, Anchorage or Fairbanks, and carry it to “hubs” such as Bethel, Barrow, or Nome. From there the mail is distributed to bush communities by smaller bush aircraft.

To operate properly and efficiently the system needs healthy mainline and bush carriers. The Rural Service Improvement Act of 2002 resolves many of the problems with mainline operations. It clarifies who is eligible to be a mainline carrier, stabilizes mainline markets, and supports increased passenger service. It limits the entry of new all-cargo carriers to mainline markets where current cargo service is deficient.

This bill also gives existing carriers 30 days to correct problems with mail delivery, schedule adherence, or repeated mail damage that the Postal Service deems unacceptable. If no improvements are made new mainline carriers would be eligible to offer service on these routes.

In addition, the bill allows new carriers to enter otherwise closed mainline routes if they provide substantial passenger service. This determination will be made on a route-by-route basis.

To qualify, a new carrier must regularly make available to the public at least 75 percent of the number of passenger seats on the largest carrier on the route for 6 consecutive months. After a new carrier is certified as a mainline carrier it must carry 20 percent of the actual passengers on the route to remain qualified.

Carriers will design their business plans around this requirement, not just bypass mail. This will enable the bypass mail system to fulfill our original intent: to provide mail and air transportation to Alaskans.

The bill also addresses a current problem on routes that receive subsidies from the Department of Transportation’s Essential Air Service, EAS, program. Currently DOT establishes a
must meet the minimum technical re-

ditions are met. First, the bush carrier
bush carriers on mainline routes with

craft capable of carrying many pallets

cumstances, to ensure that larger air-
service, except under specialized cir-

enters. It specifically prohibits bush
bush routes where a mainline carrier
may continue to receive bypass mail if

those routes. To preserves bush
passengers providing service on a tradi-

tional bush route, existing bush pas-

In addition, this bill addresses a ser-
sious problem for rural Alaska. Cur-
rently, some rural markets are classi-
fied as mainline by the Postal service
but have no mainline passenger or by-
pass mail service. This bill will allow
bush carriers currently serving those routes to
continue carrying bypass mail even if a mainline carrier begins service
there. The bus carriers will be paid the
lower mainline rate which will re-
duce the Postal Service's cost of preserving existing passenger service
on the those routes. To preserves bus
passenger and non-mail freight service on rural routes, if a mainline carrier
beings providing service on a tradi-
tional bush route, existing bus pas-
senger and on-mail freight carriers
may continue to receive bypass mail if
they agree to be paid the lower main-
line rate.

This act allows for equalization on
those routes with no current mainline service and on traditional bush routes where a mainline carrier
enters. It specifically prohibits bus

carriers from entering or operating on
mainline routes with existing mainline service, except under specialized cir-
cumstances, to ensure that larger air-
craft capable of carrying many pallets
fly full to the hubs. The act allows the
Postal Service to tender bypass mail to
bush carriers on mainline routes with
existing mainline service if three con-
ditions are met. First, the bush carrier
must meet the minimum technical re-

Second, no similar service is available
on the route by the existing mainline carriers. Third, the Postal Service de-
termines that the tender of mail to a
bush carrier on the mainline route will
not decrease the efficiency of the hub or increase costs for the Postal Serv-
vice. This test will be applied by the
Postal Service on a case-by-case basis.

Another feature of the bill is the ex-

plicit authorization of “composite
equalization,” to protect and enhance
passenger service. Currently almost all
bypass mail flows from an acceptance
point to a hub and then on to a bush point. This act allows bus carriers to receive mail at the acceptance point
for a direct flight to bush villages with-
out first stopping in the hub. Bush car-
rriers are paid based on what they
would have flown to the hub point at
the lower mainline rate and then based
on what they would have flown from
the hub point to the bush village at the
lowest bush rate. The provision also
recognizes routes where composite equalization is not feasible if the hub exist today. The intent is to
promote additional savings for the Postal Service and to preserve existing
direct flights for rural Alaskan resi-
dents.

The act also allows for the creation
of future routes at composite rates if
carriers meet a four-part test. First, a
carrier seeking tender at composite
rates must meet the minimum pas-
senger service requirements of the bill.
Second, the Postal Service must guar-
antee to be tendered mail in the hub point being bypassed by the proposed direct route. Third, the carrier must prove that car-
rying bypass mail on direct routes will
not reduce the efficiency of the entire
hub operations. Lastly, the Postal
Service must determine that allowing
the direct flight will save money for
that portion of the system. The Postal
Service will take into account the cost
of flying the mail directly to the bush
village, not the hub, the cost of the
acceptance point along with the cost of not flying the
mail through the hub in terms of pay-
ments to other carriers, especially the
mainline carriers.

The act restricts entry of new cargo-
only capacity in mainline markets. All
new mainline carriers must also meet
the passenger requirements of the bill
to be tendered mainline bypass mail. A
carrier otherwise qualified to be ten-
dered non-priority bypass mail on Jan-
uary 1, 2001, and in the regular carriage of mainline bypass mail on that date, is not qualified as an ex-
isting carrier. A carrier not qualified
to act as a mainline carrier on January 1,
2001, has since become qualified does not fulfill the definition of an ex-
isting carrier for the purposes of car-
rying mainline bypass mail. Likewise,
a carrier that was tendered mainline
bypass mail on January 1, 2001 in im-
properly sized aircraft does not qualify as an existing carrier.

The postage rate Improvement Act of
2002 also resolves problems with
bush community operations. Currently
any carrier meeting very minimum
qualifications may be tendered bush
bypass mail. In a community with 10
qualified carriers each carrier receives
approximately 10 percent of the bypass
mail on that route. Not all of those
carriers also provide passenger or non-
mail freight service. This trend tends
to change this situation by establish-
ing rural mail pools on a route-by-
route basis.

First, 70 percent of the mail will be
tendered to those carriers who provided
at least 20 percent of the pas-
senger service on a given route. Twen-
ty percent of the mail will go to non-
mail freight carriers which provide at
least 25 percent of the non-mail freight
service on a given route. The remain-
ing 10 percent of the bypass mail will go
to the remaining carriers on the route.
After 3 years this 10 percent mail pool
will terminate and its mail will be divided among the remaining
passengers, and non-priority bypass
mail pool should increase to 75 per-
cent; the remaining 25 percent of bypass mail will go to non-mail freight

carriers. The creation of these pool
for passenger and non-mail freight carriers should ensure competition
market
without having the mail revenue split
between an infinite number of carriers.

Based on advice from the department
Transportation, this act includes
provisions to increase safety standards.
It permits markets to convert from
operations under part 135 of the Federal
Aviation Rules to part 121 if a part 121
carrier becomes qualified to receive by-
service in a given market. If this
happens, all 135 carriers in the market
have 5 years to convert to operations
under part 121 in order to continue rec-
ieving bypass mail. The bill defines
part 121 operations as aircraft carrying
carrying cargo and passenger service
on aircraft type certificated to carry at least 19 passengers, which
according to the Department of Trans-
portation, are the most efficient air-
craft on an air-ton-mile basis that are
reasonably sized for rural Alaska. For the purposes of part 121 op-
erators, the bill focuses on the aircraft
which actually carry the mail.

All carriers in Alaska are put on no-
notice of the requirements of conversion
from part 135 to part 121. After a 6-year
period if a 121 carrier becomes eligible
for bypass mail on any route, 135 car-
rriers on that route have one year to
convert to part 121 to continue receiv-
ing mail.

Saving the Postal Service money by
requiring the use of more efficient and
larger aircraft, because of conversion
to part 121 is an important goal of this
bill. This also improves passenger serv-
ices and safety. In a market which can
physically support 121 operations, all
passenger carriers in that market
should be encouraged to provided in-
creased safety and efficiency.

Some markets in Alaska may not re-
ceive 121 passenger service due to a
lack of ground infrastructure or the
population base to support 19-seat pas-
senger aircraft. In these communities
smaller airplanes operated under part 135 are an integral part of the Alaska transportation system. Also, if a 121 carrier begins service in a market and withdraws, 135 carriers in that market need not convert 121 in order to carry bypass mail.

The bill encourages passenger competition in bush markets. Where there is only one qualified passenger carrier under the bill, meaning it carries at least 80.01 percent of the passengers on a given route, then no other carrier could qualify as a passenger carrier in that market. As an incentive for other passenger carriers to enter the market to become the second largest carrier, thus increasing competition, the act requires the Postal Service to tender 20 percent of the 70 percent pool to the next largest passenger carrier during the first three years of the act, 14 percent of the overall bypass mail volume for the market. After the first 3 years the Postal Service may provide 20 percent of the percent pool to the next largest passenger carrier, or 15 percent of the bypass mail for the market.

As previously stated, carriers operating under part 121 must use aircraft type-certificated to carry at least three passengers. Carriers operating under part 135 must use aircraft type-certificated to carry at least five passengers. Finally, recognizing the special needs of markets with water-only airports the bill requires water-landing aircraft to be type-certificated to carry at least three passengers. These requirements do not require these seats to be installed at all times. Rather, carriers must use minimum sized aircraft to increase efficiencies for the Postal Service and, passenger seats must be installed and insured when needed on such aircraft. A carrier may fly an extra section with only cargo or mail as long as the plane meets the minimum requirements and the aircraft otherwise qualifies to carry mail as a qualified passenger or non-mail freight carrier under the Act.

Under provisions in the bill, to avoid over-concentration in the markets, no carrier which qualifies both as a passenger carrier and a non-mail freight carrier may get mail under both the 70 percent—75 percent pool in 3 years—and the 20 percent pool—25 percent in 3 years—at the same time unless no other carriers can meet the minimum requirements. This is the time to correct the problems with the Alaska system before it collapses completely. To do otherwise would be to turn our backs on the rural communities of Alaska and the commitments the Federal Government has made to them as a result of broad Federal land ownership in Alaska.

Mr. CONRAD. Madam President, I rise to offer for the record the Budget Committee’s official scoring of the conference report to H.R. 4775, the 2002 Supplemental Appropriations Act for Further Recovery and Response to Terrorist Attacks on the United States.

The conference report provides $29.886 billion in new discretionary budget authority, of which $14.992 billion for defense activities and $14.864 billion is for nondefense activities. That additional budget authority will increase outlays by a total of $7.6 billion in 2002. Of the total spending authority provided, H.R. 4775 designates $29.886 billion as emergency spending, which will increase outlays by $7.843 billion in 2002. Per section 314 of the Congressional Budget Act, I have added emergency spending allocations for 2002 by the amount of that emergency funding. The conference report is within the committee’s revised section 302(a) and (b) allocations for budget authority and outlays.

The conference report to H.R. 4775 is subject to several budget points of order. First, by including language increasing the 2003 cap on highway spending, the conference report violates section 306 of the Congressional Budget Act, which requires that such language be reported by the Budget Committee. Second, by amending the Caribbean Basin Economic Recovery
Act, H.R. 4775 decreases revenues by $60 million in 2003 and $785 million over the 2003–2012 period. Because the Congress has already breached the revenue aggregates under the 2002 budget resolution, the conference report violates section 311 of the Congressional Budget Act. Finally, H.R. 4775 violates section 205 of H. Con. Res. 290, the Concurrent Resolution on the Budget for Fiscal Year 2001, by including a number of emergency designations for spending on nondefense activities.

I ask for unanimous consent that two tables displaying the Budget Committee scoring of H.R. 4775 be inserted in the record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Table 2

<table>
<thead>
<tr>
<th>Purpose</th>
<th>Current Level</th>
<th>Senate Allocations</th>
<th>Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>BA</td>
<td>OT</td>
<td></td>
</tr>
<tr>
<td>General purpose</td>
<td>733,597</td>
<td>734,126</td>
<td>599</td>
</tr>
<tr>
<td></td>
<td>694,579</td>
<td>700,500</td>
<td>5,921</td>
</tr>
<tr>
<td>Highways</td>
<td>28,489</td>
<td>28,489</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>5,275</td>
<td>5,275</td>
<td>0</td>
</tr>
<tr>
<td>Mass Transit</td>
<td>1,758</td>
<td>1,760</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>1,392</td>
<td>1,473</td>
<td>81</td>
</tr>
<tr>
<td>Mandatory</td>
<td>358,567</td>
<td>358,567</td>
<td>0</td>
</tr>
</tbody>
</table>

### Table 3

<table>
<thead>
<tr>
<th>Purpose</th>
<th>Current Level</th>
<th>Senate Allocations</th>
<th>Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>BA</td>
<td>OT</td>
<td></td>
</tr>
<tr>
<td>Defense</td>
<td>15,008</td>
<td>14,878</td>
<td>128</td>
</tr>
<tr>
<td>Nondefense</td>
<td>5,444</td>
<td>5,444</td>
<td>0</td>
</tr>
<tr>
<td>Mandatory</td>
<td>14,048</td>
<td>14,357</td>
<td>309</td>
</tr>
</tbody>
</table>

Note: Details may not add to totals due to rounding. The conference report includes $20,886 million in emergency BA and $7,763 million in emergency outlays.
Mr. INHOFE. Madam President, I am pleased that the supplemental bill contains $75 million additional funding for the Federal Aviation Administration’s operations account. It was facing some severe cutbacks in service without this funding.

In particular, the FAA had reduced funding for proficiency and developmental training of air traffic controllers. This funding was reduced by about $10 million without reprogramming approval from the Transportation Appropriations Subcommittee. It is my hope and desire that the FAA add back at least the $10 million to the Air Traffic Instructional Services program. This is a vital program that should never have been cut back. It provides ongoing in-service developmental training all across the country. It has proven to lower error rates by air traffic controllers, thus making the skies safer for the flying public. I believe they should restore the funding immediately.

Ms. CANTWELL. Madam President, I have come to the floor today to discuss an item that is not in the conference report that we will soon vote on, but is critical for our national defense, our future economic vitality, and the ability of our workers to turn this national disaster into new opportunities.

As you know, the Senate supplemental bill contained $400 million for job training and employment assistance for our Nation’s workers. These are funds that were requested by the administration and supported by a bipartisan group of Senators, and are critically needed throughout our Nation.

Unemployment nationwide has hovered around 6 percent throughout most of this year, and in my State, it has been considerably higher than the national average. With the loss of nearly 20,000 commercial aviation jobs in Washington State and severe slowdowns in other major industries, we are likely to suffer secondary layoffs that extend throughout the next 2 years.

But throughout the Nation, we are seeing more and more workers who are unable to find employment for extended periods of time.

A matter of last week by the National Employment Law Project found that long-term employment is higher now than in any of the last four recessions.

The number of workers unemployed for more than 26 weeks has grown over 140 percent from March of 2001.

Former Treasury Secretary Robert Rubin wrote on Sunday in the Washington Post that, to get our economy on a sound footing and restore the prosperity of the ’90s, we need to do three things: one, look seriously at our nation’s long term fiscal position; two, expand trade by granting trade promotion authority; and three, invest in the training of our workers . . .

Mr. Rubin went on to say that “Budgeting priorities should heavily emphasize preparing our future workforce to be competitively productive in the global economy.”

I have supported this bill and I still believe that we need to get these funds out there to replenish vital defense accounts and to implement immediate improvements in homeland security.

But in trimming the bill down to reach the level of spending the President feels necessary, I believe that this bill does a disservice to the workers in this nation trying to upgrade or learn new skills and identify new opportunities, and continues to short-change the systems that we have established to support those efforts.

While we are experiencing massive layoffs throughout the nation, businesses continue to find a serious skills shortage in our workforce, which slows our economic recovery.

Reducing WIA funding at this time by allowing last year’s rescission to be enacted, will seriously impede our ability to get workers the training they need to secure high-paying jobs and strengthen U.S. competitiveness in the global economy. Such cuts would be short-sighted at a time when long-term unemployment is at a record high.

So I am disappointed that these funds have fallen through at the eleventh hour.

We are facing a tidal wave of demand for job training services. One-stop centers throughout this nation are experiencing record visits by displaced workers and those seeking to upgrade their skills.

In my State, the Renton “Worksource Center” is serving over 4,500 workers per month; and the Benton-Franklin County center recently served 961 job seekers in a single day last month.

And our one-stop systems are already producing results. In Washington, we have estimated that, for every dollar invested in programs for dislocated workers and youth training, we get $8 in productivity gains and $10 in earnings growth and taxes collected.

As these programs get further institutionalized, and as workers get to know the one-stop sites created throughout our States, we will see even greater usage by workers seeking to upgrade their skills or find a more ideal job.

But it won’t happen if we don’t commit to getting the system up and running. If we continue to short-change workforce development systems, the effects will be felt on our economy for years to come.

That is why I and over 50 of my colleagues joined together in requesting an increase in funding in the regular Labor-HHS appropriations bill currently under consideration by the committee. Despite my concerns about the immediate needs, I am pleased that the committee has decided to restore last year’s rescission and provide increases in job these training accounts.

I urge my colleagues on the committee to work with us in ensuring that those funds are protected and maintained as we proceed to moving that bill through both Houses, and that we expeditiously reach consensus on that bill in the interest of our Nation’s future.

I ask unanimous consent to print the Washington Post article by Robert Rubin in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

(From the washingtonpost.com, July 21, 2002; Page B07)

To Regain Confidence
(By Robert E. Rubin)

There has been much confusion and uncertainty among investors and in Washington about the economy and the stock market, and about what to do in response to a seemingly significant loss of confidence in our system. Much of the focus has been on accounting and corporate governance. These issues are important, but I think the restoration of confidence and the establishment of sound fundamentals going forward require a much broader focus.

To address accounting and corporate governance first: Clearly reforms are needed to deal with the systemic issues revealed by the recent spate of corporate problems, as are specific enforcement actions where appropriate. The accounting and corporate governance bill passed recently by the Senate seems to me on the whole sensible and relevant to these needs. Similarly, the New York Stock Exchange has issued thoughtful proposals on corporate governance. Expensing of stock options is, in my view, worth serious consideration. The political problems such as valuation need to be resolved. And the conflicts between research and investment banking need a dispositive, industry-wide solution.

These accounting and corporate governance problems developed over time—as

---

<table>
<thead>
<tr>
<th>Table: Conference Report to H.R. 4775, 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States (Spending comparisons—Conference Report)—Continued</th>
</tr>
</thead>
<tbody>
<tr>
<td>Defense</td>
</tr>
<tr>
<td>--------</td>
</tr>
<tr>
<td>Budget Authority</td>
</tr>
<tr>
<td>Outlays</td>
</tr>
</tbody>
</table>

1 In addition to its increase in spending, the conference report retains the House-passed provision amending the Caribbean Basin Economic Recovery Act, which decreases revenues by $60 million in 2003 and $785 million over 10 years.
2 The table removes directives of the House Budget Committee to the Congressional Budget Office on how to score certain provisions in the House-passed supplemental bill.

Notes: Details may not add to totals due to rounding. The conference report is within both the Committee’s 302(a) and 302(b) allocations and the statutory caps on discretionary spending for 2002.
seems to happen after extended good times—but only really came to the fore during the past year. From the time the magnitude of the problems became clear, the need was for a regulatory, fiscal liberalization, and as rapid as possible. But that response—both in regulatory and legislative changes and in enforcement—should be balanced and appropriate, and corporation balance-sheet systems have strong strengths—in allowing for decisive management decisions, rapid change and agility, experimentation and risk taking. These strengths should not be unwisely eroded.

Having said that, these accounting and corporate issues—though important—are only part of a much broader question of how to best promote confidence and strong fundamentals, for the short and the long term.

That was exactly the question the new administration faced in the beginning of 1993, and the strategy then put in place contributed centrally to the remarkably strong economic conditions and sound economic fundamentals for the balance of the 1990s. Unemployment fell from over 7 percent to 4 percent and was under 5 percent for 4 consecutive months; private investment in productive equipment grew at double-digit rates for eight years; annual productivity growth more than doubled by the end of the period; inflation was low; GDP growth averaged roughly 4 percent per annum, and 20 million new private-sector jobs were created. Moreover, the 18-year deficits projected by the Office of Management and Budget at the end of 1992, deficits were reduced and in time surpluses began.

Core inflation did develop—for example, the levels of consumer and corporate debt, the level of the stock market, and excess capacity—as they always do after extended periods of an adjustment that was inevitable. How difficult that period was going to be would be affected by many factors, very much including the actions of government. Also, the legacy of the 1980s provided strong fundamentals to ameliorate this adjustment, e.g., a large fiscal surplus, strong productivity growth, low unemployment, more open markets around the world and a healthy banking system.

In my view, we need to restore the sound, broad-based strategy that was so central to our economic well-being during the 1990s, and are critically important looking forward. The president should clarify our authority, and the recently adopted steel tariffs and agricultural subsidies—which present such a threat to global trade liberalization and to business confidence in the outcome of the struggle over continued globalization—should be corrected. Also—a related matter—we should be prepared to engage in and lead an effective and sensible response to financial crisis abroad when our interests can be served.

(3) Budgeting priorities should heavily emphasize preparing our future workforce to be competitively productive in the global economy, including improving our public school system and equipping the poor to join the economic mainstream.

Finally, we must deal effectively—building on the strong response to the terrible attack of Sept. 11—with the immensely complex challenges of terrorism and geopolitical instability that are of enormous importance to our economy as well as to our national security.

Much of this is difficult, substantively and politically, but the willingness to deal with exceedingly difficult public issues was central to our economic well-being in the ‘90s and is critically important today and for the years and decades ahead.

The writer was head of the National Economic Council from 1989 to 1994 and secretary of the Treasury from 1989 to 1990. He is now director and chairman of the executive committee of Citigroup Inc.

Mr. STEVENS, Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS, Madam President, I yield any time on our side. The Senator from West Virginia authorizes me to yield back all time.

The PRESIDENT. Senator, you are recognized.

Mr. STEVENS. I strongly supported the Graham-Mills proposal because it is built upon the Medicare model, a tried and tested program. It was comprehensive, affordable, and it would have met the needs of our senior citizens. I differed with our Republican friends on this particular proposal, but they believe they would achieve the same goal.

The Hagel proposal is all about. It will only amount to 10 or 12 cents out of every health care dollar.
I think our seniors are entitled to better. They are the men and women who fought in the world wars, brought this country out of depression, and now are frail and elderly.

The question is, Are we prepared to do for them what we did for them in hospital care and physician services? They need the prescription drugs. I believe we can still find common ground. I would like to find common ground. It is the position of our Democratic leader to try to find common ground in terms of any comprehensive program.

This is a drop in the bucket. This is smaller than a fig leaf to cover the needs of our senior citizens. Let us in the Senate of the United States perform nobly and protect our senior citizens: let’s pass a comprehensive program. The Hagel proposal does not do that. We need to do that or we fail our senior citizens.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. ENSIGN. Madam President, our plan is affordable to seniors as well as to taxpayers in future generations. Our plan keeps senior citizens involved in the choices they are making because they will pay the first dollar out of pocket. They have the prescription drug discount card so they will save to save 25 percent on the drugs they purchase; but they will pay the first dollar out of pocket so it keeps them involved in the choices they are making and helps the market work and keeps downward pressure on prices.

It also works well with State plans. My State of Nevada used some of its tobacco money to cover senior citizens below $21,500 in income. Our plan fits in well with any of the State plans that have already been put into effect.

The other advantage that this plan has is that it goes into effect at least a year earlier than any of the other plans.

Lastly, our plan gives the help to those seniors who truly need it. Regarding the really sad stories we have heard on the floor of the Senate, this plan helps those seniors more than the Democrat plan, and it helps them even more than the tripartisan plan. If you are a moderate-income senior, with $17,000 in income and have $5,000 a year in drug costs, our plan helps those seniors more than any of the other two plans.

I urge the other Senators in this Chamber to support the Hagel-Ensign plan.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Madam President, my friend and distinguished colleague, the senior Senator from Massachusetts, talks about a common ground. This proposal is the common ground. As my colleague, Senator ENSIGN, has just stated, this addresses those who need the help the most. We do prioritize, we do focus on those seniors who need the help. Yet we do it in a responsible way.

We stay within the $300 billion budget cap that this body voted on for a prescription drug plan over the next 10 years. It is immediate, it is permanent, and it is the preferred market system. We don’t build a new government bureaucracy. It is not impersonal. It is direct. It caps the catastrophic dark cloud that hangs over all senior citizens. We are doing something for this generation of seniors as well as the next generation.

I hope our colleagues give this consideration and will vote for our amendment.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, the AARP opposes this amendment. Every senior citizen group opposes this amendment for the reasons in this letter.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:


DEAR SENATOR HAGEL: Enacting a comprehensive prescription drug benefit in Medicare this year remains the top priority for AARP. Our members are counting on the Senate to pass a meaningful drug benefit that is affordable and accessible to all beneficiaries. Our members were promised in the last election that a comprehensive drug benefit would be a priority, and we are counting on you to make good on that promise this year.

We appreciate the intent of your bill, S. 2736, the “Medicare Rx Drug Discount and Security Act of 2002.” to provide a prescription drug discount card and stop-loss protection to Medicare beneficiaries. However, in addition to our substantive objections, we are concerned that by offering this scale-back proposal today, you would effectively derail bipartisan discussion and compromise on more meaningful comprehensive approaches. We believe Congress should focus its efforts on enactment of a more comprehensive drug benefit this year.

In addition to the timing of your proposal, AARP has concerns about the approach taken in your bill, including:

Catastrophic coverage—While AARP has not opposed the homeowners premiums, incoherent relating the Medicare benefit changes the nature of the program. This would set an extremely dangerous precedent in Medicare. Further, the stop-loss levels set in the bill do not provide enough protection for lower income beneficiaries. A low-income couple could spend 25 percent of their income just for drugs before this plan offered assistance. Thirdly, there are a number of issues involved in using tax returns to determine program eligibility levels, and we believe other options should be explored.

Discount card—While AARP supports the use of a discount card program as a building block for a Medicare prescription drug benefit, your proposal lacks the necessary specifications to guaranty the level of discount, what level of discount would be passed to beneficiaries, and the degree of consumer protections required of plans.

Given these concerns, AARP opposes your amendment. We remain fully committed to developing a comprehensive drug benefit for all Medicare beneficiaries and we look forward to working with you on legislation that our members can support.

Sincerely,

WILLIAM D. NOVELLI, Executive Director and CEO.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time. I believe all time has been used.

Mr. President, I make a point of order that the pending amendment violates section 302(f) of the Congressional Budget Act of 1974.

Mr. HAGEL. Mr. President, I move to waive the respective sections of the Budget Act, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Are we prepared to do for them what we did for them in hospital care and physician services? The clerk will call 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 51, nays 48, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—51

YEAS—51

NAYS—48

NAYS—48

Deобще

Mr. KENNEDY. Mr. President, I yield back the remainder of my time. I believe all time has been used.

Mr. HAGEL. Mr. President, I move to lay this motion on the table.

The motion to lay the table was agreed to.
The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia, Mr. ROCKEFELLER, is recognized to offer a second-degree amendment.

Mr. REID. Mr. President, before the Senator from West Virginia begins, I have spoken to the Senator from New Hampshire, who is the manager of this bill. Following the debate on the Rockefeller second degree amendment, we will go to Senator Gregg or his designee on a second degree amendment, and then Senator Reid of Nevada or his designee on the next second degree amendment. I ask unanimous consent that that be the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

Mr. ROCKEFELLER. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The Assistant legislative clerk reads as follows:

The Senator from West Virginia [Mr. ROCKEFELLER], for himself, Ms. CANTWELL, Mr. BAYH, Ms. FEINSTEIN, Mrs. MURRAY, Ms. SNOWE, Mr. KERRY, Ms. LANDRIEU, Mr. BINGAMAN, Mrs. CLELAND, proposes an amendment numbered 4316 to amendment No. 4299.

Mr. ROCKEFELLER. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(a) Temporary Increase of Medicaid FMAP
(1) PERMITTING MAINTENANCE OF FISCAL YEAR 2001 FMAP FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2002.—Notwithstanding any other provision of law, but subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2002 is less than the FMAP as so determined for fiscal year 2001, the FMAP for the second calendar quarter of fiscal year 2002 shall be substituted for the State’s FMAP for the third and fourth calendar quarters of fiscal year 2002, before the application of this subsection.

(2) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for fiscal year 2002 shall be substituted for the State’s FMAP for each calendar quarter of fiscal year 2003, before the application of this subsection.

(b) LIMITATIONS ON INCREASE FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2002 AND FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to paragraphs (5) and (6), for each State for the third and fourth calendar quarters of fiscal year 2002 and each calendar quarter of fiscal year 2003, this Act shall not apply in order to account the application of paragraphs (1) and (2) shall be increased by 1.35 percentage points.

(c) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, but subject to paragraph (6), with respect to the third and fourth calendar quarter of fiscal year 2002 and each calendar quarter of fiscal year 2003, the amounts otherwise determined for Puerto Rico, the Virgin Islands, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 2.7 percent of such amounts.

(5) SCOPE OF APPLICATION.—The increase in the FMAP for a State under this subsection shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(A) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396d–4); or

(B) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397a et seq.).

(6) STATE ELIGIBILITY AND AMPUTATION.

(A) IN GENERAL.—Subject to subparagraph (B), a State is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver as) in effect on January 1, 2002.

(B) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after January 1, 2002, but prior to the date of enactment of this Act is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) in the first calendar quarter (and subsequent calendar quarters) in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on January 1, 2002.

(D) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) or (B) shall be construed as affecting a State’s flexibility with respect to benefits offered under the State Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(7) DEFINITIONS.—In this subsection:

(A) FMAP.—The term “FMAP” means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396a(b)).

(B) STATE.—The term “State” has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(c) USE OF FUNDS.—Funds appropriated under this section may be used for services directed at the goals set forth in section 2001, subject to the requirements of this title.

(D) PAYMENT TO STATES.—Not later than 30 days after amounts are appropriated under subsection (a), in addition to any payment made under section 2002 or 2007, the Secretary shall make a lump sum payment to a State of the total amount of the allotment for the State specified in subsection (b).

(“c” DEFINITION.—For purposes of this section, the term “State” means (A) the States, the District of Columbia, and the territories contained in the list under subsection (b)."

The following table:

<table>
<thead>
<tr>
<th>State</th>
<th>Allotment (in dollars)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>$33,918,100</td>
</tr>
<tr>
<td>Alaska</td>
<td>$8,488,200</td>
</tr>
<tr>
<td>American Samoa</td>
<td>$8,650</td>
</tr>
<tr>
<td>Arizona</td>
<td>$47,601,600</td>
</tr>
<tr>
<td>Arkansas</td>
<td>$27,941,800</td>
</tr>
<tr>
<td>California</td>
<td>$314,653,900</td>
</tr>
<tr>
<td>Colorado</td>
<td>$27,906,200</td>
</tr>
<tr>
<td>Connecticut</td>
<td>$41,551,200</td>
</tr>
<tr>
<td>Delaware</td>
<td>$8,396,000</td>
</tr>
<tr>
<td>District of Columbia</td>
<td>$12,374,400</td>
</tr>
<tr>
<td>Florida</td>
<td>$328,271,100</td>
</tr>
<tr>
<td>Georgia</td>
<td>$99,166,100</td>
</tr>
<tr>
<td>Guam</td>
<td>$138,500</td>
</tr>
<tr>
<td>Hawaii</td>
<td>$7,914,700</td>
</tr>
<tr>
<td>Idaho</td>
<td>$10,239,600</td>
</tr>
<tr>
<td>Illinois</td>
<td>$102,577,900</td>
</tr>
<tr>
<td>Indiana</td>
<td>$50,659,800</td>
</tr>
<tr>
<td>Iowa</td>
<td>$27,799,700</td>
</tr>
<tr>
<td>Kansas</td>
<td>$11,551,200</td>
</tr>
<tr>
<td>Kentucky</td>
<td>$41,508,400</td>
</tr>
<tr>
<td>Louisiana</td>
<td>$50,974,000</td>
</tr>
<tr>
<td>Maine</td>
<td>$17,111,600</td>
</tr>
<tr>
<td>Maryland</td>
<td>$41,824,800</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>$100,770,700</td>
</tr>
<tr>
<td>Michigan</td>
<td>$99,196,800</td>
</tr>
<tr>
<td>Minnesota</td>
<td>$35,974,800</td>
</tr>
<tr>
<td>Mississippi</td>
<td>$65,980</td>
</tr>
<tr>
<td>Missouri</td>
<td>$8,232,200</td>
</tr>
<tr>
<td>Montana</td>
<td>$10,979,500</td>
</tr>
<tr>
<td>Nevada</td>
<td>$16,971,600</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>$10,549,400</td>
</tr>
<tr>
<td>New Jersey</td>
<td>$27,198,500</td>
</tr>
<tr>
<td>New Mexico</td>
<td>$21,807,600</td>
</tr>
<tr>
<td>New York</td>
<td>$461,401,900</td>
</tr>
<tr>
<td>North Carolina</td>
<td>$77,538,200</td>
</tr>
<tr>
<td>North Dakota</td>
<td>$51,716,900</td>
</tr>
<tr>
<td>N. Mariana Islands</td>
<td>$50,000</td>
</tr>
<tr>
<td>Ohio</td>
<td>$316,387,800</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>$39,941,800</td>
</tr>
<tr>
<td>Oregon</td>
<td>$51,327,200</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>$159,089,700</td>
</tr>
<tr>
<td>Puerto Rico</td>
<td>$312,900</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>$18,600</td>
</tr>
<tr>
<td>South Carolina</td>
<td>$38,236,000</td>
</tr>
<tr>
<td>South Dakota</td>
<td>$6,263,700</td>
</tr>
<tr>
<td>Tennessee</td>
<td>$12,123,800</td>
</tr>
<tr>
<td>Texas</td>
<td>$159,779,800</td>
</tr>
<tr>
<td>Utah</td>
<td>$12,511,700</td>
</tr>
<tr>
<td>Vermont</td>
<td>$8,003,600</td>
</tr>
<tr>
<td>Virgin Islands</td>
<td>$32,800</td>
</tr>
<tr>
<td>Virginia</td>
<td>$41,388,300</td>
</tr>
<tr>
<td>Washington</td>
<td>$69,084,900</td>
</tr>
<tr>
<td>West Virginia</td>
<td>$19,884,400</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>$74,281,900</td>
</tr>
<tr>
<td>Wyoming</td>
<td>$3,776,400</td>
</tr>
</tbody>
</table>

Total $3,000,000,000
Mr. ROCKEFELLER. Mr. President, I rise to offer this amendment on behalf of many Senators. It is a very long list.

Most of my colleagues know we should have included State fiscal relief and, in fact, I introduced it in our original stimulus package, which we debated both before Christmas and afterward but did nothing about. This is a stimulus package that we need now and need to complete because we have very dangerous cuts going on in Medicaid and in the health care programs in our States that affect our most vulnerable Americans.

The amendment which I and about 30 other Senators offer is to provide States with assistance that they need right now. State budgets, as the Presiding Officer is more than aware, having been a Governor himself, are in really bad shape financially, and 49 States, of course, cannot spend any deficit the way the federal Government can. This is, in this fiscal year faced a combined budget shortfall of between $40 and $50 billion, according to the National Governors Association and the National Association of State Budget Offices. It is a crisis. I hear from my Governor from West Virginia as often as the President of the Senate.

These deficits were caused by a combination of lower-than-expected revenues, higher-than-expected expenditures, including increased Medicaid costs, and Medicaid is our key, partly a result of the rise in unemployment. When that happens, what is a State going to do but to offer Medicaid?

The first step of an economic recovery at the national level. I say that without any particular reason to know that or even to be hopeful, but I say that rather than just be pessimistic. However, it will certainly take 12 to 18 months, if I am right in my optimism, for the States to recover.

We offer this amendment to help address the States’ fiscal crises. Yes, we are the Federal Government. Yes, they are States. However, they are deep in their respective States and virtually all of our health care programs.

This amendment will provide about $9 billion to States over the next year and a half by increasing the Federal Medicaid match, also by holding States harmless for reductions in their Medicaid match that would occur under current law and providing about $3 billion in new money that States can use for other social service needs such as child care.

I explain that simply by saying when I conceived of this amendment originally, it was all about the Federal matching percentage. And then I got together with Senator COLLINS from Maine and Senator NELSON from Nebraska and we worked out a compromise, which I think is a far stronger amendment, which is to say that we want to do the Medicaid match problem but we also want to work on social services block grants.

There is a block grant component here of $3 billion, which means less for Medicaid but more for block grants, which means States can use it for child care, for education, for child abuse and neglect, for virtually a variety of other services. It is a creative and good approach. It is important that my colleagues support this amendment. I will say a word or two about some of its provisions.

Some Senators might say we should help the States. That is what we do. We often impose requirements and they get into trouble; we wander off, forgetting what we have done.

Some might say, look, they got themselves into this mess; why should we get them out of this mess? But the problem with that approach is, No. 1, they didn’t get themselves into that mess. It was a result of what was going on nationally, economically, the way the world turned and I can get into that if my colleagues will let me talk about it.

Regardless of that, the problem is the people are affected, the people of our States are the ones affected. Governor Patton of Kentucky has noted: 'Without fiscal relief the cuts necessary to close the budget gaps will have profound effects on our Nation’s children and the programs which serve our most needy populations.'

Several States have already cut back coverage under their Medicaid programs. If States cut back on Medicaid benefits, their residents will be out in the cold. So we need to stop pointing fingers at the States and ensure that the safety net is strong for this Nation’s people who are our most vulnerable citizens.

Despite the downturn in the economy that is affecting most areas of the country, the proportion of Medicaid costs that the Federal Government bears—in my State, it is 77, 78 percent, but the proportion that the Federal Government is now paying is declining in 29 States. It is declining in 29 States including the State of West Virginia.

So the States matched rates will lose well over half a billion dollars. This is as a consequence of what is now going on under current law. Our amendment would hold States harmless for these decreases.

Our amendment will also provide a temporary increase in the Federal Medicaid matching rates. I say temporary; it is not permanent. There will be people here who will try to argue we are creating an entitlement. It is a temporary program which we write into law.

I would say to the Presiding Officer, when we did the tax decreases, we wrote that into law. We could write this into law. It will last a certain period of time, the Medicaid match will be up until a certain year, the social services block grant up until a certain year. We write it into law. That is what we did with tax cuts. That is what we could do in this amendment.

Another thing that we could do is cut back health insurance for low-income families and individuals is enormous. The Governor of my State, this Senator’s State, Gov. Bob Wise, calls me constantly about this. The State is in deficit for many reasons, it is not a wealthy State—and he agonizes over this because he knows at the end of the day he will have to make cuts in Medicaid. He already has had to. He doesn’t want to do that because it affects so many of the people I represent—that we all represent.

Finally, I say to the Presiding Officer, the amendment will provide States with money they can use for other social services. It is very creative. It can be education. It can’t be health care, but it can be education; it can be child care, which plays very strongly into the whole welfare reform debate issue.

It can be for child abuse and neglect. This will offer the assistance to States with ailing budgets, lessening the need for States to cut programs or raise taxes in the middle of something called a very bad recession. I cannot think of a more important time to pass that kind of law.

My State will receive about $58.5 million under this amendment, which it desperately needs in order to ensure coverage for our people.

I want to stress that this proposal is temporary. It will be effective for 18 months from April 2002. Our amendment includes an emergency designation. Why do we do that? Because that is the way it originally was. That is the way it always was. It was part of the stimulus package. It was part of the stimulus package. It was part of America going back again. Now more than ever we need to get America moving again economically.

The total estimated cost of the proposal, for both the block grant part and the FMAP part, the Medicaid match part, is $9 billion over 10 years. I believe it is appropriate that we provide the States with this relief under the traditional emergency designation.

I will be glad to speak further, but I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I rise today with my colleagues, Senator ROCKEFELLER, Senator BEN NELSON, and Senator GORDON SMITH, as well as with several other of our colleagues, to offer an amendment that begins to address the fiscal plight of our States. I congratulate Senator ROCKEFELLER and Senator NELSON for their hard work on this issue.

Originally, we had slightly different approaches but, in an attempt to get something done that will help our States that are struggling with fiscal
The situation in my home State of Maine is typical of the problems faced by many States. Our fiscal year just ended on June 30. Just this past March, State revenues appeared to be on target at approximately $2.4 billion. In April, after the State legislature had adjourned, State forecasters projected a shortfall of $90 million, largely due to sluggish capital gain receipts.

By mid-June, the expected shortfall had risen by another $20 million, due to lower than expected sales, income taxes, and corporate income tax receipts. All were off projections.

So you can see how quickly the financial system turned from relatively positive to negative in my State and many others.

The shortfall in the fiscal year that just began in May looks even worse. We may experience a shortfall of $180 million. That is enormously difficult for a State such as Maine to deal with in a way that does not hurt the people we serve.

To close the books on last year, the Governor of Maine had nearly emptied our State’s rainy day fund. This year, the choices are going to be far tougher. Already, cuts in education funding, furloughs for government workers, and cuts in the Medicaid Program are on the horizon. I believe States need to tighten their belts in times of fiscal difficulty just as the Federal Government should do in austere fiscal times.

We are not talking about taking the States off the hook. They are still going to have to make a number of very difficult choices in order to balance their budgets. But the unexpected nature and the severity of the crisis that States now face has convinced me we need to give them some temporary help. We should do so by targeting resources where they are most needed for health care and social services programs.

Our amendment would provide a temporary increase in the Federal Medicaid matching rate. It would also provide block grant funds to every State. Specifically, it would provide $6 billion to States by holding each State’s Medicaid matching rate harmless for the next 18 months. It would also provide a temporary increase in the Medicaid matching rate.

I note that over 30 States are scheduled to see a decrease in their Federal matching under the Medicaid Program.

So we would hold these States harmless. They would no longer see their Medicaid funds, States are increased Medicaid funds, States are asked to maintain their Medicaid Programs. There are some States that have acted to contract their Medicaid Programs in order to cut their costs. But there are States that rely on those actions and, thus, becomes eligible for the increased Medicaid match that is provided by this bill.

Regardless, every State is going to benefit from the package we put together. Every State will receive a share of the block grant funding and will be helped by the provisions that maintain the Medicaid matching rate at no less than the current level. Those are the so-called hold harmless provisions.

Our amendment is strongly supported by the National Governors Association, as you might well expect. They need our help. But it is also strongly supported by typifying care providers that are very concerned about their ability to continue to provide much-needed quality health care to citizens who rely on the Medicaid Program. It has been endorsed by the American Hospital Association, the American Health Care Association, which represents our nursing homes, the Visiting Nurse Associations of America, and a host of other health care provider groups.

The support that our legislation has received underscores the importance of the targeted assistance at a time when many are being forced to look toward cuts in vital health care programs in order to balance their budgets.

Our amendment targets most of our assistance on Medicaid. The reason is that the Medicaid Program is the fastest-growing consumer of State budgets. While State revenues were stagnant or declined in many States last year, Medicaid costs increased by 11 percent. This year, Medicaid costs are increasing at an even greater rate—13.4 percent. My home State is one of only a number of States that have been forced to consider resorting to cuts in Medicaid in order to make up for their budget shortfall.

The amendment we are offering today—I want to stress this point—would not free States from the burden of making painful, difficult choices in crafting their budgets for the current year. But it would help to lessen the impact of the cuts. It would help to soften the blow from a situation in which the States are really not to blame. It is a combination of events—of declining tax revenues, lingering impact of a recession, and the events of September 11—that has created the fiscal crisis for our States.

Our legislation would help protect vital programs for those who can least bear the cuts in services. To the State Governor, our amendment means $54 million for health care and social services that would help our most needy citizens and assist our Governor
and the legislature in producing a balanced budget without resorting to draconian cuts that would have a terrible impact on our State citizens.

Congress is most effective when it stands arm-in-arm—not toe to toe—with the States. Our States face a crisis of vast and still expanding dimensions. I think we need to help, and we need to help now. The longer we wait, the more difficult it is going to be for our partners, the States.

This amendment is a modest amendment. Other versions of this amendment were far more expensive. But in recognition of the fiscal realities we face, we have limited its scope. But it is an amendment that would make a difference to the States and to needy citizens across our Nation. I urge my colleagues to join me in providing much needed but temporary fiscal relief to the States.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, I rise today to join my colleagues and my friends, Senator Collins and Senator ROCKEFELLER, in discussing this issue, and to urge the support of our colleagues as we strengthen the partnership that exists between the States and the Federal Government as it relates to the Medicaid Program and social services.

With the Presiding Officer having led the National Governors Association, and having served as a Governor with the Presiding Officer in the National Governors Association, I feel a little bit like I am preaching to the choir. On the other hand, I think it is important that we continue to point out the challenges facing the States today which will put in doubt the continuing relationship of providing the kinds of benefits necessary for Medicaid and for social services.

There is, in fact, a partnership. It has been a partnership—a partnership where the political parties have responsibility and all the parties have an opportunity to help the most vulnerable among our society and our population. But as my colleagues have pointed out, States today are experiencing the necessity of making cuts in spending for important social services as well as for education and for a number of other programs.

The current economic indicators suggest it could be years before revenue levels return to what they were in the late 1990s. It will continue, therefore, to be a herculean challenge for the States to maintain a semblance of the services they were able to provide only a few years ago. As is the case in any economic downturn, now is the time when people need the services most.

Senator COLLINS and Senator ROCKEFELLER have indicated the importance of this particular legislation to their home States. I ask for the opportunity and the courtesy to be able to do the same.

In my home State of Nebraska, unemployment levels are at their highest mark in 15 years. For only the second time in history, Nebraska will collect less revenue this year than it did last year. When those two figures are put together, it should be abundantly clear that the budget is being pressed on both sides, and eventually something will break.

In Nebraska, cuts have already been made to child care programs, rural development, and other essential services. A tax increase has been passed by the legislature. These measures might relieve some of the immediate burden, but next year there will be more tough choices and even fewer options.

Many of those options will likely involve cuts to Medicaid unless we act to provide fiscal relief. According to the National Governors Association, Medicaid spending has been a particular struggle for States since expenditures have risen on average of 12 percent over the past 2 years while State revenues rose to a total of 5 percent—where they even increased, let alone where they decreased.

Medicaid spending has been driven by increases in health care costs generally. For example, Medicaid costs for prescription drugs have increased by 18 percent annually over the past 3 years. It has also been increased by the recession-related increases in the number of people who have become eligible for Medicaid due to the downturn in the economy. This continues to grow worse.

As we look for a solution for Medicare and the prescription drug benefit that we want to see provided to our seniors and to those who have the need as part of the Medicare Program, we know what the increase in cost has done to the average citizen. This program has felt the same impact.

To date, most States have been able to reduce Medicaid spending without cutting back eligibility significantly. Mr. President, we have been able to fund enough Medicaid for this year, and nearly all States have implemented Medicaid cost-containment measures, such as reducing some benefits, increasing beneficiary cost-sharing, or cutting or delaying payment to providers.

But as fiscal pressures continue to mount, many States are likely to consider substantial reductions in Medicaid eligibility that would leave hundreds of thousands of children, families, and seniors uninsured. Medicaid, as you know, is often the second largest share of State budgets after education, and States have already exhausted the traditional budget-balancing tools, such as tapping reserve funds and using one-time measures, such as using tobacco settlement funds or forward-funding spending programs, as well as Medicaid spending cuts unrelated to eligibility. But the States need help.

It is important that we help the States today because part of the partnership we have established with the States is welfare reform. To the extent they are now faced with making cuts that will reverse the success we have had in welfare reform, it would be a tremendous shame to sit by and not do what we can to help avoid that sort of result.

You know, Medicaid, as well as the eligibility requirements and transitional benefits in social services, have helped transition people from welfare to work. I think it would be a tremendous disservice if we saw the absence of the withdrawal of Medicaid reverse the trend, where people go from work back to welfare because they lose their child support care and other valuable programs that have helped in the transition.

For the past several months, we have been working together, Senator COLLINS and I—and we have been so pleased to have been joined by Senator ROCKEFELLER in bringing about this co-operative, bipartisan effort to help States through this period of fiscal crisis.

During the journey to bring our measure to the floor, it has gone through some changes, but, more importantly, it has become even more of a consensus measure along the way. As Senator COLLINS indicated, it has the support of the National Governors Association, with the letter today supporting it. And these are members of all political parties, a tripartite group, where they are now supporting it and truly recognize how important it is we work as quickly as we can to provide support to the States.

Rockefeller-Collins-Nelson amendment will provide $9 billion, as has been mentioned. It is a temporary measure that will provide enough help, over the next 18 months, to ensure that low-income families, children, seniors, and persons with disabilities most affected by the economic downturn will get the health care as well as the other services they need. It will also help to provide financial resources for various hospitals, clinics, nursing homes, doctors, and other providers that offer such services.

It is clear this amendment is, by no means, perfect. But it is a consensus amendment, and it is a step in the right direction, on a temporary basis, to help the States through these difficult times and, moreover, to help the residents and the citizens of the States get through this.

So I urge my colleagues to adopt this amendment and take this step to avert, at least in part, potentially damaging cuts to Medicaid, as well as to other social service programs.

I hope, as the list of supporters is included in the Record, numerous senior citizens, groups and other organizations in the outcome of the Medicaid Program and social services—that list will show there is strong support, not only among the States but by those who are equally interested in the outcome for seniors and for others, and that that support will encourage and bring about the support of others of our colleagues, so this amendment can be adopted.
It appears we are going to need the requisite 60 votes for this to be adopted. We hope people will support it.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. Edwards). The Senator from Idaho.

Mr. CRADO. Mr. President, I ask unanimous consent to speak for up to 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. Crapo are printed in the Congressional Record under “Morning Business.”)

Mr. KYL. Mr. President, I rise to express my concerns with Senator Rockefeller’s amendment. As you know, it would provide every state with a 1.35 percent point increase in their Federal Medical Assistance Percentage. Percentage, FMAP, the amount that the Federal Government supplements States for their Medicaid costs.

Under FMAP, Medicaid funds are distributed to States based upon a formula designed to provide a higher Federal matching percentage to those States with lower relative per capita income, and a lower Federal matching percentage to those States with higher per capita income. Although not perfect, is justified because States cannot manipulate it for their own gain; the data is periodically published and can be estimated with reasonable accuracy. Additionally, the use of per capita income is a proxy for State ability to pay for Medicaid. It relates to a State’s ability to pay for medical services for needy people. To put it simply: poorer states get more help than wealthier States.

The Rockefeller amendment ignores the Medicaid formula and gives each State a 1.35 percent point increase. Under the amendment, states that have been determined by the Medicaid formula to receive the lowest FMAP of 50 percent receive the greatest percentage increase. States with the highest FMAP receive the lowest percentage increase. This is the exact opposite of how the funds should be allocated. The Medicaid formula, whatever its faults, does indicate a relative sense of need. It would be wrong to give the least needy States the largest percentage increase.

For example, Illinois’ FMAP for fiscal year 2003 is 50 percent. Increasing this to 51.35 percent, as the chairman’s mark increases Illinois’ FMAP by 2.7 percent. Arizona’s FMAP for fiscal year 2003 is 67.25 percent. Increasing this to 68.60 percent, as the amendment does, increases Arizona’s FMAP by only 2 percent and, obviously, a much lower dollar figure. Illinois is receiving a 35 percent greater increase in its FMAP than Arizona, yet by the formula’s standards, Arizona has shown that it needs a far greater FMAP than Illinois.

While the amendment is supposed to be a temporary increase in the FMAP for just 18 months—I also worry that this temporarily increase would become permanent, in which case it could cost upwards of $30 billion over 10 years.

Additionally, the Chairman of the Finance Committee had scheduled a mark up on a proposal similar to this amendment. Unfortunately, the mark up was canceled. I do not think that having an amendment on the Senate floor without the legislation going through the committee process is the best way to make changes in the Medicaid formula that could become permanent.

Given these facts, I will not be able to support the Rockefeller amendment.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, there are a variety of things that have been said about this amendment, and there are a few more things that could be said, but, basically, the nature of the amendment has been laid out.

We are at the point where States are in the worst financial situation in 40 years. The cupboard is even more bare.

The Preventive session this year, my home State of Oregon faced a budget shortfall of more than $800 million, and the majority of States are facing similar conditions.

The cruel irony of this situation is that just as State revenues have dropped due to poor economic conditions, many more families are turning to Medicaid as their only source of health care.

I know that in Oregon, the number of people on Medicaid has risen by more than 10 percent since June of last year, and I suspect that many of your States have experienced similar increases in demand.

This year, more than 40 million Americans lived and worked without health insurance, and it is estimated that the economic downturn will add another 4 million to the ranks of the uninsured.

The amendment before the Senate today addresses a very real emergency. It will allow States to continue providing health care to our society’s most vulnerable members in this economic downturn by providing a temporary increase in the Federal Medical Assistance program, FMAP, funds States receive to pay their portion of the Medicaid bill.

It will prevent the erosion of health insurance coverage and help maintain a strong health care safety net for vulnerable Americans during the economic downturn.

By temporarily increasing the Federal portion of the Medicaid bill, the scope and depth of possible State budget cuts or tax increases will be less, and it will minimize the potential negative impact on the economy and our most vulnerable citizens across the country.

Including funds for States to use for a variety of social services will also help provide services to the needy at a time when demand for such services is demonstrably on the rise.

It is the right thing to do, and the right time to do it.

I urge my colleagues to support our amendment so we can clear the 60-vote threshold.

Again, I thank our colleagues from West Virginia, Senator Rockefeller,
for his leadership and look forward to joining him in support of this critical and timely amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank Senator ROCKEFELLER for his leadership on this amendment and on health care policy. I have said to the Senator from West Virginia, it is a little bit like the E.F. Hutton speaks, people listen. Senator ROCKEFELLER has that credibility.

This is critically important. I know in Minnesota it is about $123 million in additional Medicaid funding. There is also the additional social services block grant money that would also come to Minnesota. Our State, just like many States in the country, is under siege financially.

The other important feature is that one of the conditions upon receiving this is to not cut back on Medicaid or medical assistance eligibility which is extremely important. People need to be able to keep their health insurance. I ask unanimous consent to be an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I thank Senator ROCKEFELLER for stepping forward and taking the lead. I indicate to my colleagues my very strong support as a Senator from Minnesota for this amendment.

I yield the floor.

Mr. ROCKEFELLER. Mr. President, I say to my friend from West Virginia, the sponsor of this amendment, the Senator from West Virginia would agree to a reasonable time on this amendment; would he not?

Mr. ROCKEFELLER. The Senator is correct.

Mr. REID. There is not a manager on the floor, and there are other things going on, such as the memorial service for the fallen police officers in a few minutes. I would hope that we would be in a position in the near future to arrive at some reasonable time to vote on this amendment. It appears to have wide support. I would hope on this amendment the majority leader would not have to file a cloture motion. It is my understanding that the last time there were at least eight or nine Republican cosponsors of this legislation; is that not true?

Mr. ROCKEFELLER. The Senator is correct.

Mr. REID. Yes.

Mr. ROCKEFELLER. It is a very interesting situation because we have a compromise. It has very broad support. Nobody has come to speak against it.

There is a temptation to call for the yeas and nays; we are ready to vote.

We could have voted on this already. We voted in the Finance Committee. If we voted on the floor, this is something I think that would be well and easily. It is incredibly important to the States. I will say something about that after I yield back to the Senator from Nevada.

Mr. ROCKEFELLER. The Senator from West Virginia is recognized.

Mr. SMITH of Oregon. Mr. President, I say to the majority whip that there is one individual—Senator Gramm of Texas—who came by as I was about to speak and asked to speak before there is a vote or any final agreement. He intends to speak in opposition to my position. He made that clear. I will not speak for him, but as a courtesy to him I note his interest in making a statement in opposition.

Mr. REID. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, it is very perplexing, really, because I was noting when the Senator from Nebraska was here, the floor was crowded with Senators on our last votes. Obviously, all of a sudden, the Senate floor was empty when we came to what is the single most important part of the relationship with the Federal Government that States are worried about and that is Medicaid.

This Senator was a Governor for 8 years. I remember what happened in the early 1980s when we had the recession. I remember what happened in Medicaid and I remember what happened in the public employees insurance. Everything sort of collapsed. And then there is this body up there in Washington that thinks it is so high and mighty that it doesn’t need to pay attention to the problems of States. We only pay attention to the problems of the States to the extent this is an example where this was part of the stimulus package and we were dealing with the absolutely most critically important part of whether a child eats, whether a child has medical services, whether a family has medical services, and everybody is silent.

I have a very strong feeling that if this were taken to a vote, it would get 90 votes. I know the Senator from Illinois is here and so is the Senator from Minnesota. But there is this strange silence, which sounds like a rolling filibuster without voice. I think it is wrong. We are ready to go to a vote. I am going to keep saying that because it is important.

Mr. WELLSTONE. Will the Senator yield for a question and comment?

Mr. ROCKEFELLER. Yes.

Mr. WELLSTONE. I urge the Senator—and I know he will do so—it is hard to figure out the opposition, but I hope all of us think about our States. This is an enormous contribution the Senator is making.

I ask the Senator from West Virginia whether he intends to persevere and to keep it on the floor until some kind of a vote, or that the Senator from Nevada can do whatever he needs to do to bring it to a vote.

Mr. ROCKEFELLER. This amendment is going to be voted on.

I notice the presence of the distinguished Senator from Illinois.

Mr. DURBIN. I would like to speak on behalf of the Senator’s amendment. I will seek recognition on my own time if that would be appropriate.

Mr. ROCKEFELLER. I was trying to be courteous and friendly and encourage the Senator to speak, and he will proceed as he does so well.

Mr. DURBIN. The Senator from West Virginia is always courteous.

Mr. President, the amendment before us, offered by the Senator from West Virginia, is one of critical importance across the Nation. In Illinois, we have cities large and small, hospitals large and small; but we have health care needs that are universal. Whether you live in small town America or in the middle of Chicago, there is genuine concern about health care and its cost.

Now, one of the groups of Americans that we have made a special effort to try to help are those who are in low-income situations. The Medicaid Program is an effort by our country to say that no matter how poor you might be, whatever your economic circumstances, we will not let you go without basic medical care. That has been a commitment in place for almost 50 years, and it is one that I think we honor as Members of the Senate, both Democrats and Republicans.

What the Senator from West Virginia challenges us to face is the fact that the amount of money we are sending to the States to meet that obligation is not enough. It is not enough for several reasons. The state of the economy is so poor, with unemployment, with businesses in trouble, with people not receiving health insurance at their place of employment. They turn in desperate times to Medicaid. I think you will find that a substantial portion of those who turn to it are children—the children of a working mother, the
children who otherwise might not receive the most basic medical care. So the demand for services is increasing because of the sad state of our economy.

The Senator from West Virginia knows what I mean. Before the debate and says: If you are going to talk about health care in America, for goodness’ sake, be sensitive to the fact that there are more and more people in desperate need. If the commitment of our Federal Government to Medicaid is to be kept, certainly we must pay close attention to the amendment.

Second, he raises a serious element, which is the fact that the cost of this medical care is increasing. Ironically, one of the elements that drives up cost is the cost of prescription drugs under the Medicaid Program—under virtually every health care program. So in the State of Illinois, in West Virginia, in North Carolina, and in California, when you try to keep some young person, for example, they don’t die or become hospitalized, under Medicaid the cost of prescription drugs to do it keeps increasing.

On a national average, the cost of prescription drugs went up 17 to 18 percent last year. So is it little wonder that the cost of prescription drugs went up 17 to 18 percent last year. So is it little wonder that the cost of prescription drugs to do it keeps increasing.

As Senator ROCKEFELLER says, if you are going to talk about health care, are you willing to vote for Medicaid, fewer people will be served and we will literally threaten the quality of health care to millions of Americans.

This bill sounds so simple—and it is because it asks the Senate to keep its word. If you are committed to the families of America, rich and poor, that they will not be left without quality health care, are you willing to vote for it?

It amazes me. As the Senator comes to the floor, you would expect opponents of this legislation to be gathered and make the arguments they are going to make. Yet you could shoot a cannon across this floor and not hit an opponent. No one is here. I don’t know if this is an effort or a conspiracy of silence to not come and say anything. If you don’t provide additional resources for Medicaid, fewer people will be served and we will literally threaten the quality of health care to millions of Americans.

I am reminded of one of my favorite colleagues from the House of Representatives, the late Mike Synar of Oklahoma, who used to say to me, when a tough vote would come up on the House floor: I know you don’t want to cast that tough vote, but if you don’t want to fight fires, don’t be a firefighter. If you don’t want to vote on tough issues, don’t run for Congress.

Well, this bill calls for the Senate and every one of them is paying for them. At the same time, since September 11, all of the States and localities are putting more money into security as we expect them to do. They are providing law enforcement so we have a safe and secure Nation. They are trying to maintain and protect our basic infrastructure of America.

So as the economy is weakening, the demands on State revenue increase and the costs of the Medicaid Program go up, Senator ROCKEFELLER says it is time for the Federal Government to meet its obligation. What he has proposed that we do is to increase the Medicaid reimbursement in all States by 1.35 percent.

As the Senator here and say that, many people listening to this debate will say: How big a difference could that make? The fact is it could make a substantial difference. It could provide our States up to $6 billion over the next 18 months; $6 billion right into the Medicaid system, making certain that people receive basic health care.

It also says States with a lower FMAP this year than last year will be held harmless. States do not lose money under this proposal. It says States will also receive, if I understand correctly, $3 billion in fiscal relief grants for a variety of social service programs which are now suffering.

The Urban Institute estimates that Medicaid enrollees are expected to increase because of our weak economy by approximately 800,000 adults, 2 million children, and 260,000 people with disabilities, if the unemployment rate rises from 4.5 percent to 6.5 percent. With that, of course, are the demands for more Federal money and more State money.

I applaud my colleagues from West Virginia. We have worked on this before. We tried to bring this to the floor a few different times. This is the moment. If we are talking about health care costs, whether it is the cost of prescription drugs, the availability of generic drugs, as we address each of these issues, let’s not overlook the basics.

There are many people in this country struggling to get by today, working part-time, unemployed, trying to keep their children healthy. States are struggling to provide the services these folks need. In my State, I can find them in rural areas, I am sure in Arkansas and throughout the States. There are many small town hospitals which are threatened with going out of existence. They are going to leave.

In one part of my State, as I traveled around, I said in Calhoun County: What does it mean if that local hospital closes? They said instead of a woman traveling 40 miles to deliver a baby, it is 75 miles. I have been through that three times with my wife, and the prospect of getting in the car traveling 75 miles when she thinks the baby is on the way is something no father, no member of any family can look forward to. That is the real world affect of this amendment.

If we do not provide the assistance through Medicaid for those hospitals and those doctors, we are going to say to some parts of America, whether it is in inner-city or rural America: You are going to find a dramatic decline in the services and quality of service available to all.

The block grant which Senator ROCKEFELLER proposes to the States is also going to help us in providing a variety of social services. This increase in Federal support is essential if we are going to honor our commitment to act as partners with our States to help our Nation’s most vulnerable people.

I urge my colleagues to support Senator ROCKEFELLER’s amendment and to work with Federal assistance to States that are struggling to make ends meet. This increase in Federal support is long overdue. We first started talking about it last November. Senator ROCKEFELLER and I tried to include this in the energy package, if I am not mistaken. That was one of our efforts. We cannot delay it further.

Anyone who opposes it—I hope no one does—if anyone opposes it, come forward, make your argument, suggest your own amendment, but for goodness’ sake, let’s not let this important issue slide by. There are literally people in communities across America who are dependent on our good work, and if we do not respond to this national emergency, there are families and people who will suffer.

I thank Senator ROCKEFELLER for his leadership on this issue. I ask unanimous consent to be shown as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I wish to make a special thanks to Senator ROCKEFELLER who has been tireless in this effort on behalf of his constituents in West Virginia. The similarities in our States have certainly given me a wonderful partner in fighting on behalf of this issue. We have been fighting to increase Arkansas’ share of Medicaid dollars since last fall.

I remind the Senator from West Virginia that back in November, when we were taking up the stimulus bill in the Finance Committee, we tried even then to offer an amendment, to recognize the shortfall in our rural States and the problems they were suffering at that point. We know
that in terms of stimulating the economy, it is pretty hard to go to work if you are sick and cannot get health care. It is pretty hard for children to learn and become a great part of the future leadership and the future workforce of this country if they are sick and out of school.

Back in February, we argued to get it into a slimmed down stimulus package, but we did not pass it there either.

I worked with Senator ROCKEFELLER to try to fund the energy bill, but we did not get a vote on that back in March. Again, in April, I cosponsored stand-alone legislation with Senator ROCKEFELLER and Senator SMITH, and in May I cosponsored stand-alone legislation with Senator COLLINS and Senator NELSON.

We have been working on this issue for quite some time. We recognized last fall when many of our State Governors were having to take cuts that those who were most vulnerable in our society were hurt the most. That is why we needed to do something and we needed to act.

I am a proud cosponsor of the amendment before us in which the two previous proposals I mentioned have been merged with my colleagues, I cosponsored, Senator ROCKEFELLER, Senator SMITH, Senator COLLINS, and Senator NELSON for their leadership and their perseverance.

In times of tight budgets and economic downturns in our States, States are cutting their Medicaid budgets, and we see it right and left across this country. Who suffers because of this? Our most vulnerable citizens: Our low-income families, our children, and our senior citizens.

Medicaid funding plays a critical role in senior care, with two-thirds of the residents of America's nursing homes depending on Medicaid payments for their care. But many States, including Arkansas, are facing real budget crunches with their Medicaid budgets. We are seeing, because of a multitude of other medical underpayments, whether it be UPL, whether it be physician payment reimbursement cuts, whether we are talking about ambulance provider fee schedules, we are looking at a crisis in rural America in the delivery of health care.

It is a serious problem that we are facing now, but if we do not do something pretty quickly, we are going to see some devastation. I have heard from hospitals in my State that are going to, in the next couple of months, stop providing OB care. I have constituents at that point who will have to travel 90 miles to get obstetric care. We are going backward, not forward. In providing the health care across the board in rural areas, as well as urban areas, that is so necessary to the quality of life that each American deserves.

In Arkansas, our population of seniors is one nation where the Nation is going to be in the next few years. So we are already facing the challenges with which other States will have to contend, the challenges that other States will have to face in the next 10 to 15 years.

It is also true that we have a disproportionately high number of seniors living in poverty, and many of them rely on Medicaid funding for health care, for long-term care. Especially in rural States such as Arkansas where health care services are harder to come by, Medicaid makes a huge difference in helping families afford care for their seniors.

We need greater investment in Medicaid funding to States, especially at a time when our States are in such a devastating budget situation.

The bills I have helped introduce in the Senate will adjust the FMAP level so that States can benefit from greater Medicaid funding, which will go a long way toward helping our most vulnerable citizens, particularly our seniors.

I appreciate the support I have received from my colleagues today, those who were most tenaciously on this issue. And I can tell you that we will all keep fighting to get this done. No matter what barriers people may put before us, we are going to continue to make this fight. I think the fact we have been doing it since last November should indicate to our colleagues that this is essential, we know it is important, our constituents know it is important, and the rest of the Senate must learn that it is important enough for us to act now.

Under this amendment, Arkansas stands to gain $80 million over 18 months. This is a needed injection into our economy and into the quality of life of our most vulnerable citizens.

To my colleague from West Virginia, Mr. ROCKEFELLER, I thank him so much for his leadership on this issue. I have enjoyed working with him since last fall, and we are going to continue on this effort because we know how important it is to the lives of the people we represent in this body. It is so important we move forward as quickly as we possibly can.

I thank the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, for 60 seconds, I suggest the absence of a quorum.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.
The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. This is a sad day for the Capitol Hill family. Four years ago today, two very good men—two members of our Capitol Hill family, Officer J.J. Chestnut and Detective John Gibson—who were killed defending this Capitol Building.

As Senator LOTT has noted, a few moments ago we paused for a moment of silence to pay tribute to these fallen heroes, for their selfish service and their enormous sacrifice.

Just before that moment of silence, there was a ceremony at the memorial door entrance to this building. Under the bronze plaque that bears the names and likenesses of Officer Chestnut and Detective Gibson, we laid roses in their honor.

Yesterday at that same spot someone left another tribute: a small basket of red, white, and blue flowers. Attached to the basket was a card. Inside the card was a handwritten note that said: We will never forget. You were my friends. God bless. It was signed by a member of the Capitol Police Force.

Also yesterday John Gibson’s beloved Boston Red Sox trounced the Tampa Bay Devil Rays 22 to 4—in the first game of a double hitter, no less. So I want the Gibson and Chestnut families to know with absolute certainty that there are people in the world who care, and that we care.

For those of us down here who knew them, it is a little harder to smile, too. And even though the gardening he loved is struggling in this heat and drought, we feel that J.J. Chestnut is right there with him—smiling, too.

The absence of J.J. Chestnut and John Gibson is felt today by many people, by their friends, their fellow officers, most of all by their families, their wives and children, and in Officer Chestnut’s case, his grandchildren. The Gibson and Chestnut families have felt the presence of the absence of John and J.J. for three Christmases, at too many birthday parties, weddings, and graduations.

Those of us who work in the Capitol want the Gibson and Chestnut families to know that in all those moments our hearts have been with them. We also want them to know that we, too, feel the weight of the absence of their loved ones. We feel it when we pass the memorial door entrance. We feel it when we see Capitol Police officers working double shifts to protect us. We felt it on September 11 when our Nation was attacked and on October 15 when the anthrax letter was opened.

During this past year, we have all been reminded with terrible certainty that there are people in the world who would like to destroy this building, the people we serve, and the government and the ideals for which it stands. We also know with absolute certainty that as long as there are patriots such as John Gibson and J.J. Chestnut who are willing to sacrifice their lives to defend our freedom and safety, this people’s House and this great Nation will endure.

As the note on the basket said: We will never forget. They were our friends and our protectors. God bless them today and always.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will 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.

Mr. ROCKEFELLER. Mr. President, understanding the gravity of the moment, I do not want to leave a very important piece of legislation. Before I say a word, I would like to add Senator ZELL MILLER as a cosponsor to the amendment and I ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, as I think this amendment is going to pass and bring out emotion and speak to our most vulnerable people, to people to whom, we go to our Jefferson and Jackson Day Dinners, when we appeal and bring out emotion and speak emotionally, and then when we come up here, we do nothing to help them.

I put this amendment on the floor with endless cosponsors. I am looking at SUSAN COLLINS, a good Republican from Maine, and there she stands, perhaps ready to speak, and she and seven other Republicans are cosponsors of this amendment. Senator ZELL MILLER just became a cosponsor. So we have, I don’t know, 35, 40 sponsors.

I come to two conclusions. No. 1, I think this amendment is going to pass and that there may be those who are not coming to this floor to speak against it because they do not want to because they know their Governors feel so passionately about it. Whether they be Republican, Democratic, or Independent, Governors have absolutely passionate about passing this amendment. But they cannot do it. We have to do it for them.

We are not doing universal health care. We haven’t done anything on prescription drugs yet. We have passed a bill—the White House said they do
Let me tell you what our visiting nurses say about the importance of providing this relief.

This is a letter that I will read from the Visiting Nurse Associations of America. It is signed by the president, Carolyn Markey.

She writes:

On behalf of the Visiting Nurse Associations of America (VNAA), I would like to express our strong support for you and Senator Ben Nelson’s proposed legislation that would provide temporary fiscal relief to states for Medicaid-covered health care services. VNAA is the national membership association for non-profit, community-based Visiting Nurse Associations (VNAs), which collectively care for approximately 50% of all Medicaid home health patients each year.

VNAA is concerned that approximately one-half of the states across the nation have had to cut their FY 2002 Medicaid budgets in order to avoid a budget crisis. We fear that the majority of states will implement additional cost-containment measures, including reducing benefits, increasing beneficiary cost-sharing and further reducing Medicaid reimbursement to providers.

On average, Medicaid already reimburses providers significantly less than the cost of care.

That is an important point. There are already reimbursement levels that are not covering the cost of providing this essential care.

The letter goes on to say:

VNAA’s 2001 data shows that, collectively, VNAs are incurring an average $65 loss per Medicaid patient, with an annual loss of $148,500. VNAs’ mission is to provide care to all eligible persons regardless of their condition or ability to pay. Because of this mission, VNAs will attempt to continue to admit all eligible Medicaid beneficiaries, but subsidizing Medicaid will force VNAs to cut other social service programs that are funded through charity contributions, such as Meals on Wheels and preventive health clinic.

Your legislation is sorely needed at this time. It would help states maintain eligibility and program levels in order for low-income families, children, seniors and persons with disabilities to continue to receive the care they need. It will also prevent the exodus of some providers from Medicaid participation, and prevent other providers from having to cut vital community-based social services.

Those are the stakes. The stakes are high.

I ask unanimous consent to have the full text of the letter from Carolyn Markey, the president of the Visiting Nurse Associations of America, printed in the RECORD.

There being no objection, the material on the legislation was ordered to be printed in the RECORD, as follows:

**Visiting Nurse Associations of America**


Hon. Susan M. Collins,
Russell Senate Office Building,
Washington, DC.

Dear Senator Collins:

On behalf of the Visiting Nurse Associations of America (VNAA), I would like to express our strong support for your and Senator Ben Nelson’s proposed legislation that would provide temporary fiscal relief to states for Medicaid-covered health care services. VNAA is the national membership association for non-profit, community-based Visiting Nurse
Agencies (VNAs), which collectively care for approximately 50% of all Medicaid home health patients each year.

VNAs are concerned that approximately one-half of the States across the nation have had to cut their FY 2002 Medicaid budgets in order to avoid a budget crisis. We fear that the majority of states will implement additional cost-containment measures, including reducing benefits, increasing beneficiary cost-sharing and further reducing Medicaid reimbursement to health care providers.

On average, Medicaid already reimburses providers significantly less than the cost of care. VNAs’ 2001 data shows that, collectively, VNAs are incurring an average $165 loss per Medicaid patient, with an annual loss of $148.5 million. VNAs’ mission is to provide care to all eligible persons regardless of their ability to pay. Because of this mission, VNAs will attempt to continue to admit all eligible Medicaid beneficiaries, but subsidizing Medicaid will force VNAs to cut other federal service programs that are funded through charity contributions, such as Meals on Wheels and preventive health clinic services.

Your legislation is sorely needed at this time. It would help states maintain eligibility and program levels in order for low-income families, children, seniors and persons with disabilities to continue to receive the health care they need. It will also prevent the exodus of some providers from Medicaid participation, and prevent other providers from having to cut vital community-based social services.

Thank you for all you do for the nation’s most vulnerable populations.

Sincerely,

CAROLYN MARKEY,
President and CEO.

Ms. COLLINS. Madam President, I thank the Senator from New York for his sponsorship of this important legislation. He has done a great job on every aspect of this proposal. I want to once again clarify for the record the help he has been not only on this issue, not only on adding prescription drugs to Medicare, but on generic drugs as well. We all owe the Senator from West Virginia a debt of gratitude for his leadership on this bill.

I thank the Senator from West Virginia for his sponsorship of this important legislation. He has done a great job on every aspect of this proposal. I want to once again clarify for the record the help he has been not only on this issue, not only on adding prescription drugs to Medicare, but on generic drugs as well. We all owe the Senator from West Virginia a debt of gratitude for his leadership on this bill.

This is an extremely important amendment, in my view, to support. My State, as so many of the States, is in fiscal trouble. We have found great difficulties in doing what we have to do. Our State tends to be a generous State in terms of health care benefits. Programs enacted throughout the years make our Medicaid benefits generous. We have gone beyond Medicaid. We tried to help a little bit on prescription drugs with the Epic Program, as I know 17 other States have done a little bit here and there. We tried to help in a whole variety of ways.

During times of prosperity, we do quite well. But, obviously, the attacks of September 11, which cost us dearly in terms of life, and then secondarily in terms of dollars, as well as the downturn in the financial markets, which probably hit our State harder than any other, have caused real problems. If there was ever a time that this amendment was appropriate for New York, it is now.

I think the amendment is appropriate to all of our States. Not only are they all under fiscal strains—my State is one of the worst, in terms of fiscal problems—on the better. But we all know that Medicaid spending is probably the fastest growing part of most State budgets. It is certainly mine. We have a debt of mine.

I would like to raise another point about New York. Our localities will get help, if this aid passes, because we are one of the few States where we ask the localities to pay half of the non-Federal share of Medicaid. In other words, we have increased, let us say, for New York, a change such as $5 billion that is strained—our budget deficit is about $8 billion in the next fiscal year, it is estimated, and some estimates go as high as $5 billion—would also get a real shot in the arm. Our communities upstate are hurting. So, some of the poor, Rochester, Buffalo, Albany, Binghamton, and Utica are all hurting and need the help as well.

Certainly, the amendment is needed from a fiscal point of view. Certainly, it helps the Medicaid Program meet the promise that was made early on in terms of its help. It is appropriate that it be added to this bill.

If you ask the States the No. 1 cause of their fiscal problems, most of them would say it is Medicaid. Then, if you ask the head of Medicaid in each State what the No. 1 reason is for costs going up, that person would say prescription drugs. In fact, Medicaid drug costs nationally have increased 18 percent every year for the past 3 years. That is something that cannot keep going on.

Our States are now faced with terrible choices—either lose more deeply into debt or cut benefits to the most vulnerable. We really do not want to do that.

I support the amendment. It would be a tremendous shot in the arm for New York. It would be a tremendous shot in the arm to State governments. And it is the right thing to do.

The cost is large. I believe it is something like $18 billion. But the benefits are larger still.

Every part of America has a child who doesn’t get the appropriate coverage, it sets him back or her back—it sometimes sets the family back in ways from which they never recover. The fact that our country has decided to say health care for everyone is important. You have no money you should get no health care;—is one aspect that makes us a great country. The fact that today we are saying that during this time of crisis, the Federal Government will step up to the plate and fulfill its role is really important.

Let me go over the numbers for New York.
Let's look at whom this benefits. Medicaid provides health insurance to approximately 40 million low-income Americans, including 21 million children and young adults, 11 million elderly and disabled individuals, and 8.6 million adults in families, most of whom are single mothers. That is the population that is hurt when Medicaid budgets are slashed. That is the most vulnerable of populations. They need our help.

The States need our help in order to maintain vital health care services for those 40 million low-income Americans. Without this critical safety net, millions of women and their families would be left with no health insurance at all.

So that is why we must act. And we must act before more time elapses and more States are forced to cut their Medicaid budgets. Time is of the essence.

I urge my colleagues to join with us in supporting this absolutely critical bipartisan proposal.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. NELSON of Nebraska. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Nebraska. Madam President, the proposal that is before the body today, to enhance the partnership between the Federal Government and the States with regard to Medicaid and with regard to welfare reform and social services that are so critical to the most vulnerable in our society, is a very important piece of legislation.

It merits our total support, not because it is just about money but because it is about doing the right thing to continue the gains and not see a spiral downwards back to welfare for those who have been able to make it to the workforce. It is for those who are teetering on the brink who would, if their eligibility for Medicaid were taken away, be unable to support themselves and/or their families. It is for the seniors who need, so much more, the health care that Medicare provides when they are in nursing homes.

So it is about people. That is what it is truly about. It is about doing the right thing. It is continuing the relationship and the partnership that has been developed between our Governors, our State legislatures, and our Federal Government. It is an important partnership that must be maintained.

It is also important that we recognize it is a temporary fix. It is not a permanent solution. No one is expecting this to be the end of a permanent solution today, given the temporary, and hopefully only temporary, nature of the downturn in the economy. But it is essential we do something soon because of the plight of the States and the experience they have in terms of not being able to meet all of their obligations as they move forward on these programs.

The truth of the matter is, we can work together with the States as we have in the past. Many of our colleagues here, as you know, are former Governors. You may be able to take us out of the Governor's office, but you cannot take the experiences we have gained in that position away from us simply because we have changed our titles or we have new responsibilities.

It is important, also, that we recognize that the States, in making these tough decisions, will have to make them on the basis of how they balance their budgets because all but a handful have to balance their budgets and can't have deficit spending. So they either have to make cuts in Medicaid or with tax hikes or with a combination.

In any event, most of the States have made the cuts they believe they can make, up until this point, without affecting Medicaid. But as their budgets continue to flow with red ink, now they are looking at these social programs for the necessary cuts. They have cut education. They have cut many of the other essential programs. Now they are forced with cutting this program.

So if we wait until they have made the cuts, there will be the casualties of those who are not able to have the benefits—the elderly; the young people; those in our society today are reliant on the availability of these programs.

We have asked people to work their way out of welfare, to join the workforce. It is welfare reform at the Federal level, with welfare reform at the State level, with welfare reform at the Federal level, the opportunity for people to transition out of the levels of poverty and welfare, with the opportunity to join the workforce. We have done it everywhere that transitions that are comprised of child care, some Medicaid continuing coverage, so these individuals and their families have the capacity to leave the welfare rolls to join the workforce.

If we pull back on these and other programs like it, they will teeter, and it is very likely that they will fall back into the welfare situation. While already experiencing higher unemployment levels than they have experienced over the last 10 years, we see that the growing population of Medicaid is putting more pressure on Medicaid expenditures at the State level.

I remember looking at the growth of Medicaid with the States that were there to try to reform it and to make it so it worked not to create incentives for unemployment but opportunities for employment and incentives for joining the workforce. When you see it today and you see the growth in this program, you recognize that something must be done in order to stem that growing tide.

The truth is, we can and we should do this. There will be some who will say we don't have an obligation, a further obligation to the States. But it is not about just from one government to another; it is about to the people of the United States who have the need for this assistance. Those are the people we need to be supporting. In supporting them, we work through the States in our partnership.

That is the opportunity we have. I hope if there are some who have a different opinion, that they will come down to the floor and explain why they don't think we ought to support this Federal Medicaid assistance program on a temporary basis to permit the States to continue to support the kinds of programs that are important to the most vulnerable of our population. I hope they will come to the Chamber so we have the opportunity for a full debate and so, if there are opposing views, we will be able to respond to them rather than an empty Chamber. That is not what this should be about. If there is to be spirited debate, I hope we will have that begin in the near future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I would like to direct a question through the Chair to my friend from West Virginia, the author of the amendment, I was not able to get an answer from. I ask the Senator from West Virginia if anyone has spoken against the merits of his amendment.

Mr. ROCKEFELLER. I say to the Senator from Nevada, I am not sure, but I believe Senators have been here discussing it favorably for 2 to 2½ hours. Not a single Senator has come to the floor opposing this amendment.

Mr. REID. I say to my friends, whoever opposes this amendment, I don't know where they stand by one of the sponsors of the amendment, the distinguished Senator from Oregon, Mr. SMITH, that he didn't oppose it, but he, on information and belief, understood that the senior Senator from Texas opposed the amendment. I would hope that my friend from Texas, if that, in fact, is the case, would come here and defend his position. I will say that if that isn't the case, that I will ask for the yeas and nays and move forward on the amendment. It is just simply not fair.

We have an order in effect that as soon as this amendment is completed, we would move to something that Senator GREGG or someone he designates would offer. And then following that, we have a Democratic amendment in order. We should move through those. I hope that if there are people other than the distinguished Senator from Texas who oppose this amendment or the Senator from Texas, that they would come to the floor and explain themselves.

I will say that I am getting the feeling that this is one of those kinds of
stealth oppositions we get around here a lot of times. People know this is a good amendment, supported by the Governors of the States, supported by people in the States who are desperate for dollars. States are suffering. I think there are people who would like to come and oppose this but they really don’t quite know why. So they just stay away hoping it will go away.

It is not going to go away. If I come back here again and there is no one within a reasonable period of time who has an opposition to the amendment or there is no one on the floor speaking against it, I will ask for the yeas and nays and move on to something else.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Madam President, the National Governors Association has written a letter, dated July 24—very current—to the minority and majority leaders of the Senate strongly urging support for the Rockefeller-Collins-Nelson-Smith compromise. I ask unanimous consent to print it in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:


Hon. THOMAS A. DASCHLE, Majority Leader, U.S. Senate, The Capitol, Washington, DC.

Hon. TRENT LOTT, Minority Leader, U.S. Senate, The Capitol, Washington, DC.

Dear Senator Daschle and Senator Lott:
The nation’s Governors strongly support the Rockefeller-Collins-Nelson-Smith compromise state fiscal relief legislation. We urge its consideration as an amendment to S. 812 on the Senate floor and its swift passage into law.

The legislation to temporarily increase the federal share of the Medicaid program as well as provide a temporary block grant to states will assist during the current fiscal crisis, so that states will not be forced to make deep cuts in health, social services, and even education programs. It will thus ensure that low-income vulnerable families are protected from drastic cuts in these key programs.

One of the major contributors to the rising state Medicaid costs is prescription drug expenses. Immediate federal assistance with these costs would provide real fiscal relief to the states. We urge timely Senate action on the Rockefeller-Collins-Nelson-Smith amendment.

We would very much appreciate your support and we look forward to working with you to ensure that meaningful state fiscal relief legislation is enacted.

Sincerely,

PAUL E. PATTON, Governor.

Mr. KEMPThORNE, Governor.

Mr. NELSON of Nebraska. 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. WYDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Madam President, the Senator from West Virginia, in my view, has outlined a very important position with respect to a critical health issue for the States. I commend him for his outstanding work. It is going to make a difference in Oregon and across the country.

I ask unanimous consent to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. WYDEN are printed in today’s RECORD under “Morning Business.”)

Mr. WYDEN. Madam President, I am a strong supporter of the Rockefeller amendment which will make a huge difference for our States at a time when the situation is truly dire with respect to health care. So I thank my colleague. When we get to a vote on the Rockefeller amendment—I know Senator NELSON of Nebraska has done excellent work on this as well—I hope the amendment will pass with a resounding majority.

I yield the floor.

Mr. ROCKEFELLER. Madam President, 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. GREG. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREG. Madam President, I wanted to speak on a couple of issues.

First is the underlying effort here to pass major legislation in the area of assisting senior citizens, specifically, with the cost of their prescription drugs.

I think we all understand very well that there has been a fundamental shift in the way medicine is practiced in our country, and it has been a positive shift. That shift is that we have gone from a society which had basically as its first line of defense for significant health concerns an invasive medical procedure using a scalpel, to a society which has as its first line of defense for major medical concerns the use of pharmaceuticals. This has been a revolution, a biotech revolution.

As a result, it is not so much that pharmaceuticals have become more expensive—but not outrageously so, with respect to inflation and other costs—but they have become so much more aggressively utilized. As a result, senior citizens and all citizenry that have medical concerns are finding that they are more often than not going down to the pharmacy and purchasing a pill in order to address a physical ailment versus going into the hospital and receiving some sort of remedial medical care that might involve an operation or some sort of therapy within the physical confines of a hospital. So utilization has gone up dramatically in the area of pharmaceuticals. This is a change in the way we practice medicine as a country.

The practical effect of that is that all Americans, but seniors especially because as a practical fact, as people begin to get older, they have more health needs in most instances.

Seniors are finding themselves more and more put into the situation of having to purchase pharmaceutical goods, which are adding up, and because there is more significant utilization, they are expensive and sometimes unaffordable, especially to low-and middle-income seniors. So we as a Congress and the President are attempting to address this through passing some sort of a package that will give senior citizens the opportunity to take some of the pressure off of the country, this new need to use prescription drugs.

The goal, in my opinion, should be basically twofold: One, to assure that low- and moderate-income seniors—especially low-income seniors—who find it virtually impossible to fit their budgets, which are usually very constrained, the cost of pharmaceuticals, to allow those individuals to receive assistance as they have to purchase these medications; second, to address the situation where a senior who has a reasonable income and reasonable wealth confronts a catastrophic situation where simply the cost of medication exceeds even their capacity to pay for it. Those should be our two primary goals as we put together this package of relief for senior citizens, in my opinion.

Also, there are a lot of secondary goals. Secondary goals should be—and it is fairly significant—that we do not undermine the ability of our society to bring new drugs to the market.

As a society, we have basically become the creators of most of the major new pharmaceuticals that are created in this world, and that is because we have a vibrant research capability going on in this country and a vibrant commercialization of goods and products which are created within that research market. It is important that we do not kill the goose that is laying the golden eggs.

We are not in the process of developing a package of drug benefits end up creating an atmosphere which works against the bringing to market of new pharmaceutical drugs. That should be a subsidiary effort as we move forward to address the question of a drug benefit for senior citizens.

In that context, we are now working aggressively to try to pull together a

S7296

CONGRESSIONAL RECORD — SENATE

July 24, 2002
package. We have had three major votes on different drug packages. We had the Democratic proposal which, regrettably, was, in my opinion, fundamentally flawed because it did not meet the conditions I have laid out.

First, it was incredibly expensive, and I should have mentioned that as a fourth line of consideration, which is that as we put this benefit package in place for seniors, we should not have it created in such a way that it transfers a huge new cost on to working Americans, especially young Americans with young families, who are trying to make ends meet, who have other issues, such as education, housing, the day-to-day costs of raising a family.

We should not make the cost of this major new drug benefit so high that the tax burden to pay for it—which will fall on working Americans for the most part will significantly disadvantage working Americans in their ability to live a good life.

The new drug benefit is not like the Medicare proposals under which we presently work. There is no premium in most instances. Some have premiums, most do not. There is also no earned benefit—in other words, over the younger years they put something into the Part B insurance fund and building up a fund. In this instance, seniors are going to simply receive this benefit without it having been paid for through building it up over the years, paying through Part B taxes. Essentially, it will be a tax levied on working Americans, especially young Americans, to assist senior citizens with the issue of how they pay for drugs.

We have to be very careful in putting this package together that we do not end up putting such a huge burden on young working Americans that it makes it very difficult for them to raise their families.

As I mentioned, there have been three votes on this issue in the Senate in the last few days. The first was on the Democratic plan. The Democratic plan failed in a number of areas.

One, it was extraordinarily expensive. It would have passed $600 billion—and that was the estimate. We all know estimates end up being low. For example, when Medicare was originally passed in the 1960s, it was estimated in 1990 to cost $9 billion. Medicare in 1990 cost $294 billion. That was $300 billion budgeted. This was a $600 billion package, which is far too expensive.

Also, it undermined the marketplace. It was a public program, which, in and of itself is a negative of the marketplace, but it was a public program which had an incredibly regressive element to it. It essentially said that you could only, for a certain ailment—let’s take arthritis—purchase one type of drug, and if we knew there are probably 20 different drugs on the market to address arthritis, why would you limit the ability of a senior to only purchase one and have it covered by insurance? It is a foolish idea from the standpoint that doctors may not want to prescribe that one drug, and it may not be medically a good idea, plus it is just not conducive to creating a marketplace which is going to bring more pharmaceuticals on to the market so we can determine what we drive down the prices of pharmaceuticals generally because we have competition.

It is truly a regressive idea from the standpoint of health care and from the standpoint of being able to develop a strong, vibrant market for producing pharmaceuticals. That bill, in my opinion, was fundamentally flawed. Plus, of course, it had the little gimmick in it—rather large actually—that it was not a permanent benefit. It lapsed after 5 years. It would not exist anymore. I do not know what was going to happen then. It would be gone and who knew what was going to happen.

It was a black hole or a cliff proposal, where everybody gets a benefit for 5 years and suddenly they look down and there is no more benefit and they have to step off the cliff into the abyss, not knowing what is going to happen. It was a poorly constructed idea and it failed because it did not get 60 votes.

The second idea that came through was the bipartisan proposal. Again, it is a fairly expensive proposal, $370 billion, but significantly less than the Democratic proposal, but much more reasonable in the way it approached the issue. It opened the marketplace. It gave seniors options as to what pharmaceuticals they could use.

Senator Snowe was talking about how many more pharmaceuticals it covered than the Democratic proposal, dramatically more. We were not sure of the numbers. In any event, the specific numbers were that it covered far more specific pharmaceutical products, and made those available to seniors, than the Democratic plan—dramatically more.

In addition, it had language which significantly protected the low-income senior. It gave them basically a 90-percent subsidy and had positive catastrophic language. That also failed to get 60 votes.

The third vote we had was on the Hagel-Ensign proposal, which is an idea I am attracted to, although I also voted for the tripartisan plan. It says what I have been saying. You take low-income seniors and protect them. You give them the ability to buy the pharmaceuticals, you give them support to do that and it does not wipe out their income. The plan was very progressive in this way.

You say to seniors, who are in the general population, who are not low-income seniors: If you have a serious illness which throws you into a high-cost pharmaceutical situation, and you are spending a dramatic amount of your basic wealth, your income, your assets on pharmaceuticals, the Government will come in and pick it up. There was a catastrophic cap which the Government picked up.

Again, this was built in, as I understood it, in a progressive way so higher income people had to spend more than middle- and moderate-income people had to spend. It was very progressive in a thoughtful way. This idea made a lot of sense and got a lot of good votes. In fact, it got as high a vote as any other proposal that came to the floor. I hope from this idea we can evolve a package that can work effectively.

That is basically where we stand today. We have passed three major packages. None have passed because the sequence of events that are set up is that the Democratic leadership refused to take these bills through committee and created a situation where we could not pass them on the floor because they all required 60 votes.

Had Hagel-Ensign, for example, come out to the floor after having gone through the committee, with the vote it got on this floor it would have passed the Senate, and we would now have in place a drug benefit. It would not have been subject to a budget point of order because it was under $300 billion—just barely, $294 billion. That was not allowed to happen because of the exercise was set up, which is unfortunate.

Where do we go from here? It is my hope we will reach some sort of consensus on a catastrophic package, a package that takes care of low-income seniors and makes sure they have adequate coverage, that takes care of people who have a huge impact on their assets through a catastrophic event, and allows seniors who have moderate income, if they wish, to purchase the insurance. If they want a catastrophic that also could be done through some sort of Medigap insurance. This, to me, is a logical way of resolving this issue.

Independent of all that, however, we have had other amendments dealing with this bill. One of them is the amendment which we presently have before us which is a $9 billion bailout for the States—some States, not all States. States such as mine, which do not happen to meet the formula because we have been very frugal in the way we have managed our accounts and, as a result, have kept our reimbursement at 50 percent, do not benefit a whole lot from this proposal.
For States which have been less effective in their ability to deal with Medicaid, this bill basically is a $9 billion bailout. Is the $9 billion offset? No, it will simply be a vote by the Senate which says we are going to spend another $9 billion on Medicaid to assist the States.

First off, this is the wrong place to bring forth this amendment. This bill started out as a generic drug bill. It has moved on to an all-inclusive drug bill debate, but it has always been a bill that is debated in the context of Medicare and drug initiatives, and this is a Medicaid bailout, which is totally separate from the underlying issue of what we discussed in these other bills. This amendment should have gone through committee and should have been brought out here as a committee bill versus being brought out here separately.

Secondly, it sets a very dangerous precedent in that it waters down the FMAP formula on a temporary basis. The purpose and fairness of the formula will be eroded over time. Around here, temporary changes rarely turn out to be temporary, although they claim it is temporary.

This sets a precedent, and if it is passed, any State that ever faces an FMAP decrease in the future will lobby Congress to override the formula. Instead of an automatic process based on a fair formula, future FMAP rates will become a political fight in Congress, which is exactly what this exercise is.

It is basically an attempt to use the fact that a number of States believe they need more money and to pull enough people together from those States so there are enough to vote for this $9 billion bailout. It is called logroll. It is working very effectively on this amendment, I am afraid, which is too bad.

This is totally fiscally irresponsible. Such a process as this disrupts the whole process and will not likely produce a program that benefits those who need it most but, rather, States that have been most ineffective in managing their Medicaid accounts.

FMAP rates are not designed to change according to short-term economic developments. Although FMAPs are based on State per capita income levels and other economic indicators, they have not typically risen at all and, with economic troubles. If State logic suggests raising FMAP now, then it would also apply to lowering them in times of economic boom.

If we had followed such a course after 9 years of economic recovery, current FMAP rates would be much lower than they are today. Such cyclical movements are contrary to the intent of Medicaid statutes and in the long term would serve the interests neither of the States nor the Federal Government to pursue this course.

States have other options to making Medicaid benefits more secure. States can take steps to make their benefits more efficient, enabling more persons to be covered with the same or lower costs using the health insurance flexibility and accountability initiatives unveiled in August 2001. The HIFMA demonstration is designed to help States reduce beneficiaries by $2 billion through innovative and cost-effective approaches using Medicaid and CHIP funds. The initiative emphasizes private insurance options rather than public program expansions. To date, HHS States have HIE demonstration projects in Arizona and California, and it could improve more if more States are willing to be aggressive.

The simple fact is what we have is an effort by a large number of States that is not forthcoming. In my opinion, Medicaid accounts for a variety of reasons to basically raid the Federal Treasury to the tune of $9 billion. I guess they are probably going to have enough votes to do that because they have structured this formula so that enough States are going to pick up money from it that is significant. But I have to ask the question, Why are we not offsetting this $9 billion? Why are we just coming out and saying let’s take another $9 billion? Why aren’t we going to set the Federal Treasury, in which we do not happen to have any money right now, and add that to the deficit? It makes very little sense from the standpoint of fiscal policy.

Fifty States have the power to energize this type of support for $9 billion. I would think they would have the power to find money to offset it somewhere, but unfortunately they are not doing that in this amendment. It is an unfunded mandate to raid the Treasury, as a result of which we will not only get bad policy but we will get a significant increase in the Federal debt.

I yield the floor and make a point of order that a forum is not present. The PRESIDING OFFICER (Mr. MILLER). The Senator from West Virginia. Mr. ROCKEFELLER. Am I correct in understanding that the distinguished Senator from Nebraska is not present. Mr. GREGG. No, I have not raised a point of order. The PRESIDING OFFICER. He did not.

The Senator from Nebraska. Mr. NELSON of Nebraska. Mr. President, the distinguished Senator from New Hampshire raised a number of very important questions regarding this FMAP mandate. The Senator raised the point of order that the Federal Government is providing to the States as part of the partnership that has existed for many years. I think it would be very difficult to go back and tell our partners that we are unable to or we should not increase the funding. The Senator raised the point of order that the Federal Government is providing to the States as part of the partnership that has existed for many years. I think it would be very difficult to go back and tell our partners that we are unable to or we should not increase the amount of the Federal match because we did not follow the procedures that some people in the Senate believed we ought to follow. Inside baseball is not going to make those friends who are experiencing major financial challenges very happy. They may not be very happy at all with that kind of an explanation.

It is recognizing we have a partnership. This was part of the stimulus package that was worked out. It just did not survive into the ultimate stimulus package that was passed earlier this year. Last year and this year, when the stimulus package was being discussed, there was little talk about offsets. Now, we have to talk of offsets, in getting in a direction the way this is heading, we talk of assets. There is no one in this body not in favor of offsets, unless the whole discussion of offsets is designed to set the end of the tracks so we can get it passed.

It seems to me what we have to do is recognize how the program began, how
it works, and what assistance this plan we are proposing today—how it will help the States and why it is necessary to help the States deal with our citizens, citizens of the United States of America who happen to reside in the various States.

It seems to me we do have a responsibility, that we can meet that responsibility, and, yes, I would love to have offsets, but I want to make sure the search for offsets is not what gets this off the track.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I ask unanimous consent I be allowed to speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The remarks of Mr. WELLSTONE are printed in today’s Record under “Morning Business.”

Mr. WELLSTONE. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

Mr. REID. Mr. President, what is the matter before the Senate?

The PRESIDING OFFICER. The pending question is the Rockefeller second-degree amendment.

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The 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 Rockefeller and other amendments No. 316, John D. Rockefeller IV, E. Benjamin Nelson of Nebraska, John Edwards, Paul Wellstone, Harry Reid, John F. Kerry, Blanche L. Lincoln, Richard J. Durbin, Jack Reed, Edward M. Kennedy, Susan Collins, Daniel K. Inouye, Patrick Leahy, Tom Daschle, Debbie Stabenow, Jim Bunning, Ron Wyden.

Mr. REID. Mr. President, I have been advised that Senators Grassley and Gramm wish to come to the floor and speak on the Rockefeller amendment. I am also advised that one of the Senators intends to raise a point of order, which we will attempt to waive. But we need them here to do that. I am sure they will be here soon.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. Cantwell). Without objection, it is so ordered.

Mr. REID. Madam President, it move to waive section 205 of the Budget Act. I ask for the yeas and nays.

The PRESIDING OFFICER. The motion is pending.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Madam President, I have spoken to Senator Gramm. He and others wish to speak. This is a debatable motion. We will set some time. Senator Gramm has graciously acknowledged he doesn’t want to speak too long since we already have a cloture motion filed. But we will shortly determine how much time will be needed and will debate this in the morning and vote sometime in the morning.

Hopefully, while we are waiting on the unanimous consent agreement to get the legislative branch appropriations bill, which also kicks in the fact that prior to next Wednesday—or on next Wednesday I should say, we will start debating the DOD appropriations bill.

So we have a lot to do in the next few days. This will move us down the road.

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. WARNER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. Cantwell). Without objection, it is so ordered.

VIOLANCE IN THE MIDDLE EAST

Mr. WARNER. Madam President, I and other Members of the Senate from time to time have taken the floor to address the tragedies which daily, weekly, monthly, and yearly come forth in the Middle East. Today, we were greeted by a headline in the Washington Post: U.S. Decrees Israeli Missile Strike, Ponders The Effect On The Peace Process.

I ask unanimous consent that it be printed in the Record following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. WARNER. Madam President, again, I have taken the floor several times to give just one Senator’s view of the situation. Senator Gramm almost words to describe the tragic situation that has unfolded in the past 24 hours, or 36 hours—whatever the case may be—where a plane that was manufactured here in the United States delivered a missile into a residential area controlled by the Palestinians and brought about the deaths of many innocent people.

It is characterized and described at length in the article which appeared in this paper and the papers across the world today.

The raid, as told by the reports, took the life of an individual who has brought about great harm to the people of Israel over a long period, but along that life went the lives of many children and innocent people.

Preceding this use of force—again, use of force which is perceived by the Israeli leadership as necessary to protect the integrity of their sovereign nation and the safety of the people, and I do not debate that at this point in time—preceding this event were the tragic bombings by humans going into the Israeli areas with the bombs strapped to them giving up their lives and taking the lives of innocent people only to further the war.

What do we do about it?

I reiterate that I have spoken about this on this floor several times, and I intend to this time formalize it in a letter which I will be sending perhaps tonight or early tomorrow morning to the President of the United States. The thoughts in that letter are basically the same thoughts that I have said on this floor two or three times, and also at the time that the NATO Ambassadors came to congress of the United States. We had an informal meeting hosted by several of our colleagues. I was invited to speak. The very thoughts that I am referring to tonight I shared in that meeting some 2 weeks ago.

Our Nation recently celebrated our traditional Fourth of July holiday. It is normally a time of joyful reflection of our history, of patriotism, and just plain, old-fashioned summer fun. Typically it was a peaceful day for America. But when we entered that holiday period, I remember so well that we were confronted with yet another warning by responsible individuals in our Government of a possible terrorist attack. In varying degrees in varying places here in our great United States, it had a dampening effect. I remember that so well.

A number of constituents—who I am proud to represent in Virginia, which adjoins the Nation’s Capital—called to inquire whether it was safe to go down and watch the fireworks on The Mall. We gave them encouragement, in our opinion, to do so.
I myself was in the area during part of that day. Indeed, there was an enormous outpouring of our citizens and visitors from all around the world who enjoyed those fireworks that night. I say that thankfully it was a peaceful day, but we ended that holiday period confronted with that warning.

It is, indeed, prudent that our citizens be warned of such threats. There is no criticism of what I believe is a very well-informed, well-considered program of persons in our Government entrusted to make the decision to alert our people when they have reason to believe because of intelligence gathering that they should promulgate these warnings.

I, however, have to ask myself: Do these warnings continue indefinitely? Will people begin to ask of me and my colleagues, of our President and of all those in positions of authority, what is the real purpose of this hatred towards the United States? Are we in leadership positions doing everything we can to learn of those causes, to lessen that hatred, to tell the truth about America’s cause of freedom, and how our men and women of the Armed Forces, the Presiding Officer knows so well having served in the military himself—have gone forth from our shores throughout these 200-plus years of this Republic only in the cause of freedom, never have taken a square mile of property and kept it. Temporarily, we have administered certain geographic areas throughout our history, but never used force to acquire land to augment this Nation.

People will begin to say: Has our Government done everything it can do? I think my President has exhibited—in the past, today, and will in the future—extraordinary leadership, together with his principal civilian officers, and his military men and women for whom he is Commander in Chief.

The scourge of terrorism in the 21st century is a complex and multifaceted problem. None of us fully understand all the causes and all the means with which we have to deal with it.

This Chamber, hopefully next week, will resonate with a strong debate on the bill for homeland defense. We will soon be giving final approval to the division in the military of commander in chief, forces north. Just think, Mr. President, CINC, commander in chief, for homeland defense, which means marshaling all the military assets and other assets of this Nation to try to protect our citizens against further terrorist attack.

There is not a single cause for this terrorism and hatred but many, including disparate economic development around the world and the lack of political and economic opportunity in many regions, the alarming spread of radical fundamentalist religions, the dogmas, especially Islam, amongst those feeling disenfranchised from the mainstream of the world, and the tyrannical rule of some of ethnic conflicts after decades of repression by communists and other tyrannical regimes.

In this environment of perceived hopelessness and despair for many people, particularly the world’s youth, seemingly unsolvable events continue to fan the flames of anger and hatred that lead to irrational acts, acts which are almost beyond comprehension.

This is the result of individual acts of terror we witness almost daily on the streets of Israel against the freedom-loving people of the State of Israel and in the recruitment of angry young men and women into radical terrorist organizations, organizations that encourage them to vent their anger in the most destructive ways, most notably human suicide of themselves and against the innocent citizens of Israel.

Israel really has no recourse but to strike back in a manner that clearly indicates not only to the Palestinians but to the rest of the world that it is a sovereign nation and has the right to exercise every possible resource of that nation to protect its people.

Solving the problems that have bred this hate and total disregard for peaceful solutions will be complex, but it must be systematically addressed. Again, clearly, our President and his administration have shown leadership. But is this leadership all that is needed? Can we have leadership to help? Can more be done by others? These are the questions I ponder daily.

Clearly, the Israeli-Palestinian conflict, prolonged over a period of time that now seems endless, contributes, in some measure, to the unrest and anger in the Arab world directed towards the people of this great United States of America.

I cannot quantify it—I do not think anyone else can—but clearly that conflict is part of the root cause of hatred against us, hatred which is causing us to create a brand new Department of Government, Homeland Defense, an entirely new military command, to take all types of safety precautions in our daily life—whether it is at the airports or people just coming to visit here in the Congress of the United States—with security measures.

This conflict between the Israelis and the Palestinians often is presented and distorted in a very biased manner to the citizens throughout that region by the media in the Arab nations. We must confront that. We must take actions which are clear to show that we want to bring about peace in that region.

We have to address the disaffection and dissatisfaction felt by the people of that region. Each act of violence by either side in this unending conflict erodes hope for the peaceful future for Israel—it is in this article—and for the peaceful future of the people in Palestine.

In fact, each act of senseless violence in the Middle East further erodes hope that someday we can be more secure here at home.

All reasonable options to bring about an end to this violence and indiscriminate loss of life must be considered. We can never, ever abandon hope. We must act together to renew hope in this land of the Middle East, the land of faith, the land from which so much history has emanated for the rest of the world.

One option I believe must be considered and I said this many times here on the floor: We are the Allies of NATO peacekeepers. But that can only be achieved if certain criteria are met.

First, I call upon the administration to explore, with the other member nations of NATO, any other options to take on this task, a task with unknown risks? Clearly there are risks, but the quantum of risk is unknown. Are they willing to take it on if these conditions are met—first, the people of Palestine and the people of Israel, ask them to take on this obligation to maintain conditions of stability. That is the first.

Second, if both the Palestinian people and the people of Israel, through their respected, elected leaders, will pledge to cooperate in every way with those NATO forces. Now, Mr. President, there is a perception in the world that the Europeans are more sympathetic to the Palestinian causes, and that we here in the United States are more sympathetic to the Israeli causes. But NATO bonds us together, as we have been for these 50 years, in one constituted force.

And we would then go, as a constituted military organization, for the stated purpose, only, of trying to bring about stability, so that the diplomatic discussions, not only between the leaders of the Palestinian people and the leaders of the Israeli people can commence, but other leaders in the world, who desire, can step up.

There are those who have looked at this problem, and I respect them, and they disagree. I ask unanimous consent they may express on the floor—(See exhibit 2.)

EXHIBIT 1:
[From the Washington Post, July 24, 2002]
U.S. DECKS ISRAELI MISSILE STRIKE
Ponders Effect on Peace Bid
(By Karen DeYoung)
The White House yesterday denounced Israel's missile strike in a densely populated area in the Gaza Strip as "heavy-handed" and described it as a "deliberate attack against a building in which civilians were known to be located."

Rejecting Israel's contention that it did not intend to kill innocent civilians with a strike that was directed against a leader of the Hamas militant group, spokesman Ari Fleischer said, "These were apartment buildings that were targeted." In addition to Salah Shehada, the intended target, the missile fired from an Israeli F-16 warplane killed 14 other people, most of them under the age of 11, and injured 17 others.

Although President Bush continues "to be a lead defender of Israel around the world and will speak out about Israel's right to self-defense," Fleischer said, "this is an instance in which the United States and Israel do not see eye to eye."
The Monday night attack was widely condemned in Europe and the Arab world. Many, particularly in Arab capitals, said it demonstrated that the government of Israel Prime Minister Ariel Sharon was prepared to undermine recent progress in the Middle East peace process.

The attack appeared initially to have stunned the region involved in peace efforts. They said they had no warning of Israel’s plans despite talks here Monday between high-level representatives of the two governments. But yesterday, shock had turned to depression and uncertainty over where the process would go.

There was considerable agreement that this represents something really problematic, something unique, “one administration officials said.

U.S. Reaction to the attack, which occurred around 7 p.m. Washington time, was delayed until there was a clear picture of what had happened, the official said. After a flurry of telephone calls to the region, “within an hour, we knew what we were dealing with. Then discussions began on how to respond,” he said.

Tallahassee Monday night among Secretary of State Colin L. Powell; his deputy, Richard L. Armitage; and William Burns, the assistant secretary for the region, were quickly joined by national security advisor Condoleezza Rice and her deputy, Stephen Hadley. While acknowledging deep and longstanding differences between the State Department and the White House over Middle East policy, the officials said, “this particular time, there was agreement across the board.”

Under the rhetorical code that has long surrounded the Middle East, the United States normally “condemns” Palestinian terrorist attacks and uses the somewhat softer verb, “deplore,” to criticize Israeli actions.

Officials considered, then rejected, condemning the Israelis or describing their actions as “counterproductive” before settling on “heavy-handed,” as something they believed “captured the deplore,” as one official put it.

It was decided that Daniel C. Kurtzer, the U.S. ambassador to Israel, would deliver the message to Sharon. U.S. officials here described that discussion yesterday as unpleasant, and Robert Zoellick, the national security adviser who differed from his description of the attack as “one of our major successes.”

White House public comment was left to Fleischer, who made no statement on Monday night’s attack. The president views this as a heavy-handed action that is not consistent with dedication to peace in the Middle East,” Fleischer said.

Asked why Israel’s action in Gaza was different from U.S. attacks against al Qaeda fighters in Afghanistan that resulted in the loss of innocent civilian lives—a comparison Israeli has made—Fleischer replied: “It isn’t accurate to compare the two. . . . There are going to be losses of innocents in times of war, and I think that’s recognized around the world.

“What’s important is, in pursuit of the military objectives, as the United States does in Afghanistan, to always exercise every restraint to minimize those losses of life,” Fleischer said. “But in this case, what happened in Gaza was a knowing attack against a building in which innocents were found.”

European Union foreign policy chief Javier Solana described the attack as an “extraordinary civilian killing operation” that “comes at a time when both Israelis and Palestinians were working very seriously to curb violence and restore the peace process.”

Solana represents the EU in the “quartet” group on the Middle East that also includes Powell, U.N. Secretary General Kofi Annan and Russian Foreign Minister Igor Ivanov.

Annan issued a statement late Monday deploring the attack, saying, “Israel has the right to defend itself, but we must take all necessary measures to avoid the loss of innocent life; it clearly failed to do so.”

There was no direct contact yesterday between Israeli and Palestinian officials, and no one seemed to have a clear idea how to proceed beyond waiting for the immediate fallout—including widely expected Palestinian retaliation—and its unpredictable impact on the wider peace process.

After months in which the process has been halted by Palestinian terrorist attacks against Israeli civilians as recently as last week, significant recent progress had been reported.

Plans to restructure the Palestinian Authority’s security and financial infrastructure and prepare for elections in January were near completion. Israeli Foreign Minister Shimon Peres met with senior Palestinian officials last weekend for the first time in months, amid signs that Israeli troops would begin to withdraw from occupied Palestinian territory.

Egypt, Saudi Arabia and Jordan, the Arab countries most active in the peace process, all condemned the Israeli action. Egyptian President Hosni Mubarak called it a “war crime,” and his Saudi counterpart, Saud Faisal, said it was “a repulsive act that will be registered against [Sharon] in history.”

When Pulitzer-Prize winning New York Times columnist Tom Friedman talks, people listen. Now one of Friedman’s most radical ideas—to put a NATO peacekeeping force on the ground between the Israelis and Palestinians as a key part of an overall peace settlement—is actually starting to pick up steam around the world. U.N. Secretary General Kofi Annan has endorsed the idea of an international force as part of a settlement that would be imposed on Israel and the Palestinians. So has German Foreign Minister Joschka Fischer. More important, Secretary of State Colin Powell is believed to be mulling such a plan. He has publicly talked about putting American observers on the ground as a way to arm the Palestinians and give them a real voice. After Europe’s lynching of Israel these past few weeks, that’s the only army they trust.

Friedman’s idea deserves to be taken seriously. And to those of us who have supported American troops deployed for peacekeeping in Bosnia, Kosovo, Haiti and elsewhere over the past decade, peacekeeping in the Middle East seems at least as worthy, in principal at least. Our interest is in a stable peace there is clear, and so is the moral case for doing something to end the bloodshed, defend the Israeli democracy and given the Palestinians a chance for a better life. After Sept. 11, we have to engage in peacekeeping and nation-building in messy places such as Afghanistan and, one hopes, post-Saddam Iraq, which we like it or not. So why not in the Palestinian territories.

But if the idea of a U.S.-led force between Israel and a Palestinian state is starting to get serious traction in Friedman and others to spell out what exactly they have in mind, and with a little more candor about the costs and risks.

Take the size and role of the force, for instance. To carry out its mission and avoid disaster, the American force would have to be, as they say in the military, “robust.” For one thing, the demarcation line between Israelis and Palestinians that will have to be patrolled and controlled will be long, twisty, and difficult. For another thing, Americans are going to be the prime target for terrorist attacks. Friedman denies this, arguing that the Palestinian people will view the Americans as the “deus ex machina” of a Palestinian state.” But Hamas, Hezbollah and Islamic Jihad probably won’t see it that way. Rallying to the cry of “Remember Beirut,” they’ll look for any attack on another 250 Marines. And they’ll have help from Iran, Iraq, al Qaeda and all other jihads out there.

That means any American force will have to be big—10,000 to 20,000 troops, with another 10,000 to 20,000 backing them up. And even if we try to avoid the troops, the potential attackers will need to be intimidated by American firepower every day and every night for as many years as it takes. And that means Tom Friedman and Kofi Annan and Joschka Fischer will need to become full-time lobbyists for massive increases in the American defense budget, because right now neither the troops nor the money to carry out their plan.

Now for the hard part. Let’s say we get a peace agreement and a peacekeeping force on the ground between the Israelis and Palestinians. What happens when, despite all our best efforts, the occasional Hamas suicide bomber goes through anyway and commits the occasional massacre in Jerusalem or Tel Aviv? Count on it: This will happen. And what about when Hezbollah tries to use the new Palestinian state created by the peace settlement the way it now uses southern Lebanon, as a convenient place from which to launch rockets at Israeli population centers? What do we do then?

Friedman et al. can’t wish this problem away or the only option will be the factoring. One option is that the American-led peacekeeping force does nothing. But then we will have effectively created an American shield for terrorist attacks against Israel. This, by the way, was exactly the role a U.N. peacekeeping force played in Lebanon for several years in the late 1970s and early 80s, right up until the Israeli army pushed the U.N. force (known as UNIFIL) back to its base.

Option two is that the peacekeeping force could, like UNIFIL, just get out of the way and let the Israeli military retaliate for any terrorist attacks. Then at least American forces wouldn’t be the first to attack Israel. They’d be helping Israeli attack the state of Palestine. That’s how it would look to the Palestinians, anyway. So much for the Americans as saviors.

Option three is that the American-led force goes to war. We tell the Israelis to hold their fire and then send our own forces in to stop the terrorists. In essence, we take on the job the Israelis are currently doing in the territories. This prevents the outbreak of a new Israeli-Palestinian conflict—and begins the first round of the U.S.-Palestinian conflict. Maybe that’s kind of progress, but it’s not very attractive.

Is there another option I’m missing? If not, the proposal for an international peacekeeping force looks less like a real plan than a desperate if noble attempt to solve the insoluble in the Middle East. America summoned to provide a miracle when all roads to peace have reached a dead end. Even Ehud Barak’s idea of building a very, very big fence between Israel and the Palestinians looks better. Help us out, Tom.

Mr. WARNER. Mr. President, I yield to our leaders. They have an important matter.
UNANIMOUS CONSENT AGREEMENT—H.R. 5121 AND H.R. 5010

Mr. DASCHLE. Mr. President, let me compliment the distinguished Senator from Virginia on his remarks. I appreciate very much his willingness to yield the floor for this unanimous consent request.

I have been consulting with the distinguished Republican leader for the last several hours with regard to additional work on appropriations bills. We are now in a position to offer a unanimous consent request with regard to at least two more of these bills. I ask unanimous consent that the majority leader, following consultation with the Republican leader, may proceed to the consideration of Calendar No. 504, H.R. 5121, the legislative branch appropriations bill; that debate on the bill and the committee amendment be limited to 30 minutes equally divided and controlled between the chair and ranking member of the subcommittee; that immediately after the bill is reported, the text of the Senate committee-reported bill be inserted at the appropriate place in the bill; that the only first-degree amendments in order be those enumerated in this agreement, with the debate time limited to 10 minutes equally divided and controlled in the usual form; except that the Dodd and Specter amendments listed below not have a time limitation; that they be subject to relevant second-degree amendments that would also not be subject to a time limit; that upon disposition of these amendments, the bill be read a third time and the Senate then vote on passage of the bill, as amended; that upon passage, the Senate insist on its amendment and request a conference with the House; that the Chair be authorized to appoint conferees on the part of the Senate, without further intervening action or debate; provided further that the Senate proceed to the consideration of Calendar No. 505, H.R. 5010, the Department of Defense appropriations bill, no later than Wednesday, July 31—Durbin amendment regarding Capitol Police; Cochran amendment regarding congressional awards; Landrieu amendment regarding bicentennial commission; Specter amendment regarding mass mailings; Dodd amendment regarding mobile offices.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR NO SECOND-DEGREE AMENDMENTS—H.R. 5021

Mr. REID. Mr. President, I want to clarify that with respect to the agreement on the legislative branch appropriations bill, there are no second-degree amendments in order to the Durbin, Cochran, or Landrieu amendments. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONFERRING HONORARY CITIZENSHIP OF THE UNITED STATES ON THE MARQUIS DE LAFAYETTE

Mr. WARNER. Mr. President, with the consent of the leadership on both sides, I ask that the Chair lay before the Senate the following message from the House of Representatives:

Resolved, That the joint resolution from the Senate (S.J. Res. 13) entitled “Joint resolution conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette”, do pass with the following amendments:

That Marie Joseph Paul Yves Roch Gilbert du Motier, the Marquis de Lafayette, is proclaimed posthumously to be an honorary citizen of the United States of America. Strike out the preamble and insert:

Whereas the United States has conferred honorary citizenship on many occasions in more than 200 years of its independence, and honorary citizenship is and should remain an extraordinary honor not lightly conferred nor friendly granted;

Whereas Marie Joseph Paul Yves Roch Gilbert du Motier, the Marquis de Lafayette or General Lafayette, voluntarily put forth his own money and risked his life for the freedom of Americans;

Whereas the Marquis de Lafayette, by an Act of Congress, was voted to the rank of Major General;

Whereas, during the Revolutionary War, General Lafayette was wounded at the Battle of Brandywine, demonstrating bravery that forever endeared him to the American soldiers;

Whereas the Marquis de Lafayette secured the help of France to aid the United States’ colonies against Great Britain;

Whereas the Marquis de Lafayette was conferred the honor of honorary citizenship by the Commonwealth of Virginia and the State of Maryland;

Whereas the Marquis de Lafayette was the first foreign dignitary to address Congress, an honor which was accorded to him upon his return to the United States;

Whereas, upon his death, both the House of Representatives and the Senate draped their chambers in black as a demonstration of respect and gratitude for his contribution to the independence of the United States;

Whereas an American flag has flown over his grave in France since his death and has not been lowered, even while France was occupied by Nazi Germany during World War II; and

Whereas the Marquis de Lafayette gave aid to the United States in her time of need and is for ever a symbol of freedom, therefore be it

Amend the title so as to read “Joint Resolution conferring honorary citizenship of the United States posthumously on Marie Joseph Paul Yves Roch Gilbert du Motier, the Marquis de Lafayette.”.

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate concur in the House amendment to the joint resolution, that the Senate concur in the amendment to the preamble, that the Senate concur in the House amendment to the title, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, this is a matter on which I and a number of others have worked for some time. I thank my distinguished colleague from Virginia, Congressman VIRGIL GOODE, whom I asked to introduce this measure in the House. He did so with great skill. It was passed by the House. It had previously been adopted by the Senate, but now the House bill has been adopted by the Senate. Hopefully it will be forthcoming to the President for signature.

I rise in support of this resolution which has been an idea I have had for many years.

It bestows honorary citizenship on the Marquis de Lafayette. I think it is an honor long overdue. This great Frenchman fought with Washington, as I shall enumerate, in a battle for our independence. He was very influential in having the French Government intervene, as they did decisively, at
Yorktown to enable that long, drawn-out conflict to be brought to an end. He later came back to Virginia and traveled throughout my State and other parts of this great Nation and is remembered with great fondness.

In the great war of 1812 when the Austrian imprisoned him for his supposed involvement in the fall of the French monarchy, the United States did not acknowledge Lafayette as a U.S. citizen despite his cries for help all across our land.

There were many who risked so much to help build the America we know today, and we are now correcting this long-delayed injustice to Lafayette and celebrating him not only as a patriot of freedom and liberty but as a U.S. citizen.

At the young age of 19, Lafayette disobeyed the wishes of King Louis XVI of France, risking his own personal wealth and status to aid in our quest for freedom from Great Britain. He proved the value of dedication to our liberty when he was wounded in the battle of Brandywine, forever endearing himself to the American soldiers.

Throughout the American Revolution, Lafayette served as a liaison between the American colonists and the French Royalty. He urged influential policymakers to have France make the decisive military, naval, and financial commitment to save the American colonists. His tireless efforts, both as a liaison and as a general, saved America in her ultimate victory.

During the war, Lafayette proved himself over and over as a soldier and a good friend to George Washington. George Washington was impressed with Lafayette's military tactics which lured British General Cornwallis and his army to Yorktown, VA. The American Army, led by General Washington, along with French forces led by General Rochambeau, came south and trapped Cornwallis and his troops at Yorktown. As a result, the British were forced to surrender. The famous French fleet appeared on the horizon and they prevented any resupply to the British forces from their ships offshore. It was a decisive part of that battle. Here we are today enjoying freedom 200-plus years later because of Lafayette and the French contribution.

Lafayette's services to America extended beyond the battlefield. He worked as an adviser, helping to win concessions from Britain during the treaty negotiations. At Versailles, when negotiating with the French Government, our representatives, Franklin and Jefferson, found him invaluable. Moreover, his impartial friendship was extended to the first seven U.S. Presidents.

One of Lafayette's major contributions was bridging these cultural gaps between America and France. His early influence on America still holds true today. We try to bridge the cultural gaps to many countries across the globe to help cultivate freedom. With this in mind, now more than ever, it is important to remember who our friends are in the world as we try to create a coalition against terror.

The Marquis de Lafayette is celebrated by many as a symbol of freedom and liberty. I am happy and honored for the opportunity to offer this resolution recognizing citizens in the Senate.

Congress has before shown its respect and gratitude for Lafayette when both the Senate and the House of Representatives draped their Chambers in black for his contribution to the independence of this great Nation.

Now, I would like to say to the Marquis de Lafayette as John J. Pershing did in World War I when he stood before the patriot's grave and said: "Lafayette, we are here.

Our Nation has only bestowed this honor on a few persons. I shall place into the RECORD the names of those, such as Winston Churchill and others. So here now, at long last, we honor this great patriot.

First, I wish to thank Senator Leahy, chairman of the Judiciary Committee. I also thank, from my staff, John Frierson; former staff member, Don Lefeve; and Congressman Virgil Goode from Virginia and his assistant, Rawley Vaughan, for their help. The French Ambassador to the United States has been of great help and encouragement, as has Mr. Jim Johnston of the Virginia Film Foundation, Wyatt Dickerson, and Dr. James Scalon, a history professor at Randolph-Macon University.

It is interesting how many people have joined to make this possible. I now enumerate those who have received honorary citizenship by our Government: British Prime Minister Winston Churchill, on April 9, 1963; Swedish diplomat Raoul Wallenberg, October 5, 1981; William Penn and his wife Hannah, October 4, 1984; Mother Teresa, November 16, 1996.

It is very interesting. I am deeply humbled to have been one of several to make this possible.

Again, I say that the distinguished chairman of the Judiciary Committee, Mr. Leahy, was of invaluable help to make this legislation possible. I spoke with him earlier today. He helped me facilitate the adoption of this matter this evening.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that when the Senate resumes consideration of S. 812, there be 1 hour of debate relating to the motion to waive the Budget Act, equally divided between Senators ROCKEFELLER and GHAMM of Texas or their designees prior to the vote on the motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there now be a period of time for the transaction of morning business, with Senators allowed to speak therein for not to exceed 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ISRAEL AND PALESTINE

Mr. WELLSTONE. Mr. President, normally I try not to use written text on the floor of the Senate, but I want to make sure that I say what I say in the Senate in a careful and hopefully the right way.

Tuesday's missile strike against the home of Sheik Salah Shehadeh was an unsettling departure from the more careful methods Israel has typically used against its terrorist enemies. The sheik, who was killed in the operation, was the Gaza terrorism chief of Hamas, a group that has slaughtered hundreds of innocent Israelis and who seeks the destruction of Israel. Unfortunately, the attack killed not only the sheik but also 14 of his family members and neighbors, including nine children—terrible, terrible, toll.

It is true that these deaths were not the purpose of the operation. Unlike some of the bombings, this military does not target civilians. And perhaps, given the sheik's role in killing civilians, maybe you could argue that more innocent lives were saved than would ultimately have been lost if he had continued to live.

But military planners should have known that this operation, taking place in a densely populated residential complex, might result in the death of many civilians. Surely other military options could have been considered.

The rising toll on innocent civilians in this conflict is heartbreaking. There must be a greater effort by all—the Government of Israel, the Palestinians, the Arab States, and the United States—to break this cycle of revenge and spiraling violence.

Four weeks ago Monday, President Bush outlined his latest ideas for resolving the Israeli-Palestinian conflict. He laid out a vision of the future for the Middle East, declaring that he wanted to see two democratic states living side by side with secure borders, and he believed this goal could be achieved within 3 years. He called for movement on three tracks. First, aggressive action to end terrorist attacks against innocent Israeli citizens; second, reform of Palestinian legal and security structures; and third, substantial assistance to relieve the suffering of ordinary Palestinians who now are on the brink of humanitarian disaster.

The Bush speech, with its important elements, now needs to be recast into a concrete work plan where there is movement on all three tracks. Behind the scenes, Secretary Powell and members of the Quartet have been seeking to flesh out plans for overhauling the Palestinian Authority and movement there has been slow. The bottom line is that the political roadmap that was missing from the President's speech.
COMMENDING NATIONAL PUBLIC RADIO AND BOISE STATE RADIO

Mr. CRAPO. Mr. President, with great pride I commend National Public Radio and its Idaho affiliate, Boise State Radio, for their creative application of wind power technology.

With unprecedented innovation, in what is believed to be the first public radio transmitter site to rely on the power of wind, Boise State Radio and the American Wind Energy Association have put 90,000 megawatts of wind power in the air to provide broadcast service to previously unreachable areas in southern Idaho and northeastern Nevada.

In an age when just 3 percent of our energy comes from renewable sources, Boise State Radio and National Public Radio have committed to expanding their services while advancing the use of clean, efficient power sources.

The American Wind Energy Association estimates that Idaho has the potential to generate over 8,000 megawatts of wind power, placing our State in a unique position to contribute significantly to domestic energy production.

At the same time, it is clear that the overall economy is changing and that rural America is shouldering a great deal of this weight. The fact is, many of the jobs that have been lost over the last decade might never return. While continuing to support our traditional industries, we must also be creative in capitalizing on new opportunities for rural communities.

By integrating communications and providing a new facet to the rural economic infrastructure, the generation of wind power serves not only to maintain our Nation's available resources, but also to advance economic opportunity in rural America.

Recognizing Idaho's wind power potential and its benefits to our economies, National Public Radio and Boise State Radio are emerging as leaders in the advancement of environmentally efficient energy technology. This further exemplifies the fact that political entities exist right at home to increase energy production that would boost our electricity supply and reduce dependence on foreign fuels, such as oil, which we import primarily from the Middle East.

We need to make the best use of our domestic renewable energy resources to ensure a secure, reliable, and clean energy supply while improving the economies of rural Idaho and rural America.

National Public Radio and Boise State Radio: On behalf of Idahos and millions of Americans, I salute you.

STOCK OPTIONS

Mr. WYDEN. Mr. President, I rise to outline briefly an approach with respect to the stock option issue that I am hopeful could bring together Senators of varying philosophies in both political parties.

It seems as if every morning Americans wake up to yet another headline about the collapse of a major U.S. corporation. These failures have devastated the savings of millions of hard-working Americans, savings they were depending on for their retirement or to pay for their kids' college. When the smoke clears and the fallout settles, the issue of stock options invariably comes to the surface.

I serve as chair of the Senate and Technology Subcommittee, and I have spent a considerable amount of time analyzing the stock option issue. There is no question in my mind that some companies have abused stock options, using them as a vehicle for funneling large amounts of wealth to top executives. What is more, options have been granted in ways that fail to serve their intended purpose of aligning the interests of management with the long-term interests of the company.

Instead, a number of these massive option grants have created perverse incentives, enabling top executives to get extraordinarily rich by pumping up a company's short-term share price. The tactics they use can jeopardize the company's long-term financial health, but by the time the long-term impact is felt, the executives invariably have cashed out and left the firm. When an executive develops a big personal stake in options, it can lead to a big conflict of interest. Too often the company's long-term interests take a backseat to that executive's desire for personal reasons to boost the short-term share price.

When the betting is between massaging the numbers to "manage" quarterly profit projections and improving the quality of the business through such initiatives as long-term research and development investments, short-term profits and the value of executive stock options can be the odds-on favorite.

The abuse of stock options in the executive suite should not be taken as an indictment of all stock options that are offered.

I remain convinced that stock option plans, as long as they are broad based and have significant shareholder investment protection, can play a very important role in our economy. They can enable corporations to attract and retain good workers and top talent. They can motivate and increase productivity by giving employees a strong personal interest in the long-term success of the corporation.

The program I would like to outline this afternoon is based on the premise that it is time for the Senate to act to stop abuses at the top, while not gutting options that are so vital to rank and file workers. This can be done by restoring the link between the long-term interests of the company and those of senior management and giving shareholders knowledge about control over the stock options of corporate leaders.

So I hope we will be looking to discuss with Senators of both parties the differing philosophies on the stock option issue, and that we can come together as a Senate around reform based on three issues.

First, the rule should increase shareholder influence and oversight with respect to grants of stock options to corporate officers and directors by requiring shareholder approval. This would include the simple fact that "I'll scratch your back if you scratch mine" culture of clubby directors and top executives voting each other huge option packages with little or no shareholder input.

Second, new rules should seek to ensure that stock options provide incentives for corporate officers and directors who act in the best long-term interests of their corporation, not incentives to stimulate short-term runups in stock prices. I believe the way to do this is to establish substantial vesting periods for options and holding periods for stock shares so that top executives do not have the ability to quickly cash out and jump ship.

Thirdly, I believe there needs to be a multitiered holding period. Directors and officers should be allowed to sell a modest proportion of shares, for example, to permit a degree of diversification; but for the large majority, they should have to wait a substantial period of time and they should be required to hold on to a portion of their stock until at least 6 months after leaving the company.

Finally, a third requirement in the program I outline would be new rules improving the transparency of stock option grants to directors and officers. It is critical that better and more frequent information be provided to shareholders and investors. They deserve more information than what is buried in the typical footnote. Stock option information ought to be reported quarterly, not just annually, and broken out into an easy-to-find section in each company's public SEC filings.

In concluding, there have been two paths presented in the Senate in recent months with respect to the issue of stock options. Some now think the
problem is so severe that options should be pared back across the board and that Congress should take that action. Others say that business as usual should continue, that this is a problem that has affected just a handful of companies.

The principles I have described today lay out a third path—a path that will ensure that broad-based stock options can continue to be a useful tool for serving workers, shareholders, and the economy as a whole, while at the same time curbing abuses by those in the executive suites whose conduct is over the line.

On the Science and Technology Subcommittee, which I chair, we have heard again and again how important these stock options are. There is no question that is correct. But I think it is also correct to say that the job of cleaning up corporate corruption is not going to be complete until Congress acts to curb the abuse of stock options. I look forward to working with my colleagues to put in place tough new rules that will ensure that stock options remain broad based, but also address widespread abuse that, unfortunately, has drawn options and their value into question.

AN UNWARRANTED BLOW TO GLOBAL FAMILY PLANNING

Mrs. FEINSTEIN. Mr. President, I rise today to express my very deep regret that the Bush administration has decided not to release the $34 million allocated for the United Nations Fund for Population Activities, UNFPA. I would ask the White House to reconsider its decision.

At stake here is vital assistance for needy individuals throughout the developing world, living under the threat of HIV infection and deteriorating health conditions.

Indeed, it is a shame that such assistance—assistance that can save lives—is being denied by bureaucratic politics, and the misconceptions of the anti-choice wing of the Republican Party.

I would remind the administration that the $34 million was appropriated by Congress in a spirit of bipartisan consensus, after 2 months of negotiations. During these talks there was never any question whether or not to allocate the funds, but simply how much.

The White House’s own budget proposal for fiscal year 2002 included $25 million for the fund, $3.5 million more than allocated by the Clinton administration.

Within this context, the administration’s decision is all the more perplexing. It stands as painful proof that the debate over U.S. support for international family planning has been distorted all out proportion.

In particular, there remains a belief, in some quarters, that the United Nations Fund for Population Activities either condones or even assists in abortion and coercive sterilization.

This is, at best, nothing but hearsay. And if such proof does exist, why haven’t we seen or heard anything substantive about it?

With respect to China, in May the State Department sent a mission to investigate such allegations, and it found no evidence that the fund was involved, in any way, in abortion or coercive sterilization. A month before, a British delegation drew a similar conclusion.

For the record, I would like to quote directly from the State Department’s conclusions. “We find no evidence that UNFPA has knowingly supported or participated in the management of a program of coercive abortion or involuntary sterilization in [China].”

In light of this finding, the report recommends, and I quote, “that not more than $34 million which has already been appropriated be released to UNFPA.”

I would also argue that it is precisely because of the questions raised about China’s policies, that United Nations presence there becomes that much more important. The United Nations Fund for Population Activities remains the best way to do this.

Only last year Secretary of State Colin Powell praised the United Nations Fund for Population Activities, saying that it was engaged in “critical population and assistance to developing countries.”

This is especially true if the Department of State provided $600,000 to the fund for sanitation supplies, clean undergarments, and emergency infant delivery kits for Afghan refugees in Iran, Pakistan, Uzbekistan, and Tajikistan.

The facts speak for themselves. The United Nations Fund for Population Activities does not subsidize abortion services in any country. Its executive director, Madame Thoraya Ahmed Obaid, has said that the fund would choose the family planning program in China, if any allegations of coercive abortion or involuntary sterilization could be verified.

I would also argue that we would be wise to focus on the wider role that the United Nations Fund for Population Activities plays, most notably in the critical area of HIV prevention. And I would remind my colleagues of just a few of the troubling facts revealed at the recent AIDS conference in Barcelona.

In Botswana, for example—a country where 38 percent of the adult population is infected with HIV—20 percent of high-school-age students believe that you can tell whether a person has HIV/AIDS simply by looking at them.

In Malawi, where 15 percent of all adults are HIV positive, 64 percent of young men admit to not using a condom with their most recent sexual partner. The scourge of AIDS throughout sub-Saharan Africa is a human tragedy of terrifying proportions.

How can we turn our backs on those not yet infected, especially when the reason for doing so is based on unfounded allegations and a misunderstanding of the term “family planning.”

There are no hidden meanings; there is no secret agenda. Family planning does not condone or promote abortion. Simply put, family planning means: help couples plan their productive destinies; couples given the information necessary to make their own choices about family size and the timing of births; health care officials reaching out to adolescents and young adults—a message not just to them, and in turn prevent HIV infection and unwanted pregnancies.

Healthy families—the heart of any healthy society—depend upon women being able to make informed choices. The United Nations Fund for Population Activities helps women do just that—make a choice—which I hold to be a fundamental right of women everywhere, regardless of their economic circumstances.

Women here in the United States take such information for granted, and we can not forget that this is all too often unavailable to poor women in the developing world.

How to protect themselves from HIV or other sexually transmitted diseases, how to space pregnancies so that they can better manage the size of their families, and how to lower the risks of childbirth and increase their chances of delivering healthy babies—this is at the heart of the information the United Nations Fund for Population Activities provides. This strikes me as hardly immoral or illegal.

In closing, Mr. President, let me remind my colleagues that the world’s population today stands at more than six billion—a figure that shows no signs of stabilizing. In fact, the United Nations estimates this number could double, to 12 billion, by the year 2050.

The brunt of this growth will impact primarily those areas already unable to absorb it—namely, the developing world. Overpopulation has already caused significant problems, like malnutrition, disease, environmental degradation, and political instability.

If we in the United States bury our heads in the sand here, it will become increasing likely that overpopulation could overwhelm such fragile societies.

Given such alarming facts, the purpose of the United Nations Fund for Population Activities—to reduce poverty, improve health and raise living standards around the world—will become only more important in the years to come. The United States, in my mind, has two options: one, either we help support international family planning efforts, in a way that is both responsible and accountable; or two, we relinquish our leadership role, and turn our backs on the developing world.

The Bush Administration seems to have taken the latter course, and I can only hope that it reconsiders its decision and will do what is right.

It should release the $34 million allocated to the United Nations Fund for
Population Activities. Failure to do so would set an unfortunate precedent.

TRIBUTE TO SERGEANT JOHN H. MORENO AND ALL FALLEN HEROES

Mr. KERRY. Mr. President, last month I attended the dedication of the Massachusetts Vietnam War Memorial in Worcester, MA where I joined my fellow veterans and their families to memorize the 1,537 heroes from Massachusetts who gave their lives in Vietnam.

During the ceremony, I was passed a copy of a poem Mrs. Eileen Moreno wrote in honor of her son, Sergeant John H. Moreno, whose name graces the Place of Names in Worcester. John Moreno, who grew up in Brookline, loved baseball and the Red Sox, and planned to attend art school so that he could teach art at an elementary school, was like so many brave young men and women who gave so much to their families, communities, and country.

With her compelling tribute to her son, Mrs. Moreno reminds us all of the high price of freedom, a price paid both by the soldiers who went thousands of miles away to protect our Nation and the families who remember their loved ones. I thank her for passing along these words of tribute and respectfully ask unanimous consent to print her poem, “Memorium—Elegy for a Son,” in the Record so that others may read her beautiful words.

There being no objection, the material was ordered to be printed in the Record, as follows:

MEMORIUM—ELEGY FOR A SON

Yes, we still grieve.
In the stillness of the night
Echos the sordid primal howl
Of rage and refusal to believe.

In private moments of the day to day
We weep our quiet tears;
Sorrow does not lessen with the passage of the years.
Oh, yes we weep and hide our desolation with words like duty, gallantry and pride.

Still we cry.
For the bright, sweet child who was,
We cry.
For the valiant man he became,
We cry.
We grieve.
With dry and sighting eyes
We weep tears that can’t relieve.
For his loneliness, his fear, his pain
Knowing our aching, empty arms
Cannot hold him close again, We cry.

But for the solace that it gives,
In the love he left for us in our care
And in his memory we’ll forever share
Still he lives—Eternity is his legacy.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator Kennedy in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred July 16, 2001 in Newmarket, NH. Thung Phetakoune, 62, a man of Laotian descent, died of injuries he suffered in an attack apparently motivated by racial hatred. According to authorities, Richard Labbe, 32, assaulted him amid an anti-Asian tirade. Phetakoune died from injuries stemming from a fractured skull, subsurface bleeding, and swelling of the brain.

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.

EFFECTS OF CLIMATE CHANGE IN ALASKA

Mr. STEVENS. Mr. President, a recent article from the New York Times describes the infestation of spruce bark beetles on the Kenai Peninsula in Alaska. This is another aspect of global climate change that has deadly implications in my state. In the Kenai Peninsula, the spruce bark beetle has infested nearly 95 percent of the spruce trees, which represents about four million acres of dead or dying forest. Some scientists believe that a succession of warm years in Alaska has allowed spruce bark beetles to reproduce at twice their normal rate. Hungry for the sweet lining beneath the bark, the beetles have swarmed over the stands of spruce, overwhelming the trees’ normal defensive mechanisms.

If Dr. Berg is correct—and he has won many converts as well as some skeptics—then the dead spruce forest of Alaska may be just one of the world’s most visible monuments to climate change. On the Kenai, nearly 95 percent of spruce trees have fallen to the beetle. Now, conditions are ripe for a large fire and could lead to bigger changes in the ecosystem, affecting moose, bear, salmon and other creatures that have made the peninsula, just a few hours’ drive from Anchorage, a tourist mecca.

“The chief reason why the beetle outbreak has been the largest and the longest is that we have had an unprecedented run of warm summers,” said Dr. Berg. “In the past, beetles would die after infesting trees, but now they stay around longer, more of them are able to reproduce, and the process is accelerated.”

Dr. Berg believes the larger culprit is global warming, brought on by increased emissions of greenhouse gases, which trap heat in the atmosphere. But that is a bigger debate, one which Dr. Berg’s findings for other forests vulnerable to beetle infestation may help feed.

Local law enforcement officials are concerned about the spread of spruce beetles. Mr. President, a recent article from the New York Times describes the infestation of spruce bark beetles on the Kenai Peninsula in Alaska. This is another aspect of global climate change that has deadly implications in my state. In the Kenai Peninsula, the spruce bark beetle has infested nearly 95 percent of the spruce trees, which represents about four million acres of dead or dying forest. Some scientists believe that a succession of warm years in Alaska has allowed spruce bark beetles to reproduce at twice their normal rate. Hungry for the sweet lining beneath the bark, the beetles have swarmed over the stands of spruce, overwhelming the trees’ normal defensive mechanisms.

If Dr. Berg is correct—and he has won many converts as well as some skeptics—then the dead spruce forest of Alaska may be just one of the world’s most visible monuments to climate change. On the Kenai, nearly 95 percent of spruce trees have fallen to the beetle. Now, conditions are ripe for a large fire and could lead to bigger changes in the ecosystem, affecting moose, bear, salmon and other creatures that have made the peninsula, just a few hours’ drive from Anchorage, a tourist mecca.

“The chief reason why the beetle outbreak has been the largest and the longest is that we have had an unprecedented run of warm summers,” said Dr. Berg. “In the past, beetles would die after infesting trees, but now they stay around longer, more of them are able to reproduce, and the process is accelerated.”

Dr. Berg believes the larger culprit is global warming, brought on by increased emissions of greenhouse gases, which trap heat in the atmosphere. But that is a bigger debate, one which Dr. Berg’s findings for other forests vulnerable to beetle infestation may help feed.

Local law enforcement officials are concerned about the spread of spruce beetles.

The chief reason why the beetle outbreak has been the largest and the longest is that we have had an unprecedented run of warm summers,” said Dr. Berg. “In the past, beetles would die after infesting trees, but now they stay around longer, more of them are able to reproduce, and the process is accelerated.”

Dr. Berg believes the larger culprit is global warming, brought on by increased emissions of greenhouse gases, which trap heat in the atmosphere. But that is a bigger debate, one which Dr. Berg’s findings for other forests vulnerable to beetle infestation may help feed.

Local law enforcement officials are concerned about the spread of spruce beetles.

The chief reason why the beetle outbreak has been the largest and the longest is that we have had an unprecedented run of warm summers,” said Dr. Berg. “In the past, beetles would die after infesting trees, but now they stay around longer, more of them are able to reproduce, and the process is accelerated.”

Dr. Berg believes the larger culprit is global warming, brought on by increased emissions of greenhouse gases, which trap heat in the atmosphere. But that is a bigger debate, one which Dr. Berg’s findings for other forests vulnerable to beetle infestation may help feed.

Local law enforcement officials are concerned about the spread of spruce beetles.

The chief reason why the beetle outbreak has been the largest and the longest is that we have had an unprecedented run of warm summers,” said Dr. Berg. “In the past, beetles would die after infesting trees, but now they stay around longer, more of them are able to reproduce, and the process is accelerated.”

Dr. Berg believes the larger culprit is global warming, brought on by increased emissions of greenhouse gases, which trap heat in the atmosphere. But that is a bigger debate, one which Dr. Berg’s findings for other forests vulnerable to beetle infestation may help feed.

Local law enforcement officials are concerned about the spread of spruce beetles.

The chief reason why the beetle outbreak has been the largest and the longest is that we have had an unprecedented run of warm summers,” said Dr. Berg. “In the past, beetles would die after infesting trees, but now they stay around longer, more of them are able to reproduce, and the process is accelerated.”

Dr. Berg believes the larger culprit is global warming, brought on by increased emissions of greenhouse gases, which trap heat in the atmosphere. But that is a bigger debate, one which Dr. Berg’s findings for other forests vulnerable to beetle infestation may help feed.

Local law enforcement officials are concerned about the spread of spruce beetles.

The chief reason why the beetle outbreak has been the largest and the longest is that we have had an unprecedented run of warm summers,” said Dr. Berg. “In the past, beetles would die after infesting trees, but now they stay around longer, more of them are able to reproduce, and the process is accelerated.”

Dr. Berg believes the larger culprit is global warming, brought on by increased emissions of greenhouse gases, which trap heat in the atmosphere. But that is a bigger debate, one which Dr. Berg’s findings for other forests vulnerable to beetle infestation may help feed.

Local law enforcement officials are concerned about the spread of spruce beetles.

The chief reason why the beetle outbreak has been the largest and the longest is that we have had an unprecedented run of warm summers,” said Dr. Berg. “In the past, beetles would die after infesting trees, but now they stay around longer, more of them are able to reproduce, and the process is accelerated.”

Dr. Berg believes the larger culprit is global warming, brought on by increased emissions of greenhouse gases, which trap heat in the atmosphere. But that is a bigger debate, one which Dr. Berg’s findings for other forests vulnerable to beetle infestation may help feed.

Local law enforcement officials are concerned about the spread of spruce beetles.
“His work is very convincing; I would even say unimpeachable,” said Dr. Glenn Juday, a forest ecologist at the University of Alaska.

“For the first time, I now think beetle infestations have to do with climate change.”

While Dr. Juday did not collaborate on Dr. Berg’s spruce studies, he relayed some of the findings at a recent conference on climate change in Oslo, as part of the Arctic Climate Impact Assessment Project, a study by scientists from several nations. It was also presented by Dr. Berg himself in a speech at an American forestry conference this year.

“There is enormous excitement over Ed Berg’s studies,” Dr. Juday said.

But there are still skeptical, saying it may only be a coincidence that rising temperatures go hand in hand with growing beetle infestations. Some say he has found a big piece of the puzzle, but not all of it.

“I think Ed Berg is only partially correct,” said Dr. Ed Holsten, who studies insects for the Forest Service in Alaska. The trees on the Kenai are old, and ripe for beetle outbreaks. If they have been logged, or burned in fire, they might have kept the bugs down, Dr. Holsten said.

The spruce beetle, which is about a quarter-inch long, is rarely able to move to any people who roam through evergreen forests in the West and Alaska. Large swaths of forest in Colorado, Idaho and Wyoming have been killed by the bug. But nothing has approached the Alaska kill.

The beetles take to the air in spring, looking for trees to attack. When they find a vulnerable stand, they will signal to other beetles “a chemical message,” Dr. Holsten says. They burrow under the bark, feeding on woody capillary tissue that the trees use to transport nutrients.

In Dr. Berg’s office, he has a cross-section of a tree that has been under attack by beetles. “I think of canals as a metaphor. Eventually, the tree loses its ability to feed itself; it is essentially choked to death, a process that can take several years, Dr. Berg said.

Spruce trees produce chemicals, called terpenes, that are supposed to drive beetles off. But when so many beetles go after a single tree, the beetles usually win. As it dies, the normally green needles of spruce will turn red, and then, in later years, silver or gray. Eventually stands of dead, silver-spruce—looking like black and white photographs of a forest—can be seen throughout south-central Alaska, particularly on the Kenai. Scientists estimate that 36 million spruce trees have died in Alaska in the current outbreak.

“It’s very hard to live among the dead spruce; it’s been a real kick in the teeth,” said Dr. Berg. “We all love this beautiful forest.”

One reason Dr. Berg may have been able to see the large implications of the beetle attack when others saw only dead trees is that he is one of few government scientists for the Fish and Wildlife Service who is paid to study the big picture.

His title is ecologist for the Kenai refuge. “When they hired me they felt the need to look at a larger scale and see bigger than simply do moose counts,” he said.

Working with a doctoral student, Chris Fastie, on a federal grant, Dr. Berg has been tracking the legacies of dead trees to climate. Since 1987, he said, the Kenai Peninsula has had a string of above-normal temperatures, particularly in the summer. Each year coincided with outbreaks of beetle infestation and dead trees, matching warmer years and a rise in spruce kills in the early 1970’s. Dr. Berg found a similar pattern for the Klutina and the Canada’s Yukon Territory, where it is much colder.

Spruce beetle eggs normally hatch by August, then spend the winter, dormant, in larvae beneath the bark. They can withstand temperatures of up to 35 degrees below zero. The larvae, which are between 1⁄8 inch and 1⁄4 inch long—native to spruce—it if not picked off by woodpeckers or other birds—is two years. But in the warmer years, Dr. Berg and others found that the beetles were completing their life cycle in a single year. This mass of insects has consumed nearly every mature spruce tree on the Kenai, until there is very little left to eat. Most of the trees are more than 100 years old. Other scientists say the warming climate may be responsible for a big part of the bug outbreak, but not all of it.

“These bugs have been growing,” Dr. Holsten said. “They are an early warning indicator of climate change. If it warms up enough they can complete that two-year life in a single year.”

WARMER WEATHER ALLOWS VORACIOUS INSECTS TO THRIVE

Spruce has grown on the Kenai Peninsula for about 8,000 years. Other infestations have killed up to 30 percent of a forested area, before bug populations died from fire or freeze or other natural causes. The current infestation never slowed until the beetles ran out of food.

“It slowed down only after they had literally eaten themselves out of house and home,” Dr. Berg said.

The Forest Service has been studying beetle-killed spruce for some time, but has yet to come up with any way of attacking the insects, other than suggestions of logging and controlled-burn fires—each of which is hotly contested.

What may follow in the path of the dead forest will be likely be a mix of grasses, and more hardwood trees like birch, alder and Aspen, said Dr. Berg.

Climate records have been kept for barely a hundred years in most places in Alaska. By studying tree rings—which expand in warmer years and barely grow in cold years—scientists in Alaska say the current warming period is unmatched for at least 400 years. Other infestations have given Americans with disabilities a new lease on life.

Today, 53 million Americans live with a disability, of which 1 in 8 is severely disabled. Yet due to the landmark Americans with Disabilities Act, the stereotypes against these persons are crumbling and they are able to lead increasingly integrated fulfilled lives. The Americans with Disabilities Act has provided disabled individuals protection from discrimination in both the public and private sector, and guarantees equal access to employment, public services, and public accommodations. The Act has also spurred research and improved care for seniors, children and mentally disabled persons.

In going so, this monumental Act has ensured an improved quality of life for people living with disabilities and has promised disabled children hope for a successful future. The contributions of the Americans with Disabilities Act over the past 12 years have given American with disabilities a new lease on life.
MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:03 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (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, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 1260. An act to amend the Immigration and Nationality Act to determine whether an alien is a child, for purposes of classification as an immediate relative, based on the age of the alien on the date the classification petition with respect to the alien is filed, and for other purposes.

H.R. 2175. An act to protect infants who are born alive.

H.R. 3497. An act to amend the Public Health Service Act with respect to health professions programs regarding the field of nursing.

The enrolled bills were signed subsequently by the President pro tempore (Mr. BYRD).

At 11:38 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3479. An act to expand aviation capacity.

H.R. 3609. An act to amend title 49, United States Code, to enhance the security and safety of pipelines.


MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3479. An act to expand aviation capacity.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Appropriations, without amendment:

S. 2778. An original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107-216.)

By Mr. LEAHY, from the Committee on Appropriations, without amendment:

S. 2779. An original bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107-220.)

By Mr. REID, from the Committee on Appropriations, without amendment:

S. 2784: An original bill making appropriations for energy and water development for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107-220.)

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LIEBERMAN for the Committee on Governmental Affairs.

James E. Boasberg, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

Mark W. Everson, of Texas, to be Deputy Director for Management, Office of Management and Budget.

Michael D. Brown, of Colorado, to be Deputy Director of the Federal Emergency Management Agency.

(Nomination was reported with recommendation that it be confirmed subject to the nominee’s commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

(Nomination without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CRAIG:

S. 2777. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the treatment of qualified public educational facility bonds as exempt facility bonds; to the Committee on Finance.

By Mr. HOLLINGS:

S. 2778. An original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. LEAHY:

S. 2779. An original bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. FEINGOLD:

S. 2780. A bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States; to the Committee on Environment and Public Works.

By Mr. REID (for himself, Mr. BURNS, and Mr. ENSSLIN): S. 2781. A bill to amend the Petroleum Marketing Practices Act to extend certain protections to franchised refiners or distributors of lubricating oil; to the Committee on Energy and Natural Resources.

By Mr. SMITH of Oregon (for himself, Mr. REID, Mr. WYDEN, Ms. ENNISON, Mrs. CLINTON, Mr. SCHUMER, Mrs. BOXER, and Mrs. FEINSTEIN): S. 2782. A bill to amend part C of title XVIII of the Social Security Act to consolidate and restate the Federal laws relating to the social health maintenance organization projects, to make such projects permanent, to require the Medicare Payment Advisory Commission to conduct a study on ways to expand such projects, and for other purposes; to the Committee on Finance.

By Mrs. CARNAHAN:

S. 2783. A bill to amend the Internal Revenue Code of 1986 to restore the tax exempt status of death gratuity payments to members of the uniformed services; to the Committee on Finance.

By Mr. REID: S. 2784. An original bill making appropriations for energy and water development for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. JOHNSON (for himself and Mr. DURBIN): S. 2785. A bill to amend the Internal Revenue Code of 1986 to provide a tax filing delay for members of the Armed Forces serving in a contingency operation; to the Committee on Finance.

By Mr. ALLARD:

S. 2786. A bill to provide a cost-sharing requirement for the construction of the Arkansas Valley Conduit in the State of Colorado; to the Committee on Energy and Natural Resources.

By Mrs. MURRAY (for herself and Ms. CANTWELL): S. 2787. A bill to amend the Internal Revenue Code of 1986 to exempt certain United States international ports from the harbor maintenance tax; to the Committee on Finance.

By Mr. DASCHLE:

S. 2788. A bill to revise the boundary of the Wind Cave National Park in the State of South Dakota; to the Committee on Energy and Natural Resources.

By Mr. HARKIN:

S. 2789. A bill to expand the eligibility for membership in veterans organizations; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 121

At the request of Mrs. FEINSTEIN, the name of the Senator from Louisiana (Ms. LANDREOUX) was added as a cosponsor of S. 121, a bill to establish an Office of Children’s Services within the Department of Justice to coordinate
and implement Government actions involving unaccompanied alien children, and for other purposes.

S. 281

At the request of Mr. Hagel, the name of the Senator from Wyoming (Mr. Enzi) was added as a cosponsor of S. 281, a bill to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial.

S. 454

At the request of Mr. Bingaman, the name of the Senator from New Hampshire (Mr. Smith) was added as a cosponsor of S. 454, a bill to provide permanent funding for the Bureau of Land Management Payment in Lieu of Taxes program and for other purposes.

S. 572

At the request of Mr. Chafee, the name of the Senator from Minnesota (Mr. Wellstone) was added as a cosponsor of S. 572, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 726

At the request of Ms. Mikulski, the name of the Senator from South Dakota (Mr. Johnson) was added as a cosponsor of S. 882, a bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies, subject to a reduction of 50 percent if the recipient dies during the first 15 days of such month, and for other purposes.

S. 913

At the request of Ms. Snowe, the name of the Senator from Alaska (Mr. Murkowski) was added as a cosponsor of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare program of all oral anticancer drugs.

S. 1777

At the request of Mrs. Collins, the name of the Senator from North Dakota (Mr. Conrad) was added as a cosponsor of S. 1777, a bill to authorize assistance for individuals with disabilities in foreign countries, including victims of landmines and other victims of civil war and warfare, and for other purposes.

S. 2188

At the request of Mr. Breaux, the name of the Senator from West Virginia (Mr. Rockefeller) was added as a cosponsor of S. 2188, a bill to require the Consumer Product Safety Commission to amend its flammability standards for children’s sleepwear under the Flammable Fabrics Act.

S. 2189

At the request of Mr. Smith of New Hampshire, his name was added as a cosponsor of S. 2189, supra.

S. 2211

At the request of Mr. Hutchinson, the name of the Senator from Idaho (Mr. Craig) was added as a cosponsor of S. 2211, a bill to amend title 10, United States Code, to apply the additional retired pay percentage for extraordinary heroism to the computation of the retired pay of enlisted members of the Armed Forces who are retired for any reason, and for other purposes.

S. 2220

At the request of Mrs. Boxer, the name of the Senator from Colorado (Mr. Campbell) was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal support of Iran and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

S. 2221

At the request of Mr. Rockefeller, the name of the Senator from South Dakota (Mr. Johnson) was added as a cosponsor of S. 2221, a bill to temporarily increase the Federal medical assistance percentage for the Medicaid program.

S. 2235

At the request of Mr. Thomas, the name of the Senator from Arkansas (Mrs. Lincoln) was added as a cosponsor of S. 2233, a bill to amend title XVIII of the Social Security Act to establish a Medicare subvention demonstration project for veterans.

S. 2466

At the request of Mr. Kerry, the name of the Senator from Louisiana (Ms. Landrieu) was added as a cosponsor of S. 2466, a bill to modify the contract consolidation requirements in the Small Business Act, and for other purposes.

S. 2351

At the request of Ms. Collins, the name of the Senator from New York (Mrs. Clinton) was added as a cosponsor of S. 2351, a bill to amend the Public Health Service Act to authorize the Commissioner of Food and Drugs to conduct oversight of any entity engaged in the recovery, screening, testing, processing, storage, or distribution of human tissue or human tissue-based products.

S. 2392

At the request of Ms. Landrieu, the names of the Senator from Maine (Ms. Collins) and the Senator from Michigan (Mr. Levin) were added as cosponsors of S. 2392, a bill to provide affordable housing opportunities for families that are headed by grandparents and other relatives of children, and for other purposes.

S. 2596

At the request of Mrs. Boxer, the name of the Senator from Minnesota (Mr. Wellstone) was added as a cosponsor of S. 2596, a bill to amend the Internal Revenue Code of 1986 to extend the financing of the Superfund.

S. 2602

At the request of Mrs. Clinton, the name of the Senator from Illinois (Mr. Durbin) was added as a cosponsor of S. 2602, a bill to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a veteran after age 55 shall not result in termination of dependency and indemnity compensation.

S. 2683

At the request of Mr. Hutchinson, the names of the Senator from New Hampshire (Mr. Smith) was added as a cosponsor of S. 2683, a bill to amend the Internal Revenue Code of 1986 to clarify that church employees are eligible for the exclusion for qualified tuition reduction programs of charitable educational organizations evidenced 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. 2734

At the request of Mrs. Hutchison, her name was added as a cosponsor of 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.

S. 2748

At the request of Mr. Kerry, the names of the Senator from Louisiana (Ms. Landrieu) was added as a cosponsor of S. 2753, a bill to provide for a Small and Disadvantaged Business Ombudsman for Procurement in the Small Business Administration, and for other purposes.

S. 2753

At the request of Mr. Enzi, the name of the Senator from California (Mrs. Feinstein) was added as a cosponsor of S. 2760, a bill to direct the Securities and Exchange Commission to conduct a study and make recommendations regarding the accounting treatment of stock options for purposes of the Federal securities laws.

S. RES. 242

At the request of Mr. Thurmond, the names of the Senator from Ohio (Mr. Dewine), the Senator from Illinois (Mr. Durbin) and the Senator from New York (Mrs. Clinton) were added as cosponsors of S. Res. 242, a resolution designating August 16, 2002, as “National Airborne Day”.

S. RES. 242

At the request of Ms. Landrieu, the name of the Senator from Georgia (Mr. Miller) was added as a cosponsor of S. Res. 289, a resolution expressing the sense of the Senate that a commemorative postage stamp should be issued to celebrate the Bicentennial of the Louisiana Purchase.

S. CON. RES. 107

At the request of Mr. Craig, the name of the Senator from South Dakota (Mr. Johnson) was added as a cosponsor of S. Con. Res. 107, a concurrent resolution expressing the sense of
Congress that Federal land management agencies should fully support the Western Governors Association “Collaborative 10-Year Strategy for Reducing Wildland Fire Risks to Communities and the Environment”, as signed August 2001, to reduce the fragmentation of forest fuels that place national resources at high risk of catastrophic wildfire, and prepare a National prescribed Fire Strategy that minimizes risks of escape.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRAIG:
S. 2777. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the treatment of qualified public educational facility bonds as exempt facility bonds; to the Committee on Finance.

Mr. CRAIG. Mr. President, I rise today to introduce the Permanent Tax Relief for School Construction Act to make permanent the tax benefits we enacted last year relating to private activity bonds for school construction.

Last year, this Committee approved a tax bill which had many important provisions. Unfortunately, these provisions only lasted until the end of 2010. That’s a pretty poor way to engineer the tax code. American families and businesses only have one year to adapt their finances to lower taxes, and right when they are getting used to the current tax code, it will revert to its pre-2001 level. That is simply unfair. In order to plan for the long term, families and businesses need to know that the lower taxes we enacted last year will be permanent.

An important part of the tax package that we approved last year was the inclusion of elementary and secondary public education under the private activities for which tax exempt bonds are issued. This provision will make it easier for States and school districts to raise money to build schools. In a State like mine, where there is a pressing need for school construction and not much revenue to fund it, this tax provision is very important. To see it end in 2010 would prevent many necessary facilities from being built.

The harm caused by the sunsetting of this tax provision is clearly illustrated by the plight of many of my State’s school districts. During my travels throughout Idaho, I visited quite a few schools, many of which were the products of New Deal work projects in the 1930’s. These schools are falling apart now, though, and school districts have a very difficult time raising the necessary revenue to construct new buildings. Idaho, like many States, is suffering from reduced tax revenue, so aid from the State is just not available to supplement school districts’ revenue. Another problem is that it takes a supermajority and a levy for property taxes to finance school districts, and in quite a few of Idaho’s districts, taxpayers are already paying high taxes. In many instances, the revenue isn’t there for school districts.

We recognized that problem last year and helped out school districts by providing tax incentives for school construction bonds. This type of tax relief is the best way we in Washington can help school districts. Even though we’ve been increasing the Federal role in education over the past few years, education matters such as school construction are still primarily a local function, as the Supreme Court has very clearly stated. The only step we take to insert a Federal role into this local authority is a step that must be carefully considered. By providing tax incentives for these local school districts, though, we are not undermining their authority. We are giving them tools to help themselves, and help the children they are serving. Let’s make sure that the tax code lets them continue to help these children after 2010, so that no child is ever left behind.

By Mr. FEINGOLD:
S. 2780. A bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States; to the Committee on Environment and Public Works.

Mr. FEINGOLD. Mr. President, I rise today to introduce important legislation to affirm Federal jurisdiction over isolated wetlands. I am pleased to be joined by Representatives Oberstar and Dingell, who are today introducing companion legislation in the House of Representatives.

In the U.S. Supreme Court’s January 2001 decision, Solid Waste Agency of Northern Cook County versus the Army Corps of Engineers, a 5 to 4 majority limited the authority of Federal agencies to use the so-called migratory bird rule as the basis for asserting Clean Water Act jurisdiction over non-navigable, intrastate, isolated wetlands, streams, ponds, and other waterbodies.

This decision, known as the SWANCC decision, means that the Environmental Protection Agency and Army Corps of Engineers can no longer enforce Federal Clean Water Act protection mechanisms to protect a waterway solely on the basis that it is used as habitat for migratory birds.

In its discussion of the case, the Court went beyond the issue of the migratory bird rule and questioned whether Congress intended the Clean Water Act to provide protection for isolated ponds, streams, wetlands and other waters, as it had been interpreted to provide for most of the last 30 years. While not the legal holding of the case, the Court’s discussion has resulted in a wide variety of interpretations by EPA and Corps officials that jeopardize protection for wetlands, and other waters.

The wetlands at risk include prairie potholes and bogs, familiar to many in Wisconsin, and many other types of wetlands.

In effect, the Court’s decision removed much of the Clean Water Act protection for between 30 percent to 60 percent of the Nation’s wetlands. An estimate from my home state of Wisconsin suggested that more than 60 percent of the wetlands lost Federal protection in my State. My State is not unique. The National Marine Fisheries Service and State Wetland Managers have been collecting data from states across the country. For example, Nebraska estimates they will lose more than 40 percent of their wetlands. Indiana estimates they will lose 30 percent of their wetland acreage and 74 percent of the total number of wetlands. Delaware estimates the loss of 33 percent or more of their freshwater wetlands. These wetlands absorb floodwaters, prevent pollution from reaching our rivers and streams, and provide crucial habitat for most of the nation’s ducks and other waterfowl, as well as hundreds of other bird, fish, shellfish and amphibian species. We have a devastating effect on our environment.

In addition, by narrowing the water and wetland areas subject to Federal regulation, the decision also shifts more of the economic burden for regulating wetlands to the States and local governments. My home State of Wisconsin has passed State legislation to assume the regulation of isolated wetlands, but many other States have not. This patchwork of regulation means that the standards for protection of wetlands nationwide is unclear, confusing, and jeopardizes the migratory birds and other wildlife that depend on these wetlands.

Therefore, Congress needs to re-establish the common understanding of the Clean Water Act’s jurisdiction to protect all waters of the U.S. the understanding that Congress had when the Act was adopted in 1972 as reflected in the 1972 legislative history, and longstanding regulations, practice, and judicial interpretations prior to the SWANCC decision.

The proposed legislation does three things. It adopts a statutory definition of waters of the United States based on a longstanding definition of waters in the Corps of Engineers’ regulations. Second, it deletes the term “navigable” from the Act to clarify that Congress’s primary concern in 1972 was to protect the nation’s waters from pollution, rather than just sustain the navigability of waterways, and to reinforce that original intent.

Finally, it includes a set of findings that explain the factual basis for Congress to assert its constitutional authority over waters and wetlands, including those that are called isolated, on all relevant Constitutional grounds, including the Commerce Clause, the Necessary and Proper Clause, and the Necessary and Proper Clause. Additionally, the findings clarify Congress’ view that protection of isolated wetlands and other waters is critical to protect water quality, public safety, wildlife, and other public interests, including hunting and fishing.

I also am very pleased to have the support of so many environmentally
This legislation is a first step in doing that we need to re-affirm the Federal protection for the National Association of State Wildlife Federation, Sierra Club, and the National Association of State Waterfowl Conser...

companies lack similar protection. The Marketing Practices Act, PMPA, was enacted in the 103rd Congress in 1994, the Petroleum Refiners or distributors of lubricating oil were protected by complying with PMPA in motor fuels. Consequently, it is hard to believe it would be much of an imposition to include the much small segment of lubricant franchisees. I introduce this bill today because it protects small businesses, benefits consumers and ensures fair competition in the marketplace.

In short, this bill is the right thing to do and I hope my colleagues will support it. 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. 2781
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. PROTECTION OF FRANCHISED DISTRIBUTORS OF LUBRICATING OIL.

(a) DEFINITIONS.—Section 101 of the Petroleum Marketing Practices Act (15 U.S.C. 2801) is amended—

(1) in paragraph (1) (B)—

(A) a retailer or distributor that is authorized or permitted, under a franchise, to use a trademark in connection with the sale, consignment, or distribution of lubricating oil, a determination made by the franchisor in good faith and in the normal course of business to withdraw from the marketplace;

(ii) any contract under which a refiner authorizes or permits a distributor to use, in connection with the sale, consignment, or distribution of lubricating oil, a trademark that is owned or controlled by the refiner; and

(2) in paragraphs (2), (5), and (6), by inserting “or lubricating oil” after “motor fuel” each place it appears;

(3) by striking paragraphs (3) and (4) and inserting the following:

“(3) FRANCHISEE.—The term ‘franchisee’ means—

(A) a retailer or distributor that is authorized or permitted, under a franchise, to use a trademark in connection with the sale, consignment, or distribution of motor fuel; or

(B) a distributor that is authorized or permitted, under a franchise, to use a trademark in connection with the sale, consignment, or distribution of lubricating oil, a determination made by the franchisor in good faith and in the normal course of business to withdraw from the marketplace;”.

“(4) FRANCHISOR.—The term ‘franchisor’ means—

(A) a refiner or distributor that authorizes or permits, under a franchise, a retailer or distributor to use a trademark in connection with the sale, consignment, or distribution of motor fuel; or

(B) a refiner that authorizes or permits, under a franchise, a distributor to use a trademark in connection with the sale, consignment, or distribution of motor fuel; and

(4) by adding at the end the following:

“(20) LUBRICATING OIL.—The term ‘lubricating oil’ means any grade of paraffinic or naphthenic lubricating oil stock that is refined from crude oil or synthetic lubricants.”.

This unfair practice stifles competition in the marketplace and invaribly results in raising the price of the product, which hurts American consumers and small business. This is especially troublesome in rural areas.

Given the increasingly anti-competitive nature of the petroleum industry, the time has come to extend protections under current law for motor fuel marketers to include lubricant franchisees. There are approximately 3,500 independent distributors and nearly 25,000 commercial retail oil outlets that could be impacted by the increasing frequency of lubricant franchise cancellations. Refineries have not suffered from these practices.

By Mr. SMITH of Oregon (for himself, Mr. REID, Mr. WYDEN, Mr. ENSEN, Mrs. CLINTON, Mr. SCHUMER, Mrs. BOXER, and Mrs. FEINSTEIN):

S. 2782. A bill to amend part C of title XVII of the Social Security Act to consolidate and restate the Federal laws relating to the social health maintenance organization projects, to make such projects permanent, to require the Medicare Payment Advisory Commission to conduct a study on ways to expand such projects, and for other purposes; to the Committee on Finance.

Mr. SMITH of Oregon. Mr. President, I rise today to introduce a bill that will make Medicare’s Social Health Maintenance Organization, SHMO, demonstration a permanent part of the Medicare-Choice, M+C, program. I am joined by my colleagues from Oregon, New York, Arizona, and California. The Social Health Maintenance Organization, SHMO, demonstration authorized 17 years ago to test models for improving care for frail seniors, expanding access to social and supportive services and better integrating these expanded benefits with medical services. Clearly, a seventeen year test is long enough—it’s time for this successful program to become a permanent choice for Medicare beneficiaries.

Close to 80 percent of national health care expenditures are for persons with chronic conditions. Medicare beneficiaries are disproportionately affected by chronic illness. About 85 percent of people 65 and older have one chronic condition, and two thirds have two or more. Fully a third of Medicare beneficiaries have four or more chronic conditions. This group accounts for almost 80 percent of all Medicare spending. Yet, despite the predominance of chronic illness among seniors, Medicare continues to operate as an acute care model. So many of the services that are central to the health care needs of seniors are not covered by Medicare, including a number of preventive services, case management and disease management services, and home and community-based support services.
Social HMOs provide the care coordination and disease management services so critically important to frail and at-risk seniors with multiple chronic conditions and complex care needs. They are required to provide expanded care coordination (e.g., prescription drugs, ancillary services such as eyeglasses and hearing aids, and community-based services such as personal care, homemaker services, adult day care, meals, and transportation). These services meet the chronic health care needs of seniors, helping them remain independent, while reducing Medicaid expenditures by avoiding or delaying nursing home placement.

Several recent studies have shown that Social HMO members, over three-quarter of respondents indicated that the services received by their Social HMO were important to allowing them to keep living at home. Enhanced Social HMO services, such as early detection of illness, development of coordinated care plans to address problems identified during routine assessments, screening, and ongoing monitoring of care, has paid off in improved health outcomes for beneficiaries.

I am fortunate to represent one of the four original Social HMOs that were authorized as part of the initial Medicare demonstration project in 1985. Senior Advantage II, offered by Kaiser Permanente’s Northwest Division, currently serves about 4,300 Medicare beneficiaries from Salem, OR to Longview, WA, with its primary service area in Portland, OR. Since Kaiser opened its Social HMO program, it has served close to 15,000 beneficiaries with its enhanced benefits and special geriatric programs, which have led to fewer overall nursing home care days and a more consumer-oriented approach to care for frail or ill seniors.

The legislation I am introducing with my distinguished colleagues today would make permanent the existing Social HMO plans, like Kaiser, and would lay the groundwork for evaluating whether to expand and replicate this model. Our bill requires the Secretary to conduct a comparative study of beneficiary and family member satisfaction between Social HMOs compared to Medicare+Choice and fee-for-service Medicare. It also requires MedPAC to evaluate the cost-effectiveness of Social HMOs with respect to reduced nursing home admissions, reduced incidence of Medicaid spend-down and other aspects of the model that represent potential cost-savings. If MedPAC finds that Social HMOs are cost-effective, it must make recommendations to Congress on expanding and replicating this model.

To ensure that beneficiaries continue to receive the value added they have come to enjoy under this program, the Social HMOs must continue to provide the expanded benefit package currently offered under this legislation. Further, this benefit could not be changed by the Secretary without notification of Congress. Finally, to ensure that Social HMOs, which have significantly higher risk levels than average Medicare+Choice enrollees, could continue to finance a high level of benefits, any changes in plans’ existing payments would need to go through a formal rulemaking process.

The Social HMO demonstration project has been re-validated by six acts of Congress since its creation. It is time to make this program permanent and lend a measure of stability to the plans and beneficiaries served by this innovative model. This project represents a fiscally sound approach to helping manage the chronic health care needs of our Nation’s seniors, and I urge all of my colleagues to join with me and the rest of this bill’s cosponsors in support of 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:

S. 2782

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, in the year of our Lord two thousand and two.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Senior Advantage and Independence Preservation Act of 2002".

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

| Sec. 1. Short title; table of contents. |
| Sec. 2. Making the social health maintenance organization (SHMO) projects permanent. |
| Sec. 3. Expansion of SHMO projects into noncontiguous service areas with state. |
| Sec. 4. Permanence of SHMO planning grants. |
| Sec. 5. Procedures for SHMO benefit and payment mechanisms changes. |
| Sec. 6. Comprehensive MedPAC study on SHMO I and SHMO II cost-effectiveness and potential expansion. |
| Sec. 7. SHMO Beneficiary satisfaction survey. |
| Sec. 8. Conforming cross-references. |
| Sec. 9. Legislative purpose and construction. |
| Sec. 10. Repeals. |

SECTION 2. MAKING THE SOCIAL HEALTH MAINTENANCE ORGANIZATION (SHMO) PROJECTS PERMANENT.

Part C of title XVIII of the Social Security Act (42 U.S.C. 1395w et seq.) is amended by inserting after section 1857 the following new section:

"WAIVERS FOR SOCIAL HEALTH MAINTENANCE ORGANIZATION (SHMO) PROJECTS."—

Sec. 1858. (a) ESTABLISHMENT OF SHMO PROJECTS.—In the case of a project described in subsection (b), the Secretary shall approve, with appropriate terms and conditions as defined by the Secretary, applications or protocols submitted for waivers described in subsection (c), and the evaluation of such protocols, in order to carry out such project. Such approval shall be effective not later than 30 days after the date on which the application or protocol for a waiver is submitted or not later than 30 days after the date of enactment of the Deficit Reduction Act of 1984 (Public Law 98-369; 98 Stat. 394) in the case of an application or protocol submitted before the date of enactment of such Act. Not later than 36 months after the date of enactment of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1338), the Secretary shall approve applications or protocols described in paragraph (1) for not more than 4 additional projects described in section 1858 of such Act. Not later than 36 months after the date of enactment of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1338), the effectiveness and feasibility of innovative approaches to refinements targeting and financing methodologies and benefit design, including the effectiveness of feasibility of—

(1) the benefits of expanded post-acute and community care case management transitions between chronic care management services and acute care providers;

(2) refining targeting or reimbursement methodologies;

(3) the establishment and operation of a rural services delivery system;

(4) integrating acute and chronic care management for patients with end-stage renal disease through expanded community care case management services (and for purposes of a project conducted under this Act, any refinements under a waiver granted under this section that a project development individuals who develop end-stage renal disease shall not apply); and

(5) the effectiveness of second-generation sites in reducing the costs of the commencement and management of health care service delivery.

(1) definitions—

(1) certain requirements of this title, pursuant to section 402(a) of the Social Security Amendments of 1967 (Public Law 90-248; 81 Stat. 908), as amended by section 222 of the Social Security Amendments of 1972 (Public Law 92-603; 86 Stat. 1390); and

(2) certain requirements of title XIX, pursuant to section 1115.

(3) in the case of a project conducted as a result of the amendments made by section 4207(b)(4)(B)(I) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1338), any requirement pursuant to section 1618 or XIX that, if imposed, would prohibit such project from being conducted; and

(4) aggregate limit on number of beneficiaries.—The Secretary shall not impose a limit on the number of individuals that may participate in a project conducted under this section and shall not impose an aggregate limit on not less than $32,000 for all sites.

(2) REPORTS.—
SEC. 3. PROCEDURES FOR SHMO BENEFIT AND PAYMENT MECHANISM CHANGES.

(a) CONGRESSIONAL NOTIFICATION OF BENEFIT CHANGES.—The Secretary of Health and Human Services shall notify the appropriate committees of Congress prior to making any change to the benefits available under a project under section 1858 of the Social Security Act (as added by section 2).

(b) RULEMAKING REQUIREMENT FOR PAYMENT MECHANISM CHANGES.—The Secretary may not change the payment mechanism applicable with respect to any social health maintenance organization project under section 1858 of the Social Security Act (as added by section 2).

(c) AUTHORITY.—(1) The Secretary may not change the payment mechanism applicable with respect to any social health maintenance organization project under section 1858 of the Social Security Act (as added by section 2).

(2) PAYMENT POLICY.—The Secretary shall make payments under this section not later than the date on which the Secretary submits to Congress the report described in paragraph (1), the Commissioner shall take into account—

(I) the extent to which the program or plan of payment for enrollees in a social health maintenance organization do not exceed the average per beneficiary costs to the medicare program for a comparable case mix of beneficiaries who are enrolled in the original medicare fee-for-service program;

(II) the actuarial value of items and services available to beneficiaries enrolled in a social health maintenance organization but not available to beneficiaries enrolled in the original medicare fee-for-service program; and

(iii) the extent to which social health maintenance organizations have reduced expenditures under the medicare program under title XVIII of such Act (as added by section 2); and

(iv) recommendations on whether the medicare program shall take into account the following factors:

(A) Age.

(B) Gender.

(C) Diagnoses.

(d) AUTHORITY.—(1) Authorization of Appropriations.—The Congress may appropriate $5,200,000 for the technical assistance and evaluation related to projects conducted as a result of the amendments made by section 1858 of the Social Security Act (as added by section 2).

(2) PAYMENT POLICY.—The Secretary shall make payments under this section not later than the date on which the Secretary submits to Congress the report described in paragraph (1).

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,300,000 for the technical assistance and evaluation related to projects conducted as a result of the amendments made by section 1858 of the Social Security Act (as added by section 2).

(b) PAYMENT POLICY.—The Secretary shall make payments under this section not later than the date on which the Secretary submits to Congress the report described in paragraph (1).

SEC. 4. PERMANENCE OF SHMO PLANNING GRANTS:

(a) ORIGINAL SHMO II DEMONSTRATIONS.—The 5 organizations authorized by section 4207(b)(4)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 101 Stat. 1388–138) to demonstrate the concept of social health maintenance organizations participating in a project conducted under section 1858 of the Social Security Act (as added by section 2) to expand the service area of such organization to include areas within the State served by the organization that are not contiguous to any other service area of the organization.

(b) SHMO II DUAL-ELIGIBLE PLANNING GRANTS.—Each entity that received a planning grant under section 1858(e) of the Social Security Act (as added by section 2) to expand the service areas of such organization to include areas within the State served by the organization that are not contiguous to any other service area of the organization.
Today I am introducing legislation to correct a flaw in our tax system that penalizes those who die while serving in our Armed Forces. The Honor Our Heroes Act will restore compassion to the tax code. It exempts from taxation the money the government provides following the death of an active duty servicemember. This payment is known as the death gratuity benefit.

Families are often crushed by the weight of funeral and other immediate expenses after a spouse, parent, or child is killed while serving in the military. Congress recognized that, at the very least, we owe these men and women assistance with this burden. In 1986, when the benefit was set at $3,000, women assistance with this burden. In the very least, we owe these men and women assistance with this burden. In the very least, we owe these men and women assistance with this burden. In the very least, we owe these men and women assistance with this burden.

Today I am introducing legislation to correct a flaw in our tax system that penalizes those who die while serving in our Armed Forces. The Honor Our Heroes Act will restore compassion to the tax code. It exempts from taxation the money the government provides following the death of an active duty servicemember. This payment is known as the death gratuity benefit.

Families are often crushed by the weight of funeral and other immediate expenses after a spouse, parent, or child is killed while serving in the military. Congress recognized that, at the very least, we owe these men and women assistance with this burden. In 1986, when the benefit was set at $3,000, women assistance with this burden. In the very least, we owe these men and women assistance with this burden. In the very least, we owe these men and women assistance with this burden. In the very least, we owe these men and women assistance with this burden.
the Arkansas Valley Conduit in the State of Colorado; to the Committee on Energy and Natural Resources.

Mr. ALLARD. Mr. President, water is a precious resource that nourishes our civilization and cultivates our society. Yet finding clean, inexpensive water in Southeastern Colorado, can be difficult. That is why today I am introducing legislation that paves the way for expedited construction of the Arkansas Valley Conduit, a pipeline that will provide the small, financially strapped towns and water agencies along the Arkansas River with safe, clean, affordable water. By providing for the Federal Government to pay for 75 percent of the costs of the Conduit, we can put Southeastern Coloradans in the position of being able to provide themselves with the water that they so vitally need.

The Conduit was originally authorized with the enactment of the Fryingpan-Arkansas Project in 1962. Due to Southeastern Colorado’s depressed economic status and the fact that the authorizing statute lacked a costsharing formula, the Conduit was never built. Until recently, the region has been fortunate enough to enjoy an economical and safe alternative to pipeline-transportation of Project Water: the Arkansas River. Sadly, the water quality in the Arkansas study area has seriously declined. At the same time, the federal government has continued to strengthen its water quality standards while providing no assistance to water municipalities struggling to meet those standards. In order to comply with these standards, in order to comply with these standards, the region’s municipalities have begun exploring options for water treatment, some of which are estimated to cost between $20,000,000 and $40,000,000. Taken together, the municipalities alone are facing potential expenditures of $320,000,000 to $640,000,000, simply to comply with federal mandated water quality standards. As you know, this is not a financially feasible option for small farming communities.

The local sponsors of the project have initiated, and are nearing the completion of, an independently funded feasibility study of the Conduit. They have developed a coalition of support from water users in Southeastern Colorado and are exploring options for financing their 25 percent share of the costs. Because forty years have passed between the enactment of the authorizing statute and the current efforts to build the Conduit, the Bureau of Reclamation has stated that a Reevaluation Statement, rather than a Reevaluation and to begin work in earnest on the Conduit.

I am pleased to learn that the Appropriations Committee is currently working to include the funding for the Reevaluation Statement, the Conduit’s next step.

With the help of my colleagues, the promise made forty years ago to the people of Southeastern Colorado, will finally become a reality. Thank you. I ask unanimous consent that the bill be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2786
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COST-SHARING REQUIREMENT FOR THE ARKANSAS VALLEY CONDUIT IN THE STATE OF COLORADO.

(a) IN GENERAL.—Section 7 of Public Law 87-590 (76 Stat. 393) is amended—

(1) by striking ‘‘SEC. 7.‘‘ and inserting the following: ‘‘SEC. 7. AUTHORIZATION OF APPROPRIATIONS.—There are authorized—

(2) in the first sentence, by striking ‘‘There is hereby authorized’’ and inserting the following:

(a) CONSTRUCTION.—There is authorized; and

(b) OPERATIONS AND MAINTENANCE.—There are; and

(4) by adding at the end the following:

(c) ARKANSAS VALLEY CONDUIT.—

(i) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to pay the Federal share of the costs of constructing the Arkansas Valley Conduit in accordance with subsection (a) of the first section.

(2) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share of the total costs of construction (including design and engineering costs) of the Arkansas Valley Conduit shall be not more than 25 percent.

(B) FORM.—Up to 100 percent of the non-Federal share may—

(i) be in the form of in-kind contributions; or

(ii) consist of amounts made available under any other Federal law.’’;

(b) APPLICABILITY.—The amendments made by subsection (a) apply to any costs of constructing the Arkansas Valley Conduit incurred during fiscal year 2002 or any subsequent fiscal year.

By Mr. DASCHLE:

S. 2768. A bill to revise the boundary of the Wind Cave National Park in the State of South Dakota; to the Committee on Energy and Natural Resources.

Mr. DASCHLE. Mr. President, today I am introducing the Wind Cave National Park Boundary Revision Act.

Wind Cave National Park, located in southwestern South Dakota, is one of the Park system’s precious natural treasures and one of the Nation’s first national parks. The cave itself, after which the park is named, is one of the world’s oldest, longest and most complex cave systems, with more than 103 miles of mapped tunnels. The cave is well known for its exceptional display of boxwork, a rare, honeycomb-shaped formation that protrudes from the cave’s ceilings and walls. While the cave is the focal point of the park, the land above the cave is equally impressive, with 28,000 acres of rolling meadows, majestic forests, creeks, and streams. As one of the few remaining mixed-grass prairie ecosystems in the country, the park is home to abundant wildlife such as bison, elk and birds, and is a National Game Preserve.

The Wind Cave National Park Boundary Revision Act will help expand the park by approximately 20 percent in the southern, less visited region. This land currently is owned by a ranching family that wants to see it protected from development and preserved for future generations. The land is a natural extension of the park, and boasts the mixed-grass prairie and ponderosa pine forests found in the rest of the park, including a dramatic river canyon. The addition of this land will enhance recreation for hikers who come for the solitude of the park’s back country. It will also protect archeological sites, such as a buffalo jump over which early Native Americans once drove the bison they hunted, and improve fire management.

This plan to expand the park has strong, but not universal, support in the surrounding community, whose views recently were expressed during a 60-day public comment period on the proposal. Most South Dakotans recognize the value in expanding the park, not only to encourage additional tourism, but to help the Black Hills permanently protect these extraordinary lands for future generations of Americans to enjoy. Understandably, however, some are legitimately concerned about the potential loss of hunting opportunities and local tax revenue.

Governor Janklow has expressed his conditional support for the park expansion, stating that there must be no reduction in the amount of lands with public access that currently can be hunted, that there be no loss of tax revenue to the county from the expansion, and that chronic wasting disease issues must be dealt with effectively. There are reasonable conditions that should be met as this process moves forward.

This legislation I am introducing today protects hunting opportunities for sportmen by excluding 880 acres of School and Public Lands property from the expansion. In addition, Wind Cave National Park and Public Lands are working with interested parties to find a way to offset the loss of local county tax revenues. Finally, I understand that the South Dakota Game, Fish, and Parks Department has reached an agreement with Wind Cave officials to expand research into chronic wasting disease, which will benefit wildlife populations nationwide. I am satisfied that the legitimate concerns about the potential expansion have been effectively addressed and today am moving forward with the legislative phase of this process.

In conclusion, Wind Cave National Park has been a valued American
treasure for nearly 100 years. We have an opportunity with this legislation to expand the park and enhance its value to the public so that visitors will enjoy it even more during the next 100 years. It is my hope that my colleagues will support this expansion of the park and pass this legislation in the near future.

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. 2788

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 “Wind Cave National Park Boundary Revision Act of 2002.”

SEC. 2. DEFINITIONS.

In this Act:

(1) MAP.—The term “map” means the map entitled “Wind Cave National Park Boundary Revision Act of 2002.”

(2) PARK.—The term “Park” means the Wind Cave National Park in the State.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(4) STATE.—The term “State” means the State of South Dakota.

SEC. 3. LAND ACQUISITION.

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary may acquire any land under subsection (a)(1) as part of the Park in accordance with laws (including regulations) applicable to the Park.

(b) BOUNDARY.—

The boundary of the Park shall be adjusted to reflect the acquisition of land under subsection (a)(1).

SEC. 4. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer any land acquired under section 3(a)(1) as part of the Park in accordance with laws (including regulations) applicable to the Park.

(b) TRANSFER OF ADMINISTRATIVE JURISDICTION.—

(1) IN GENERAL.—The Secretary shall transfer from the Director of the Bureau of Land Management, or the Director of the National Park Service, administrative jurisdiction over the land described in paragraph (2).

(2) MAP AND ACREAGE.—The land referred to in paragraph (1) consists of the approximately 80 acres of land identified on the map as “Bureau of Land Management land”.

SEC. 5. GRAZING.

(a) THE PARK.—

(1) PERMITTING.—Subject to any permits or leases in existence as of the date of acquisition, the Secretary may permit the continuation of livestock grazing on land acquired under subsection (a)(1).

(b) LIMITATION.—Grazing under subsection (a) shall be at not more than the level existing on the date on which the land is acquired under subsection (a).

(c) PURCHASE OF PERMIT OR LEASE.—The Secretary may purchase the outstanding portion of a grazing permit or lease on any land acquired under section 3(a)(1).

(d) TERMINATION OF LEASES OR PERMITS.—The Secretary may accept the voluntary termination of leases or permits on any acquired land.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4316. Mr. ROCKEFELLER (for himself, Ms. Collins, Mr. Nelson of Nebraska, Mr. Smith of Oregon, Mrs. Lincoln, Mr. Duren, Mr. Corzine, Mr. Harkin, Mr. Mrukowski, Mr. Hutchinson, Mrs. Collins, Mr. Torricelli, Mr. Wellstone, Mr. Schumer, Mr. Mikulski, Mr. Kerry, Mr. Landrieu, Mr. Bingaman, Mrs. Feinstein, Mr. Murray, Ms. Snowe, Mr. Enzi, Mr. Johnson, Mr. Sarbanes, Mr. Dayton, Mr. Leahy, Ms. Cantwell, Mr. Bayh, Mr. Kennedy, Mr. Jeffords, Mr. Cleland, Mr. Miller, and Mr. Cochrane) proposed an amendment to amend section 2 of S. 4316 by substituting for the bill (S. 4316) in the table to the bill (S. 812) to amend title XIX of the Social Security Act (42 U.S.C. 1396) with respect to the Secretary’s flexibility with respect to any waiver under title XIX of the Social Security Act (42 U.S.C. 1315) or a cap amount under paragraph (4) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on January 1, 2002.

SA 4318. Mr. CLINTON (for herself, Ms. DeWine, Mr. Dodd, and Mr. Bingaman) submitted an amendment intended to be proposed by her to the bill (S. 812) supra, which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4316. Mr. ROCKEFELLER (for himself, Ms. Collins, Mr. Nelson of Nebraska, Mr. Smith of Oregon, Mrs. Lincoln, Mr. Duren, Mr. Corzine, Mr. Harkin, Mr. Mrukowski, Mr. Hutchinson, Mrs. Collins, Mr. Torricelli, Mr. Wellstone, Mr. Schumer, Mr. Mikulski, Mr. Kerry, Ms. Landrieu, Mr. Bingaman, Ms. Feinstein, Mrs. Murray, Ms. Snowe, Mr. Enzi, Mr. Johnson, Mr. Sarbanes, Mr. Dayton, Mr. Leahy, Ms. Cantwell, Mr. Bayh, Mr. Kennedy, Mr. Jeffords, Mr. Cleland, Mr. Miller, and Mr. Cochrane) proposed an amendment to amend section 2 of S. 4316 by substituting for Mr. REID (for Mr. Dorgan (for himself, Mr. Wellstone, Mr. Jeffords, Ms. Stabenow, Ms. Collins, Mr. Lincoln, Mr. Inouye, Mr. Meth almonds, Mr. Fein, 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.

SA 4317. Mrs. CLINTON (for herself, Mr. DeWine, Mr. Dodd, and Mr. Bingaman) submitted an amendment intended to be proposed by her to the bill (S. 812) supra, which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4318. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill (S. 812) supra, which was ordered to lie on the table.

TEXT OF AMENDMENTS

SEC. 6. TEMPORARY STATE FISCAL RELIEF.

(a) TEMPORARY INCREASE OF MEDICAID FMAP.

(1) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to paragraph (5), if the FMAP determined without regard to this section for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the FMAP for the State for fiscal year 2003 for each calendar quarter of fiscal year 2003, before the application of this subsection.

(2) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to paragraph (5), if the FMAP determined without regard to this section for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the FMAP for the State for fiscal year 2003 for each calendar quarter of fiscal year 2003, before the application of this subsection.

(3) GENERAL 1.35 PERCENTAGE POINTS INCREASE FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2002 AND FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to paragraphs (5) and (6), for each State, for the third and fourth calendar quarters of fiscal year 2002 and the third and fourth calendar quarters of fiscal year 2003, the FMAP (taking into account the application of paragraphs (1) and (2)) shall be increased by 1.35 percentage points.

(4) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, but subject to paragraph (6), with respect to the third and fourth calendar quarters of fiscal year 2002 and each calendar quarter of fiscal year 2003, the amounts otherwise determined for Puerto Rico, the Virgin Islands, the Northern Mariana Islands, and American Samoa under subsections (1) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1316) shall be each increased by an amount equal to 2.7 percent of such amounts.

(5) SCOPE OF APPLICATION.—The increases in the FMAP for a State under title XIX of the Social Security Act and shall not apply with respect to—

(6) STATE ELIGIBILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), a State is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) only if the eligibility under such plan (or waiver) as in effect on January 1, 2002.

(B) STATE RESTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on January 1, 2002.

(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) or (B) shall be construed as affecting a State’s flexibility with respect to benefits offered under the State medical assistance plan title of the State’s Medicaid plan (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).
SEC. 505B. PEDIATRIC LABELING OF DRUGS AND BIOLOGICAL PRODUCTS.

(a) NEW DRUGS AND BIOLOGICAL PRODUCTS.

(1) IN GENERAL.—A person that submits an application (or supplement to an application) under section 505 of the Federal Food, Drug, and Cosmetic Act to develop a drug or biological product (or a new dosage form, new route of administration, or new dosing regimen) for use in pediatric patients for the labeled indications; and

(2) PARTIAL WAIVER.

(b) MARKETED DRUGS AND BIOLOGICAL PRODUCTS.

(i) the drug or biological product is ready for approval for use in adults before pediatric studies are complete; or

(ii) the pediatric studies should be delayed until additional safety or effectiveness data have been collected; and

(c) USE OF FUNDS.—Funds appropriated under this section may be used by a State for services directed at the goals set forth in section 2001, subject to the requirements of this title.

(d) PAYMENT TO STATES.—Not later than 30 days after the Secretary appropriates under subsection (a), in addition to any payment made under section 2002 or 2007, the Secretary shall make a lump sum payment to a State of the total amount of the allotment for the State as specified in subsection (b).

(e) DEFINITION.—For purposes of this section, the term "State" means the 50 States, the District of Columbia, and the territories contained in the list under subsection (b)."

(2) REPEAL.—Effective as of January 1, 2005, section 2008 of the Social Security Act, added by Public Law 108-199, is repealed.

(3) DEFERRAL.—On the request of the Secretary or the applicant, the Secretary may defer submission of some or all assessments required under paragraph (1) until a specified date after approval of the drug or issuance of the license for a biological product if—

(A) the Secretary finds that—

(i) the drug or biological product is ready for approval for use in adults before pediatric studies are complete; or

(ii) the pediatric studies should be delayed until additional safety or effectiveness data have been collected; and

(B) the applicant submits to the Secretary—

(i) a certified description of the planned or ongoing studies; and

(ii) evidence that the studies are being conducted or will be conducted with due diligence.

SEC. 5053. MARKETED DRUGS AND BIOLOGICAL PRODUCTS.

(a) IN GENERAL.—For the purposes of providing State fiscal relief allotments to States under this section, there are hereby appropriated, out of any funds in the Treasury not otherwise appropriated, $3,000,000,000.

Such funds shall be available for obligation by the State through June 30, 2004, and for expenditure by the State through September 30, 2004.

(b) ADDITIONAL TEMPORARY GRANTS FOR STATE FISCAL RELIEF.

(1) IN GENERAL.—For the purposes of providing State fiscal relief allotments to States under this section, there are hereby appropriated under subsection (a) of section 2001, subject to the requirements of this title, $5,000,000,000, and represents the obligation of the Federal Government in advance of appropriations Acts for the fiscal year 2004. This section constitutes budget authority for fiscal year 2004.

(2) PAYMENT TO STATES.

(A) IN GENERAL.—The Secretary shall pay to each State on or before the 15th day of each month after June 30, 2004, an amount equal to the ratio of—

(i) the amount appropriated under subsection (a); to

(ii) the total amount of the allotment for the State specified in subsection (b); multiplied by

(iii) the total amount of the allotment provided under this section.

(B) USE OF FUNDS.—Funds appropriated under this section may be used by a State for—

(i) the purpose of providing State fiscal relief allotments to States under this section, there are hereby appropriated under subsection (a) shall be allotted by the Secretary among the States in accordance with the following table:

<table>
<thead>
<tr>
<th>State</th>
<th>Allotment (in dollars)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>$33,918,100</td>
</tr>
<tr>
<td>Alaska</td>
<td>$8,488,200</td>
</tr>
<tr>
<td>Amer. Samoa</td>
<td>$80,680</td>
</tr>
<tr>
<td>Arizona</td>
<td>$47,601,600</td>
</tr>
<tr>
<td>Arkansas</td>
<td>$27,941,800</td>
</tr>
<tr>
<td>Calif.</td>
<td>$311,853,500</td>
</tr>
<tr>
<td>Colorado</td>
<td>$27,906,200</td>
</tr>
<tr>
<td>Connecticut</td>
<td>$44,511,200</td>
</tr>
<tr>
<td>Delaware</td>
<td>$6,906,000</td>
</tr>
<tr>
<td>District of Co-</td>
<td>$12,374,400</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Florida</td>
<td>$126,271,700</td>
</tr>
<tr>
<td>Georgia</td>
<td>$89,106,600</td>
</tr>
<tr>
<td>Guam</td>
<td>$135,300</td>
</tr>
<tr>
<td>Hawaii</td>
<td>$9,914,700</td>
</tr>
<tr>
<td>Idaho</td>
<td>$10,293,500</td>
</tr>
<tr>
<td>Illinois</td>
<td>$102,577,600</td>
</tr>
<tr>
<td>Indiana</td>
<td>$50,659,800</td>
</tr>
<tr>
<td>Iowa</td>
<td>$27,799,700</td>
</tr>
<tr>
<td>Kansas</td>
<td>$21,413,300</td>
</tr>
<tr>
<td>Kentucky</td>
<td>$44,504,800</td>
</tr>
<tr>
<td>Louisiana</td>
<td>$50,974,000</td>
</tr>
<tr>
<td>Maine</td>
<td>$17,841,100</td>
</tr>
<tr>
<td>Maryland</td>
<td>$44,228,600</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>$100,770,700</td>
</tr>
<tr>
<td>Michigan</td>
<td>$91,196,800</td>
</tr>
<tr>
<td>Minnesota</td>
<td>$73,515,400</td>
</tr>
<tr>
<td>Mississippi</td>
<td>$55,976,500</td>
</tr>
<tr>
<td>Missouri</td>
<td>$62,189,600</td>
</tr>
<tr>
<td>Montana</td>
<td>$8,242,000</td>
</tr>
<tr>
<td>Nebraska</td>
<td>$16,671,600</td>
</tr>
<tr>
<td>Nevada</td>
<td>$10,979,700</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>$10,549,400</td>
</tr>
<tr>
<td>New Jersey</td>
<td>$8,757,300</td>
</tr>
<tr>
<td>New Mexico</td>
<td>$46,401,900</td>
</tr>
<tr>
<td>New York</td>
<td>$79,538,300</td>
</tr>
<tr>
<td>North Carolina</td>
<td>$51,716,900</td>
</tr>
<tr>
<td>North Dakota</td>
<td>$51,716,900</td>
</tr>
<tr>
<td>N. Marlands I.</td>
<td>$50,000</td>
</tr>
<tr>
<td>Ohio</td>
<td>$116,370,900</td>
</tr>
<tr>
<td>Okla.</td>
<td>$309,941,800</td>
</tr>
<tr>
<td>Oregon</td>
<td>$34,327,200</td>
</tr>
<tr>
<td>Penn. Nevada</td>
<td>$159,099,700</td>
</tr>
<tr>
<td>Puerto Rico</td>
<td>$2,981,900</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>$16,394,100</td>
</tr>
<tr>
<td>South Carolina</td>
<td>$28,896,000</td>
</tr>
<tr>
<td>South Dakota</td>
<td>$6,293,700</td>
</tr>
<tr>
<td>Tenn.</td>
<td>$81,120,000</td>
</tr>
<tr>
<td>Texas</td>
<td>$159,799,800</td>
</tr>
<tr>
<td>Utah</td>
<td>$12,551,700</td>
</tr>
<tr>
<td>Vermont</td>
<td>$6,003,600</td>
</tr>
<tr>
<td>Virgin Islands</td>
<td>$126,800</td>
</tr>
<tr>
<td>Virginia</td>
<td>$44,288,300</td>
</tr>
<tr>
<td>Washington</td>
<td>$89,662,800</td>
</tr>
<tr>
<td>West Virginia</td>
<td>$19,849,600</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>$7,218,900</td>
</tr>
<tr>
<td>Wyoming</td>
<td>$3,176,400</td>
</tr>
</tbody>
</table>

Total $3,000,000,000.

SEC. 5054. ADDITIONAL TEMPORARY GRANTS FOR STATE FISCAL RELIEF.

SEC. 5055. ADDITIONAL TEMPORARY GRANTS FOR STATE FISCAL RELIEF.

(1) IN GENERAL.—For the purposes of providing State fiscal relief allotments to States under this section, there are hereby appropriated under subsection (a) of section 2001, subject to the requirements of this title, $5,000,000,000,.

Such funds shall be available for obligation by the State through June 30, 2004, and for expenditure by the State through September 30, 2004.

(b) ADDITIONAL TEMPORARY GRANTS FOR STATE FISCAL RELIEF.

(1) IN GENERAL.—For the purposes of providing State fiscal relief allotments to States under this section, there are hereby appropriated under subsection (a) of section 2001, subject to the requirements of this title, $5,000,000,000,.

Such funds shall be available for obligation by the State through June 30, 2004, and for expenditure by the State through September 30, 2004.

This section constitutes budget authority in advance of appropriations Acts for the fiscal year 2004.

(b) ADDITIONAL TEMPORARY GRANTS FOR STATE FISCAL RELIEF.

(1) IN GENERAL.—For the purposes of providing State fiscal relief allotments to States under this section, there are hereby appropriated under subsection (a) of section 2001, subject to the requirements of this title, $5,000,000,000,.

Such funds shall be available for obligation by the State through June 30, 2004, and for expenditure by the State through September 30, 2004.


(b) ADDITIONAL TEMPORARY GRANTS FOR STATE FISCAL RELIEF.

(1) IN GENERAL.—For the purposes of providing State fiscal relief allotments to States under this section, there are hereby appropriated under subsection (a) of section 2001, subject to the requirements of this title, $5,000,000,000,.

Such funds shall be available for obligation by the State through June 30, 2004, and for expenditure by the State through September 30, 2004.


(b) ADDITIONAL TEMPORARY GRANTS FOR STATE FISCAL RELIEF.

(1) IN GENERAL.—For the purposes of providing State fiscal relief allotments to States under this section, there are hereby appropriated under subsection (a) of section 2001, subject to the requirements of this title, $5,000,000,000,.

Such funds shall be available for obligation by the State through June 30, 2004, and for expenditure by the State through September 30, 2004.

"(b) The applicant demonstrates that reasonable attempts to produce a pediatric formulation necessary for that subpopulation have failed.

(3) LABELING REQUIREMENT.—If the Secretary grants a full or partial waiver because there is evidence that a drug or biological product would be ineffective or unsafe in pediatric populations, the information shall be included in the labeling for the drug or biological product.

(4) MEETINGS.—The Secretary shall meet at appropriate times in the investigational new drug program with the sponsor to discuss background information that the sponsor shall submit on plans and timelines for pediatric studies, or any planned request for waiver of pediatric studies.

(b) CONFORMING AMENDMENTS.—
(1) Section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(1)) is amended in the second sentence—
(A) by striking "(and (F)) and inserting "(F)"); and
(B) by striking the period at the end and inserting "." and (G) any assessments required under that section. The authority, if any, of the Secretary of Health and Human Services regarding specific populations other than the pediatric population shall be exercised in accordance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353) is amended by adding at the end the following:
"(b)(1) A drug manufacturer shall not offer or provide any non-monetary item or service to a health care professional in a manner or on a condition that would interfere with the independence of the health care professional's prescribing practice regarding pediatric studies."

(2) Section 505A(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355A(h)) is amended in the subsection heading, by striking "REGULATIONS" and inserting "PEDIATRIC STUDY REQUIREMENTS"; and by striking "pursuant to regulations promulgated by the Secretary" and inserting "by a provision of law (including a regulation) other than this section".

(3) Section 351(a)(2) of the Public Health Service Act (42 U.S.C. 265(a)(2)) is amended—
(A) by redesignating subparagraph (B) as subparagraph (C); and
(B) by inserting after subparagraph (A) the following:
"(B) PEDIATRIC STUDIES.—A person that submits an application for a license under this paragraph shall submit to the Secretary as part of the application any assessments required under section 505B of the Federal Food, Drug, and Cosmetic Act.".

(c) FINAL RULE.—Except to the extent that the final rule is inconsistent with the amendment made by subsection (a), the final rule promulgating regulations requiring manufacturers to assess the safety and effectiveness of biological products in pediatric patients (63 Fed. Reg. 66632 (December 2, 1998)), shall be considered to implement the amendment made by subsection (a).".

(d) NO EFFECT ON AUTHORITY.—Section 505B of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)) does not affect whatever existing authority the Secretary of Health and Human Services has to require pediatric assessments regarding the safety and efficacy of drugs and biological products in addition to the assessments required by this subsection. The authority, if any, of the Secretary of Health and Human Services regarding specific populations other than the pediatric population shall be exercised in accordance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) as in effect on the day before the date of enactment of this Act.

SA 4318. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 412, 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 appropriate place, insert the following:

"(A) the term 'drug manufacturer' means—
(1) a person who manufactures a prescription drug approved under section 505 or a biologic product licensed under section 351 of the Public Health Service Act (42 U.S.C. 262); or
(2) A drug manufacturer shall not offer or provide any non-monetary item or service to a health care professional in a manner or on a condition that would interfere with the independence of the health care professional's prescribing practice regarding pediatric studies.".

"(C) The term 'substantial value' means $100 or more.'"."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a Hearing during the session of the Senate on Wednesday, July 24, 2002, at 3 p.m. in SD-366.

The purpose of the hearing is to examine issues related to the need for and barriers to development of electricity infrastructure. The hearing will focus on DOE’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 2001.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS COMMITTEE ON FOREIGN RELATION

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet jointly with the Committee on Foreign Relations on Wednesday, July 24, 2002, at 10:30 a.m. to conduct a hearing to review environmental treaties implementation. The hearing will be held in SD-406.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. SCHUMER. 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 24, 2002 at 10:30 a.m. to hold a hearing on Environmental Treaties.

Agenda

Witnesses
Panel I: Mr. John F. Turner, Assistant Secretary for the Bureau of Oceans and International Environmental and Scientific Affairs, U.S. Department of State, Washington, DC; Mr. James Connaughton, Chair, White House Council on Environmental Quality, Washington, D.C.
Panel II: Mr. Maurice Strong, Chair, Earth Council Institute Canada, Toronto, Ontario, Canada; Professor John C. Dernbach, Widener University Law School, Harrisburg, P.A; Mr. Christopher C. Horner, Counsel, Competitive Enterprise Institute, Washington, D.C.

THE PRESIDING OFFICER. Without objection, it is so ordered.
COMMITTEE ON FOREIGN RELATIONS

Mr. SCHUMER. 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 24, 2002, at 2:30 p.m. to hold a nomination hearing.

Agenda

Nominees:
Ms. Kristie A. Kenney, of Maryland, to be Ambassador to the Republic of Ecuador.
Mr. Larry L. Palmer, of Georgia, to be Ambassador to the Republic of Honduras.
Mrs. Barbara C. Moore, of Maryland, to be Ambassador to the Republic of Nicaragua.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, July 24, 2002, at 9:30 a.m. for a business meeting to consider pending business.

Agenda

1. To authorize withdrawal of the Committee amendments and offering of a floor amendment in the nature of a substitute to the National Homeland Security and Combating Terrorism Act of 2002 (S. 2452) which the Committee ordered reported on May 22, 2002.

2. Nominations:
(a) James “Jeb” E. Boasberg to be an Associate Judge of the Superior Court of the District of Columbia.
(b) Michael D. Brown to be Deputy Director of the Federal Emergency Management Agency.
(c) The Honorable 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 INDIAN AFFAIRS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, July 24, 2002, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on ‘‘The Hearing on the Status of the Indian Housing Block Grant Program.’’

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate on Wednesday, July 24, 2002, beginning at 9:00 a.m. in room 428A of the Russell Senate Office Building to markup pending legislation.

Agenda

S. 2733 Small and Disadvantaged Business Ombudsman for Procurement;
S. 2325 Office of Native American Affairs at SBA;
S. 2734 Non-Farm Drought Relief;
S. 1994 Small Business Federal Contracts;
HR 2666 Vocational and Technical Entrepreneurship Development Program;
S. 2483 Pilot Program To Provide Regulatory Compliance Assistance To Small Business;
S. 2466 Contract Consolidation Requirements.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS’ AFFAIRS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Veterans’ Affairs be authorized to meet during the session of the Senate on Wednesday, July 24, 2002, for a hearing on ‘‘Mental Health Care: Can VA Still Deliver?’’

The hearing will take place in SR–418 of the Russell Senate Office Building at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CRIME AND DRUGS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Crime and Drugs be authorized to meet to conduct a hearing on ‘‘Ensuring Corporate Responsibility: Using Criminal Sanctions to Deter Wrongdoing,’’ on Wednesday, July 24, 2002, at 2:30 p.m. in SD226.

Tentative Witness List

The Honorable G. William Miller, Former Secretary of the U.S. Treasury, Former Chairman of the Federal Reserve Board, Chairman, G. William Miller & Co.

The Honorable Roderick Hills, Former Chairman of the U.S. Securities and Exchange Commission, Founder, Law Firms of Hills & Stern, Chairman, Hills Enterprises Ltd.


The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

Mr. SCHUMER. 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 24, 2002, at 2:30 p.m. to conduct an oversight hearing on ‘‘HUD’s Management Challenges.’’

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space of the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, July 24, 2002, at 2:30 p.m. on Women in Science and Technology.

The PRESIDING OFFICER. Without objection it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. DAYTON. Madam President, I ask unanimous consent that my staff person, Krystle J. Klima, be able to be on the floor for my colloquy with Senator WELLSTONE.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 107–171, announces the appointment of the following individuals to serve as members of the Board of Trustees of the Congressional Hunger Fellows Program: the Senator from Iowa (Mr. HARKIN); the Representative from North Carolina (Mrs. CLAYTON).

YANKTON SIOUX TRIBE AND SANTEE SIOUX TRIBE EQUITABLE COMPENSATION ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 507, S. 434.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 434) to provide equitable compensation to the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for the loss of value of certain lands.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs with amendments, as follows:

[Omit the part in black brackets and insert the part printed in italic.]

S. 434

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 ‘‘Yankton Sioux Tribe and Santee Sioux Tribe Equitable Compensation Act’’.

SEC. 2. FINDINGS AND PURPOSES.
(a) FINDINGS.—Congress finds that—
(1) by enacting the Act of December 22, 1944, commonly known as the ‘‘Flood Control Act of 1944’’ (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.) Congress approved the Pick-Sloan Missouri River Basin program (referred to in this section as the ‘‘Pick-Sloan program’’);
(A) to promote the general economic development of the United States;
(B) to provide for irrigation above Sioux City, Iowa;
(C) to protect urban and rural areas from devastating floods of the Missouri River; and
(D) for other purposes;
(2) the waters impounded for the Fort Randall and Gavins Point projects of the Pick-sloan program have inundated the fertile, wooded bottom lands along the Missouri River, the most productive agricultural and pastoral lands of, and the homeland of, the members of the Yankton Sioux Tribe and the Santee Sioux Tribe; (3) operations of the Fort Randall Dam and Reservoir) overlies the western boundary of the Yankton Sioux Tribe Indian Reservation; (4) the Gavins Point project (including the Gavins Point Dam and Reservoir) overlies the eastern boundary of the Santee Sioux Tribe; (5) although the Fort Randall and Gavins Point projects are major components of the Pick-sloan program, and contribute to the economy of the United States by generating a substantial amount of hydropower and imposing a substantial quantity of water, the reservations of the Yankton Sioux Tribe and the Santee Sioux Tribe remain undeveloped; (6) the United States Army Corps of Engineers took the Indian lands used for the Fort Randall and Gavins Point projects by condemnation proceedings; (7) the Federal Government did not give the Yankton Sioux Tribe and the Santee Sioux Tribe an opportunity to receive compensation for the taking of their Indian lands through the condemnation process. Pursuant to the Pick-sloan program, even though the Federal Government gave 5 Indian reservations upstream from the reservations of these Indian tribes an opportunity to substitute; (8) the Yankton Sioux Tribe and the Santee Sioux Tribe did not receive just compensation for the taking by condemnation of their Indian lands; (9) the settlement agreement that the Yankton Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution. Each tribal plan shall provide for the manner in which the tribe covered under the tribal plan shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of Treasury’s judgment, required to meet current withdrawals. Such investments 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. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund. (d) Payment of Interest to Tribe.—(1) Withholding of Interest.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and on the first day of each fiscal year thereafter, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for this fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation. (2) Payments to Yankton Sioux Tribe.—(A) In General.—The Yankton Sioux Tribe shall use the payments made under subparagraph (A) only for the purposes under section 4(d) or 5(d) to promote the economic development; (B) Infrastructure Development; (3) Use of Payments by Santee Sioux Tribe.—The Santee Sioux Tribe shall use the payments under section 4(d) or 5(d) to promote the educational, health, recreational, and social welfare objectives of the tribe and its members; or (4) any combination of the activities described in paragraphs (1), (2), and (3). (b) Funding.—(1) General.—Each tribal council referred to in subsection (a) shall make available to the Secretary of the Interior for use in accordance with this Act. (2) Adoption.—Each tribal council referred to in subsection (a) may, on an annual basis, revise the tribal plan prepared under this Act. (3) Consultation.—In preparing the tribal plan and any revisions to update the plan, each tribal council shall consult with the Secretary of the Interior and the Secretary of Health and Human Services.
VICKSBURG NATIONAL MILITARY PARK BOUNDARY MODIFICATION ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 546, S. 1175.

The PRESIDING OFFICER. The clerk will report the bill by title.

SEC. 1. SHORT TITLE.
This Act may be cited as the “Vicksburg National Military Park Boundary Modification Act of 2002”.

SEC. 2. MODIFICATION OF BOUNDARY.
The boundary of Vicksburg National Military Park is modified to include the property known as Pemberton’s Headquarters, as generally depicted on the map entitled “Boundary Map, Pemberton’s Headquarters at Vicksburg National Military Park”, numbered 80-015, and dated July, 2001. The map shall be on file and available for inspection in the appropriate offices of the National Park Service.

SEC. 3. ACQUISITION OF PROPERTY.
(a) PEMBERTON’S HEADQUARTERS.—The Secretary of the Interior is authorized to acquire the property described in section 2 and (b) by purchase, donation, or exchange, except that each property may only be acquired with the consent of the owner thereof.

(b) PARKING.—The Secretary is also authorized to acquire not more than one acre of land, or interest therein, adjacent to or near Pemberton’s Headquarters for the purpose of providing parking and other facilities related to the operation of Pemberton’s Headquarters. Upon the acquisition of the property referenced in this subsection, the Secretary of the Interior shall modify the boundaries of the park to reflect its inclusion.

SEC. 4. ADMINISTRATION.
The Secretary shall administer any properties acquired under this Act as part of the Vicksburg National Military Park in accordance with applicable laws and regulations.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.
There is authorized to be appropriated such sums as may be necessary to carry out this Act.

Mr. REID. Mr. President, I ask unanimous consent that the committee amendment in the nature of a substitute be agreed to; that the bill, as amended, be read a third time, and passed, and the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the Record.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.
(a) PEMBERTON’S HEADQUARTERS.—The Secretary of the Interior is authorized to acquire the properties described in section 2 and (b) by purchase, donation, or exchange, except that each property may only be acquired with the consent of the owner thereof.

(b) PARKING.—The Secretary is also authorized to acquire not more than one acre of land, or interest therein, adjacent to or near Pemberton’s Headquarters for the purpose of providing parking and other facilities related to the operation of Pemberton’s Headquarters. Upon the acquisition of the property referenced in this subsection, the Secretary of the Interior shall modify the boundaries of the park to reflect its inclusion.

HONORING CORINNE ‘‘LINDY’’ CLAIBORNE BOGGS ON 23RD ANNIVERSARY OF FOUNDING OF CONGRESSIONAL WOMEN’S CAUCUS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 439 just received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1175), as amended, was read the third time and passed.

HONORING CORINNE ‘‘LINDY’’ CLAIBORNE BOGGS ON 23RD ANNIVERSARY OF FOUNDING OF CONGRESSIONAL WOMEN’S CAUCUS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 439 honoring Corinne ‘‘Lindy’’ Claiborne Boggs on the occasion of the 25th anniversary of the founding of the Congressional Women’s Caucus.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Ms. LANDRIEU. Mr. President, I rise today to express my admiration and gratitude to a woman who served the State of Louisiana and indeed the entire Nation with devotion and sense of unwavering dedication. Throughout her life, she answered every call to service made to her.

Lindy came to Washington in 1940 with her husband, the late Hale Boggs and following his tragic death in 1972, she became the first woman to elected to the House of Representatives from the State of Louisiana. She continued
her service to Congress until 1990, when she retired to New Orleans. In Congress she sat on the Appropriations Committee and the Select Committee on Children, Youth, and Families, spearheading legislation on issues ranging from civil rights to pay equity for women. She chaired the committees on the Bicentennials of the American Constitution in 1987 and the House of Representatives in 1989. In 1997, President Clinton asked her to assist her country once again, this time as the American ambassador to the Vatican.

But the reasons to honor Lindy go far beyond a recitation of her resume, distinguished as it may be. Lindy Boggs continues to be a role model for those of us in Congress and thousands of young women across this country who aspire to public service. She used her Southern charm and keen political mind to become one of the most formidable forces in the U.S. House of Representatives. She served as a mentor and teacher to me as well as the Congresswomen that followed her. She not only taught them the rules and expectations of Members of Congress, she taught us how to be a strong, independent woman.

Lindy is the founder of the Congressional Women’s Caucus, a legislative body that has done so much in its 25-year history. Twenty-five years ago, very few women had served in the Senate, and today we have 13. Thirteen women, and that number is sure to grow. As women, we champion the rights of women everywhere from Afghanistan to China and even here at home. We are a force to be reckoned with, and Lindy is our leader.

What is most impressive about Lindy is the long list of firsts that accompany her biography. She was the first female Representative elected from Louisiana, the first woman to chair the National Democratic Convention, the first woman to sit on the Board of Regents of the Smithsonian Institution and the first woman to serve as ambassador to the Holy See.

She continues to be my mentor and even more, my friend. It is an honor to join the entire Louisiana delegation and I am sure women in public service everywhere to honor this very special Louisiana and American, Lindy Boggs.

Mr. REID. I ask unanimous consent that the concurrent resolution and preamble be agreed to and the motion to reconsider be laid upon the table, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

NOMINATION OF JULIA SMITH GIBBONS, OF TENNESSEE, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT

Mr. REID. Mr. President, I move that the Senate proceed to Executive Session to consider Calendar No. 810, Julia Smith Gibbons, to be United States Circuit Judge.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.

CLOTURE MOTION

Mr. REID. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 810, the nomination of Julia Smith Gibbons, of Tennessee, to be U.S. Circuit Judge for the Sixth Circuit.

Mr. REID. I ask unanimous consent that the live quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. REID. I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, JULY 25, 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 25; that following the prayer and the pledge, the morning hour be deemed 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 the Senate be in a period for morning business until 10:30 a.m., with Senators permitted to speak for up to 10 minutes each, with the first half of the time under the control of the Republican leader or his designee and the second half of the time under the control of the Democratic leader or his designee; that at 10:30 a.m., the Senate resume consideration of S. 812.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I apologize to the Presiding Officer. I indicated we would be finished by 7 p.m. and we missed that by 35 minutes.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order. There being no objection, the Senate, at 7:33 p.m., adjourned until Thursday, July 25, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 24, 2002:

BROADCASTING BOARD OF GOVERNORS
JOAQUIN F. BLAYA, OF FLORIDA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2003. VICE CARL SPIELVOGEL, REAPPOINTED.

PEGGY GOLDWATER-CLAY, OF CALIFORNIA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2003. VICE CARL SPIELVOGEL, REAPPOINTED.

HARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION
PEGGY GOLDWATER-CLAY, OF CALIFORNIA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2003. VICE CARL SPIELVOGEL, REAPPOINTED.

BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

HARRY S TRUMAN SCHOLARSHIP FOUNDATION
JUANITA ALICIA VASQUEZ-GARDNER, OF TEXAS, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2003. VICE CARL SPIELVOGEL, REAPPOINTED.

JUANITA ALICIA VASQUEZ-GARDNER, OF TEXAS, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2003. VICE CARL SPIELVOGEL, REAPPOINTED.

THE BROADCASTING BOARD OF GOVERNORS

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

DEPARTMENT OF JUSTICE
ROBERT MAYNARD GRUBBS, OF MICHIGAN, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF MICHIGAN FOR THE TERM OF FOUR YEARS, VICE JAMES DOUGLAS, JR., TERM EXPIRED.

JONNY MACK BROWNE, OF SOUTH CAROLINA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF SOUTH CAROLINA FOR THE TERM OF FOUR YEARS, VICE JESSE E. BROOKS, JR., TERM EXPIRED.

JONNY MACK BROWNE, OF SOUTH CAROLINA, TO BE UNITED STATES MARSHAL FOR THE MIDDLE DISTRICT OF TENNESSEE FOR THE TERM OF FOUR YEARS, VICE JAMES DOUGLAS, JR., TERM EXPIRED.
EXTENSIONS OF REMARKS

PERSONAL EXPLANATION

HON. BOB RILEY
OF ALABAMA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. RILEY. Mr. Speaker, I was unavoidably detained for rollcall No. 296, H.R. 3482, the Cyber Security Enhancement Act of 2002. Had I been present I would have voted, "yea."

I was also unavoidably detained for rollcall No. 297, H.R. 4755, the Clarence Miller Post Office Designation Act. Had I been present I would have voted, "yea."

I was also unavoidably detained for rollcall No. 298, H.R. 3479, the National Aviation Capacity Expansion Act. Had I been present I would have voted, "yea."

I was also unavoidably detained for rollcall No. 299, H.R. 5118, the Corporate Fraud Accountability Act of 2001. Had I been present I would have voted, "yea."

I was also unavoidably detained for rollcall No. 300, H. Res. 482, Honoring Ted Williams. Had I been present I would have voted, "yea."

I was also unavoidably detained for rollcall No. 301, H. Res. 452, Congratulating the Detroit Red Wings. Had I been present I would have voted, "yea."

I was also unavoidably detained for rollcall No. 302, H. Res. 483, providing for consideration of the bill (H.R. 5095) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes. Had I been present I would have voted, "yea."

I was also unavoidably detained for rollcall No. 303, H.R. 4866, the Fed Up Initiative Technical Amendments. Had I been present I would have voted, "yea."

I was also unavoidably detained for rollcall No. 304, H. Con. Res. 395, celebrating the 50th anniversary of the constitution of the Commonwealth of Puerto Rico. Had I been present I would have voted, "yea."

I was also unavoidably detained for rollcall No. 305, the Toomey of Pennsylvania Amendment to H.R. 5093, Department of Interior Appropriations for Fiscal Year 2003. Had I been present I would have voted, "no."

I was also unavoidably detained for rollcall No. 306, On Motion to Limit Debate on H.R. 5093, Department of Interior Appropriations for Fiscal Year 2003. Had I been present I would have voted, "no."

I was also unavoidably detained for rollcall No. 307, the Flake of Arizona Amendment to H.R. 5093, Department of Interior Appropriations for Fiscal Year 2003. Had I been present I would have voted, "no."

I was also unavoidably detained for rollcall No. 308, on Motion That the Committee Rise. Had I been present I would have voted, "no."

LEXINGTON CATHOLIC: BASKETBALL EXCELLENCE

HON. ERNIE FLETCHER
OF KENTUCKY
IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. FLETCHER. Mr. Speaker, it is an honor for me to stand here today to recognize basketball excellence at Lexington Catholic High School. Lexington Catholic High School represents a long tradition of Catholic education in the Bluegrass Region, a region where basketball is loved and cherished. The Lexington Catholic basketball tradition has evolved with the academic excellence of the high school, representing not only its students, but often, times, Lexington, and the state of Kentucky.

The school was formed in 1951 through the merger of two secondary schools, St. Catherine's Academy, founded in 1823, and Lexington Latin School, founded in 1924, and began their basketball program the same year. After many impressive years as a program in the most competitive area in the country, the Lexington Catholic High School Knights earned a national reputation as a powerhouse. Lexington Catholic is Kentucky's winningest basketball program over the past decade and has won premier tournaments in and out of the state. The program has been ranked as high as No. 3 nationally in USA Today, defeating powerhouse Oak Hill Academy in Virginia, and Chicago's Whitney Young.

However, this year’s team accomplished what no other Lexington Catholic team in history had achieved: the Kentucky state title. Through hard work of the players and the determination of long time coach Danny Haney and Principal Sally Stevens, the 2001–2002 Lexington Catholic High School basketball team delivered what students and alumni have been coveting for years.

I would like to recognize the achievements of this year’s state champion, the Lexington Catholic Knights, and their perennial successors. The state championship team members include: Chas Allen, Mark Balthrop, Scott Becker, Corey Canter, JD Christman, Adam Cooke, William Graham, Demetrius Green, Chase Hillenmeyer, Wes Lawrence, Mike McGrath, Martise Moore, Drew Morton, Christian Postel, Ryan Morton, Harrison Morton, David Noble, Ryan Postel, John Romp, Trey Server, Brian Smith, Joseph Tunde. The coaching staff consists of: Danny Haney, Tommy Huston, Mike Mendenhall II, Mark E. Davidson, John Albaugh, Dave Tramontin, Brandon Salsman, Dan Tilghman, and Mike Mendenhall III.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

SPEECH OF
HON. NANCY PELOSI
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

The House in Committee of the Whole House on the State of the Union 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;

Ms. PELOSI. Mr. Chairman, I rise in support of the Capps-Rahall-Miller amendment, which would prohibit oil drilling off the coast of California in the coming year.

I commend my colleagues for offering this important amendment, particularly Congresswoman CAPPs, whose vigilance and leadership on this issue never wavers.

It is for good reasons that Californians from all walks of life oppose drilling for oil off our coast.

All it would take is one spill—like the blow-out that dumped 4 million gallons of crude oil in the Santa Barbara Channel in 1969—to devastate the marine environment, eliminate tourism along a long stretch of our beautiful coast, and destroy commercial and recreational fishing for years to come.

And for what? There is little oil available and what is there is of low-quality oil.

It is primarily used to make asphalt.

So let me see if I’ve got this right: In exchange for hundreds of miles of lovely beaches, thousands of marine mammals, millions of tiny sea creatures, and billions of dollars in tourism and fishing revenues, we would get—

For what? asphalt?!

Mr. Chairman, this is a bipartisan issue.

It was President Bush’s father, President George H.W. Bush who in 1990 placed a 10-year moratorium on new oil leases off the California coast.

President Clinton renewed that moratorium in 1998.

We in California were happy in May for our friends in Florida when President Bush announced a buyout of federal oil leases off the coast of Florida.

Now we call on the President to do the same for the 36 oil and gas leases threatening California—even though his brother is not the Governor of our state.

I also urge the Bush Administration to drop its opposition to California’s activities under the Coastal Zone Management Act.

The Act gives the state the authority to review the potential environmental effects of offshore drilling.

My colleagues, your vote for the Capps-Rahall-Miller amendment is your endorsement of termination of the California offshore leases. Please vote yes.
Mr. CAMP. Mr. Speaker, today I rise to express my support for the fiscal year 2003 Legislative Branch Appropriations bill. This is a responsible bill that will provide necessary resources for the Legislative Branch to carry out its duties in fiscal year 2003.

For the past several years, I have proposed an amendment to the Legislative Appropriations bill that requires all unspent office funds from Members’ Representation Allowances be returned to the U.S. Treasury and used for debt reduction. This amendment has received bipartisan support every year and I am pleased the committee has included the proposal in the base bill.

I have been proud to work with my colleagues in the House of Representatives to reduce the national debt and incorporate fiscal responsibility into federal spending. We have reviewed programs and guidelines to make them more effective. Today, we again have the opportunity to reaffirm our promise of fiscal responsibility and deficit reduction to the American people by passing this legislation.

Although we are in a mild recession and a time of economic hardship we must maintain our commitment to pay off the national debt by reducing federal spending. Federal spending and incorporate fiscal responsibility into our Legislative Branch Appropriations bill.

I would like to thank the Chairman LEWIS for his support and for including my unspent office funds provision in H.R. 5121 and I urge all members to support and pass this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to strongly support H. Res. 492, Expressing Gratitude for the World Trade Center Cleanup and Recovery Efforts at the Fresh Kills Landfill on Staten Island, New York. Had I been present I would have voted yea.

I was also unavoidably detained for Roll Call No. 325, H. Res. 492, Expressing Gratitude for the World Trade Center Cleanup and Recovery Efforts at the Fresh Kills Landfill on Staten Island, New York. Had I been present I would have voted yea.

EXPRESSING SENSE OF CONGRESS THAT CHINA SHOULD CEASE PERSECUTION OF FALUN GONG PRACTITIONERS

Mr. BROWN of Ohio. Mr. Speaker, I rise to express my support for the fiscal year 2003 Legislative Branch Appropriations bill. This is a responsible bill that will provide necessary resources for the Legislative Branch to carry out its duties in fiscal year 2003.

For the past several years, I have proposed an amendment to the Legislative Appropriations bill that requires all unspent office funds from Members’ Representation Allowances be returned to the U.S. Treasury and used for debt reduction. This amendment has received bipartisan support every year and I am pleased the committee has included the proposal in the base bill.

I have been proud to work with my colleagues in the House of Representatives to reduce the national debt and incorporate fiscal responsibility into federal spending. We have reviewed programs and guidelines to make them more effective. Today, we again have the opportunity to reaffirm our promise of fiscal responsibility and deficit reduction to the American people by passing this legislation.

Although we are in a mild recession and a time of economic hardship we must maintain our commitment to pay off the national debt by reducing federal spending. Federal spending and incorporate fiscal responsibility into our Legislative Branch Appropriations bill.

I would like to thank the Chairman LEWIS for his support and for including my unspent office funds provision in H.R. 5121 and I urge all members to support and pass this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to strongly support H. Res. 492, Expressing Gratitude for the World Trade Center Cleanup and Recovery Efforts at the Fresh Kills Landfill on Staten Island, New York. Had I been present I would have voted yea.

I was also unavoidably detained for Roll Call No. 325, H. Res. 492, Expressing Gratitude for the World Trade Center Cleanup and Recovery Efforts at the Fresh Kills Landfill on Staten Island, New York. Had I been present I would have voted yea.

EXPRESSING SENSE OF CONGRESS THAT CHINA SHOULD CEASE PERSECUTION OF FALUN GONG PRACTITIONERS

Mr. BROWN of Ohio. Mr. Speaker, I rise to express my support for the fiscal year 2003 Legislative Branch Appropriations bill. This is a responsible bill that will provide necessary resources for the Legislative Branch to carry out its duties in fiscal year 2003.

For the past several years, I have proposed an amendment to the Legislative Appropriations bill that requires all unspent office funds from Members’ Representation Allowances be returned to the U.S. Treasury and used for debt reduction. This amendment has received bipartisan support every year and I am pleased the committee has included the proposal in the base bill.

I have been proud to work with my colleagues in the House of Representatives to reduce the national debt and incorporate fiscal responsibility into federal spending. We have reviewed programs and guidelines to make them more effective. Today, we again have the opportunity to reaffirm our promise of fiscal responsibility and deficit reduction to the American people by passing this legislation.

Although we are in a mild recession and a time of economic hardship we must maintain our commitment to pay off the national debt by reducing federal spending. Federal spending and incorporate fiscal responsibility into our Legislative Branch Appropriations bill.

I would like to thank the Chairman LEWIS for his support and for including my unspent office funds provision in H.R. 5121 and I urge all members to support and pass this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to strongly support H. Res. 492, Expressing Gratitude for the World Trade Center Cleanup and Recovery Efforts at the Fresh Kills Landfill on Staten Island, New York. Had I been present I would have voted yea.

I was also unavoidably detained for Roll Call No. 325, H. Res. 492, Expressing Gratitude for the World Trade Center Cleanup and Recovery Efforts at the Fresh Kills Landfill on Staten Island, New York. Had I been present I would have voted yea.

EXPRESSING SENSE OF CONGRESS THAT CHINA SHOULD CEASE PERSECUTION OF FALUN GONG PRACTITIONERS

Mr. BROWN of Ohio. Mr. Speaker, I rise to express my support for the fiscal year 2003 Legislative Branch Appropriations bill. This is a responsible bill that will provide necessary resources for the Legislative Branch to carry out its duties in fiscal year 2003.

For the past several years, I have proposed an amendment to the Legislative Appropriations bill that requires all unspent office funds from Members’ Representation Allowances be returned to the U.S. Treasury and used for debt reduction. This amendment has received bipartisan support every year and I am pleased the committee has included the proposal in the base bill.

I have been proud to work with my colleagues in the House of Representatives to reduce the national debt and incorporate fiscal responsibility into federal spending. We have reviewed programs and guidelines to make them more effective. Today, we again have the opportunity to reaffirm our promise of fiscal responsibility and deficit reduction to the American people by passing this legislation.

Although we are in a mild recession and a time of economic hardship we must maintain our commitment to pay off the national debt by reducing federal spending. Federal spending and incorporate fiscal responsibility into our Legislative Branch Appropriations bill.

I would like to thank the Chairman LEWIS for his support and for including my unspent office funds provision in H.R. 5121 and I urge all members to support and pass this legislation.
the People’s Republic of China Should Cease Its Persecution of Falun Gong Practitioners. I urge the immediate release of the organization’s leaders and members arbitrarily detained in a nationwide sweep aimed at suppressing the group. When the Chinese government judged the organization of Falun Gong as illegal, they banned all its activities. Stories about Falun Gong have made headlines of major news media around the world. The Chinese authorities have launched a crackdown on the practice of Falun Gong on the Chinese mainland.

The suppression of Falun Gong in China has been brutal. It has been systematic. The police used force against the group, reportedly has been brutal. It has been systematic. The leaders of the People’s Republic of China have arrested, jailed, beaten and tortured thousands of peaceful followers of Falun Gong, a religious synthesis of traditional Chinese physical exercises and Buddhist and Taoist teachings. Adherents to this meditation movement have done nothing more than express their humble belief that people should be kind to one another and work on themselves to change their own lives. They are nonviolent and have not adopted any so-called foreign beliefs. They do not promote nor do they use drugs. They are not a cult. They only want to meditate, take their lives into their own hands and attempt to live productive and peaceful lives.

H. Con. Res. 188 expresses the sense of Congress that the Government of the People’s Republic of China should cease its persecution of Falun Gong practitioners. Falun Gong is a peaceful and nonviolent form of personal belief and practice with millions of adherents. There are millions of practitioners in the United States. This is wrong and must be stopped. H. Con. Res. 188 requires that the United States Government use every appropriate public and private forum to urge the Government of the People’s Republic of China to (1) release from detention all Falun Gong practitioners and put an end to the practices of torture and other cruel, inhumane, and degrading treatment against them and other prisoners of conscience; and (2) abide by the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights by allowing Falun Gong practitioners to pursue their personal beliefs.

China should stop persecuting the practitioners of Falun Gong and stop exporting its tactics of terror. Therefore, I strongly support H. Con. Res. 188.

IN RECOGNITION OF A GREAT AMERICAN SOLDIER: MR. ELTON L. HATLER

HON. ERNIE FLETCHER
OF KENTUCKY
IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. FLETCHER. Mr. Speaker, it is an honor for me to stand here today to recognize a great soldier and a great American, Mr. Elton L. Hatler. On May 2, 1945, Mr. Hatler was serving as a Browning Automatic Rifleman of Company G, Second Battalion, Fifth Marines, First Marine Division, action against enemy Japanese forces on Okinawa, Ryukyu Islands.

Private Hatler’s platoon had been forced to withdraw in the face of heavy enemy fire. Although Private Hatler had suffered wounds from the enemy fire, he refused to leave the side of a Marine whose legs had been blown off below the knee. Private Hatler held off the enemy for three grueling hours, attempting to lead his fallen comrade to the safety of American lines. It was only after the man succumbed to his wounds, and Private Hatler had expended his ammunition, that he abandoned his position.

In a citation directed by the Secretary of the Navy on behalf of the President of the United States, Private Elton L. Hatler was awarded the prestigious Distinguished Navy Cross, stating that “His personal valor and devotion to duty were in keeping with the highest traditions of the United States Naval Service.” The Kentucky Department of Veterans Affairs will again honor Mr. Hatler, a resident of Winchester, Kentucky, at a special ceremony on July 26, 2002.

NURSE REINVESTMENT ACT

SPEECH OF
HON. ELIOT L. ENGEL
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 2002

Mr. ENGEL. Mr. Speaker, I am pleased we are here today to pass this legislation that will immediately begin to alleviate the nursing shortage across the nation. I introduced legislation last year to address the nursing shortage because of the tremendous impact the lack of nurses has had in New York and across the country. I am pleased that many of the provisions in my legislation are included in the bill before us today.

Mr. Speaker, the nursing shortage is quite possibly the most important issue in health care. Nurses are on the front lines of the delivery of health care. They provide direct day to day care to patients and are invaluable to our health care system. As the number of nursing vacancies continues to rise, the number of nurses entering the field continues to decline. Statistics have shown that the average age of the nursing workforce is about 44 and that many are leaving the field for more lucrative professions. Enrollment in nursing schools is down as well, which leads many to believe that this is a problem that will only get worse. Compounding the problem, the baby boomer generation will soon hit retirement age and will require more acute care.

For these reasons, the legislation before us today is critically important. Included in the Nurse Reinvestment Act are provisions to create scholarships for nurses wishing to enter the field and loan repayment programs to encourage nurses to continue practicing. In an effort to address the number of nurses leaving the nursing profession, the legislation includes grants for nurses to continue their education while practicing nursing.

Mr. Speaker, nurses deserve these programs and I congratulate everyone involved in this process for their hard work and commitment to this issue. This is truly legislation that will help us all. At one time or another is in need of care and the first person you see when you get that care is a nurse. So we can all be proud to pass this legislation today. As a Member of the Subcommittee on Health, I urge all of my colleagues to vote yes.

FLIGHT 93 NATIONAL MEMORIAL ACT

SPEECH OF
HON. JANICE D. SCHAKOWSKY
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 2002

Ms. SCHAKOWSKY. Mr. Speaker, on the morning of September 11th, 2001 passengers of United Airlines Flight 93 were getting ready for the long flight to California. Their thoughts may have been consumed with family, friends, or work. What was about to occur on that tragic journey was probably the furthest thing from their minds. As the mayhem of that morning unfolded in New York City and in our nation’s capital, the passengers of Flight 93 were about to directly experience the horror for themselves. Four terrorist hijackers had moved all of the passengers to the rear of the plane and attempted to seize control of the cockpit and direct the plane to its destination of destruction.

One can only imagine the fear that rushed through the veins of each passenger on that doomed flight. Like many people, I have wondered, “What would be going through my mind? What would I have done?” The passengers and crew of Flight 93 provided us with their answers. Knowing of the chaos that was taking place on the ground below, these brave individuals decided to push fear aside and control their destinies and our futures for the last time.

Although the outcome was fatal for the passengers and crew of Flight 93, one could only guess at the countless number of lives they may have saved had those passengers not reacted with bravery, courage, and pride. September 11th was a day that showed us how vulnerable we as Americans can be, but the passengers and crew of Flight 93 reminded us of how the greatness of this country can still shine through us, even in our darkest hour.

I urge my colleagues to support H.R. 3917, which establishes a memorial at the crash site of United Airlines Flight 93 to honor the passengers and crew of Flight 93, to always remind us of what it truly means to be an American.

CONFERRING HONORARY CITIZENSHIP ON THE MARQUIS DE LA-FAYETTE

SPEECH OF
HON. TIM ROEMER
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 2002

Mr. ROEMER. Mr. Speaker, I rise in strong support of S. J. Res. 13, a joint resolution conferring honorary membership of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette.

At a time in our history when we face challenges from enemies who oppose the very ideals that make our nation great, we are reminded of those brave individuals throughout our nation’s history who have made sacrifices.
to advance American principles of freedom and representative government. Marie Joseph Paul Yves Roch Gilbert du Motier, the Marquis de Lafayette, was a man in whose affection for the ideal of liberty, made great personal sacrifices.

A citizen of France, the Marquis de Lafayette fired his passion for freedom when, at the young age of 19, he decided to make a four-month voyage to America to fight alongside Americans during the Revolutionary War. Marquis de Lafayette was assigned to the staff of George Washington with the rank of Major General 1777 and served with distinction. During the war, he demonstrated great leadership and unrelenting bravery to American troops, as he led Americans to several victories and sustained an injury during the Battle of Brandywine.

General Lafayette not only risked his life for the pursuit of American freedom, but he freely used his position of influence in France to garner additional support for the American war effort. In 1779, he persuaded the French government to fully support America in the war against Britain, which led to the commitment of French troops and much-needed supplies to the American army. He also contributed $200,000 of his personal fortune in support of the American army. He also contributed nearly $200,000 of his personal fortune in support of the colonies during the Revolution. After the war, Lafayette continued to assist American diplomatic relations with France in establishing close relationships with American ambassadors to France, Benjamin Franklin and Thomas Jefferson.

The most striking of General Lafayette’s qualities was undoubtedly his steadfast and fearless devotion to the principle of liberty. Even after the Revolutionary War, Lafayette continued to support and promote the institution of representative government. Upon his return to France, Lafayette was one of the first to advocate a National Assembly, and worked toward the establishment of a constitutional monarchy during the years leading up to the French Revolution. In 1830, he became the leader of the revolution that overthrew the Bourbons and made possible a constitutional monarchy in France. These actions came at a great personal expense to Lafayette as he lost support among the French nobility, was forced to flee the country, and had his personal wealth confiscated. Just before his death in 1834, Lafayette was vocal proponent of the move to a pure republic in France.

The portrait of the Marquis de Lafayette now displayed opposite President Washington in the United States House chamber is a tribute to his loyalty to America and his vital role in winning our freedom. Lafayette’s friendships and affiliations with the most prominent figures in our nation’s history, including George Washington, John Adams, Thomas Jefferson, James Madison, James Monroe, and John Quincy Adams, and the respect he garnered from them is a testament to his commitment to our nation’s founding and its principles.

Mr. Speaker, in light of the events of September 11th, stories of personal sacrifice, bravery, and commitment take on a new meaning and greater importance for all Americans. The story of General Lafayette is one, in particular, that inspires us to continue, in the face of our enemies, to tirelessly protect our nation’s principles and to advance them globally. In Lafayette’s words: “Humanity has won its battle. Liberty now has a country.”

AMENDMENT TO FREEZE MEMBER’S PAY

HON. BOB RILEY
OF ALABAMA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 2002

Mr. RILEY. Mr. Speaker, ask the average American working in the private sector about his automatic yearly pay raise and he will look at you like you’re crazy. Most Americans don’t get an annual Cost of Living Adjustment (COLA), so why should members of Congress?

It is time that we restore the American people’s confidence in their elected leaders. It is time we eliminate the automatic pay increases for members of Congress and live by the same standards as the people we represent. Mr. Speaker, this amendment will freeze Member’s pay at its current level and eliminate the annual COLA given to them under the Government Ethics Reform Act. Nothing in this law will prohibit Congress from raising its pay. However, if members of Congress think they deserve a pay raise, then they must vote for it in full view of the American people.

I urge my colleagues to support this amendment and do what is moral and honorable—If you want a raise, let’s have an up or down vote, before your boss—your constituents, the American people.

SENSE OF CONGRESS REGARDING OVARIAN CANCER

SPEECH OF
HON. DAN BURTON
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES
Monday, July 22, 2002

Mr. BURTON of Indiana. Mr. Speaker, I rise in strong support of H. Con. Res. 385, a resolution which states that the Department of Health and Human Services should conduct or support research on certain tests to screen for ovarian cancer, and that health care programs and health insurance plans should cover these tests.

Specifically, H. Con. Res. 385 would encourage the development and widespread use of a blood test that would detect ovarian cancer in its early stages. Thus, significantly reducing the fatalities that result from the most lethal form of ovarian cancer. Currently, more than 75 percent of women with ovarian cancer are not diagnosed until they are in the fourth stage of the disease. The new protein-screening blood test would detect almost all ovarian cancers in the first stage of the disease when 5-year survival rates approach 95 percent. This is an extremely important step in helping to eliminate the threat of ovarian cancer. Early detection is critical for survival success and should be everyone’s goal.

There are many new cancer screening devices becoming available, and we must use these new technologies to help protect more Americans from the scourge of cancer. I know first-hand the pain that cancer can put a family through. On May 10, 2002 my wife passed away after a brave battle with colon cancer. I hope that all health insurance plans utilize to the fullest extent existing and promising detection methods for all cancers.

Early detection can go a long way toward sparing other families from the pain of having a loved one suffer from cancer.

IN RECOGNITION OF A GREAT AMERICAN SOLDIER: MR. RICHARD S. STARKS

HON. ERNIE FLETCHER
OF KENTUCKY
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 2002

Mr. FLETCHER. Mr. Speaker, it is an honor for me to stand here today to recognize a great soldier and a great American, Mr. Richard S. Starks. Mr. Starks served as a second lieutenant, 414th Bombardment Squadron, 97th Bombardment Group, Air Corps, United States Army. He is being honored today for his extraordinary heroism in action over occupied territory in Continental Europe, August 21, 1942.

As chronicled in the official service record dated August 23, 1942, Lieutenant Richard S. Starks was a B–17 TE bomber pilot on a bombardment mission when his aircraft was attacked by 20–30 enemy fighters at an altitude of approximately 21,000 feet. The cockpit of his aircraft became severely damaged by heavy enemy fire and the co-pilot was fatally wounded. Lieutenant Starks was seriously wounded in the arm, neck and face and his oxygen mask became dislodged. Despite these handicaps, and overwhelming odds, Lieutenant Starks directed the operation of his aircraft and, when physically able to do so, gave material assistance in its operation, to the end that he safely landed his aircraft at a friendly airdrome.

On August 23, 1942, in a citation directed by General Dwight D. Eisenhower, Lieutenant Richard S. Starks was awarded the prestigious Distinguished Service Cross, stating that his “cool courage and heroic action upheld the highest tradition of the military forces of the United States and contributed materially to the success of a mission of vital importance.”

The Kentucky Department of Veterans Affairs will again honor Mr. Starks, a native of Midway, Kentucky, at a special ceremony on July 25, 2002, at the Aviation Museum of Kentucky.

GARDEN CITY HIGH SCHOOL GIRLS LACROSSE TEAM

HON. PETER T. KING
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 2002

Mr. KING. Mr. Speaker, I rise today to congratulate the Garden City High School Girls Lacrosse Team for winning a fourth consecutive New York State Championship. The athletes, parents, and citizens of Garden City should all be very proud of this enormous accomplishment.

On June 8, 2002, the Garden City defeated East Rochester 9–6 at SUNY Cortland to win their fourth consecutive Class B State Schools State Championship. On behalf of the 3rd District of New York, I would like to recognize and honor the following students whose feat this
past year will certainly be ranked among the best in New York State high school athletics: 

**GIRLS LACROSSE TEAM**

Brittany Barry  
Kerin Boghosian  
Katie Cox  
Meghan Crisaffuli  
Erika Dall  
Bradie Dwyer  
Jackie Fiore  
Lauren Gallagher  
All Holland  
Brittany Jessee  
Kaitlain Kamrowski  
Meg Lindsay  
Kerin Boghosian  
Meg Sullivan  
Anna Mitchell  
Caitlin Sotell  
Jesse Riccio  
Meghan Rose  
Caitlin Gauthier  
Kristin Strief  
Meghan Crisafulli  
Erin Walters  

I would also like to extend special recognition to the City High School Head Girls Lacrosse Coach Diane Chapman, Assistant Coach Janet Walsh, Principal John Okulski, and Athletic Director Nancy Kalafas.

Once again, congratulations to all the students, coaches, and parents on this wonderful achievement.

---

**TRIBUTE TO ABE ROSENTHAL**

**HON. CHRISTOPHER H. SMITH**

**OF NEW JERSEY**

**IN THE HOUSE OF REPRESENTATIVES**

Tuesday, July 23, 2002

Mr. SMITH of New Jersey. Mr. Speaker, I rise to pay tribute to Abe Rosenthal, the New York Times journalist who received the Presidential Medal of Freedom earlier this month for his consistently insightful comments on human rights, and his outspoken defense of persecuted Christians and Jews throughout the world.

Many observers of foreign affairs have difficulty believing that Christians in the modern era have been, and continue to be, persecuted on a world-wide basis throughout the world. Rosenthal’s articulate and passionate writings helped bring much-needed awareness to their plight. In 1997 alone, he wrote over 20 stories about persecuted Christians, detailing the plight of Christians in a wide variety of regions, including China, the Sudan, and Pakistan.

The awareness he raised about people of many different faiths who suffer religious persecution helped win passage of the historic “International Religious Freedom Act of 1998” which established the United States Commission on International Religious Freedom, and laid out a framework for denying foreign assistance to egregious violators of religious freedom.

I was very proud to have had a direct hand in writing portions of that legislation. I personally chaired several hearings on religious persecution around the world, and my committee covered the persecution of every faith. We took testimony from Muslim Uighurs, who are persecuted by Communist China; the worldwide problem of Anti-Semitism; as well as persecuted Christians.

The creation of the Commission and the office of the Special Ambassador, as well as the institution of the annual Religious Freedom Reports, were among a number of measures proposed by Congressman Frank Wolf’s landmark legislation on international religious freedom, which my committee—the Subcommittee on International Operations and Human Rights—marked up in 1997, and enacted by Congress in 1998. All these measures represented important steps toward helping millions of people around the world who are persecuted simply because they are people of faith. But the Reports themselves clearly demonstrate that we need to do more.

Some find it odd that a man who has become such a great champion for persecuted Christians and Jews. But this is not really so unusual when you look beneath the surface. When Rosenthal learned that Christians suffered for their faith, while most in the world have turned a blind eye, he felt compelled to act. The Jewish community has a special sensitivity to persecution, because when it happens, it almost always hits their community first. “Never again” has a special meaning to a community that was almost exterminated while the rest of the world looked on and watched.

Rosenthal’s passionate and steadfast desire to speak out for basic human dignity was formulated in a profound way because of a brutal murder that occurred in 1964 in Queens early in his career with the New York Times. In that year, a woman named Catherine Genovese was brutally murdered in her own neighborhood. Although approximately 38 of her neighbors heard her cries for help, not one person responded as she was stabbed over 30 times.

The incident caused Rosenthal to question our responsibility to speak out against injustices, not just for a neighbor suffering in our midst, but for all those who suffer injustice and persecution throughout the world. “I am not going to be one of the 38,” he said—one of those who failed to speak out or act.

I am proud to say that Mr. Rosenthal has remained true to his promise. He has consistently spoken out on behalf of those suffering for their faith. He has acted boldly not only through moving readers and inspiring persecuted Christians all over the globe, but also by challenging leaders of government who would rather not be bothered by the sufferings of the oppressed, and business leaders bent on a drive for profits above all else. He has moved many to show a concern for basic human rights and re-evaluate their priorities.

Mr. Rosenthal, you have acted, speaking out on behalf of so many, and you have called on us to do the same. For this, you deserve our thanks and praise.

---

**PAYING TRIBUTE TO THE LAO VETERANS OF AMERICA, MICHIGAN CHAPTER**

**HON. MIKE ROGERS**

**OF MICHIGAN**

**IN THE HOUSE OF REPRESENTATIVES**

Tuesday, July 23, 2002

Mr. ROGERS of Michigan. Mr. Speaker, I rise today in recognition of the Lao Veterans of America, Michigan Chapter. These veterans, who served in the United States “Secret Army” are Hmong and Lao combat soldiers. They served in Laos during the Vietnam War from 1961 until 1975.

The Lao Veterans of America is made up of tens of thousands of Hmong and Lao combat veterans and their families who played a historic role in the covert operations during the Vietnam conflict era. Fearless Hmong men, women and children fought and died alongside U.S. soldiers. It is reported that approximately 35,000 to 40,000 Hmong soldiers lost their lives in combat, 50,000 to 58,000 were wounded, and 2,500 were missing in action. Even when the war had ended, North Vietnamese Communist forces continued to commit deadly acts of violence on the innocent people of Laos.

The Lao Veterans of America represent a group of selfless men and women, who risked their lives in the fight for world freedom and democracy. Mr. Speaker, I ask my colleagues to join me in recognizing the Lao Veterans of America, Michigan Chapter, for their outstanding efforts and contributions to this world.

---

**HONORING ALBERT NI ON HIS FIRST PLACE FINISH AT THE MATHCOUNTS CHAMPIONSHIPS**

**HON. JUDY BIGGERT**

**OF ILLINOIS**

**IN THE HOUSE OF REPRESENTATIVES**

Tuesday, July 23, 2002

Mrs. BIGGERT. Mr. Speaker, I rise today to recognize Albert Ni for placing first at the MATHCOUNTS Championships. As an eighth-grader from Kennedy Junior High School in Lisle, Illinois, Albert defeated 227 other competitors to finish first in the nation as an individual champion.

This year was Albert’s second time participating in the MATHCOUNTS competition, improving on his 37th place finish in the nation last year. At the competition this year, Albert aimed to place in the top three in the individual competition, but far surpassed his goal by placing first. As the MATHCOUNTS Individual National Champion, Albert received an $8,000 college scholarship, a computer, and a trip to space camp.

Additionally, Albert competed as a member of the hard-working and talented Illinois team, which included Christopher Chang, Greg Gauthier, and Jeffrey Kuan. In the MATHCOUNTS Team Championships, the Illinois team finished second in the country after a team from California—an impressive accomplishment.

The success of Albert and his teammates demonstrates the excellence in education that the communities and schools in Illinois—and in the 13th Congressional District in particular—have always worked hard to achieve. Our students and teachers know that a solid math and science education is key to future success, and competitions like MATHCOUNTS simply underscore that students in Illinois and the 13th Congressional District are leading the way to excellence in mathematics.

This fall Albert will attend the Illinois Mathematics and Science Academy and he is looking forward to continuing his involvement in math competitions at the high school level. We wish him much continued success.

---

**PERSONAL EXPLANATION**

**HON. EVA M. CLAYTON**

**OF NORTH CAROLINA**

**IN THE HOUSE OF REPRESENTATIVES**

Tuesday, July 23, 2002

Mrs. CLAYTON. Mr. Speaker, on Thursday afternoon July 18, 2002, I was called back to
my district for emergency purposes. As a result, I missed 4 rollcall votes.

HAD I BEEN PRESENT, THE FOLLOWING IS HOW I WOULD HAVE VOTED:

Rollcall No. 320 (On Agreeing to the Amendment) to H.R. 5121—"Yea"

Rollcall No. 321 (On Passage—H.R. 5121—Legislative Branch Appropriations for Fiscal Year 2003)—"Yea"

Rollcall No. 322 (On Ordering the Previous Question)—"Yea"

Rollcall No. 323 (On Agreeing to the Resolution)—"Yea"

HONORING COLONEL JAMES A. MARKER UPON HIS RETIREMENT FROM THE UNITED STATES AIR FORCE

HON. JERRY F. COSTELLO
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 2002

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing Colonel James A. Marker upon his retirement from the United States Air Force.

Colonel Marker, who has served in active duty for 43 years, is the longest serving member of the Air Force currently on active duty. When he first enlisted on June 1, 1959, Dwight D. Eisenhower was the President of the United States. He served as an enlisted airman for 14 years before being commissioned as an officer in October of 1973.

Colonel Marker, who has served in active duty for 43 years, is the longest serving member of the Air Force currently on active duty. When he first enlisted on June 1, 1959, Dwight D. Eisenhower was the President of the United States. He served as an enlisted airman for 14 years before being commissioned as an officer in October of 1973.

Colonel Marker is a graduate of Jefferson Union High School, Richmond, Ohio in 1958. The Colonel earned a Bachelor of Science degree in Sociology in 1973 from the College of Great Falls, Mont. and a Master of Science degree in Criminal Justice in 1983 from Central Missouri State University, Warrensburg, Mo.

Colonel Marker entered the Air Force as an airman basic and performed various duties as an enlisted security policeman. He was commissioned as a second lieutenant in October 1973 through the Bootstrap Commissioning Program and remained in the security police career field. If the Air Force published a list of air force terminology, the word “lifer” would surely be in it. Next to it, possibly, would be a picture of Col. James Marker. And he’d be smiling. Being called a lifer no longer offends him. On the contrary, he sees the term lifer as a badge of honor, a proud testimony of his long, devoted service.

However, his career almost didn’t get off the ground. Marker had three relatives who fought in World War II and inspired the 18-year-old to join the Air Force. But the teen from Steubenville, Ohio, wasn’t thinking of a lifelong commitment when he signed up in Pittsburgh. He wanted to be a photographer. But the Air Force needed cops, air policemen back then. He soon married Bev, and they both decided he’d re-up. He’s been doing that ever since. The couple raised five children and lived in too many places to count—three tours were in Alaska. He is ending up here at Scott Air Force Base, Illinois. After 14 years, Marker, then a technical sergeant, decided to become an officer and Col. Marker stayed because he loves the people, his job and the service he’s given his country. That he’s a true patriot is apparent when he talks about that service.

“If it were up to me,” Marker has said, “I’d stay in the Air Force until the day I die.”

Mr. Speaker, I ask my colleagues to join me in honoring Colonel James A. Marker and to congratulate him for his retirement after 43 years of active duty service in the Air Force.

PERSONAL EXPLANATION

HON. THOMAS M. BARRETT
OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 2002

Mr. BARRETT. Mr. Speaker, because of commitments in my home state of Wisconsin, I was unable to vote on rollcall No. 320 through 325. Had I been present, I would have voted:

Aye on rollcall No. 320
Aye on rollcall No. 321
No on rollcall No. 322
No on rollcall No. 323
Aye on rollcall No. 324
Aye on rollcall No. 325

PERSONAL EXPLANATION

HON. SUE WILKINS MYRICK
OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 2002

Mrs. MYRICK. Mr. Speaker, I was unable to participate in the following votes due to a family medical emergency. If I had been present, I would have voted as follows:

Rollcall vote 324, on agreeing to H. Con. Res. 439, I would have voted yea.
Roll call vote 325, on agreeing to H. Res. 492, I would have voted yea.

PERSONAL EXPLANATION

HON. XAVIER BECERRA
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 2002

Mr. BECERRA. Mr. Speaker, on Monday, July 22, 2002, I was unable to cast my floor vote on rollcall Nos. 324, and 325. The votes I missed include rollcall vote 324 on the Motion to Suspend the Rules and Agree to H. Con. Res. 439, Honoring Corinne ‘Lindy’ Claiborne Boggs; and rollcall vote 325 on the Motion to Suspend the Rules and Agree to H. Res. 492, Expressing Gratitude for the 10-month World Trade Center Cleanup and Recovery Efforts.

If it were up to me, I would have voted “aye” on rollcall votes 324 and 325.

HONORING ALEXANDER MOULTON OF CLIFTON, TEXAS

HON. CHET EDWARDS
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 2002

Mr. EDWARDS. Mr. Speaker, the 11th Congressional District and Central Texas lost an outstanding young citizen and one of the leaders of the next generation with the untimely death in June of Alexander (Alex) Moulton of Clifton.

Alex and his twin sister Alyson were born in Austin on December 14, 1982, the children of Robert and Carol Moulton. In his all-too-brief life, Alex, lived in Texas, Virginia, New Hampshire and New Mexico before the family settled in Clifton, a city of approximately 3,500 resident just north of Waco.

On a hot Texas summer afternoon in June, Alex and a group of friends were swimming at nearby Lake Whitney when one of Alex’s friends started struggling in the water. Two of the group ran for help and Alex went into the water to help his friend. Alex was able to keep the struggling swimmer afloat until help arrived, but by then, he was exhausted himself. Alex went under and stayed under. When his friends were able to pull him to shore, they could not resuscitate him. Alex Moulton, at 19 1/2 years of age, had given his life so that another could live.

Losing a friend and a loved one is always a heavy burden, a loss made even harder to bear and more difficult to accept when it is someone with the promise of such a bright future. For Alex Moulton, who grabbed each minute of life with joy, and held on until he had wrung it dry of all the possibilities, every day sparkled and every tomorrow looked even more dazzling. This was the life that he sacrificed to help someone in trouble.

Mr. Speaker, I ask the Members of the House of Representatives to join me in honoring and celebrating the life of Alex Moulton.

HONORING THE CHILDREN’S HOME OF LUBBOCK

HON. LARRY COMBEST
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 2002

Mr. COMBEST. Mr. Speaker, I rise today to honor and recognize the Children’s Home of Lubbock, Texas for the outstanding work it does on behalf of children in the State of Texas. The Children’s Home of Lubbock has shown an unwavering commitment to service and placement of disadvantaged and deserving children.

The doors of The Children’s Home of Lubbock opened in 1954. The house began as an extension of the Broadway Church of Christ in Lubbock, Texas. Since that time more than 4,400 children have been helped either through placement in a family or by receiving
a loving environment at the home itself. This early faith based program has been an exemplary model for other similar homes in Texas. The Home provides not only shelter, food, and safety but therapy and love also. Permanent placement is a goal of the home, but the overriding concern is caring for the children regardless of the problem or situation.

As it becomes increasingly difficult for children in this world, it is imperative that centers like the Children’s Home of Lubbock continue to perform the good work that they do. The home functions as more than just a center for children; it is an invaluable community resource on which many local, county, and State agencies have come to depend. The staff and volunteers are top notch, Christian individuals who give not only of their time, but also of their heart and soul.

It is with great respect, Mr. Speaker, that I call on all Members to join me in congratulating and thanking the Children’s Home of Lubbock. The Children’s Home of Lubbock’s years of service have benefitted not only the community, but the children and the adopting families. The contributions of the Children’s Home of Lubbock number more than these mere words can express.

HUMAN RIGHTS IN CUBA

HON. THOMAS G. TANCREDO
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 2002

Mr. TANCREDO. Mr. Speaker, in my office hangs a picture of a woman—Marta Farias holding a photograph of her son—Lazaro Planes Farias. Mr. Planes is one of an estimated 400 Cuban political prisoners who have been unjustly imprisoned for having the courage to publicly speak out against the Communist regime, a regime which lives in perpetually terror of its citizens exercising the most basic forms of human rights. The Cuban Government’s official charge against Mr. Planes is that he committed “disrespect and resistance.” His “crime” was to have the audacity to form an opposition political party to promote freedom. Knowing the grave risk he was taking by openly opposing Fidel Castro, Planes continued to speak out—denying human rights and democracy for all Cubans.

He was released from prison following a request by Pope John Paul—the Second in 1998, but soon after the Pope’s visit—the Communist authorities deemed him too great a risk, and imprisoned him again. Planes suffers today in Castro’s gulag—recognized by human rights groups as some of the worst prisons in the world. Castro has not allowed the International Committee of the Red Cross to inspect prison conditions since 1989. And it’s no wonder—men and women who refuse to undergo “re-education” in the gulag are subjected to daily beatings, malnourishment and an appalling lack of medical care.

The United States of America and the rest of the world can no longer remain silent. The struggle undertaken by these courageous men and women demands international recognition. That is why I have joined with 17 of my colleagues in the House and Senate in the Congressional Cuban Political Prisoners Initiative. Each month we will feature a new prisoner. And each month there will be a new name, a new face and a new story which strikes down Castro’s lie that there are no political prisoners in Cuba.

I am here today to urge my colleagues on both sides to stand with me in demanding the unconditional release of Mr. Farias and all Cuban political prisoners.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

SPEECH OF
HON. BETTY MCCOLLUM
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 17, 2002

The House in Committee of the Whole on the passage of the Department of Interior and related agencies, the fiscal year ending September 30, 2003, and other purposes:

Ms. McCOLLUM. Mr. Chairman, I rise today in support of the amendment to provide an additional $10 million for the National Endowment for the Arts (NEA) and $5 million for the National Endowment for the Humanities (NEH). I commend the authors for their commitment to the arts and urge my colleagues to vote in favor of this amendment.

This amendment will support the NEA’s Challenge America initiative, which has been successful in expanding access to the arts for underserved communities. To broaden the reach of federal arts funding, Challenge America supports arts education, after-school arts programs and community arts development initiatives.

In my state of Minnesota, an NEA grant helped to establish “Creating the Link”—an after-school program for Hmong youth. St. Paul is home to the largest concentration of Hmong in the United States. Many Hmong children who have grown up in this country have not had opportunities to learn about the culture and traditional art of their elders. “Creating the Link” provides the connection between these children and traditional Hmong folk art—preserving this cultural richness for future generations.

Through support of programs such as “Creating the Link,” the National Endowment for the Arts has brought the enrichment of artistic experience to communities in every corner of the nation. Art is no longer considered a past-time reserved for the elite class, but is widely recognized as central to the cultural, social and cognitive development of a well-rounded public.

Further support for the National Endowment for the Arts is an important investment for all of our communities. I urge my colleagues to support this amendment.

TRIBUTE TO HOWARD W. PHILLIPS

HON. JOHN SHIMKUS
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 2002

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize a lifetime of achievements by Howard W. Phillips from Mt. Vernon, Illinois.

Mr. Phillips dedicated his life to being a good citizen. He was a leader that was not only well respected, but loved by the people that knew him. Howard put the needs of his community above his own.

As a veteran of the United States Navy, Howard defended his country and did it well. He entered the Navy on May 26, 1944. He served while World War II was devastating Europe. After his time in Active Duty, he became involved with veterans groups. Mr. Phillips was a member of American Legion Post 141, he served on the Honor Guard and was chaplain of the detail for 21 years. As chaplain he conducted almost 1,000 funerals. The Legion designated him Legionnaire of the Year in 1993 and again in 1997. He is the only person to receive this award twice.

Mr. Phillips was past commander of AMVETS Post 4. While commander, Howard was designated by the state executive as the outstanding AMVET Adjutant in the state. Post 4 was also named the outstanding AMVET post by the National Commander while Howard was in charge. One of his many achievements was being appointed chairman of all Jefferson County Veterans Groups in order to rename 42nd Street and Fishers Lane, in Mt. Vernon, to Veterans Memorial Drive.

Howard was also an active member of Epworth United Methodist Church. His faith in God shined through in his personality. Mr. Phillips’ love for others was demonstrated by involvement throughout the community. He participated in such groups as the American Cancer Society, the Mt. Vernon Fire and Police Commission, and the Murray Parents Association. Howard received the Dr. Plassman award for Outstanding Volunteer Service from the Murray Parents Association for his work with the handicapped.

I would like to take this time to honor the memory of my friend that gave so much to his country and community. All men should aspire to hold themselves to a standard equal to that of this man, Howard W. Phillips. My heart and prayers go out to his family and friends.

THE RESTORATION OF THE DAVENPORT HOTEL

HON. GEORGE R. NETHERCUTT, JR.
OF WASHINGTON
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 2002

Mr. NETHERCUTT. Mr. Speaker, I rise with great pride as a native of Spokane, Washington, to recognize the reopening of the historic Davenport Hotel. Mr. Speaker, this historic event would not have been possible without the commitment and perseverance of Walt and Karen Worthy, the owners of the property. Designed by renowned architect Kirtland Cutter and built in 1914 by Louis Davenport, this grand hotel has been the centerpiece of downtown Spokane and an immense source of community pride. It has played host to American presidents, generals, statesmen, an stars of the opera, stage and screen. During the 1980s and most of the 1990s, the Davenport fell into great disrepair. Over almost two decades several attempts to save the Davenport Hotel, but could not gather the necessary resources or assemble community support behind a restoration project of this magnitude.

Designed by renowned architect Kirtland Cutter and built in 1914 by Louis Davenport, this grand hotel has been the centerpiece of downtown Spokane and an immense source of community pride. It has played host to American presidents, generals, statesmen, an stars of the opera, stage and screen. During the 1980s and most of the 1990s, the Davenport fell into great disrepair. Over almost two decades several attempts to save the Davenport Hotel, but could not gather the necessary resources or assemble community support behind a restoration project of this magnitude.
HONORING CORINNE “LINDY” CLAIBORNE BOGGS ON OCCASION OF 25TH ANNIVERSARY OF FOUNDEDING OF FOUNDING OF WOMEN’S WACCUSS

SPREECH OF
HON. MARGE ROUKEMA
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Monday, July 22, 2002

Mrs. ROUKEMA. Mr. Speaker, I rise in support of this resolution honoring the career and achievements of former Congresswoman Corinne “Lindy” Claiborne Boggs. Lindy Boggs, representing the 2d district of Louisiana, served in this House from March 20, 1973, to January 3, 1991. I was fortunate enough to serve with Lindy, and I feel fortunate to be able to honor her accomplishments in Congress, and on behalf of women in Congress.

Lindy’s time in the House of Representatives and in Washington was an environment quite different than what we now understand. During her service, she achieved a number of firsts. She was the first woman elected to the House of Representatives from Louisiana; the first woman to serve as a Regent of the Smithsonian Institute; the first woman to preside over a national convention (the Democratic National Convention in 1976); the first woman to receive the Congressional Medal from the Veterans of Foreign Wars; as well as the first woman to receive a Tulane University Distinguished and Outstanding Alumni Award.

Lindy focused on issues while in Congress and lent a voice to the many policy developments of her administration. On September 4, 2002, the collaborative will gather to launch this new initiative, committed to increasing the effectiveness of working with those families and their children.

The collaborative will transform what is known and learned into best practice models that will benefit the children and their families. By calling on a variety of expertise across disciplines, including human medicine, social work, the legal profession and community leaders, the collaborative will bring these forces together with the very families served to increase the effectiveness of working with those families and their children.

On September 4, 2002, the collaborative will gather to launch this new initiative, committed to increasing the effectiveness of working with those families and their children. The collaborative will transform what is known and learned into best practice models that will benefit the children and their families. By calling on a variety of expertise across disciplines, including human medicine, social work, the legal profession and community leaders, the collaborative will bring these forces together with the very families served to increase the effectiveness of working with those families and their children.

The collaborative will transform what is known and learned into best practice models that will benefit the children and their families. By calling on a variety of expertise across disciplines, including human medicine, social work, the legal profession and community leaders, the collaborative will bring these forces together with the very families served to increase the effectiveness of working with those families and their children.

The collaborative will transform what is known and learned into best practice models that will benefit the children and their families. By calling on a variety of expertise across disciplines, including human medicine, social work, the legal profession and community leaders, the collaborative will bring these forces together with the very families served to increase the effectiveness of working with those families and their children.
PHelps said, "Whether it is true-form country, contemporary, rock, children's music, classical, rhythm and blues or even Southern Gospel, he's the very best at bringing the best in music of any class."

When the new $37 million Country Music Hall of Fame and Museum opened May 17, 2001, Ron was honored to be the first recording pianist/arranger to be included in the museum's permanent tribute to studio musicians. One of his famous keyboards and some of his hit arrangements are on display there. He is ... 'One of the major creative forces behind an amazing list of hit records and millions of record sales.'

---

**BURNHAM FIRE COMPANY 100TH ANNIVERSARY**

**HON. BILL SHUSTER**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. SHUSTER. Mr. Speaker, I rise today to congratulate the Burnham Fire Company for their 100th Anniversary and to thank them for their service and dedication to their community.

The Burnham Fire Company was started in September 1902 due to an overwhelming need for fire protection in their community. Until this time, the community relied on nearby cities whose fire departments could not respond as rapidly as needed due to the distance they had to travel. The company in Burnham was assembled of volunteers, a hand pulled hose cart, and a motto that described with incredible foresight what personal sacrifices must be made to be fire fighters. That motto is "Semper Puratus," which means "Always Ready."

Since the tragedy that befell this nation on September 11th, America has rediscovered her many heros. Heros come from all walks of life and display every day how they, like the Burnham Fire Company, follow the motto "Semper Puratus": They are the men and women that are always ready to put themselves at risk for the greater good of others. Volunteers who are always ready to unselfishly give of their time to serve their communities, individuals who are always ready to contribute to the success of the team rather than striving for personal glory.

Burnham Fire Company still largely consists of a volunteer force. These men and women are well trained and equipped, providing exceptional service to a community that is proud of the jobs they have been doing for the past 100 years. I would like to again congratulate them on their 100th Anniversary and thank them for all their hard work and service.

---

**TRIBUTE TO SUSAN HIRSHMANN**

**SPEECH OF**

**HON. DAVE CAMP**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 2002

Mr. CAMP. Mr. Speaker, I rise today to honor Susan Hirshmann as she gets ready to leave her post as the chief of staff to House Majority Whip Tom Delay. Susan has proven to be invaluable and a trusted employee, friend and ally.

Susan Hirshmann is a remarkable individual who has become one the most important and influential women on Capitol Hill. She is highly respected by all who know her; and her comprehensive political grasp and policy expertise have set her among the greatest strategists in Washington. Susan has been an indispensable asset to Majority Whip's Office and the entire Whip organization.

For five years, she has been an advisor and top staffer, as well as a trustworthy ally to those who have worked with her.

Her intelligence and skill are complemented by a great sense of humor, which has made her contribution to this institution all the more praiseworthy.

We will all miss Susan, but we will always remember her hard work and steadfast devotion to this institution and her country.

---

**JACK H. BACKMAN**

**HON. BARNY FRANK**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. FRANK. Mr. Speaker, last weekend, Massachusetts suffered a great loss. Indeed, when Jack Backman died, the world lost a man who was as fiercely dedicated to the cause of social justice as anyone of whom I have ever known.

My association with Jack Backman began in January 1973, when I became a freshman Member of the Massachusetts Joint Legislative Committee on Social Welfare, of which he was the Senate chair. I was proud to work under his leadership in those years for policies that would preserve some minimally decent life for the least fortunate among us. I have never worked with an elected official more willing to follow where his conscience led him with no regard whatsoever for electoral consequences. I mean Jack Backman. And to my pleasant surprise and often to the chagrin of others, it turned out that when voters were presented with an example of someone prepared to do exactly that, they responded in a favorable way. Jack Backman genuinely set the example for others to follow where his conscience led him with no regard whatsoever for electoral consequences.

Mr. Speaker, in the Boston Globe for Tuesday, July 23, Renée Loth, Chief Editorial Writer, drew on her years as a reporter to give people a fair portrayal of this extraordinary man. I very much appreciate her doing this, in such a personal and compelling way, and because I think this model of how we representatives should do our jobs ought to be widely shared, I ask that Ms. Loth's eloquent and accurate tribute to Jack Backman be printed here.

---

**HONORING MR. JOHN SEIGENTHALER OF NASHVILLE, TENNESSEE FOR A LIFETIME OF OUTSTANDING ACHIEVEMENT ON THE OCCASION OF HIS 75TH BIRTHDAY**

**HON. BOB CLEMENT**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. CLEMENT. Mr. Speaker, today I rise to honor my good friend John Seigenthaler, a great American and an outstanding Tennessean, on the occasion of his 75th birthday. Throughout his career, Seigenthaler has been a consistent leader on free speech and civil rights issues and a staunch defender of patriotism and democracy. Because of his reputation for offering sound advice, he has served as an advisor to key national leaders including President John F. Kennedy, Attorney General Robert F. Kennedy, and numerous

---

**CONGRESSIONAL RECORD — Extensions of Remarks**

E1329
statesmen and women including members of the U.S. House of Representatives and the U.S. Senate.

In 1949, Seigenthaler began his career as a cub reporter at The Tennessean in Nashville, Tennessee. Eventually, he rose through the ranks to become editor, publisher, and CEO of the newspaper where he worked for some 43 years. As a hard-charging journalist, he currently serves as the chairman emeritus of The Tennessean and at one time served as president of the American Society of Newspaper Editors.

Seigenthaler was named editorial director of USA Today in 1982, and served in that capacity for nearly 10 years. In 1991, he founded the First Amendment Center at Vanderbilt University in order to inspire and create a national dialogue concerning First Amendment principles. Today, as an independent affiliate of the Freedom Forum, the First Amendment Center is world-renowned for its innovative discussions and initiatives with locations in both Arlington, Virginia, and Nashville, Tennessee.

According to the First Amendment Center, it “works to preserve and protect First Amendment freedoms through information and education.” Further, the center “serves as a forum for the study and exploration of free-expression issues, including freedom of speech, the press and of religion, the right to assemble and petition the government.”

Seigenthaler played an integral role in civil rights history by serving as chief negotiator with the Governor of Alabama during the Freedom Rides of the 1960s, where he was attacked by a group of Klansmen for his efforts. Briefly during this era, he worked for the Justice Department under Attorney General Robert F. Kennedy.

He currently serves on the boards of trustees of The Freedom Forum and the First Amendment Center and hosts a “Word On Words,” a weekly book review program which airs on public television stations throughout the nation.

Additionally, he serves on advisory boards of schools of journalism and communications at American University, the University of Tennessee and the University of Maryland, and a $3 million endowment has been made to Middle Tennessee State University (MTSU) for a First Amendment Chair.

His volunteer work also includes service on the 18-member National Commission on Federal Election Reform, and as a participant in the Constitution Project Initiative on Liberty and Security, which came about as a result of the Sept. 11th tragedies in New York and Washington.

Seigenthaler remains active on the national scene as well as in Tennessee, where he often works tirelessly, behind the scenes, on projects of benevolence for the betterment of the community.

Married to the former Delores Watson, the couple has one child, John Seigenthaler, of New York City, a weekend anchor for MSNBC networks.

Seigenthaler is to be honored for his leadership, courage, and compassion at this milestone in his life. His life’s work has impacted the masses and will continue to influence generations to come.
preference: the F1 category. Unlike the immediate relative status that has no quota, this category is subject to a limited number of visas per year. These children are moved to the bottom of this wait list, which results in years of delays or even loss of eligibility to apply. H.R. 1209 would ensure that an alien child of a U.S. citizen does not age-out during the petitioning process by using the age on the application and not the age on the date the application is processed.

Finally, H.R. 1209 also expands the age-out protection to children of parents applying for refugee status and to children of legal permanent residents who are seeking status as a family-sponsored, employment-based, or diversity lottery child immigrant.

I urge my colleagues to vote for H.R. 1209 which corrects the delays caused by reclassification and helps many children of U.S. citizens, refugees, asylum seekers, and immigrants who are now denied entry as immediate relatives because they are over the age of 21.

IN HONOR OF JOAN ADLER GAUL

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Joan Adler Gaul, tutor of special needs children, long-time volunteer, devoted wife and mother, and beloved grandmother.

Mrs. Gaul was born and raised in Cleveland’s West Park Neighborhood. After receiving her diploma from St. Stephen High School, she worked briefly as an executive assistant for a railway company, then left to begin raising her eight children. Above all, her family remained the focal point of her life.

Mrs. Gaul warmly embraced life, and possessed a generous spirit. She channelled her talent, kindness and patience by volunteering her time to help special needs children. In addition, Mrs. Gaul was very active in her church, St. Angela Merici Catholic Church, where she was president of the Altar and Rosary Society. Her great enthusiasm and energy for life extended to her participation in many musicals produced by the St. Angela Players, and she also enjoyed golfing in the warmer months.

Mr. Speaker, Mrs. Joan Adler Gaul will be remembered as a devoted wife and trusted friend to many. Although she will be deeply missed, her legacy of caring, volunteer spirit, and great zeal for life, will live on through all who knew her well.

REASONABLE RIGHT-OF-WAY FEES ACT OF 2002

SPREAD OF
HON. CHRIS CANNON
OF UTAH
IN THE HOUSE OF REPRESENTATIVES
Monday, July 22, 2002

Mr. CANNON. Mr. Speaker, Last evening, the House approved H.R. 3258, a bill sponsored by my friend and colleague from Wyoming, Mrs. CUBIN. I believe that the Reasonable Rights-of-Way Fees Act of 2002 is a significant and worthy piece of legislation, and I hope that the other body will act on it favorably before the end of the current Congress.

H.R. 3258 will ensure that the fees paid by telecommunications providers for the use of rights-of-way on Federal lands are reasonable. This is especially important in parts of the rural West like my district in Utah where it is difficult to deploy the long-haul facilities needed to connect small towns to the Internet and the public switched telephone network without at some point crossing Federal lands.

However, as good a bill as H.R. 3258 is, it is only a first step. The Federal Communications Commission (FCC) must strive across the board to attain a reasonable balance between government’s need to manage public rights-of-way and industry and consumers equally important need to have non-discriminatory, inexpensive, and timely access to these rights-of-way for the deployment of critical telecommunications infrastructure.

Specifically, the FCC, in conjunction with Federal land management agencies, must take steps to ensure that:

(1) All telecommunications providers have non-discriminatory access to public rights-of-way for the purpose of providing intrastate, interstate or international telecommunications or telecommunication services or deploying facilities to be used directly or indirectly in the provision of such services;

(2) Government entities should act on a request for public rights-of-way access within a reasonable and fixed period of time from the date that the request for such access is submitted, or such request should be deemed approved;

(3) The fees charged for public rights-of-way access should reflect only the actual and direct costs incurred in managing the public rights-of-way and the amount of public rights-of-way actually used by the telecommunications provider;

(4) All telecommunications providers should be treated uniformly and in a competitive and neutral manner with respect to terms and conditions of access to public rights-of-way;

(5) Entities that do not have physical facilities in, require access to, or actually use the public rights-of-way, such as resellers and lessees of network elements from facilities-based telecommunications providers, should not be subject to public rights-of-way management practices or fees; and

(6) Waivers of the right to challenge the lawfulness of particular governmental requirements as a condition of receiving any public rights-of-way access should be invalid.

I believe that, consistent with the Telecommunications Act, the Federal Communications Commission should vigorously enforce existing law and use expedited procedures for resolving preemption petitions involving access to public rights-of-way.

Expeditious removal of barriers to right-of-way access will help ensure that all telecommunications providers—incumbent local exchange carriers, competitive local exchange carriers, wireless carriers, and cable providers—can better deploy telecommunications services to the greatest number of Americans at reasonable costs.

I yield back the balance of my time.

IN HONOR OF IVAN MILETIC

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in recognition of esteemed author Ivan Miletic, who co-authored: From the Adriatic to Lake Erie. A History of Croatians in Greater Cleveland. Through the research and writings of Mr. Miletic, an accomplished historian, and equally esteemed historians and educators—Dr. Ivan Cizmic and Dr. George J. Prpic—the public now has permanent access to understanding the significant impact that Croatian Americans have had upon the Cleveland community.

This important book chronicles the history and evolution of Croatian immigrants, and their individual and collective influence in the Northeast Ohio region—from the first wave of Croatian immigrants seeking opportunity and freedom, to modern-day Americans of Croatian descent—all of whom have added to the rich cultural fabric of Cleveland. Croatian Americans have positively defined, and greatly contributed to, all aspects of our community—from religion, culture and the arts, to politics and law, to education and the sciences.

Mr. Speaker, please join me in honor and tribute of author Ivan Miletic, who, along with authors Dr. Ivan Cizmic and Dr. George J. Prpic, have succeeded in the eloquent and adept historical account of Croatian immigrants, and their profound collective impact on all aspects of the Cleveland community. Moreover, as an American whose grandfather emigrated from Croatia, I am honored that my family, and my own public service, was noted in this book. The struggles, hardships and injustices that many immigrants have experienced, and overcome, are significant aspects of American history, that deserve an accurate and permanent historical account—to be learned from for generations to come—as is noted in From the Adriatic to Lake Erie: A History of Croatians in Greater Cleveland.

HONORING CONGRESSMAN JOHN BAYARD ANDERSON

SPEECH OF
HON. PATSY T. MINK
OF HAWAII
IN THE HOUSE OF REPRESENTATIVES
Monday, July 22, 2002

Mrs. MINK. Mr. Speaker, I rise today to honor our distinguished former colleague John Bayard Anderson who represented the 16th District of Illinois for ten terms with great distinction.

I remember him well. John is bright, articulate, and thoughtful; a pleasure to have served with, an honor to work with. He served diligently not only for his constituents, but for the Nation as a whole.

In 1964, John was assigned a coveted seat on the Rules Committee. He introduced numerous bills on establishing better communication between and oversight of the various standing committees. He also diligently worked on campaign and election reform. In 1968 John was faced with a very difficult decision. His party, to which he had been very
faithful, wanted his support in the gutting of the civil rights bill. He switched his committee vote, and instead supported this critical piece of legislation. On the House floor, John stated “I legislate today not out of fear, but out of deep concern for the America I love.” I still remember these strong and moving words from my honorable colleague, and I am sure they echo in the minds of others as well.

In 1980 John made another tough decision: he was going to join the race for the White House. He began the race as a Republican, but ended it as an Independent. There were many who thought that John’s decision to run was a very foolish one. But John was willing to take the risk because he firmly believed that he could do a better job than the others. Six million voters across the Nation believed in him.

I am sure that John is enjoying his tenure as Chair of the Center for Voting and Democracy. I am sure that as a former third-party Presidential candidate, John is able to provide a unique point-of-view. This race that he entered must come to be seen as the fire in the campaign for runoff voting and forms of proportional representation as alternatives to winner-take-all plurality elections.

I would finally like to wish John a very happy belated birthday. May you enjoy many more.

ENVISIONING A NEW AMERICA

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. KUCINICH. Mr. Speaker, on July 6th when I began the trip from Cleveland, I caught a glimpse of a misty rainbow, evanescent in a nearly cloudless western sky. It is one of nature’s paradoxes that you do not need rain to have a rainbow. A many colored, broad spectrum reality can be perceived at any time if we train ourselves to look for that light. When a storm does occur, the rainbow is nature’s gift. How brilliant is a rainbow against a very dark sky.

Hope informs us to look for light in all situations, under all conditions, in all persons, in all nations. How important it is at this time in our nation’s history that we attempt to comprehend the light which shines in the darkness. How important it is that we grasp how to comprehend the light which shines in the dark.

It is only courage which gives us the ability to re-ceive resolutely Lincoln’s prayer that a “government of the people, by the people, and for the people shall not perish”. It is only courage which can embrace our heart the possibilities which still exist for America as the nation of our dreams, as a beacon of hope for the world.

So today let us begin the work of sum-moning all the love and courage we have in our hearts and send it out as a stream of brilli-ant light to lift the darkness which has dropped like a shroud over the consciousness of some of our countrymen and women.

Today let us envision a new role for America in the world. Let that vision be informed by the immortal intuitions of our founders. Let that vision spring from our spiritual intuition. Let that vision be expressed in our every word. Let that vision leap from the golden chalice of our hearts. Let that vision be incarnated through our hands. Let us fashion a new nation through a new vision, filled with new hope from which new possibilities arise.

Let America begin anew in Afghanistan. Stop the bombing. We have no quarrel with the Afghan people. The Taliban are overwhelmed. Al Qaeda has fled. Bin Laden has vanished. Kindly stop, indiscriminately. Is there any American who has not been shaken at the mere thought of the horror of U.S. warplanes bombing a wedding celebration in the village of Kakrak, killing dozens of innocent civilians? Whatever moral authority our nation had at the beginning of the conflict is rapidly being lost. This act does not represent America. Democracy does not wed terror. This act must not be cloaked in the irresponsible and inhuman euphemism of “collateral damage”. Stop the bombing. Let our international police force continue in Afghanistan. Let the humble people of Afghanistan be spared friendly fire issued from skies. Enough of bombing the villages! Stop the bombing!

Let America begin anew in Iraq. Stop planning for an invasion. The lives of a quarter of a million young American men and women must not be placed in jeopardy. Put a renewed emphasis on preventive diplomacy instead of pre-emptive strikes. Practice deterrence. Practice containment. Do not practice war in Iraq. Practice instead humanitarian aid to children of the hospitals that lack medical supplies. If Saddam Hussein would visit destruction upon his people let us not compound their woes.

Let America begin anew by putting an end to the Bomb as the ultimate metaphor. Let us lead the way towards the abolition of nuclear weapons. Let us set aside plans for a missile shield. Let us end the manufacture of new nuclear weapons. Let us stop the testing of nuclear weapons. Let us disavow our right to a nuclear first strike. Let us begin again to work toward nonproliferation worldwide and secure the goal of the Nuclear Nonproliferation Treaty which is a world free of nuclear threats. Let us put an end to the bomb as the ultimate metaphor.

Let America once again confirm its leadership and secure its position as a righteous nation among nations by fully participating in the global community through treaty-making and upholding international law. Let us reinstate the ABM Treaty, so that all nations who possess or would possess nuclear weapons can trust the United States will not try to gain advantage.

Let America fulfill a half-century commitment to the use of outer space for peaceful purposes by setting aside plans to weaponize space and leading the way to ban all weapons in space, which is the purpose of HR 3616.

Let America commit to the Kyoto Treaty to protect this planet earth and to assure all nations that we recognize our responsibility to limit the production of greenhouse gases. In this we demonstrate an understanding of the interconnectedness of all life. In this we ensure the life of the planet far into the future. In this we show confidence in the future. In this we show a love of life.

Let America spare this planet and its people the scourge of biological and chemical weapons by leading the way toward world-wide agreement of the Biological and Chemical weapons conventions.

Let America commit itself to the Landmine Treaty and the Small Arms Treaty.

Let America pledge itself to justice everywhere by supporting the International Criminal Court.

Let us bring a new awareness to America. One which speaks and listens compassionately to those with whom we disagree. One whose power derives from the morality of our principles, not the armaments of our militaries.

Let America lead the way for a world at peace through inclusive governance, upholding human rights, protecting workers’ rights everywhere, assuring sustainability through enabling renewable energy resources to be brought forth.

Let America replace its principles of perpetual war with new organizing principles which protect the natural world, and affirm the interconnectedness of all life. Let us make nonviolence an organizing principle in our society through the creation of a Department of Peace.

Let us be the generation which began the work with people of all nations which leads to peace through inclusive governance. Let us be the generation which began the work with people of all nations which leads to the day when war itself becomes archaic. “Not to believe in the possibility of permanent peace is to disbelieve in the godliness of human nature” said Gandhi.

We can evolve. We can understand that war, violent death, the arms race, threats, terror, environmental destruction, adverse global climate change, corporate corruption, poverty, ignorance and sickness are not our ultimate destiny. Our eternal home is not eternal darkness. We are made for something better, a higher purpose, a higher calling here and now.
NEW HAMPSHIRE'S 2001-2002 VFW VOICE OF DEMOCRACY SCHOLARSHIP CONTEST REACHING OUT TO AMERICA'S FUTURE

HON. CHARLES F. BASS
OF NEW HAMPSHIRE
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 2002

Mr. BASS. Mr. Speaker, I rise today to enter into the CONGRESSIONAL RECORD, the speech written by the 2002 Veterans of Foreign Wars officers, and members of the organization.

America, the beautiful country in which we live, has a future brighter than most may see. It is the country where many families raise their children, brave people reside, intelligent people create, scientists explore, and foreigners and citizens vacation. It is a country with immense power and glory behind its name, but the future of such a place is yet to be discovered. The future of the country that we love the most is what we will make it to be. It is up to us now, who are living here today, to make the history of America one that will make those who follow behind us proud of the ones who walked before them.

Many battles have been fought in the past to gain the freedoms we take for granted today, yet there are still battles to be won among America’s own people. They are not battles over hate or differences, but they are rather battles over the hunger and the need of the people of whom we belong. The future of America lies within each American living here today. There are several civil topics that could be improved upon to make the future of our country one to be proud of.

While there are rich and famous stars making the latest movies, and the most well-known scientists discovering, there are still others on the street who are in need of homes, love, and jobs. The able-minded and able-bodied people of America should stand up and make our country proud by making it a better place for all to live, even the less fortunate. Volunteering an hour here or there to counsel a job searcher, to serve meals to the hungry, or even to show a little love and care to a child, can make a difference slowly, one step at a time, one life at a time, a little love at a time, and a little care at a time, we will slowly create the brightest age in America’s history.

A successful country truly say that the quality of living in America is better than any other country, America will have succeeded as a whole. When all Americans can feel protected not only by the laws and power of the country, but also by the care of its people, we will have succeeded. There are countless ways for a single soul to change or alter the life of another, if only a seed of compassion or care were sown within those who are able to give such things to others in need.

To the future of America I would like to offer a country full of helping hands, ones that will reach out to others in need. I would like to see a country that its children like and children alike, not only caring for their circle of friends and for their families, but also assisting the people that are in need in their towns and communities. Our country has proven to be able to accomplish many great feats and this is one feat that can be achieved within the boundaries of our own country. To conquer such a challenge, we need to set ourselves aside and lose all selfishness, putting our focus on others and their needs as well. While making our changes one heart at a time, one step at a time, and one life at a time, we’ll be reaching out to the future of America. Our country will be all that we’ve dreamed it could be. America it’s the beautiful country in which we live and as Americans, we should be proud of what we accomplish as a nation, one step at a time.

IN HONOR OF THE UNION & LEAGUE OF ROMANIAN SOCIETIES, INC.

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the Union & League of Romanian Societies, based here in Cleveland, Ohio, on the occasion of their 96th Anniversary, to be celebrated in July, 2002, in Cleveland, Ohio.

In 1928, two separate Romanian organizations—The Union and The League—unified to become The Union & League of Romanian Societies, Inc. The organization continues to be one of the largest Romanian organizations in the United States, and has maintained its rich history and legacy of service to others. For almost one hundred years, the members and leaders of the Union & League of Romanian Societies have served the Romanian community and never forgotten the sacrifices of ancestors who journeyed before them.

The Union & League of Romanian Societies, Inc. has an impressive record of assisting and supporting Romanians in their homeland. In 1989, a Union & League Relief Fund was established to assist Romania in its economic and social reconstruction. In 1990, a Relief Fund was created with funds specifically earmarked for Romania’s most vulnerable citizens—its children and elderly. The Society continues to demonstrate support of its home-land—connecting the old world with the new—and never forgets the sacrifices of ancestors who journeyed before them.

Mr. Speaker, please join me in honor and recognition of the Union & League of Romanian Societies, Inc., based here in Cleveland. Americans of Romanian descent have made the ultimate sacrifice—giving their lives to protect the freedoms in their new American homeland, beginning with the Civil War. I stand in honor of the significant and noteworthy contributions and sacrifices that members of the Romanian community have made here in Cleveland, and across the nation.

PERSONAL EXPLANATION

HON. NEIL ABERCROMBIE
OF HAWAII
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 2002

Mr. ABERCROMBIE. Mr. Speaker, yesterday and this morning, I was unavoidably detained and I was unable to vote on matters before the House at the time. Had I been present, I would have voted: Rollcall 324—H. Res. 439, Honoring Corrine “Lindy” Claiborne Boggs on the 25th Anniversary of the founding of the Congressional Women’s Caucus “yes”; Rollcall 325—H. Res. 492, Expressing Gratitude for the World Trade Center Clean-up and Recovery Efforts at Fresh Kills Landfill “yes”.

IN HONOR OF 50TH ANNIVERSARY OF THE GARFIELD HEIGHTS BASEBALL LEAGUE

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in recognition and celebration of the Golden Anniversary of the Garfield Heights Baseball League. I also stand in honor of the founding members of the League: Arthur Grugle, Dan Kostell and John Rawlins, and all the individuals over the past fifty years who have volunteered countless hours to ensure that the League remain a viable and significant recreational outlet for the youth of Garfield Heights.

The Garfield Heights Baseball League has the noteworthy distinction of being one of the oldest self-supporting leagues in the nation. Over the years, the League has grown and changed, reflecting our evolving society in many ways. Beginning with less than one hundred players, the League grew to over ninety teams playing on nine fields by the late seventies. Today, over 1,000 youth, both boys and girls are active players in the Garfield Heights Baseball League.

In 1987, the League formed the Garfield Heights Baseball League Hall of Fame. This honor is reserved for those individuals who have gone well beyond the normal call of duty in supporting or enhancing the day-to-day operations of the League. There are currently eighty-nine members in the Hall of Fame. In 1992, the League founded the Steve Huntz Alumni Award, named after the only League alumnus to play in the Major Leagues.

Mr. Speaker, please join me in honor, tribute, and celebration of the past and present leaders of the Garfield Heights Baseball League, for their fifty years of commitment to the youth of Garfield Heights. These leaders are the guardians of the most beloved and
have also played a role in blocking reforms in the past. But Matsui thinks charges that Republicans are in bed with big business fit neatly into a long-established Democratic storyline, meaning GOP efforts to fight back will fall on deaf ears.

"Just like the public knows that the Democrats are better on Social Security and Medicare, and that the Republicans have historically been better on defense, they know that they are beholden to the business community," Matsui said, "Republicans can't change that, so they can try to deny that would almost be counterintuitive.

Matsui is part of a group of more than two dozen senior Democratic lawmakers—dubbed the "extended leadership"—who meet in Minority Leader Richard Gephardt's (D-Mo.) office every day at 5 p.m. when the House is in session. Lately, "business-gate" has become a prime topic of discussion.

Democrats see the business scandals as a way to segue into their other top campaign issues—prescription drugs and, especially, Social Security. The Democratic Congressional Campaign Committee sends out daily press releases accusing GOP lawmakers of "breaking the trust."]

New Democrats charge that Republican plans for Social Security reform will take money promised to seniors and give it to those same scheming Wall Street brokers.

When House and Senate Democrats held a press conference July 12 to hit the GOP on corporate liability, Matsui echoed the theme that "Republicans have a secret plan to privatize Social Security" was CNN's sound bite of the night.

Aside from pointing out that much of the corporate malfeasance now being spotlighted happened during the Clinton administration, New Democrats also hope that the Democrats may go too far in painting themselves as the anti-business party.

Matsui is not particularly worried about a backlash because he is 100 percent convinced of the efficacy of Democratic policies. 

"I think the business community knows that the Democratic Party has been essentially responsible for the growth in the economy in the last 50 years," Matsui said, echoing the common Democratic refrain that the current economic downturn coincided with the Republicans moving back into the White House.

MAN IN THE MIDDLE

Democrats believe it makes sense to deploy Matsui on the corporate scandals because he is seen as a relative voice of reason on the Ways and Means minority roster.

"He doesn't have a long list of sort of knee-jerk, anti-business stuff," said a senior Gephardt aide, arguing that Matsui's relative moderation record on economic issues lends him added credibility.

Matsui is by no means the only—or even the most prominent—member of Ways and Means to tout his record with Gephardt and ranking member Charlie Rangel (D-N.Y.) coordinating, committee Democrats such as Rep. Richard Neal (Mas.), Sander Levin (Mich.), Jim McDermott (Wash.), and Lloyd Doggett (Texas) have all carved out their niches.

Matsui's specialties are Social Security and tax issues. He is comfortable with just about everything in Ways and Means' broad portfolio.

"He knows the subject well, but he also knows how to compartmentalize it," said a Democratic aide. "He knows the forest and the trees."

In terms of style, Matsui sits on the Ways and Means fence, with only his love of baseball giving others in the party's leadership much more than the boys and girls in Garfield Heights will come to know the joy of fielding a ground ball, hitting the winning run, teamwork, and winning and losing gracefully. The Garfield Heights Baseball League has given its youthful ballplayers much more than the love of the game. It has also given generations of kids an understanding of life's lessons in the form of a baseball game, and they've created cherished childhood memories that last from the early innings of childhood, to the bottom of the ninth, two down, tie score, bases loaded. Batter up.

ARTICLE ON REPRESENTATIVE MATSUI

HON. CHARLES B. RANGEL
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Try to get Rep. Robert Matsui (D-Calif.) to talk politics. You won't get very far.

After 24 years in Congress, he's no stranger to power, but he's happy to explain why Democrats are better than Republicans. But he'd really rather talk about policy and the politicians who run the country.

"The whole point of government is to run the country. It is my strength," Matsui said, "I enjoy the mechanics. When we had the Ritaian affair, I enjoyed that," he recalled. "On the other hand, I really enjoy policy. It is my strength."
Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Blackie Howlett, United States Veteran, pilot, devoted husband, father and grandfather, and dear friend to many.

Mr. Howlett was born Jack J. Howlett II eighty-two years ago in his parents’ home on Cleveland’s Westside. After attending John Marshall High School, he attended Baldwin-Wallace College. During the 1930’s, Howlett learned to fly open-cockpit planes here in Cleveland, from the Cosby Brothers, who were local stunt pilots.

Mr. Howlett was an expert aviator, and utilized his skills and knowledge for the protection and service of the United States. As a U. S. Marine, Mr. Howlett was part of the military crew who helped to build an airport in Boston, NC. During that time, renown pilot Charles Lindbergh visited the base to train pilots. Mr. Howlett was one of Lindberg’s students. Toward the end of WWII, he was stationed on Wake Island in the Pacific, as a Commanding Officer of the Marine detachment. Mr. Howlett accepted the surrender of Japanese troops on Wake Island. Later, he remained in the service and was in command of an airport in Osaka, Japan. Several years after WWII, Mr. Howlett left the military, and had achieved the status of Major.

After his military tenure, Mr. Howlett joined Irving Cloud Publishing, where he founded Aviation Equipment and Maintenance Magazine. Later, he founded Howlett and Associates, a consultancy company, for aviation publications located around the globe. Mr. Howlett maintained his involvement and participation in aviation throughout his life. During his senior years, he founded the local chapter of the Silver Wings Fraternity, an organization comprised of senior pilots.

In addition to his passion for flying through the air, Mr. Howlett had a life-long interest in flying across the ice. He was an active speed pilot, and learned to fly open-cockpit planes here in Cleveland, from the Cosby Brothers, who were local stunt pilots.

Mr. Howlett was an extraordinary pilot, accomplished businessman, dedicated citizen, and devoted family man. Mr. Blackie Howlett will be greatly missed by all who knew him well, yet his legacy of living life to its absolute fullest will live on for generations to come.

Mr. Howlett was one of Lindberg’s students. Toward the end of WWII, he was stationed on Wake Island in the Pacific, as a Commanding Officer of the Marine detachment. Mr. Howlett accepted the surrender of Japanese troops on Wake Island. Later, he remained in the service and was in command of an airport in Osaka, Japan. Several years after WWII, Mr. Howlett left the military, and had achieved the status of Major.

After his military tenure, Mr. Howlett joined Irving Cloud Publishing, where he founded Aviation Equipment and Maintenance Magazine. Later, he founded Howlett and Associates, a consultancy company, for aviation publications located around the globe. Mr. Howlett maintained his involvement and participation in aviation throughout his life. During his senior years, he founded the local chapter of the Silver Wings Fraternity, an organization comprised of senior pilots.

In addition to his passion for flying through the air, Mr. Howlett had a life-long interest in flying across the ice. He was an active speed pilot, and learned to fly open-cockpit planes here in Cleveland, from the Cosby Brothers, who were local stunt pilots.

Mr. Howlett was an extraordinary pilot, accomplished businessman, dedicated citizen, and devoted family man. Mr. Blackie Howlett will be greatly missed by all who knew him well, yet his legacy of living life to its absolute fullest will live on for generations to come.

Mr. Howlett was one of Lindberg’s students. Toward the end of WWII, he was stationed on Wake Island in the Pacific, as a Commanding Officer of the Marine detachment. Mr. Howlett accepted the surrender of Japanese troops on Wake Island. Later, he remained in the service and was in command of an airport in Osaka, Japan. Several years after WWII, Mr. Howlett left the military, and had achieved the status of Major.

After his military tenure, Mr. Howlett joined Irving Cloud Publishing, where he founded Aviation Equipment and Maintenance Magazine. Later, he founded Howlett and Associates, a consultancy company, for aviation publications located around the globe. Mr. Howlett maintained his involvement and participation in aviation throughout his life. During his senior years, he founded the local chapter of the Silver Wings Fraternity, an organization comprised of senior pilots.

In addition to his passion for flying through the air, Mr. Howlett had a life-long interest in flying across the ice. He was an active speed pilot, and learned to fly open-cockpit planes here in Cleveland, from the Cosby Brothers, who were local stunt pilots.

Mr. Howlett was an extraordinary pilot, accomplished businessman, dedicated citizen, and devoted family man. Mr. Blackie Howlett will be greatly missed by all who knew him well, yet his legacy of living life to its absolute fullest will live on for generations to come.

Mr. Howlett was one of Lindberg’s students. Toward the end of WWII, he was stationed on Wake Island in the Pacific, as a Commanding Officer of the Marine detachment. Mr. Howlett accepted the surrender of Japanese troops on Wake Island. Later, he remained in the service and was in command of an airport in Osaka, Japan. Several years after WWII, Mr. Howlett left the military, and had achieved the status of Major.

After his military tenure, Mr. Howlett joined Irving Cloud Publishing, where he founded Aviation Equipment and Maintenance Magazine. Later, he founded Howlett and Associates, a consultancy company, for aviation publications located around the globe. Mr. Howlett maintained his involvement and participation in aviation throughout his life. During his senior years, he founded the local chapter of the Silver Wings Fraternity, an organization comprised of senior pilots.

In addition to his passion for flying through the air, Mr. Howlett had a life-long interest in flying across the ice. He was an active speed pilot, and learned to fly open-cockpit planes here in Cleveland, from the Cosby Brothers, who were local stunt pilots.

Mr. Howlett was an extraordinary pilot, accomplished businessman, dedicated citizen, and devoted family man. Mr. Blackie Howlett will be greatly missed by all who knew him well, yet his legacy of living life to its absolute fullest will live on for generations to come.

Mr. Howlett was one of Lindberg’s students. Toward the end of WWII, he was stationed on Wake Island in the Pacific, as a Commanding Officer of the Marine detachment. Mr. Howlett accepted the surrender of Japanese troops on Wake Island. Later, he remained in the service and was in command of an airport in Osaka, Japan. Several years after WWII, Mr. Howlett left the military, and had achieved the status of Major.

After his military tenure, Mr. Howlett joined Irving Cloud Publishing, where he founded Aviation Equipment and Maintenance Magazine. Later, he founded Howlett and Associates, a consultancy company, for aviation publications located around the globe. Mr. Howlett maintained his involvement and participation in aviation throughout his life. During his senior years, he founded the local chapter of the Silver Wings Fraternity, an organization comprised of senior pilots.

In addition to his passion for flying through the air, Mr. Howlett had a life-long interest in flying across the ice. He was an active speed pilot, and learned to fly open-cockpit planes here in Cleveland, from the Cosby Brothers, who were local stunt pilots.
to freedom of speech and belief, and the Chinese president was breaking the International Covenant of Human Rights by torturing and killing innocent people. They said that it was because I was in China and had to do what they said. I didn’t agree. They began asking me many questions and kicked, slapped, and shoved me when I refused to answer. After about one and a half hours of interrogation, I was taken to a children’s detention center located in a parking garage.

The detention center had two cells in it. I was put into the cell by myself and my luggage was kept away from me. The cell was very dirty and the bed was covered in stains. Most of the policemen watching me were very young and had no interest in arresting people. They were just doing their jobs. I felt very sorry for them because of this. Upon reading the information about Falun Dafa that I had brought with me, they seemed shocked to see the pictures and read the information about the people who have been killed.

I was locked in the cell by myself for the next 45 hours until about 4:00 p.m., Wednesday, the 27th. During the next 45 hours of my stay, the guards tried to get me to answer several questions as to where I was from, who I traveled to China with, where I got the information I had brought with me, and if I had been in contact with anyone in China. I refused to answer any questions I thought could be used to distort the truth or used to hurt other people. I tried to get me to sign a form several times, but I refused. On two occasions, the guards were very violent.

One of these times was in the afternoon on Tuesday the 26th. After being escorted to and from the bathroom, I asked them if I could do my homework (which I had brought with me from school). At this point, one of the guards became very angry and pushed me back into the cell. He punched me in the mouth and stomach, and kicked me down to the bed. I had a bloody lip for about 20 minutes.

The other time was in the morning on Wednesday, the 27th. When the guards were still asleep, I used a coin to write Chinese characters on the wall. The characters read ‘Falun Dafa is good’. ‘Truthfulness, compassion, and forbearance into practice. Falun Dafa is a righteous practice’. I signed it ‘an American college student, March 27th.’ I wrote the words because I felt it was the only way to let the people who came into the detention center know why I was there. Upon waking up, the guards were stunned, and stared at the writing over and over again. Two hours later, they came into the cell and washed the words away, demanding that I leave the cell with them so they could take my photo and fingerprints. I refused. Again, I told them I was not a criminal and had done nothing wrong. I shouldn’t be here, and they should be out on the street arresting people who commit real crimes and rob people. Two of them dragged me out at that point and began punching me in the head and kicking me in the torso. In the end, they were unsuccessful at taking my thumbprints or photo. Later in the day, one of the policemen watching me were very young and had no interest in arresting people. They were just doing their jobs. I felt very sorry for them because of this. Upon reading the information about Falun Dafa that I had brought with me, they seemed shocked to see the pictures and read the information about the people who have been killed.

The day I arrived in China, there was a huge police sweep in the northeast city of Changchun. The police sweep came after a big Falun Dafa protest on March 16th. The police were very violent. They had to use great force to take control of the protest. Falun Dafa practitioners were very peaceful and only wanted to spread Falun Dafa and expose the beating I had received while in custody.

Though it was very rare, what I experienced was nothing compared to what the people in China have been facing everyday for the past two and a half years; and they don’t have a safe home to come home to. Hundreds of thousands are languishing in labor camps and detention centers all across the country. In one county, they are tortured with electric batons, beatings, sleep deprivation, and mind-altering drugs. The guards tried to get me to answer several questions I thought could be used to distort the truth or used to hurt other people. I refused to answer any questions I thought could be used to distort the truth or used to hurt other people.

Mr. Speaker, I rise today in honor and remembrance of June Allison McCormack, devoted mother of four, and devoted grandmother of ten. Mrs. McCormack leaves behind a legacy of a generous spirit and devotion to helping others, especially children, and she will be greatly missed.

**IN HONOR OF ALLISION MCCORMACK**

**HON. DENNIS J. KUCINICH**

**OF OHIO**

**IN THE HOUSE OF REPRESENTATIVES**

**Tuesday, July 23, 2002**

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of June Allison McCormack, community and political activist, successful businesswoman, beloved mother, grandmother, and trusted friend.

Mrs. McCormack was an extremely kind soul with a generous spirit, who was always looking for ways to help others. She traveled frequently to points across the globe, looking for ways to improve the environment for children living in impoverished areas.

Mrs. McCormack donated her time and money to several worthy charitable organizations, and encouraged others to do so. Instead of accepting holiday and birthday gifts from friends and family, she requested that they donate to the charity of their choice.

Besides her philanthropic work and commitment to volunteerism, Mrs. McCormack possessed a sharp sense for business, and successfully operated June McCormack Realty for 25 years, before retiring in the mid-eighties.

Mrs. McCormack was an extremely kind soul with a generous spirit, who was always looking for ways to help others. She traveled frequently to points across the globe, looking for ways to improve the environment for children living in impoverished areas.

Mr. Speaker, I rise today in honor and remembrance of June Allison McCormack, devoted mother of four, and devoted grandmother of ten. Mrs. McCormack leaves behind a legacy of a generous spirit and devotion to helping others, especially children, and she will be greatly missed.

**FIGHTER PILOTS HONORED**

**HON. GARY G. MILLER**

**OF CALIFORNIA**

**IN THE HOUSE OF REPRESENTATIVES**

**Tuesday, July 23, 2002**

Mr. MILLER of California. Mr. Speaker, I rise today to pay tribute to a group of individuals who did a great service to our nation. These men are fighter pilots from the Royal Australian Air Force and the New Zealand Royal Air Force who were assigned to US combat units and served as Forward Air Controllers during the Vietnam War. I would like to honor the following individuals:

ROYAL AUSTRALIAN AIR FORCE

Mr. Speaker, please join me in honor and remembrance of the following individuals:


- Mrs. McCormack was an extremely kind soul with a generous spirit, who was always looking for ways to help others. She traveled frequently to points across the globe, looking for ways to improve the environment for children living in impoverished areas.

Mrs. McCormack donated her time and money to several worthy charitable organizations, and encouraged others to do so. Instead of accepting holiday and birthday gifts from friends and family, she requested that they donate to the charity of their choice.

Besides her philanthropic work and commitment to volunteerism, Mrs. McCormack possessed a sharp sense for business, and successfully operated June McCormack Realty for 25 years, before retiring in the mid-eighties.

Mrs. McCormack was an extremely kind soul with a generous spirit, who was always looking for ways to help others. She traveled frequently to points across the globe, looking for ways to improve the environment for children living in impoverished areas.

Mr. Speaker, I rise today in honor and remembrance of June Allison McCormack, devoted mother of four, and devoted grandmother of ten. Mrs. McCormack leaves behind a legacy of a generous spirit and devotion to helping others, especially children, and she will be greatly missed.

**IN THE HOUSE OF REPRESENTATIVES**

**Tuesday, July 23, 2002**

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of June Allison McCormack, community and political activist, successful businesswoman, beloved mother, grandmother, and trusted friend.

Mrs. McCormack was an extremely kind soul with a generous spirit, who was always looking for ways to help others. She traveled frequently to points across the globe, looking for ways to improve the environment for children living in impoverished areas.

Mrs. McCormack donated her time and money to several worthy charitable organizations, and encouraged others to do so. Instead of accepting holiday and birthday gifts from friends and family, she requested that they donate to the charity of their choice.

Besides her philanthropic work and commitment to volunteerism, Mrs. McCormack possessed a sharp sense for business, and successfully operated June McCormack Realty for 25 years, before retiring in the mid-eighties.

Mr. Speaker, I rise today to pay tribute to a group of individuals who did a great service to our nation. These men are fighter pilots from the Royal Australian Air Force and the New Zealand Royal Air Force who were assigned to US combat units and served as Forward Air Controllers during the Vietnam War. I would like to honor the following individuals:

ROYAL AUSTRALIAN AIR FORCE


NEW ZEALAND ROYAL AIR FORCE


I would also like to recognize Lt. Col. Eugene Rossell and Flt. Lt. Garry Copper for actively pursuing decorations for these men who served our country in a time of need.
IN HONOR OF REVEREND GARY HOOVER

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the Reverend Gary Hoover, OSB, on the occasion of his 25th Anniversary of his profession of vows, on July 16, 2002.

Reverend Hoover, a Benedictine monk, has taught theology at Benedictine High School for the past eighteen years. He has recently been assigned to the position of Director of Alumni Affairs at the High School.

In addition to his new position and teaching duties, Reverend Hoover is the director of Campus Ministry, and is the chaplain for Benedictine’s athletic teams.

Reverend Hoover continues to demonstrate his commitment and dedication to his faith, and teaching have enhanced and strengthened the entire Benedictine community.

IN HONOR OF FRANCIS SCOTT CWIKLINSKI

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Francis Scott (Frank) Cwiklinski, U.S. Military Academy graduate, Persian Gulf War veteran, executive editor of the Cleveland State Law Review, and trusted friend to many.

Following his graduation from Valley Forge High School in 1985, Mr. Cwiklinski attended West Point Academy, and graduated in 1989. Following his college graduation, he served in the Army as a First Lieutenant during Operation Desert Storm. Mr. Cwiklinski worked on renovating rental properties in Cleveland’s Tremont neighborhood prior to attending law school.

Besides writing for the Law Review, Mr. Cwiklinski was a columnist for The Gavel, the official newspaper of Cleveland-Marshall College of Law. He was ranked in the top ten percent of his class, and was scheduled to graduate this December.

Mr. Speaker, Mr. Cwiklinski’s endless energy, quick smile, and friendly demeanor greatly enriched the lives of all who knew him, especial his family, friends and colleagues, and though he will never be forgotten, he will be greatly missed.

SERIOUS CRIMINAL DEEDS MUST BE PUNISHED

HON. MAJOR R. OWENS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. OWENS. Mr. Speaker, the massive suffering being inflicted on millions of employees and investors by corporate thieves is still difficult to comprehend. Members of Congress have a duty to clarify the murky scenarios unfolding everyday. Stealing by very sophisticated means is still thievery. When an executive is granted a 400 million dollar loan, there is no way to explain it as a rational business decision. Congress must make them confess.

THE FINANCIAL MARKETS, SECURITIES AND ACCOUNTING INDUSTRIES HAVE CAUSED AMERICAN TAXPAYERS AND INVESTORS TO LOSE $4 TRILLION SINCE 2000

HON. DANNY K. DAVIS
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. DAVIS of Illinois. Mr. Speaker, before Enron Corporation’s bankruptcy filing in December 2001, the firm was widely regarded as one of the most innovative, fastest growing, and best managed businesses in the United States. With the swift collapse, shareholders, including thousands of Enron workers who held company stock in their 401(k) retirement accounts, lost tens of billions of dollars. It now appears that Enron was in terrible financial shape as early as 2000, burdened with debt and money-losing businesses, but manipulated its accounting statements to hide these
express my gratitude to the U.S.S. on roll call No. 324, and Aye on roll call No. Had I been present, I would have voted Aye.

E1338

‘...Enron and WorldCom; audit, it would be more effective than the cur-

selves such as Enron and WorldCom;...it would be more effective than the cur-

ter of our President, the Congress, and our

Where are our watchdogs? They were no-

tion, and mismanagement of funds that has

Where is to be found when it comes to integrity.

ble. Where are our watchdogs? They were no-

improper accounting practices for $3.9 billion

xml version="1.0" encoding="UTF-8" standalone="no"

personal explanation

HON. JAMES H. MALONEY
of Connecticut
in the house of representatives

Tuesday, July 23, 2002

Mr. MALONEY of Connecticut. Mr. Speaker, I was absent on Monday, July 22, 2002, and missed roll call votes No. 324, and No. 325. Had I been present, I would have voted Aye on roll call No. 324, and Aye on roll call No. 325.

Recognizing the U.S.S. ‘Sierra’ Veterans Association’s resolution of support for our war against terrorism.

HON. BENJAMIN A. GILMAN
of New York
in the house of representatives

Tuesday, July 23, 2002

Mr. GILMAN. Mr. Speaker, I rise today to express my gratitude to the U.S.S. Sierra Veterans Association for their patriotism and sup-

armed forces as we wage our war against ter-

orism. At the 14th Annual Reunion on September 28th 2001, the U.S.S Sierra Veterans Association passed a Resolution expressing their anger at the terrorists attacks of September 11, 2001 and urging the support of the President and Congress taking appropriate ac-

tion in combating terrorism. In addition, the as-

sociation expressed their condolences for the destruction and loss of so many innocent lives following those barbaric attacks against the World Trade Center and the Pentagon, and over the skies of Pennsylvania.

It is important for us to recognize individuals and organizations that are expressing their pa-

triotism, for just as we appreciate their support of our efforts to protect the American public, they must know that we appreciate their steadfast resolve towards fighting terror in their hearts and minds.

Accordingly, it is my privilege to present the house with the U.S.S. Sierra Veterans Asso-

ciation Resolution in support of our war against terrorism and assure them that their message has been received and that we will work diligently and act decisively to protect in-

nocent American lives.

The Domain Of The Golden Dragon (Ruler Of The 180th Meridian) Invaded September 7, 1944 U.S.S. Sierra (AD 18) Veterans Association ‘THE SHIP WITH THE HELPING HANDS’

A resolution

Whereas: We, Veterans of the U.S.S. Sierra [AD-18] Veterans’ Association have gathered in the Portsmouth, Virginia on September 28, 2001 for our 14th annual reunion.

Whereas: We, United States Veterans, are very angry and disturbed over the terrorists’ attacks on the United States which occurred on September 11, 2001 with the resulting de-

struction and loss of so many innocent lives. Be it resolved that we, U.S.S. Sierra Vet-

erans, encourage and support our command-

in-chief, the United States Congress and those so delegated in all efforts to locate those individuals and groups responsible in any way for the tragic disruption of our security and freedom and to impose appro-

priate punishment in a timely and thorough manner.

The 50th anniversary of the constitution of the commonwealth of puerto rico

HON. ANÍBAL ACEVEDO-VILÁ
of puerto rico
in the house of representatives

Tuesday, July 23, 2002

Mr. ACEVEDO-VILÁ. Mr. Speaker, this Thursday, July 25, Puerto Rico celebrates the 50th Anniversary of the adoption of its Con-

stitution as a Commonwealth. This Constitu-

tion established a unique relationship between Puerto Rico and the United States, which has en-

abled Puerto Ricans to preserve and pro-

mote our cultural identity, while guaranteeing our United States citizenship and protecting the values of liberty and justice that we share with all Americans.

This Constitution established a republican form of government, and provided for a broad Bill of Rights that followed both the U.S. Con-

stitution and the Universal Declaration of the Rights of Man. This Constitution also provided for the election of all members of the legisla-

ture by the free will of the people. The ratifica-

tion of the constitution by the people of Puerto Rico is the most significant democratic achievement for Puerto Rico in the 20th Cen-

tury.

At the outbreak of the Spanish-American War, Puerto Rico already had a strong sense of nationhood and had achieved a high degree of autonomy under Spanish colonial rule. However, the initial U.S. rule on the Island, did not automatically bring democracy and freedom for Puerto Ricans. Puerto Ricans continued to strive for autonomy and democratic rights. In 1917, the United States granted Puerto Ricans U.S. citizenship, but very little was provided to increase Puerto Rican participation in local government. In the 1940’s, a new generation of Puerto Rican leaders sought a transformation in the relationship between the United States and Puerto Rico, in order to provide the necessary demo-

ocratic tools for the economic, social and political development. Leaders like Luis Muñoz-Marín, Antonio Femos, Jaime Benitez, and others, worked to pave the way for a new relationship between Puerto Rico and the United States.

In 1950, the U.S. Congress responded to Puerto Rico’s claim to statehood by approving Public Law 600, which recognized the right of the Puerto Rican people to write and adopt their own constitution as a compact between the two nations. A Puerto Rican Constitutional Convention drafted the new Constitution, which was signed into law by President Tru-

man and subsequently ratified by the over-

whelming majority of Puerto Rico.

The Commonwealth is the result of a great generation of Puerto Rican and American leaders driven by a progressive vision and commitment to democratic values. President Harry Truman said: ‘The Commonwealth of Puerto Rico will be a government which is truly by consent of the governed. No government can be invested with higher dignity and greater worth than one based upon the princi-

ples of consent. The people of the United States and Puerto Rico are entering into a new relationship that will serve as an inspira-

tion to all who love freedom and hate tyr-

dom.”

The Commonwealth is based on the free will of the Puerto Rican people who have sup-

ported the commonwealth status in all 3 plebi-
sicites celebrated on the issue to date. The majority of Puerto Ricans prefer common-

wealth over statehood and independence be-

cause it is the only status that allows them to preserve and promote their cultural identity, while maintaining the benefits of their political relationship with the United States.

Commonwealth is the only political and legal arrangement that harmonizes two central aspirations of the Puerto Rican people. On the one hand, Puerto Rican’s will to preserve their autonomy and promote their distinct national identity, and on the other, their desire to pre-

serve their U.S. citizenship and ties with the United States. Both aspirations are realized under the commonwealth. Moreover, the pro-

commonwealth movement represents the Puerto Rican center, accommodating two rad-

ically conflicting political forces: independence and statehood.

The Commonwealth is based on four pillars: (1) common U.S. citizenship, (2) common de-

fense, (3) common currency and trade; and (4) fiscal and political autonomy.
Puerto Ricans treasure the U.S. citizenship. They believe it represents the values of our democracy, liberty and justice that they share with all Americans. Thousands of Puerto Ricans have fought with valor and died as U.S. soldiers in all armed conflicts since World War I, and today they are proudly fighting the war against terrorism.

The economic and social benefits of the Commonwealth have been extraordinary. Puerto Rico’s economic transformation was led by Governor Luis Muñoz-Marín and his Popular Democratic Party. The economic development project named “Operation Bootstrap” combined government investment, education, training and tax-exemptions. Muñoz-Marín’s leadership along with the U.S. government’s assistance, transformed Puerto Rico into a modern and competitive country.

Puerto Rico’s fiscal autonomy has been crucial to these achievements. Fiscal autonomy means that for tax purposes Puerto Rico is considered a foreign jurisdiction. This tool allows Puerto Rico to collect its own taxes, set its own fiscal priorities, and compete effectively with other jurisdictions. Although U.S. residents in Puerto Rico do not pay federal income tax, they do pay federal payroll taxes.

The Commonwealth’s success has been very beneficial for the United States as well. Today, the #1 per capita consumer of U.S. products in the world; and the 9th largest market for U.S. goods in the world. In 1999, Puerto Rico purchased $16 billion worth of U.S. products, which translates into 320,000 jobs on the mainland.

Today, the overwhelming majority of Puerto Ricans live a better life thanks to the Commonwealth. Moreover, in my view, Commonwealth status was ahead of its time. The Commonwealth is a pragmatic model capable of dealing with real problems; it is flexible and adaptable to the new global context. In fact, contemporary political theorists and scholars have recognized the benefits of an autonomous arrangement such as the Commonwealth of Puerto Rico. In the new world order, traditional concepts of political theory such as sovereignty and citizenship have changed and become more flexible. The focus today is on cooperation, integration and openness.

As anticipated by its creators, the Commonwealth may be continuously improved and enhanced. Under an enhanced Commonwealth, Puerto Ricans have a prosperous future ahead.

The view that Commonwealth is the best alternative for the island is shared by the majority of Puerto Ricans. Statehood has never been favored in any plebiscite on status. Independence today has less than 5 percent of numbers of representatives of Puerto Rico’s three political parties, as well as a number of renowned jurists and other eminent private citizens, selected by the three parties in consensus. The Commission will then seek to reach non-partisan consensus on the procedure to be followed in future status discussions.

Notwithstanding this historic non-partisan process proposed by the Governor, I must tell you that the overwhelming majority of the people of Puerto Rican respect and cherish our Commonwealth constitution.

To further accomplish the goals on the present and future of the Commonwealth and the need of a new Puerto Rican consensus, I am submitting for the RECORD a speech that I gave on April 26, 2002 at Harvard’s JFK School of Government.

This week all Americans ought to celebrate the 50th Anniversary of the Constitution of the Commonwealth of Puerto Rico, not only because for the extraordinary achievements of the past 50 years but also for the bright future of growth that we have ahead.

INTRODUCTION OF THE RETIREMENT SECURITY FOR ALL AMERICANS ACT

HON. EARL POMEROY OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. POMEROY. Mr. Speaker, I rise today to introduce the “Retirement Security for All Americans Act,” legislation that will help all of our nation’s workers save for their retirement. Sen. Jeff Bingaman (D-N.M.) has already introduced a companion bill in the Senate, and I am proud to sponsor this bill in the House.

Although there are several ways to measure pension coverage, there is one constant statistic—less than half of the workers in our country are covered by an employer sponsored pension plan. In spite of numerous incentives provided by Congress over the years, this coverage rate has remained virtually unchanged for the past three decades. In my home state of North Dakota, the plan participation rate is lower than the national average. Only 41 percent of workers participate in a retirement plan in the state. Therefore, about 60 percent of North Dakota’s workers are without coverage and will have to fund their retirement through personal savings and Social Security.

Unfortunately, most private sector workers who do not have a pension or retirement plan will not have significant savings, leaving them only with Social Security as their main source of income in retirement.

The legislation I am introducing today addresses this need by encouraging small- and mid-size employers, where pension coverage is severely deficient, to not only offer plans, but to provide contributions to their lower paid workers. Each of these provisions standing alone would improve coverage and our national savings rate. Combined, they strongly complement each other making passage of this bill imperative.

The first provision expands and makes permanent the current Savers’ Credit that was signed into law last year. Currently, married couples earning less than $30,000 are entitled to a credit of half their retirement plan contribution. Those with income between $30,001 and $32,500 are eligible for a 20 percent credit, and a 10 percent credit is available for those with incomes above $32,500 and less than $50,000.

This bill would gradually phase the credit rate down for married couples with incomes between $30,000 and $55,000 and other filers with incomes between $15,000 and $27,500, eliminating the cliff-like structure of the current credit.

North Dakotans will greatly benefit from this provision. The average median household income in North Dakota is about $35,000. Over one-third (38 percent) of households in the state have incomes of less than $30,000. Workers in these households will receive $5.00 for every dollar that they save in their 401(k) or IRA. An additional 34 percent of households in North Dakota have incomes between $30,000 and $50,000. Workers in these households will receive $.10 and $.20 for every dollar that they save in their 401(k) or IRA. This additional money will help North Dakotans, and especially baby boomers, plan for their retirement.

The second provision of the bill requires all employers with more than 10 employees, who do not currently offer their employees a qualified retirement plan, to provide their workers with the option of a payroll deduction IRA. A payroll deduction IRA will allow workers to save small amounts out of each paycheck instead of making periodic contributions to an IRA. This savings mechanism is desperately needed among workers and small employers who cannot afford to establish pension plans. To offset any administrative cost, a tax credit of $200 for the first year and $50 for subsequent years is provided to the employer.

The final section incorporates the Senate passed provision that was eliminated in the Economic Growth and Tax Relief Reconciliation Act of 2001 which provides small businesses with a tax credit for their contributions to the retirement accounts of their non-highly compensated employees. This should not only encourage many employers to offer a plan for the first time, but also create a noteworthy incentive to contribute to these employees’ accounts.

I look forward to working with my colleagues to bridge this gap in pension coverage in our country. We must continue to advance proposals that will make meaningful improvements. I know this legislation is needed in North Dakota, and I hope my colleagues will join me in passing this important legislation.
COMMENDING THE TROOPS AT U.S. NAVAL BASE GUANTANAMO BAY

HON. JAMES R. LANGEVIN
OF RHODE ISLAND
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 2002

Mr. LANGEVIN. Mr. Speaker, I rise today to pay tribute to the patriotism of 100 of my fellow Rhode Islanders, who are members of the 43rd Military Police Brigade of the Rhode Island Army National Guard. As I speak, these fine men and women are deployed to U.S. Naval Base Guantanamo Bay in Cuba, where they are part of Joint Task Force-160. The mission of Joint Task Force-160 is to oversee the care, custody and control of the detainees who have been apprehended by United States and international forces in the global war on terrorism. The 43rd Military Police Brigade is serving as the core staff and headquarters for the entire Joint Task Force, as well as providing critical security requirements for Camp Delta. These detainees are being held. Additionally, they support the efforts of Joint Task Force-170, which includes both the FBI and the CIA, who are handling interrogation of the detainees. In deploying to Guantanamo Bay, they have been reunited with their commander and fellow Rhode Island Guardsman, Brigadier General Rick Backhaus, who became the Task Force Commander in March of this year.

U.S. Naval Base Guantanamo Bay is over 45 square miles and is not only the oldest U.S. base overseas but it is also the only one in a Communist country. It is located on the southeastern coast of Cuba, and is about 400 air miles from Miami, Florida. For these Guard members it is home because it is where their country needs them to be. They are an integral part of the 1,700 members of Joint Task Force-160, made up of servicemen and women from the Air Force, Army, Navy, Marines and Coast Guard, and they are all unsung heroes of the war on terrorism.

The 43rd Military Police is a mobilized National Guard unit from my hometown of Warwick, Rhode Island. They recently made history when, on May 20, 2002, they became the first National Guard unit to assume the role of a joint task force command. Clearly this demonstrates the abilities of the National Guard to seamlessly transition into an active duty command. This complete integration of a National Guard unit into a joint task force is a tribute to both the National Guard Bureau and the U.S. Army.

A member of my staff recently had the privilege of visiting these Guard members at Guantanamo Bay. He told me that it was impossible not to be struck by the professionalism and dedication of these men and women. Their morale is excellent, despite the incredibly stressful task they have. They make every daily decision, which affects the lives of 1,700 troops and 564 detainees, and they are our next-door neighbors. They are accomplishing something they have constantly prepared for but never imagined would become reality in this way. They have been assigned an awesome challenge and have risen to the occasion.

In recognizing these members of the Rhode Island National Guard, I also want to acknowledge the outstanding support that they receive from their families and their employers. Most of these Guard members are traditional members, or “weekend warriors”, as they are often known. Many are self-employed or hold critical positions in their companies. The extremely unique demand of this war on terrorism is a duty that is shared by employers and employees alike. Many Guard members expect to be away from their families and jobs for four months, which could impose a significant financial and psychological burden on members at a time when they need to be functioning at 100 percent. The support they receive is critical to the success of their mission.

I am proud as an American and a Rhode Islander to recognize in patrioticism displayed by the guardsmen of the 43rd Military Police Brigade, their families and their employers in their deployment as part of Joint Task Force 160.

LEAP AWARD WINNERS IN ORANGE COUNTY

HON. LORETTA SANCHEZ
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 2002

Ms. SANCHEZ. Mr. Speaker, Today I rise to honor Chongge Vang and Debbie Barba for their leadership and dedication to the Asian community of Orange County. Debbie, a third generation Japanese-American, worked her way up from telephone operator to Vice President of Local Operations for Pacific Bell. During her tenure, she provided a wonderful example to others in our community by returning to school and working to obtain her undergraduate degree from the University of Redlands.

Chongge Vang fled Laos in the late 1970’s after fighting alongside the American CIA in a secret war. Since his arrival in Orange County, he has helped countless members of the Hmong community to become U.S. citizens and receive health care and other social-service support.

A modest man, Vang considers himself more of a helper than a leader. He stated that he became a leader only because others did not answer the call.

The Leadership Education for Asian Pacifics organization has recognized these two leaders. I would like to personally thank them for their hard work and the positive example they set for others in my district.

KEEPING CANADIAN TRASH OUT OF MICHIGAN

HON. DAVID E. BONIOR
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 2002

Mr. BONIOR. Mr. Speaker, our state is a nation to enact a ban on imported trash. I introduced the first bill to allow local communities the ability to say “no” to out-of-state and Canadian trash in 1989 and passed it through the House in 1990 only to have Representatives block it in the Senate.

Today, Representative ROGERS offers an approach that many of us have been talking about for some time. We need to stop these trash trucks at our bridges and make it as difficult as possible for them to do business in Michigan.

Ensuring our border agents do not use their scarce resources to facilitate the flow of trash from Canada is a good first step, but we need to do more. We need to enact the Bonior-Dingell-Doy nel-Greenwood-Upton legislation, which would allow local communities to ban out-of-state and Canadian trash.

I commend Representative ROGERS for drawing attention to this critically important issue for Michigan’s families and look forward to working with him to enact a permanent ban on imported trash.

TRIBUTE TO ANN MORGAN, U.S. BUREAU OF LAND MANAGEMENT’S COLORADO STATE DIRECTOR

HON. MARK UDALL
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 2002

Mr. UDALL of Colorado. Mr. Speaker, I rise today to pay tribute to the Ann Morgan, the State Director of the Colorado Office of the U.S. Bureau of Land Management—the BLM. Ann will be leaving this position this week, after nearly five years of distinguished service in that demanding job.

Ann started as Colorado State Director of the BLM in October 1997. In our state, the BLM manages 8.4 million acres that include the full range of Colorado’s diverse land forms, from forested areas, to river corridors, to red rock plateaus and open range expanses along the western slope. Managing these varied landscapes presents many challenges. Important balances must be struck between those that wish to use these lands for wildlife protection, open space, recreation, mineral development, grazing, timbering and oil and gas extraction.

As State Director, Ann had to work with the diverse interests to strike that balance. Her approach was to work for the kind of community-based partnerships that are so important for true multiple-use management. An example of this is the Colorado Outdoor Recreation Roundtable, where Ann was an active member. She also served as a co-chair of the Colorado Environmental Partnership, and has been an advisor to the University of Colorado Natural Resources Law Center. She also encouraged BLM to work across jurisdictional lines with the U.S. Forest Service and Colorado State Parks to better manage these lands and serve the public.

As we look toward 1994—we recognize the value in conserving landscapes so that today’s and future generations of visitors can enjoy the beauty and recreational potential of these public lands. To that end, she has helped build support for and
increased the size of National Landscape Conservation System units. Working with the Colorado Congressional delegation, she was instrumental in the designation of the Gunnison Gorge and Colorado Canyons National Conservation Areas and the designation of wilderness areas within those NCAs.

Through her leadership and the good work of the BLM employees, important guidelines are in place to make sure that recreation, grazing and other uses do not negatively impact our public lands. These guidelines help underscore that the environment can be protected in concert with economic benefits that inure to communities by these resources and activities.

She also helped BLM make important strides toward integrating fire into overall land management. Today, the Colorado BLM has in place state-of-the-art Fire Management Plans, which utilizes naturally ignited fires to meet resource objectives. She has also helped create local community support for the BLM’s fire program, and helped local communities develop fire management plans.

She has also been helpful on wilderness protection. She demonstrated strong leadership when she agreed to re-evaluate areas that contained wilderness characteristics to determine if the management of these areas should be revised to protect their wilderness values. She also was a supporter of the BLM’s Colorful Colorado policy of providing interim protection of areas that have been proposed for wilderness in order to give Congress the flexibility to determine this ultimate disposition of these lands.

Before coming to Colorado, Ann served three years as BLM’s State Director in Nevada, where she concentrated on developing standards and guidelines for rangeland health, improving the quality and timeliness of hardrock mining environmental analysis, and securing strong working relationships with local governments in a state where the BLM manages 67 percent of the land.

Before embarking on her BLM career, Ann was manager of the Washington State Department of Natural Resources Division of Aquatic Lands. There she was responsible for the multiple use management of more than 2 million acres of state public lands. She directed leasing, resource inventories and harvesting, public access and recreation, habitat protection and restoration, and statewide aquatic lands enhancement programs. Prior to that she managed engineering and construction projects for geothermal power plants for the Pacific Gas and Electric Company.

Ann will be moving on to work on public land and environmental issues with the, the Natural Resources Law Center at the University of Colorado Law School in Boulder, Colorado. She also will be working with the U.S. Institute for Environmental Conflict Resolution on special projects. At these positions, I know that she will have an opportunity to continue to make important contributions to public lands management. Her experience and expertise will help the decisions be better understood and respond to natural resource issues.

I wish her well in these endeavors and ask my colleagues to join me in thanking her for her dedicated public service to Colorado and the nation.

SALE OF ISRAELI ARROW WEAPON SYSTEM TO INDIA

HON. FRANK PALLONE, JR. OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. PALLONE. Mr. Speaker, I rise on the House floor this evening to discuss the sale of the Israeli Arrow Weapon System to India.

According to several reports, Mr. Speaker, there is support within the Pentagon and support from Israel to make the sale of the Arrow Weapon System a reality. However, Secretary Powell and the State Department are preparing to express objection to India’s purchase of this missile defense system from Israel, due to the current military standoff between India and Pakistan.

I sent a letter today to Secretary Powell, requesting that the Secretary not delay or oppose India’s purchase of this missile defense system from Israel.

I strongly believe that the State Department’s support for the Arrow Weapon System to India would further solidify the new defense relationship between the United States and India. For the past several months, the U.S. and India have participated in numerous joint military exercises which have fostered a strong defense relationship between the two countries. These exercises share democratic interests and have been working together well against global terrorism.

In addition, the Arrow Weapon System was created to defend against short-range and medium-range ballistic missiles. Therefore, India’s interest in the Arrow Weapon System is to improve missile defense, not offense, which is a key factor regarding this sale that needs to be considered.

There have also been reports that indicate that India is preparing to buy parts from the United States for military equipment such as helicopters, jets and radar systems. The sale of this equipment was initially delayed due to sanctions imposed on India in May 1998. Those sanctions have been lifted for nearly one year and I request that the sale of this equipment not be delayed due to the current situation between India and Pakistan.

I am hoping that during your trip this week, you will voice approval of this Israeli sale to India and I thank you for taking my views into consideration.

Sincerely,

FRANK PALLONE, Jr.

HONORING THE DISTINGUISHED CAREER OF BOBBY LEE THOMPSON

HON. BART GORDON OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. GORDON. Mr. Speaker, I rise today to recognize the outstanding career of Bobby Lee Thompson, who recently retired as the United Auto Workers Region 8 director. Bobby Lee served as the Region 8 director for more than 11 years and served the UAW for 48 years.

Bobby Lee began his nearly five decades of service to the UAW when he was hired as an assembler at the General Motors assembly plant in Wilmington, Delaware, on January 11, 1954. He served in numerous capacities with the union, including president of UAW Local 435 and as an international representative.

Bobby Lee has been a tremendous advocate for the working man and woman in the auto industry. His hard work and dedication to the UAW has earned him many accolades. He has even earned international recognition as an advocate for workers in the field of independent arbitration. Bobby Lee has also taken an active and appreciated role in numerous Middle Tennessee community organizations and boards.

His leadership and vision at the UAW will be sorely missed. I congratulate Bobby Lee on his outstanding career and wish him well in his retirement.

HON. MARK UDALL OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. UDALL of Colorado. Mr. Speaker, I rise today to pay tribute to and acknowledge the
outstanding work of Thomas J. Dougherty, a Senior Advisor with the National Wildlife Federation. Tom will be retiring at the end of this year after serving 18 years with the National Wildlife Federation and decades of work on environmental and wildlife protection efforts.

For over a quarter century, Tom Dougherty, who now lives in Loveland, Colorado, has worked to protect wildlife and its habitat on behalf of conservationists and the Wyoming and National Wildlife Federations. Tom’s passion and talent for protecting wildlife first appeared in 1983, when Tom, then president of the Wyoming Wildlife Federation, roused the State of Wyoming and its legislature to pass an instream flow law. That law recognizes that leaving water in the stream for the sake of fish and wildlife is a legitimate and beneficial use of water.

About the same time, and on much drier ground, Tom began a campaign which found its way to the national evening news and into the courts. Tom dedicated himself to getting rid of a rancher’s lethal twenty-eight-mile fence, which blocked antelope from reaching their crucial winter range on Red Rim in south-central Wyoming. Thanks to Tom (with an assist from NBC Nightly News and the federal courts), the five foot high mesh wire fence, which was in place to antelope, was completely removed, saving antelope from starving to death in severe winters. Several years later, Tom helped the Wyoming Game and Fish Department acquire the private lands on Red Rim so the Department and the Bureau of Land Management could manage those lands as The Red Rim Wildlife Habitat Management Area.

In the later 1980s Tom moved to the National Wildlife Federation’s office in Boulder, Colorado, where he eventually became Western Staff Director. At this position, he worked with Representatives Pat Schroeder and Wayne Allard, the City of Denver, the United States Army, Shell Oil Company, the State of Colorado, and the United States Fish and Wildlife Service to designate the Rocky Mountain Arsenal as a National Wildlife Refuge—an unusual urban wildlife refuge. Tom’s advocacy for the new refuge and talent for bringing people together to fight for wildlife were becoming nationally known.

That recognition may help explain his participation in the early 1990s of efforts to reform the grazing of livestock on our public lands. When then Secretary of the Interior Bruce Babbitt was embarking on reform efforts, he reached into the west naturally for support. The Secretary, in order to forge a compromise, turned to Colorado, where Governor Roy Romer was working to bring all sides together to develop a workable slate of reform proposals. Governor Romer included Tom in these efforts as he knew of Tom’s ability to work with all sides, understand the concerns of the ranchers, and bring a spirit of collaboration—along with a passion for protecting the sustainability of the land for livestock and wildlife. When that effort expanded through Secretary Babbitt’s participation, the Secretary and Governor Romer included him in the grappling with the question of how to create new grazing regulations. Once again Tom’s talent for bringing diverse interests together for the sake of wildlife was making a big difference on the ground.

While Tom was working on the Arsenal Refuge and Red Rim, there was a sound absent from Yellowstone National Park. Now, you might be lucky enough to hear a wolf howl in Yellowstone, and if so you owe some thanks to Tom Dougherty. He and the National Wildlife Federation, along with many other conservation organizations, worked with citizens, teachers, biologists, ranchers, hunters, lawyers, politicians, and regulators (to name just a few) to bring back the gray wolf Tom was among those invited to be in the Park with Secretary Babbitt during the release of the first wolves back into Yellowstone.

Tom’s dedication to wildlife and his thoughtful and heartfelt encouragement for those who care about wildlife is not limited to federal lands. South and east of Yellowstone, Tom and the National Wildlife Federation joined with the Shoshone and Arapaho Indian Tribes on the Wind River Indian Reservation in an effort to convert the Tribes’ agricultural water rights into instream flow rights. Keeping the water in the river would have restored the Wind River and bolstered the Tribes’ cultural and economic hopes to once again rely on the river’s formerly fertile fishery.

All of this dedication and commitment may be traced to an event early in his life that Tom likes to recite and that he swears is a true story. Forty years ago, as a boy at a Cheyenne, Wyoming, high school, he helped defend another student by his heels out of a second-story school window. Perhaps those few seconds of outdoor aerial suspension created a heightened appreciation of the earth and its environment—the boy who was dangled became a leader of private property rights advocates, and Tom, who kept a firm grip on those inverted heels, became the dedicated environmental leader, teacher, and wildlife guardian that he is today.

Perhaps those few seconds at the sill of that second story high school window gave Tom a knock for recognizing serious wildlife issues before most even realize there’s a threat. A decade ago he led the National and Wyoming Wildlife Federations into court to enforce Wyoming’s laws against game ranching. Today, game ranches in other states are often at the center of concern about the spread of chronic wasting disease.

Tom Dougherty has been the instigator, producer, director, minister, and manager for those working to protect wildlife. Certainly one beneficiary of his passion and persistence is the wildlife we enjoy in the Rocky Mountain region. But the creatures who thrive thanks to Tom are but a token compared to his greatest contribution: his recognition and nurturing of those willing to join in defending wildlife. Tom has motivated hundreds of Tom’s greatest contributions to security and protection, not limited to his passionate guardianship and perseverance on wildlife.

LEGISLATION TO AWARD THE CONGRESSIONAL GOLD MEDAL TO JUSTIN DART, JR.

HON. CONSTANCE A. MORELLA
OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mrs. MORELLA. Mr. Speaker, I rise to introduce legislation to award the Congressional Gold Medal to Justin Dart Jr., a legendary advocate for disability and human rights, who died on June 22. He was 71 years old.

Justin Dart was a leader in the disability rights movement for over 30 years and was an instrumental force behind the Americans with Disabilities Act (ADA) of 1990, a landmark law protecting the civil rights of persons with disabilities. He was widely regarded as one of the “fathers of the ADA.”

At age 18, Mr. Dart contracted polio, which left his legs paralyzed. He attended college at the University of Houston, where he earned his bachelor’s and master’s degrees. In college, Justin Dart became involved in the civil rights movement and founded an organization to end the racial segregation of the university he attended. Throughout his life, he was active in promoting and protecting the rights of women, persons of color, and gays and lesbians, in addition to people with disabilities.

A successful entrepreneur, Mr. Dart established several businesses in Mexico and Japan during the 1950s and 1960s, but turned away from these ventures so that he and his wife, Yoshiko, could fully devote themselves to human rights causes. In the 1980s, he was appointed by Presidents Reagan and Bush to a number of government posts, including membership on the National Council on Disability, the Rehabilitation Service Administration, and chair of the President’s Committee on Employment of People with Disabilities. He also headed the Congressional Task Force on the Rights and Empowerment of Americans with Disabilities. He remained a strong proponent of the ADA, the Individuals with Disabilities Education Act, and other legislative milestones after his service in government, and helped found an organization, “Justice for All,” to protect the achievements of the disability rights movement.

In 1998 Justin Dart was awarded the Presidential Medal of Freedom, the nation’s highest civilian award. Mr. Speaker, it is only fitting that Congress honor this civil rights advocate with the Congressional Gold Medal as well.

This week on July 26, we will celebrate the 12th anniversary of the ADA. On that day the disability community will come together in our Nation’s Capital to pay tribute and celebrate the life of Justin Dart, and for his work to champion the cause of people with disabilities.

Mr. Speaker, let Congress, too, celebrate the life of Justin Dart, and let Congress reaffirm its commitment to the civil rights of all Americans with disabilities, by honoring this outstanding and visionary American with the Congressional Gold Medal.
Mr. MENENDEZ. Mr. Speaker, I’m pleased to be joined by my Colleague from Florida, LIEANA ROS-LEHTINEN, to introduce the Patient Navigator, Outreach, and Chronic Disease Prevention Act of 2002.

The existence of significant health disparities in this nation is undeniable. For years, researchers have told us that minorities and low-income populations are the least likely to receive the health care they need to live a long, healthy life. We’ve done a very good job of identifying this problem—it's high time we do something about it.

That’s why I’m very excited about the bill we are introducing today and the strong support we’ve already received for it. The bill is supported by the American Cancer Society, the National Association of Community Health Centers, the National Hispanic Medical Association, the Intercultural Cancer Council and their Caucus. The National Council of La Raza, 100 Black Men of America, the National Rural Health Association, Dean and Betty Gallo Caucus, the National Hispanic Medical Association, the National Association of Community Health Centers, and the Asian Caucus, the National Council of La Raza, 100 Black Men of America, the National Rural Health Association, Dean and Betty Gallo Caucus, the National Hispanic Medical Association, the National Association of Community Health Centers, and the Asian Caucus.

This bill addresses what I believe are the key components of the legislation. The bill is introduced today and the strong support we’ve already received for it. The bill is supported by the American Cancer Society, the National Association of Community Health Centers, the National Hispanic Medical Association, the Intercultural Cancer Council and their Caucus, the National Council of La Raza, 100 Black Men of America, the National Rural Health Association, Dean and Betty Gallo Caucus, the National Hispanic Medical Association, the National Association of Community Health Centers, and the Asian Caucus, the National Council of La Raza, 100 Black Men of America, the National Rural Health Association, Dean and Betty Gallo Caucus, the National Hispanic Medical Association, the National Association of Community Health Centers, and the Asian Caucus.

The bill addresses what I believe are the key components of the legislation. It is introduced today and the strong support we’ve already received for it. The bill is supported by the American Cancer Society, the National Association of Community Health Centers, the National Hispanic Medical Association, the Intercultural Cancer Council and their Caucus, the National Council of La Raza, 100 Black Men of America, the National Rural Health Association, Dean and Betty Gallo Caucus, the National Hispanic Medical Association, the National Association of Community Health Centers, and the Asian Caucus. The bill is introduced today and the strong support we’ve already received for it. The bill is supported by the American Cancer Society, the National Association of Community Health Centers, the National Hispanic Medical Association, the Intercultural Cancer Council and their Caucus, the National Council of La Raza, 100 Black Men of America, the National Rural Health Association, Dean and Betty Gallo Caucus, the National Hispanic Medical Association, the National Association of Community Health Centers, and the Asian Caucus. The bill is introduced today and the strong support we’ve already received for it. The bill is supported by the American Cancer Society, the National Association of Community Health Centers, the National Hispanic Medical Association, the Intercultural Cancer Council and their Caucus, the National Council of La Raza, 100 Black Men of America, the National Rural Health Association, Dean and Betty Gallo Caucus, the National Hispanic Medical Association, the National Association of Community Health Centers, and the Asian Caucus.
The enclosed story from the Rockford Register Star, July 23, 2002, tells his remarkable story:

**BELGIANS MAKE TRIP FOR SOLDIER’S HOMETOWN BURIAL**

(From Gale Worland)

**ROCHELLE.—Jean-Louis Seel had always thought about Stanley Larson, and the other American soldiers whose remains he had recovered, as a soldier. But at Rochelle United Methodist Church, as a young boy rounded a corner, Seel made the connection: Stanley the young boy, Stanley the teenager.**

Here was his hometown, his past, Stanley, the high school basketball star. The faces of these young men who had a kind word for everyone. The young gentleman in glasses whose keen personality and confident smarts had made him student council president his senior year.

Monday was a day of strange contrasts for the Larson family, who laid to rest one of its oldest members, who was also one of the youngest: Pfc. Stanley E. “Mike” Larson, killed for his country in Vietnam. Those boys will always be home, he said, and live in our hearts forever.

The friends and family who spoke at the service unsealed the coffer of Stanley’s words, Battle of the Bulge veteran Roger Foehringer reminded all why they had come. He was the real hero. He gave his life, his life for us.

Home is where I belong,” Foehringer said, speaking for Stanley. “Goodbye, friends.

**THE I.R.I. PROMOTES DEMOCRACY AND FREEDOM AROUND THE WORLD**

**HON. EDWARD R. ROYCE**

**OF CALIFORNIA**

**IN THE HOUSE OF REPRESENTATIVES**

Tuesday, July 23, 2002

Mr. ROYCE. Mr. Speaker, the importance of democracy and strong democratic institutions in today’s world cannot be overstated; we have too many recent examples of the dangers posed by their absence. I would like to salute the International Republican Institute (IRI) and its dedicated work to promote and strengthen democracy around the world.

If not for us to ignore the potential that unstable states have as breeding grounds for terrorists and terrorist activities—particular in Africa, where many weak and underdeveloped states make fertile ground for terrorism. Africa has been the scene of past terrorist acts, as we saw in the tragic bombings of U.S. Embassies in Kenya and Tanzania.

In my role as Chairman of the International Relations Africa Subcommittee, I have had the opportunity to witness IRI’s work in a number of African countries in which political development has been seriously challenged by ethnic and religious conflict, mass violence, and corrupt leadership. In 1999 I led an IRI election observation delegation to observe the historic democratic elections in Nigeria.

In that key country today, IRI is working with the Nigerian electoral commission to encourage upcoming elections and to encourage the increased participation of women in the political process. IRI also conducted, along with the National Democratic Institute and the Foundation for Election Systems, a pre-election political assessment of Angola, a country that many believe can be a democratic success story as they progress from a savage civil conflict. A current program in Burundi is providing training and support to a legislature struggling to move forward after a genocide of horrific proportions and ongoing violent unrest that threatens the stability of the entire Great Lakes region.

In these constantly changing political landscapes, IRI continues to work in innovative ways to address democratic priorities. For example, building on several years of successful training with the local government in South Africa’s young democracy, IRI is now constructing a program which will strengthen a local government and community-level response to the AIDS epidemic, a national crisis which threatens both development and democratic stability.

By working to foster strong democratic institutions, transparency and accountability in government, and political empowerment at the grassroots level, institutions such as IRI promote international political stability and further the ideals of democratic freedom throughout the world.

**TRIBUTE TO PETE SEIBERT, FOUNDER OF COLORADO’S YAK SKI RESORT**

HON. MARK UDALL

**OF COLORADO**

**IN THE HOUSE OF REPRESENTATIVES**

Tuesday, July 23, 2002

Mr. UDALL of Colorado. Mr. Speaker, I rise today to note the passing of Pete Seibert—a great man and a true pioneer. Mr. Seibert has often been described as a humble visionary guided by his passions more than by a quest for material gains. His vision pioneered the Colorado ski industry and will no doubt continue to shape the industry for years to come.

Mr. Seibert started skiing on pair of his mother’s wooden skis at the age of seven. He quickly fell in love with the sport and soon decided that he would one day create a ski resort of his own. As a young man, he joined the Army’s storied 10th Mountain Division where he learned unparalleled mountaineering skills and served his country honorably during World War II. After being severely wounded in 1945, during some of the most difficult combat of the war, Pete Seibert was sent home from Italy with a Bronze Star and Purple Heart and was told that he would likely never walk again. He did not accept that verdict—in fact, he totally rejected it, and went on to overcome the odds against rehabilitation. So complete was his success that in 1950 he qualified for the U.S. Alpine Ski Team.

A few years later, Pete Seibert set out in earnest to create a ski resort. After considering many possible locations, he chose the site near Gore Creek that is now known as Vail Mountain. With the same tenacity with which he overcame his war injury, Mr. Seibert shrugged off suggestions that the area was too flat, too close to the interstate and too close to Aspen.

Trained as a lifelong rancher in the area, tells about tending sheep high on the mountain before it was ever referred to as Vail. He remembers one day encountering two young men scanning the mountain, excitedly pointing out terrain features and taking copious notes. The two men were Pete Seibert and his friend Ed Asken. Mr. Joufflas argued that what they were doing. They matter-of-factly replied that they were going to turn the mountainside into a world class ski resort. Mr. Joufflas likely had
his doubts, but Pete Seibert’s dreams of that
day evolved into one of the most successful
ski resorts in North American history.

Vi Brown, a longtime local in Vail, recalls,
“Pete was a real hero. If you saw him when
you were walking down the street people
would say to their kids, ‘There goes Pete
Seibert. He is the man that invented Vail.’”

But despite his achievements and his fame he
remained sincerely humble and was an immi-
nently likable man. I believe that humility may
well have come from his deep love and under-
standing of the mountains. Any real moun-
taineer will come to recognize that you must
have perseverance, respect and humility in
order to fully experience a mountain. One
would be hard pressed to find a man who bet-
ter embodied these qualities than did Pete
Seibert.

It was not greed but passion that inspired
him to create a place where millions of people
have been able to experience the beauty of
that mountain through the years. Our great
state and skiers around the world owe a huge
debt to Pete Seibert. He will be deeply missed
everywhere.

For the information of our colleagues, I at-
tach a news story from the Denver Post about
Mr. Seibert and his life and accomplishments.

---

Pete Seibert, the visionary ski pio-
near who turned Vail and Beaver Creek from
dreams into two of the world’s pre-eminent
ski resorts, has died at age 77.

Seibert, who succumbed to cancer Monday
evening, more than 50 years after Italian ar-
tillery shells nearly claimed his life during
World War II, was one of a small cadre of
10th Mountain Division veterans who devel-
oped Colorado skiing into an industry that
generates billions of dollars annually.

‘Peter is the one who really founded Vail and
Beaver Creek, and ... those two areas are
giants in the ski industry,’ said lifelong friend Bill Brown, one of the original nine
men recruited by Seibert.

It was Seibert who, along with local ranch-
er Earl Eaton, saw the potential in 1957 in
what would become Vail Mountain, 10 miles
west of Denver.

‘Willy Schaeffler, God bless him, said Vail
will never work as a resort; it’s too flat,’
Seibert said in a December 2000 Denver Post
interview, recalling the legendary former
University of Denver ski coach. ‘I’d seen the
places in Europe that worked. They were
pretty easy, cruising. People liked that.
They don’t want to be holding an edge all
the time. The skis should flow, and you
should be able to go with them.’

Seibert also rallied skeptical investors
into paying $10,000 apiece for shares in the
company—along with homemates in the vil-
lage and lifetime ski passes—that now are
worth millions. And it was Seibert who
oversaw the cutting of the original ski trails,
and ultimately it was Seibert who first lured
the World Alpine Ski Championships to Vail.

‘He had an idea a minute, almost, in the
early days, a potential of Vail,’ said Bob Parker, another 10th Moun-
tain Division veteran who left his job as ed-
itor of Skiing magazine to join Seibert as
Vail’s first marketing manager. ‘We all be-
lieved in Vail from the very beginning. It
was his real leadership and enthusiasm.’

Pat O’Donnell, head of Aspen Skiing and
chairman of industry trade group Colorado
Ski Country USA, credited Seibert with set-
ting the industry standard in resort develop-
ment.

‘HE’S AN ICON, A VISIONARY’

‘He’s an icon, a role model, a visionary
and is largely responsible for the success,
through his dreaming and implementation,
of what the ski industry is today for the
state of Colorado and the nation,’ O’Donnell
said.

Fired as CEO by incoming Vail owner
Harry Bass in the 1970s, Seibert later
returned to the company under George Gillett as a full-time adviser, a position he held
until his death.

‘He was always one to share his experi-
ence, to brainstorm ideas of how to improve
our business,’ said Beaver Creek chief oper-
ating officer John Garnsey. ‘He was such
an innovator and just a great thinker. He was
always coming up with ideas, and he never
stopped challenging us to come up with bet-
ter ways of running our resort.’

Two years ago, when Vail opened Blue Sky
Basin—finally realizing the full scope of the
ski area envisioned by Seibert in the 1960s—
the company named one of the expanses
‘Pete’s Bowl.’

‘That is the signature homage to Pete
Seibert,’ said Vail Resorts CEO Adam Aron.

‘There were a number of people who were
involved in the founding and funding of Vail.
But clearly, Pete Seibert was the conductor
of that orchestra and deserves the great
credit.’

In recent years, Vail attracted the ire of
environmentalists, who complain that it is
too big and caters to the wealthy at the ex-
 pense of nature. Seibert once told a Denver
Post interviewer that the resort has to perform a snow dance, a blizzard struck,
and Vail was off and running.

Still, it was hand-to-mouth for a while, as
all profits had to be dumped back into im-
provements on the mountain.

‘As Vail was being built, we were always
balancing on the brink of failure,’ Seibert
recounted in his book.

Sooner, however, the resort achieved success,
accompanied by the development of an
capsule town modeled after a Bavarian
village.

But, truth be told, Seibert never achieved
the wild wealth of many of the later arrivals
to Vail, although after he was hired again by
Gillett, he certainly lived comfortably and
was as accustomed to wearing a tuxedo as
a ski parka.

‘He always seemed driven by his dreams
and vision rather than by material consider-
atons,’ said Vail Mayor Ludwig Kurs, the
longtime former director of the Beaver
Creek ski school who helped Seibert sketch
out the treacherous Birds of Prey downhill
course at that mountain that challenges top
World Cup skiers today.

Seibert was diagnosed with stomach cancer
last year, and although he underwent aggres-
sive treatment, it spread into his lungs and
eosarcoma.

“We all knew that he was fighting a tough
battle,” Garnsey said. “But Pete had over-
come a lot of tough battles and adversity in
his life, and he always came through.”

He died in his sleep at his Edwards home,
surrounded by his former wife, Betty, with
whom he remained very close, two of his
three sons and family friends. He also is sur-
vived by three grandchildren.

“He was really a patriot of skiing and tried
to make the town something,” said promi-
nent Vail hotel and restaurant owner Sheika
Grashammer, who came to Vail in the early
days with her husband, Pepi, at
Seibert’s insistence. “Vail was really a small
family, and Pete was like our patron, our fa-
ther. I think he was born to do this kind of
thing. He was a dreamer.”

The family has asked that, instead of flow-
ers, donations be sent to the Shaw Regional
Cancer Center at the Vail Valley Medical
Center. No services have been announced.
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 25, 2002 may be found in the Daily Digest of today’s RECORD.

MEETINGS SCHEDULED

JULY 26

9:30 a.m.

Armed Services
To hear and consider the nominations of Lt. Gen. James T. Hill, USA, for appointment to the grade of general and assignment as Commander in Chief, United States Southern Command; and Vice Adm. Edmund P. Giambastiani Jr., USN, for appointment to the grade of admiral and assignment as Commander in Chief, United States Joint ForcesCommand.

Health, Education, Labor, and Pensions
Children and Families Subcommittee
To hold hearings to examine birth defect screening, focusing on strategies for prevention and ensuring quality of life.

JULY 29

2:30 p.m.

Governmental Affairs
International Security, Proliferation and Federal Services Subcommittee
To hold hearings to examine certain measures to strengthen multilateral nonproliferation regimes.

JULY 30

9:30 a.m.

Commerce, Science, and Transportation
To hold hearings to examine finances in the telecommunications marketplace, focusing on maintaining the operations of essential communications facilities.

Environment and Public Works
To hold hearings to examine the effectiveness of the current Congestion Mitigation and Air Quality (CMAQ) program, conformity, and the role of new technologies.

Foreign Relations
Business meeting to consider pending calendar business.

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.

10 a.m.

Indian Affairs
To hold hearings on proposed legislation concerning the Department of the Interior/Tribal Trust Reform Task Force; and to be followed by S. 2212, to establish a direct line of authority for the Office of Trust Reform Implementations and Oversight to oversee the management and reform of Indian trust funds and assets under the jurisdiction of the Department of the Interior, and to advance tribal management of such funds and assets, pursuant to the Indian Self-Determinations Act.

Health, Education, Labor, and Pensions
To hold hearings to examine.

10:30 a.m.

Judiciary
Crime and Drugs Subcommittee
To hold hearings to examine criminal and civil enforcement of environmental laws.

11 a.m.

Foreign Relations
To hold hearings on the nominations of Nancy J. Powell, of Iowa, to be Ambassador to the Islamic Republic of Pakistan, and Richard L. Baltimore III, of New York, to be Ambassador to the Sultanate of Oman.

2:30 p.m.

Commerce, Science, and Transportation
Consumer Affairs, Foreign Commerce, and Tourism Subcommittee
To hold hearings to examine improvement in consumer choice with regard to automobile repair shops.

Emerging Threats and Capabilities Subcommittee
To hold hearings to examine the report of the General Accounting Office on nuclear proliferation and efforts to help other countries combat nuclear smuggling.

JULY 31

9:30 a.m.

Commerce, Science, and Transportation
To hold hearings on the nomination of Rebecca Dye, of North Carolina, to be a Federal Maritime Commissioner.

Foreign Relations
Business meeting to consider pending calendar business.

Energy and Natural Resources
Business meeting to consider pending calendar business.

3 p.m.

Armed Services
To hold hearings to examine the status of Operation Enduring Freedom.

AUGUST 1

10 a.m.

Indian Affairs
To hold oversight hearings to examine the application of criteria by the Department of the Interior/Branch of Acknowledgment.

11 a.m.

Environment and Public Works
Superfund, Toxics, Risk, and Waste Management Subcommittee
To hold oversight hearings to examine the Environmental Protection Agency Inspector General’s Report on the Superfund Program.

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.

Judiciary
To hold hearings to examine class action litigation issues.

10:30 a.m.

Foreign Relations
To hold hearings to examine threats, responses, and regional considerations surrounding Iraq.

1:30 p.m.

Judiciary
To hold hearings on the proposed Prison Rape Prevention Act of 2002.

2:30 p.m.

Foreign Relations
To continue hearings to examine threats, responses, and regional considerations surrounding Iraq.

Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 934, to require the Secretary of the Interior to construct the Rocky Boy’s North Central Montana Regional Water System in the State of Montana, to offer to enter into an agreement with the Chippewa Creek Tribe to plan, design, construct, operate, maintain and replace the Rocky Boy’s Rural Water System, and to provide assistance to the North Central Montana Regional Water Authority for the planning, design, and construction of the noncore system; S. 1577, to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects under that Act; S. 1882, to amend the Small Reclamation Projects Act of 1956; S. 2556, to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho; and S. 2606, to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project.

SD-342

SD-430

SD-346

SD-366

SD-106

SR-485

SN-145

SN-134

SN-419

SN-419

SN-419

SR-485

SD-406

SD-226

SR-222
Foreign Relations
To hold hearings to examine national security perspectives regarding Iraq.
SD–419

2 p.m.
Indian Affairs
To hold oversight hearings to examine problems facing Native youth.
SR–485

Foreign Relations
To continue hearings to examine national security perspectives regarding Iraq.
SD–419

POSTPONEMENTS

JULY 30

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine Food and Drug Administration regulation of tobacco products.
SD–430

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
HIGHLIGHTS

At 3:40 p.m. the House recognized the anniversary of the July 24, 1998 tragedy in which Officer Jacob J. Chestnut and Detective John M. Gibson of the United States Capitol Police were killed in the line of duty defending the Capitol against an intruder armed with a gun.

Pursuant to Article I, Section 5, Clause 2 of the United States Constitution, Representative James A. Traficant, Jr., was expelled from the House of Representatives.

The House passed H.R. 5120, Treasury and Postal Operations Appropriations


House Committees ordered reported 129 sundry measures.

Senate agreed to the Conference Report on H.R. 4775, 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States, clearing the measure for the President.

Senates

Chamber Action

Routine Proceedings, pages S7243–S7322

Measures Introduced: Thirteen bills were introduced, as follows: S. 2777–2789.

Measures Reported:


Measures Passed:

Yankton Sioux Tribe and Santee Sioux Tribe Equitable Compensation Act: Senate passed S. 434, to provide equitable compensation to the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for the loss of value of certain lands, after agreeing to committee amendments.

Vicksburg National Military Park Boundary Modification Act: Senate passed S. 1175, to modify the boundary of Vicksburg National Military Park to include the property known as Pemberton’s Headquarters, after agreeing to a committee amendment in the nature of a substitute.


Greater Access to Affordable Pharmaceuticals Act: Senate continued consideration of S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals, taking action on the following amendments proposed thereto:
Pending:

Reid (for Dorgan) Amendment No. 4299, to permit commercial importation of prescription drugs from Canada.  

Rockefeller Amendment No. 4316 (to Amendment No. 4299), to provide temporary State fiscal relief.  

Gramm point of order that the emergency designation in Section C of Rockefeller Amendment No. 4316 (to Amendment No. 4299), listed above, violates section 205 of H. Con. Res. 290, 2001 Congressional Budget Resolution.  

Reid motion to waive section 205 of H. Con. Res. 290, 2001 Congressional Budget Resolution, with respect to the emergency designation in Section C of Rockefeller Amendment No. 4316 (to Amendment No. 4299), listed above.  

During consideration of this measure today, Senate also took the following action:

By 51 yeas to 48 nays (Vote No. 189), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate failed to agree to the motion to waive the Congressional Budget Act of 1974 with respect to Hagel Amendment No. 4315 (to Amendment No. 4299, as amended), to provide Medicare beneficiaries with a drug discount card that ensures access to affordable outpatient prescription drugs. Subsequently, the point of order that the amendment was in violation of section 302(f) of the Congressional Budget Act of 1974 for spending in excess of allocation, was sustained, and the amendment thus fell.  

A motion was entered to close further debate on Rockefeller Amendment No. 4316 (to Amendment No. 4299), listed above and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a cloture vote will occur on Friday, July 26, 2002.  

A unanimous-consent agreement was reached providing for further consideration of the bill at 10:30 a.m., on Thursday, July 25, 2002, with 1 hour of debate in relation to the motion to waive section 205 of H. Con. Res. 290, 2001 Congressional Budget Resolution, with respect to the emergency designation in Section C of Rockefeller Amendment No. 4316 (to Amendment No. 4299), listed above; to be followed by a vote on the motion to waive.  

Supplemental Appropriations Conference Report: By 92 yeas to 7 nays (Vote No. 188), Senate agreed to the conference report 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, clearing the measure for the President.

Conferring Honorary Citizenship: Senate concurred in the amendment of the House, amendment to the preamble, and the amendment to the title to S.J. Res. 13, conferring honorary citizenship of the United States posthumously on Marie Joseph Paul Yves Roche Gilbert du Motier, the Marquis de Lafayette.  

Defense and Legislative Branch Appropriations—Agreement: A unanimous-consent agreement was reached providing that the Majority Leader, following consultation with the Republican Leader, may proceed to the consideration of H.R. 5121, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003; that debate on the bill and committee amendment be limited to 30 minutes; that immediately after the bill is reported, the text of the Senate committee reported bill, S. 2720, be inserted in the appropriate place in the House bill; that certain first degree amendments be proposed thereto, under a time limitation, with certain exceptions; that upon disposition of these amendments; the bill be read a third time, and the Senate vote on passage of the bill, as amended; that upon passage, 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, without further intervening action or debate; provided further that the Senate proceed to consideration of H.R. 5010, making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, no later than Wednesday, July 31, 2002.  

Appointment:  

Congressional Hunger Fellows Program: The Chair, on behalf of the Majority Leader, pursuant to Public Law 107–171, announced the appointment of the following individuals to serve as members of the Board of Trustees of the Congressional Hunger Fellows Program: Senator Harkin and Representative Clayton.  

Executive Session: Senate agreed to the motion to proceed to executive session to consider the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.  

Nomination—Cloture Motion Filed: A motion was entered to close debate on the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a cloture vote on the nomination will occur on Friday, July 26, 2002.
Nominations Received: Senate received the following nominations:
   Joaquin F. Blaya, of Florida, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2002.
   Joaquin F. Blaya, of Florida, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2005. (Reappointment)
   Peggy Goldwater-Clay, of California, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring June 5, 2006. (Reappointment)
   Juanita Alicia Vasquez-Gardner, of Texas, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 2003.
   Robert Maynard Grubbs, of Michigan, to be United States Marshal for the Eastern District of Michigan for the term of four years.
   Johnny Mack Brown, of South Carolina, to be United States Marshal for the District of South Carolina for the term of four years.
   Denny Wade King, of Tennessee, to be United States Marshal for the Middle District of Tennessee for the term of four years.

BUSINESS MEETING—TRANSPORTATION APPROPRIATIONS
Committee on Appropriations: Subcommittee on Transportation approved for full committee consideration an original bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2003.

HUD MANAGEMENT
Committee on Banking, Housing, and Urban Affairs: Subcommittee on Housing and Transportation held oversight hearings to examine management challenges of the Department of Housing and Urban Development (HUD), focusing on staffing, acquisition management, information systems, assessing HUD’s management environment, and formulating viable strategies and plans to address the major management challenges, receiving testimony from Alphonso Jackson, Chief Operating Officer/Deputy Secretary of Housing and Urban Development; Stanley J. Czerwinski, Director, Physical Infrastructure, General Accounting Office; and Carolyn Federoff, American Federation of Government Employees Council of HUD Locals, Boston, Massachusetts.
   Hearings recessed subject to call.

WOMEN IN SCIENCE AND TECHNOLOGY
Committee on Commerce, Science, and Transportation: Subcommittee on Science, Technology, and Space concluded hearings to examine barriers to the involvement and advancement of women in math, science and technology, including under representation of women at the college level and above, and what can be done to lower these barriers and encourage more girls and women in the area science, after receiving testimony from Senator Boxer; Kristina M. Johnson, Duke University Pratt School of Engineering, Durham, North Carolina; Kay Koplovitz, Koplovitz and Company, New York, New York; Nancy Stueber, Oregon Museum of Science and Industry, Portland; and Ana Maria Boitel, Women in Technology, Alexandria, Virginia.

FEDERAL ENERGY REGULATORY COMMISSION
Committee on Energy and Natural Resources: Committee concluded hearings to examine issues surrounding the Federal Energy Regulatory Commission, focusing on electric and natural gas infrastructure generation and transmission and the demand the power in the future, after receiving testimony from Pat Wood III, Chairman, Federal Energy Regulatory Commission, Department of Energy; Stephen Ward, Maine Public Advocate, Augusta, on behalf of the National Association of State Utility Consumer Advocates; M. Carol Coale, Prudential Financial, Houston, Texas; Lawrence J. Makovich, Cambridge Energy Research
Congressional Record — Daily Digest

July 24, 2002

Associates, Cambridge, Massachusetts; Pete Landrieu, Public Service Enterprise Group, Newark, New Jersey; and David R. Nevius, North American Electric Reliability Council, Princeton, New Jersey.

Environmental Treaties Implementation

Committee on Environment and Public Works: Committee concluded joint hearings with the Committee on Foreign Relations to examine implementation of certain environmental treaties to which the United States is a party, and the United States' international environmental agreements and commitments, after receiving testimony from John F. Turner, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs; James L. Connaughton, Chairman, White House Council on Environmental Quality; Maurice F. Strong, Earth Council Institute Canada, Toronto, Ontario; John C. Dernbach, Widener University Law School, Harrisburg, Pennsylvania; and Christopher C. Horner, Competitive Enterprise Institute, Washington, D.C.

Nominations

Committee on Foreign Relations: Committee concluded hearings on the nominations of Kristie Anne Kenney, of Maryland, to be Ambassador to the Republic of Ecuador, Larry Leon Palmer, of Georgia, to be Ambassador to the Republic of Honduras, and Barbara Calandra Moore, of Maryland, to be Ambassador to the Republic of Nicaragua, all of the Department of State, after the nominees testified and answered questions in their own behalf.

Business Meeting

Committee on Governmental Affairs: Committee ordered favorably reported the nominations of James E. Boasberg, to be an Associate Judge of the Superior Court of the District of Columbia, Michael D. Brown, of Colorado, to be Deputy Director of the Federal Emergency Management Agency, and Mark W. Everson, of Texas, to be Deputy Director for Management, Office of Management and Budget.

Also, Committee met and reconsidered their action of May 22, 2002, when the committee ordered favorably reported, with amendments, S. 2452, to establish the Department of National Homeland Security and the National Office for Combating Terrorism (pending on Senate calendar), but did not take any final action thereon, and will meet again tomorrow.

Business Meeting

Committee on Health, Education, Labor, and Pensions: Committee met and discussed certain committee matters, but did not take any action thereon, and recessed subject to the call.

Native American Commercial Driving

Committee on Indian Affairs: Committee concluded hearings on S. 1344, to provide training and technical assistance to Native Americans who are interested in commercial vehicle driving careers, after receiving testimony from James E. Shanley, Fort Peck Community College, Poplar, Montana, on behalf of the American Indian Higher Education Consortium; David Fluke, FedEx Freight West, Citrus Heights, California, on behalf of the American Trucking Associations, Inc.; and Andra Rush, Rush Trucking, Wayne, Michigan.

Corporate Responsibility

Committee on the Judiciary: Subcommittee on Crime and Drugs resumed hearings to examine whether the use of criminal sanctions will help deter corporate wrong doing and ensure responsibility, receiving testimony from G. William Miller, G. William Miller and Company, former Secretary of the Treasury and former Chairman, Federal Reserve Board, Roderick M. Hills, Hills Enterprises, former Chairman, Securities and Exchange Commission, and James R. Doty, Baker Botts, former General Counsel, Securities and Exchange Commission, all of Washington, D.C.

Hearings recessed subject to call.

Business Meeting

Committee on Small Business and Entrepreneurship: Committee ordered favorably reported the following bills:

S. 2335, to establish the Office of Native American Affairs within the Small Business Administration, and to create the Native American Small Business Development Program, with an amendment;
S. 2483, 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;
S. 2466, to modify the contract consolidation requirements in the Small Business Act;
S. 2734, to provide emergency assistance to non-farm small business concerns that have suffered substantial economic harm from the devastating effects of drought, with an amendment in the nature of a substitute;
S. 1994, to establish a priority preference among certain small business concerns for purposes of Federal contracts, with an amendment;
S. 2753, to provide for a Small and Disadvantaged Business Ombudsman for Procurement in the Small Business Administration, with an amendment in the nature of a substitute; and
H.R. 2666, to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a vocational and technical entrepreneurship development program.

VA MENTAL HEALTH CARE

Committee on Veterans' Affairs: Committee concluded hearings to examine Veterans Administration mental health care issues, including clinical care services, special emphasis programs, Mental Health Intensive Case Management program, homeless veterans, post-traumatic stress disorder, and substance abuse, after receiving testimony from Robert H. Roswell, Under Secretary of Veterans Affairs for Health; Miklos Losonczy, Robert Wood Johnson School of Medicine Department of Psychiatry/New Jersey Health Care System, Piscataway, on behalf of the American Psychiatric Association; Colleen Evans, VA Pittsburgh Health Care System, Pittsburgh, Pennsylvania, on behalf of the American Federation of Government Employees, AFL-CIO; and Frederick Frese, Northeastern Ohio Universities College of Medicine, Akron, and Moe Armstrong, Vinfen Corporation, Cambridge, Massachusetts, both on behalf of the National Alliance for the Mentally Ill.

House of Representatives

Chamber Action

Measures Introduced: Measures introduced will appear in the next issue of the Record.

Reports Filed: Reports were filed today as follows:

Conference report on H.R. 3763, to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws (H. Rept. 107–610); Pages H5393–H5411

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative LaHood to act as Speaker pro tempore for today. Page H5317

Guest Chaplain: The prayer was offered by the guest Chaplain, Rev. Samer Youssef, Pastor, Antiochian Orthodox Church of the Redeemer, Los Altos Hills, California. Page H5317

Moment of Silence In The Memory of Officer Jacob J. Chestnut and Detective John M. Gibson: At 3:40 p.m. the Chair recognized the anniversary of July 24, 1998 tragedy in which Officer Jacob J. Chestnut and Detective John M. Gibson of the United States Capitol Police were killed in the line of duty defending the Capitol against an intruder armed with a gun. Page H5352

Treasury and Postal Operations Appropriations: The House passed 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 by a yeo-and-nay vote of 308 yeas to 121 nays, Roll No. 341. Pages H5322–46, H5352

Agreed To:

Moran of Virginia amendment No. 21 printed in the Congressional Record of July 21 that prohibits any funding to be used to establish or enforce any numerical goal or quota for subjecting the employees of an agency to public-private competitions or converting the employees or the work they perform to private contractor performance under OMB circular A–76 or any other administrative regulation, directive, or policy (agreed to by a recorded vote of 261 ayes to 166 noes, Roll No. 336); Pages H5322–28, H5341–42

Sanders amendment No. 7 printed in the Congressional Record of July 15 that prohibits any funding to be used by the Internal Revenue Service for activities that contravene current tax, Employee Retirement Income Security Act (ERISA) pension or age discrimination statutes (agreed to by a recorded vote of 308 ayes to 121 noes, Roll No. 339); and Pages H5333–36, H5343–44

Barr amendment No. 23 printed in the Congressional Record of July 23 that prohibits the use of national anti-drug media campaign funding to pay any amounts pursuant to a specific contract. Pages H5336–41

Rejected:

Hefley amendment that sought to reduce funding for the Allowances and Office Staff for former Presidents by $339,000 (rejected by a recorded vote of 165 ayes to 265 noes, Roll No. 337); Pages H5328–30, H5342–43

Hefley amendment No. 16 printed in the Congressional Record of July 17 that sought to reduce
each amount appropriated or otherwise made available by 1 percent (rejected by a recorded vote of 147 ayes to 282 noes, Roll No. 338);

Pages H5330–32, H5343

Withdrawn:

Kucinich amendment No. 18 printed in the Congressional Record of July 17 was offered but subsequently withdrawn that sought to prohibit any funding to 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;

Page H5330

Jackson-Lee amendment No. 12 printed in the Congressional Record of July 15 was offered but subsequently withdrawn that sought to prohibit any funding to be used to prevent the rehabilitation of urban and rural post offices;

Page H5332

Flake amendment No. 2 printed in the Congressional Record of July 15 was offered but subsequently withdrawn that sought to prohibit any funding to be used by entities unless specifically identified by name as a recipient in the Act;

Pages H5332–33

Wynn amendment No. 8 printed in the Congressional Record of July 15 was offered but subsequently withdrawn that sought to establish a centralized reporting system to enable agencies to generate reports on efforts regarding both contracting out and contracting in; and

Pages H5344–45

Hoyer amendment was offered but subsequently withdrawn that sought to prohibit any funding to be used by the Customs Service to require reports on repairs to U.S. flag vessels on the high seas.

Pages H5345–46

The House agreed to H. Res. 488, the rule that is providing for consideration of the bill on July 18.

Partial-Birth Abortion Ban: The House passed H.R. 4965, to prohibit the procedure commonly known as partial-birth abortion by a recorded vote of 274 ayes to 151 noes with 1 voting “present”, Roll No. 343.

Pages H5352–74

Rejected the Baldwin motion that sought to recommit the bill to the Committee on the Judiciary with instructions to report it back to the House forthwith with an amendment that inserts language that states that the prohibition does not apply to a partial-birth abortion where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother by a recorded vote of 187 ayes to 241 noes, Roll No. 342.

Pages H5371–73

Agreed to H. Res. 498, the rule that provided for consideration of the bill by a yea-and-nay vote of 248 yeas to 177 nays, Roll No. 340.

Pages H5346–52

In the Matter of James A. Traficant, Jr., The House agreed to H. Res. 495, in the matter of James A. Traficant, Jr. by a 2/3 recorded vote of 420 ayes to 1 no, with 9 voting “present”, Roll No. 346. The text of the resolution is as follows: Resolved, that, pursuant to Article I, Section 5, Clause 2 of the United States Constitution, Representative James A. Traficant, Jr., be, and he hereby is, expelled from the House of Representatives. Earlier, rejected the LaTourette motion to postpone consideration of the resolution until Sept. 4, 2002 by a recorded vote of 146 ayes to 285 noes, Roll No. 345.

Pages H5375–93

Intelligence Authorization: The House completed debate and began considering amendments to H.R. 4628, to authorize appropriations for fiscal year 2003 for intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System.

Pursuant to the rule, the Permanent Select Committee on Intelligence amendment in the nature of a substitute now printed in the bill (H. Rept. 107–592) was considered as an original bill for the purpose of amendment.

(See next issue.)

Agreed To:

Smith of New Jersey amendment to the Roemer amendment No. 9 printed in the Congressional Record of July 23 that includes representation of family members of victims of terrorist attacks on the National Commission on Terrorist Attacks;

(See next issue.)

Roemer amendment No. 9 printed in the Congressional Record of July 23, as amended, that creates a National Commission on Terrorist Attacks Upon the United States (agreed to by a recorded vote of 219 ayes to 188 noes, Roll No. 347).

(See next issue.)

Chambliss amendment No. 3 printed in the Congressional Record of July 23, that establishes the Homeland Security Information Sharing Act;

(See next issue.)

Pelosi amendment No. 8 printed in the Congressional Record of July 23, that clarifies the use of funds for counter-drug and counterterrorism activities for Colombia;

(See next issue.)

Goss amendment No. 5 printed in the Congressional Record of July 23, as modified, that limits the use of the Defense Emergency Response Fund;

(See next issue.)

Roemer amendment No. 9 printed in the Congressional Record of July 22 that requires a report on the establishment of a Civilian Linguist Reserve Corps comprised of individuals with advanced skills in foreign languages; and

(See next issue.)
Hastings of Florida en bloc amendment consisting of amendments No. 6 and 7 printed in the Congressional Record of July 23 that expresses the sense of Congress on diversity in the workforce of intelligence community agencies and requires an annual report on the hiring and retention of minority employees in the intelligence community.

Withdrawn:

Engel amendment No. 4 printed in the Congressional Record of July 23, was offered but subsequently withdrawn that sought to specify limitations on the assistance provided to the Palestinian Security Services.

The Clerk was authorized to make technical corrections and conforming changes in the engrossment of the bill.

Agreed to H. Res. 497, the rule that provided for the consideration of the bill by voice vote.

Order of Business—Intelligence Authorization: Agreed that during consideration of H.R. 4628 in the Committee of the Whole pursuant to H. Res. 497, no further amendment to the committee amendment in the nature of a substitute may be offered after the legislative day of July 24, 2002 except pro forma amendments offered by the Chairman or ranking minority member of the Permanent Select Committee on Intelligence or their designees for the purpose of debate.

Order of Business—Corporate and Auditing Accountability, Responsibility, and Transparency Act Conference Report: Agreed that it be in order at any time on Thursday, July 25, 2002 to consider a conference report to accompany H.R. 3763, Corporate and Auditing Accountability, Responsibility, and Transparency Act; that the conference report be considered as read; and that all points of order against the conference report and against its consideration be waived.

Suspensions: The House agreed to suspend the rules and pass the following measures:

National Defense Authorization Act for Fiscal Year 2003: Debated on July 23, H.R. 4547, amended, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense and to prescribe military personnel strengths for fiscal year 2003 (agreed to by a yea-and-nay vote of 413 yeas to 3 nays, Roll No. 335); and

Condemning the Persecution of Falun Gong Practitioners by the Chinese Government: Debated on July 22, H. Con. Res. 188, amended, expressing the sense of Congress that the Government of the People’s Republic of China should cease its persecu-

Page H5318

A conference report to accompany H.R. 3763, Corporate and Auditing Accountability, Responsibility, and Transparency Act Conference Report: Agreed that it be in order at any time on Thursday, July 25, 2002 to consider a conference report to accompany H.R. 3763, Corporate and Auditing Accountability, Responsibility, and Transparency Act; that the conference report be considered as read; and that all points of order against the conference report and against its consideration be waived.

Amendments ordered printed pursuant to the rule will appear in the next issue of the Record.


Adjournment: The House met at 10 a.m. and at 2:45 a.m. on Thursday, July 25 stands in recess.

Committee Meetings

CHILD LEFT BEHIND ACT IMPLEMENTATION

Committee on Education and the Workforce: Held a hearing on “Implementation of the No Child Left Behind Act.” Testimony was heard from Gene Hickok, Under Secretary, Department of Education; William Windler, Assistant Commissioner, Department of Education, State of Colorado; and public witnesses.

TEMPORARY WAIVER—CERTAIN REQUIREMENTS UNDER CLEAN AIR ACT—AREAS IN NEW YORK WHERE ACTS OF TERRORISM DESTROYED PLANNING OFFICES AND RESOURCES

Committee on Energy and Air Quality: Subcommittee on Energy and Air Quality approved for full Committee action H.R. 3880, to provide a temporary waiver from certain transportation conformity requirements and metropolitan transportation planning requirements under the Clean Air Act and under other laws for certain areas in New York where the planning offices and resources have been destroyed by acts of terrorism.

COMMUNITY CHOICE IN REAL ESTATE ACT

Committee on Financial Services: Subcommittee on Financial Institutions and Consumer Credit held a hearing on H.R. 3424, Community Choice in Real Estate Act. Testimony was heard from Representatives Calvert and Kanjorski; and public witnesses.

OVERSIGHT—CYBER-TERRORISM

Committee on Government Reform: Subcommittee on Government Efficiency, Financial Management and
Intergovernmental Relations held an oversight hearing on “Cyber-terrorism: Is the Nation’s Critical Infrastructure Adequately Protected?” Testimony was heard from Robert F. Dacey, Director, Information Security, GAO; Ronald L. Dick, Director, National Infrastructure Protection Center, FBI, Department of Justice; John S. Tritak, Director, Critical Infrastructure Assurance Office, Department of Commerce; and public witnesses.

OVERSIGHT—COMMERCIAL ACTIVITIES PANEL—REVIEW FINDINGS

Committee on Government Reform: Subcommittee on Technology and Procurement Policy held a hearing entitled “An Oversight Hearing to Review the Findings of the Commercial Activities Panel.” Testimony was heard from David M. Walker, Comptroller, GAO; Angela Styles, Director, Office of Federal Procurement Policy, OMB; Joseph Sikes, Director, Competitive Sourcing and Privatization, Department of Defense; and public witnesses.

“MARSHALL PLAN” FOR THE MIDDLE EAST

Committee on International Relations: Held a hearing on Economic Development and Integration as a Catalyst for Peace: A “Marshall Plan” for the Middle East. Testimony was heard from former Senator George J. Mitchell, State of Maine; Rima Khalaf Hunaidi, Assistant Secretary-General, United Nations, Assistant Administrator and Regional Director, Regional Bureau for Arab States, United Nations Development Programme; and public witnesses.

MISCELLANEOUS MEASURES

Committee on International Relations: Subcommittee on Europe approved for full Committee action, as amended, the following measures: H. Con. Res. 164, expressing the sense of Congress that security, reconciliation, and prosperity for all Cypriots can be best achieved within the context of membership in the European Union which will provide significant rights and obligations for all Cypriots; H. Con. Res. 437, recognizing the Republic of Turkey for its cooperation in the campaign against global terrorism, for its commitment of forces and assistance to Operation Enduring Freedom and subsequent missions in Afghanistan, and for initiating important economic reforms to build a stable and prosperous economy in Turkey; and H. Con. Res. 327, commending the republic of Turkey and the State of Israel for the continued strengthening of their political, economic, cultural, and strategic partnership and for their actions in support of the war on terrorism.

WESTERN HEMISPHERE—COFFEE CRISIS

Committee on International Relations: Subcommittee on Western Hemisphere held a hearing on the Coffee Crisis in the Western Hemisphere. Testimony was heard from Adolfo Franco, Assistant Administrator, Bureau for Latin America and the Caribbean, AID, Department of State; Franklin Lee, Deputy Administrator, Commodity and Marketing Programs, USDA; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Ordered reported the following bills: H.R. 2099, amended, 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. 2301, amended, to authorize the Secretary of the Interior to construct a bridge on Federal land west of and adjacent to Folsom Dam in California; H.R. 2534, amended, Lower Los Angeles River and San Gabriel River Watersheds Study Act of 2001; H.R. 2748, amended, National War Permanent Tribute Historical Database Act; H.R. 3407, amended, Indian Finance Act Reform Amendment; H.R. 3434, amended, McLoughlin House National Historic Site Act; H.R. 3449, to revise the boundaries of the George Washington Birthplace National Monument; H.R. 4622, amended, Gateway Communities Cooperation Act of 2002; H.R. 4682, Allegheny Portage Railroad National Historic Site Boundary Revision Act; H.R. 4708, amended, Fremont-Madison Conveyance Act; H.R. 4917, amended, Los Padres National Forest Land Exchange Act; 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; H.R. 4953, amended, to direct the Secretary of the Interior to grant Deschutes and Crook Counties in the State of Oregon a right-of-way to West Butte Road; H.R. 5039, amended, Humboldt Project Conveyance Act; and S. 1105, Grand Teton National Park Land Exchange Act.

SATELLITE DATA MANAGEMENT AT NOAA

Committee on Science: Subcommittee on Environment, Technology and Standards held a hearing on Satellite Data Management at NOAA. Testimony was heard from Conrad C. Lautenbacher, Jr., Under Secretary, Oceans and Atmosphere, NOAA, Department of Commerce; Linda D. Koonz, Director, Information Issues, GAO; and a public witness.

MISCELLANEOUS MEASURES; PROSPECTUSES

Committee on Transportation and Infrastructure: Ordered reported the following measures: H. Con. Res. 442, recognizing the American Road and Transportation
Builders Associations 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; H.R. 4727, amended, Dam Safety and Security Act of 2002; H.R. 5157, to amend section 5307 of title 49, United States Code, to allow transit systems in urbanized areas that, for the first time, exceeded 200,000 in population according to the 2000 census to retain flexibility in the use of Federal transit formula grants in fiscal year 2003; and H.R. 5169, Wastewater Treatment Works Security Act.

The Committee also approved several Army Corps of Engineers Survey resolutions and GSA Capitol Investment and Leasing Program resolutions.

VETERANS' LEGISLATION
Committee on Veterans' Affairs: Subcommittee on Benefits held a hearing on the following bills: H.R. 5111, Servicemember's Civil Relief Act; and H.R. 4017, Soldiers' and Sailors' Civil Relief Equity Act. Testimony was heard from public witnesses.

Hearings continue tomorrow.

GLOBAL HOT SPOTS
Permanent Select Committee on Intelligence: Met in executive session to discuss Global Hot Spots. Testimony was heard from departmental witnesses.

FUTURE IMAGERY ARCHITECTURE
Permanent Select Committee on Intelligence: Subcommittee on Technical and Tactical Intelligence met in executive session to hold a hearing on Future Imagery Architecture. Testimony was heard from departmental witnesses.

Joint Meetings
ECONOMIC STATISTICS
Joint Economic Committee: Committee concluded hearings to examine the measuring of economic change, focusing on international trade data, gross domestic product estimates, and electronic commerce, after receiving testimony from Donald L. Evans, Secretary of Commerce; and William D. Nordhaus, Yale University, New Haven, Connecticut, on behalf of the Bureau of Economic Analysis Advisory Committee.

CORPORATE AND AUDITING ACCOUNTABILITY, RESPONSIBILITY, AND TRANSPARENCY ACT
Conferees agreed to file a conference report on the differences between the Senate and House passed versions of H.R. 3763, to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws.

NEW PUBLIC LAWS
(For last listing of Public Laws, see DAILY DIGEST of July 8, 2002, p. D712)


S. 2594, to authorize the Secretary of the Treasury to purchase silver on the open market when the silver stockpile is depleted, to be used to mint coins. Signed on July 23, 2002. (Public Law 107–201)

COMMITTEE MEETINGS FOR THURSDAY, JULY 25, 2002
(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: business meeting to mark up proposed legislation making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2003; proposed legislation making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2003; proposed legislation making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2003; and proposed legislation making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2003, 2 p.m., S–128, Capitol.

Committee on Armed Services: to hold hearings to examine the national security implications of the Strategic Offensive Reductions Treaty, 9:30 a.m., SD–106.

Committee on Banking, Housing, and Urban Affairs: business meeting to consider the nominations of Paul S. Atkins, of Virginia, Harvey Jerome Goldschmid, of New York, Cynthia A. Glassman, of Virginia, and Roel C. Campos, of Texas, each to be a Member of the Securities and Exchange Commission, Time to be announced; Room to be announced.

Committee on Commerce, Science, and Transportation: to hold hearings to examine aviation security transition, focusing on the deployment of baggage screening equipment, cockpit security, and air cargo security, 9:30 a.m., SR–253.

Committee on Energy and Natural Resources: Subcommittee on Public Lands and Forests, to hold hearings to examine
S. 2672, to provide opportunities for collaborative restoration projects on National Forest System and other public domain lands, 2:30 p.m., SD–366.

Committee on Environment and Public Works: business meeting to consider S. 1602, to help protect the public against the threat of chemical attack; S. 1746, to amend the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to strengthen security at sensitive nuclear facilities; S. 1850, to amend the Solid Waste Disposal Act to bring underground storage tanks into compliance with subtitle I of that Act, to promote cleanup of leaking underground storage tanks, to provide sufficient resources for such compliance and cleanup; proposed legislation authorizing funds for the John F. Kennedy Center Plaza; and the nominations of John S. Bresland, of New Jersey, to be a Member, and Carolyn W. Merritt, of Illinois, to be Chairperson and Member, each of the Chemical Safety and Hazard Investigation Board; and John Peter Suarez, of New Jersey, to be Assistant Administrator for Enforcement and Compliance of the Environmental Protection Agency, 11 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, 10:30 a.m., SD–419.

Committee on Governmental Affairs: business meeting to continue to reconsider the Committee’s action of May 22, 2002, with respect to ordering favorably reported, with amendments S. 2452, to establish the Department of National Homeland Security and the National Office for Combatting Terrorism, 9:30 a.m., SD–342.

Committee on Health, Education, Labor, and Pensions: to hold hearings to examine violence against women in the workplace, focusing on the extent of the problem and government and business responses, 10 a.m., SD–430.

Committee on Indian Affairs: to hold hearings to examine the July 2, 2002 Report of the Department of the Interior to Congress on historical accounting of Individual Indian Money Accounts, 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: to hold oversight hearings to examine the Department of Justice, 10 a.m., SD–226.

House


Subcommittee on Oversight and Investigations, hearing entitled “The U.S. National Climate Change Assessment: Do the Climate Models Project a Useful Picture of Regional Climate?” 9:30 a.m., 2322 Rayburn.

Committee on Financial Services, Subcommittee on International Monetary Policy and Trade, hearing on the expected authorization requests on the U.S. participation in the World Bank-International Development Association and the African Development Fund, 1:30 p.m., 2128 Rayburn.

Committee on Government Reform, hearing on “Diet, Physical Activity, and Dietary Supplements—the Scientific Basis for Improving Health, Saving Money, and Preserving Personal Choice,” 10 a.m., 2154 Rayburn.

Committee on International Relations, hearing on Loose Nukes, Biological Terrorism, and Chemical Warfare: Using Russian Debt to Enhance Security, 10:45 a.m., 2172 Rayburn.

Subcommittee on International Operations and Human Rights, to mark up the following measures: H. Con. Res. 349, calling for an end to the sexual exploitation of refugees; and H. Con. Res. 351, expressing the sense of Congress that the United States should condemn the practice of execution by stoning as a gross violation of human rights, 1 p.m., 2255 Rayburn.

Committee on Resources, Subcommittee on Energy and Mineral Resources, hearing on H.R. 5156, to amend the Outer Continental Shelf Lands Act to protect the economic and land use interests of the Federal Government in the management of outer continental shelf lands for energy-related and certain other purposes, 2 p.m., 1334 Longworth.

Subcommittee on Fisheries Conservation, Wildlife and Oceans, to mark up H.R. 4781, Marine Mammal Protection Act Amendments of 2002, 2 p.m., 1324 Longworth.


Subcommittee on Forests and Forest Health, hearing on the following: a measure to direct the Secretary of Agriculture to convey real property in the Dixie National Forest in the State of Utah; and H.R. 5032, to authorize the Secretary of Agriculture to convey National Forest System lands in the Mendocino National Forest, California, to authorize the use of the proceeds from such conveyances for National Forest purposes, 10 a.m., 1334 Longworth.

Subcommittee on Water and Power, hearing and markup of the following bills: H.R. 4910, to authorize the Secretary of the Interior to revise a repayment contract
with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas; and H.R. 5123, to address certain matter related to Colorado River water management and the Salton Sea by providing funding for habitat enhancement projects at the Salton Sea, 10 a.m., 1324 Longworth.

Committee on Science, Subcommittee on Energy, hearing on Future Direction of the Department of Energy’s Office of Science, 10 a.m., 2318 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Highways and Transit, oversight hearing on Transportation Solutions in a Community Context: the Need for Better Transportation Systems for Everyone, 10 a.m., 2167 Rayburn.

Committee on Veterans’ Affairs, Subcommittee on Benefits, to continue hearings on the following bills: H.R. 5111, Servicemember’s Civil Relief Act; and H.R. 4017, Soldiers’ and Sailors’ Civil Relief Equity Act, 10 a.m., 334 Cannon.

Committee on Ways and Means, to mark up the following bills: the Back to School Tax Relief Act of 2002; and H.R. 4889, Patient Safety Improvement Act of 2002, 2 p.m., 1100 Longworth.

Subcommittee on Human Resources, hearing on fraud and abuse in the Supplemental Security Income (SSI) program, 10:30 a.m., B–318 Rayburn.

Joint Meetings

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.
Extensions of Remarks, as inserted in this issue.

Program for Thursday: After the transaction of any morning business (not to extend beyond 10:30 a.m.), Senate will continue consideration of S. 812, Greater Access to Affordable Pharmaceuticals Act, with 1 hour of debate in relation to the motion to waive section 205 of H. Con. Res. 290, 2001 Congressional Budget Resolution, with respect to the emergency designation in Section C of Rockefeller Amendment No. 4316 (to Amendment No. 4299); to be followed by a vote on the motion to waive.

Program for Thursday: Consideration of H.R. 5005, Homeland Security Bill (subject to a rule) and consideration of the Conference report on H.R. 3763, Corporate and Auditing Accountability, Responsibility, and Transparency Act (unanimous consent).

House proceedings for today will be continued in the next issue of the Record.

The public proceedings of each House of Congress, as reported by the Official Reporters thereof, are printed pursuant to directions of the Joint Committee on Printing as authorized by appropriate provisions of Title 44, United States Code, and published for each day that one or both Houses are in session, excepting very infrequent instances when two or more unusually small consecutive issues are printed at one time. Public access to the Congressional Record is available online through GPO Access, a service of the Government Printing Office, free of charge to the user. The online database is updated each day the Congressional Record is published. The database includes both text and graphics from the beginning of the 103d Congress, 2d session (January 1994) forward. It is available through GPO Access at www.gpo.gov/gpoaccess. Customers can also access this information with WAIS client software, via telnet at swais.access.gpo.gov, or dial-in using communications software and a modem at (202) 512-1661. Questions or comments regarding this database or GPO Access can be directed to the GPO Access Support Team at: E-Mail: gpoaccess@gpo.gov; Phone 1-888-293-6498 (toll-free), 202-512-1530 (D.C. area); Fax: 202-512-1262. The Team’s hours of availability are Monday through Friday, 7:00 a.m. to 5:30 p.m. Eastern Standard Time, except Federal holidays. The Congressional Record paper and 24x microfiche will be furnished by mail to subscribers, free of postage, at the following prices: paper edition, $211.00 for six months, $422.00 per year, or purchased for $5.00 per issue, payable in advance; microfiche edition, $54.00 per year, or purchased for $1.00 per issue payable in advance. The semimonthly Congressional Record Index may be purchased for the same per issue prices. To place an order for any of these products, visit the U.S. Government Online Bookstore at: bookstore.gpo.gov. Mail orders to: Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954, or phone orders to (866) 512-1800 (toll free), (202) 512-1800 (D.C. Area), or fax to (202) 512-2250. Remit check or money order, made payable to the Superintendent of Documents, or use VISA, MasterCard, Discover, American Express, or GPO Deposit Account. Following each session of Congress, the daily Congressional Record is revised, printed, permanently bound and sold by the Superintendent of Documents in individual parts or by sets. With the exception of copyrighted articles, there are no restrictions on the republication of material from the Congressional Record.